CONCLUSIONS

Key words: *ADR, mediation, negotiation, conciliation, reconciliation, conflict, culture of peace*

In this paper we proposed to analyze the ADR systems from the perspective of the causes which lead to their creation, of the ADR systems proper, but also from the perspective of the objectives that we would like to achieve from the narrowest level – the individual one, to the widest level – world level. The causes that lead to the creation of the ADR systems are represented by conflicts because, as Thomas Hobbes[1] was also indicating "the laws of nature are reduced to life preservation and contracts observance, the rest being *bellum omnium contra omnes* or the war of all against all"[2]. Starting from this idea, we dedicated Chapter I to the analysis of the conflict from a philosophical perspective. This perspective was as well completed by other views on this subject developed in the course of time, namely the psychological, the sociological, the religious, the economic and the political views, because for acquiring a broad view on this subject, it must be approached from an interdisciplinary perspective. The multiple points of views presented in this chapter related to conflict are justified as well by the fact that it is permanently present in the mankind's life in general and especially in the individual's life. Among the opinions that represented reference points for conflict presentation in this paper we mention Hegel and Sartre, S. Carfantan, I. Berlin, K. E. Boulding, G. Evans, Oliver Ramsbotham, Tom Woodhouse and Hugh Miall, S. Fisher, Nicolae Tritoiu and others.

More often than not the conflict is present as a form of relation to others. This opinion is supported by contemporary researchers such as S. Carfantan[3] who builds this point of view starting from the opinions expressed by Hegel and Sartre. According to them, the conflict is perceived through the existence of two plans, a superior and an inferior one, being situated at their meeting point. In this framework, Hegel stages the present forces which are contrary to one another and which, more often than not, are not on the same level. Hegel presents the idea according to which the conflict is "part of a healthy relationship" between individuals, being,

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[1] Thomas Hobbes, Leviathan, (1651), Forgotten Books, republished 2008, p. vii.

[2] Zeno Şuştac, Claudiu Ignat, Modalități alternative de soluționare a conflictelor (ADR), Ed. Universitară, București, 2008, p. 11; Radu Mogoş, Filosofia Dreptului – Suport de Curs, Universitatea „Petre Andrei" din Iaşi, Facultatea de Drept, 2012, p. 4.

[3] Serge Carfantan, Philosophie et spiritualité, in Quatre leçons sur Autrui, 2002, f. p. http://sergecar.perso.neuf.fr/cour/autrui2.htm

at the same time an integral component of reconciliation. "Human beings need different institutional spheres where to find their intimacy, to update their individuality and to enjoy political communion", and "the conflict is the price of this differentiation"[4]. For analyzing Hegel's ideas related to conflict and to the fact it represents a source of change and development, Charles Taylor uses the phrase "ontological conflict"[5].

Joseph S. Catalano shows that for Sartre the conflict brings into discussion the human vulnerability. For Sartre, the relation between the dominant and the dominated is established by means of a look that can lead to a creation of mutual hostility[6]. S. Carfantan shows that if we look at the conflict as a "human relationship model", then its consequences are those presented by Sartre in the phrase "Hell is other people", namely that humans' freedom is absorbed by others, despite the fact that freedom is inalienable. In this context, the author believes that humans are transformed into objects within the power relation established between them, and Sartre's expression "I think, therefore I am" becomes "I am being watched, therefore I am". In the latter case, the ego is supported by the looks of others. Failing this look, the "inexistence" feeling appears. In other words, in order to exist, humans need to be watched, to be taken into consideration, to be recognized by others. From this presentation it results that the base of human relations is not represented by communication, but by conflict or humans` hostility. According to Carfantan, we are dealing with a paradoxical situation in which, although the conflict is seen as a relation, this is not in fact a relation, but the failure of the relation, it is the "putting into stage of certain individualities that came out of the isolation state" [7].

Another aspect that must be taken into consideration when analyzing the conflict is represented by values pluralism – a problem that was widely deliberated by Isaiah Berlin. This is because, as from 1950, I. Berlin published numerous works related to the pluralism's conflict nature and the conflict of values. It must be mentioned that, those that approached values pluralism used the phrase "moral universe" to refer to "the world of values, rules, and ethics that surround human beings". Despite the fact that the ontological status of the moral universe is not clearly distinguished in the work of I. Berlin, as Connie Aarsbergen-Ligtvoet indicates, the fundamental idea of Berlin on the "moral universe" is that there exists a values and purposes diversity which generates tensions and conflicts. In this context, it was

[4] Michael O. Hardimon, Hegel's Social Philosophy: The Project of Reconciliation, Cambridge Univ. Press, New York, 1994, pp. 92-93.
[5] Charles Taylor, Hegel, Cambridge Univ. Press, New York, (1975) 1999, p. 106.
[6] Joseph S. Catalano, Reading Sartre, Cambridge Univ. Press, New York, 2010, p.82.
[7] Serge Carfantan, op. cit., f.p.

concluded that the work of I. Berlin represents, from this point of view, an indispensable point of reference[8].

While some authors as Boulding define conflict as being a "a competition situation in which the parties are aware of the future potential incompatibilities, where each party wishes to occupy a position which is incompatible with the others wishes"[9], others see it as being "a social condition which appears when two or more actors pursue purposes that exclude each other or which are incompatible". Many definitions given to conflict relate as well to international life where "the conflict behavior can be understood as war or threat starting a war"[10]. In the book "Contemporary Conflict Resolution", Oliver Ramsbotham, Tom Woodhouse and Hugh Miall use the term conflict to indicate "a vast set of circumstances in the framework of which the parties in conflict become aware that they pursue incompatible purposes"[11].

The Romanian literature includes many books which have as debating theme the conflict and its resolution means. Thus, in the paper "Managementul conflictelor" (Conflicts management), Nicolae Tritoiu defines conflict as being "a social phenomenon which appears when two or more players in an interacting or interdependency relation pursue incompatible purposes or although they have common purposes they mutually contest their means of actions and the rules of the game". The author indicates as well that the term "conflict" is "used to describe a series of emotional states of individuals such as restlessness, hostility, resistance, as well as all types of antagonistic opposition between individuals or human groups"[12]. Other Romanian authors define conflict similarly as being "the interaction of groups (individuals) who perceive purposes, intentions, values and interests as being incompatible when their actions interfere for achieving the proposed objectives"[13].

Considering all the definitions reminded in the first chapter, but also my practical experience as mediator, we have proposed and we support the following definition for conflict: "The conflict is a contextual social phenomenon determined by the clash between the

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[8] Connie Aasbergen-Ligtvoet, Isaiah Berlin: A Value Pluralist and Humanist View of Human Nature and the Meaning of Life, Rodopi, Amsterdam, 2006, p. 1.
[9] Kenneth E. Boulding, Conflict and defense: A general theory, Harper, San Francisco, 1963, p. 5.
[10] Graham Evans, Jeffrey Newnham, The Penguin Dictionary of International Relations, Penguin Books, London, 1998, p. 104.
[11] Oliver Ramsbotham, Tom Woodhouse, Hugh Miall, Contemporary Conflict Resolution, third edition, Polity Press, Cambridge, 2011, p. 9.
[12] Nicolae Tritoiu, Managementul conflictelor, Universitatea Europeană „Drăgan", Lugoj, 2008, p. 5; Zeno Şuştac, Claudiu Ignat, Modalități alternative de soluționare a conflictelor (ADR), Ed. Universitară, București, 2008, pp. 15-16.
[13] E. A. Botezat, E. M. Dobrescu, M. Tomescu, op. cit.

interests, the concepts and the needs of certain persons or groups when they enter into contact and have different or apparently different objectives"[14].

For clarifying the conflict problem, in Chapter I we concentrated on aspects such as: types of conflicts, their generating causes, conflict approaches and their resolution methods.

Among the types of conflicts we have identified, we mention: organization conflicts, social conflicts, work conflicts, conflicts of interest, ideological conflicts, diplomatic conflicts, armed conflicts, international conflicts, biological conflicts, cultural conflicts, family conflicts, financial conflicts[15]. Being a part of people's life, conflict was given a lot of attention by specialists who classified it depending on various criteria. Among these we would like to mention: the effects they have in relation to the parties involved (*constructive or functional conflicts* and *destructive or dysfunctional conflicts*); the level at which they appear (*intra-personal conflicts* and *inter-personal conflicts*; *intra-group* and *inter-group conflicts)*; relations between the parties (*symmetric conflicts* and *asymmetric conflicts*); period of time of their development (*short term conflicts* and *long term conflicts*); conflict duration and evolution (*spontaneous*, *acute* and *chronic*); depending on the conflict state intensity (*discomfort*, *incident*, *misunderstanding*, *tension* and *crises*); form (*latent conflicts* and *manifest conflicts*); depending on the winner's criteria (*zero area conflicts, total cooperation conflicts, mixed conflicts*); depending on the generating causes (*conflicts generated by information and data, relation conflicts, conflicts generated by different values, structural conflicts or for needs satisfaction* and *interest conflicts*); depending on the effort for their settlement or attenuation (*profound conflicts* and *superficial conflicts*).

When we referred to the conflicts generating causes, we considered the plurality of aspects on the basis of which conflicts arise. Thus we approached from a theoretical point of view the conflict sources as they were presented in the specialized literature. In this respect we considered that it was necessary to present the major theories at the basis of the conflict's causes: *theory of community relations* – according to which the conflict is caused by polarization, distrust and hostility between different groups within a community, and for improving the community relations we must first improve communication and understanding between the groups in conflict, but also promote toleration and diversity acceptance within the community[16]; *negotiation theory* – according to which negotiation is a 'people's way of living

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[14] Zeno Şuştac, Claudiu Ignat, 2008, op. cit., p. 16.
[15] Ibidem, pp. 21-22.
[16] Simon Fisher, Working with conflict: Skills and Strategies for Action, Palgrave Macmillan, New York, 2000, p. 7.

together, as a means of structuring social relations on a certain system of values"[17] and which implies the acceptance of certain common values and precepts by the actors in question; *human needs theory* – according to which the conflict is caused by the non-fulfillment of human needs, by the psychical, physical and social frustrations, and it is necessary: to assist the parties in conflict in identifying and sharing their unfulfilled needs and in generating options for their fulfillment, but also to assist parties in reaching an agreement that grants the basic human needs of all the parties involved in the conflict[18]; *identity theory* – according to which conflict is generated by the identity threatening feeling which often has its roots in traumas of the past, and the solution is to facilitate, by means of dialogue, the identification of the fears that the parties in conflict have, to facilitate the building of the empathy and reconciliation feelings, but also to facilitate reaching an agreement that acknowledges the identity needs of all the parties involved in the conflict[19]; *the intercultural misunderstanding theory* – which insists on the need to increase the mutual exchange of information on the cultural aspects of the parties involved in the conflict, to reduce the negative impact created by stereotypes and on consolidating intercultural communication[20], by means of empathy which proved to be an important factor of the latter[21]; and *conflict transformation theory* – which militates for the change of structures and environment which generate inequality and injustice (economic context); long term improvement of relations and attitudes of the parties in conflict; and development of certain processes and systems that promote justice, peace, reconciliation and mutual acknowledgement[22].

The conflict's analysis progress in time reveals a series of conflict approaching possibilities. Among these approaches we mentioned: *traditional approach*, *approach by human relations perspective, interacting approach*[23]; *pluralist or behavior approach* and *radical approach*[24]. S. Fisher enumerates certain methods of approaching a conflict which were adopted in the specialized literature and which care often perceived as stages of the conflict approach process, each stage including the previous stage. These stages are: conflict

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[17] Liviu-Petru Zăpârțan, op. cit., pp. 11-12.
[18] Simon Fisher, op. cit., p. 7.
[19] Idem.
[20] Idem.
[21] Dreama G. Moon, Critical Reflections on Culture and Critical Intercultural Communication, in vol. The Handbook of Critical Intercultural Communication, Thomas K. Nakayama, Rona Tamiko Halualani (edit.), Wiley – Blackwell, Oxford, 2010, pp. 40-41.
[22] Simon Fisher, op. cit., pp. 7-8.
[23] S. P. Robbins, Organizational Behaviour, Prentice Hall, New Delhi, 1994, p. 110.
[24] Daniel Barbu, Summary of doctorate thesis "Model de Diagnoză a conflictelor organizaționale", Universitatea din București, Facultatea de Psihologie și Științele Educației, Bucuresti, 2007, pp. 2-3; Zeno Șuștac, Claudiu Ignat, 2008, op. cit., pp. 18-19.

prevention, settlement, management, solution and transformation[25]. With regard to the *conflict approaching tools*, S. Fisher identifies some of these tools among which we would like to mention: conflict stages; history; conflict map; the triangle attitudes – behavior – context (ABC); strata; conflict tree; force field analysis; pillars; pyramid. The order of these elements is flexible depending on the conflict situation to which they are applied. These can be as well combined. The author draws the attention on the fact that the tools he presents are not scientific, their importance being given by their practical efficiency[26].

The last part of the first chapter is dedicated to the conflicts solution methods because the conflict's effects can be reduced by its settlement. According to the opinion expressed by R. Wandberg, conflict resolution is "a process of reducing or calming the conflict to prevent violence (...) is a method of building or rebuilding trust in a relation"[27]. In order to analyze the conflict resolution process, we focused on the role that **theory** has in this respect. In attempting to build a new theory of conflict, a central problem is represented by the understanding of the conflict's ambivalent nature, of its capacity to generate creative solutions and high levels of personal and collective integration, of its capacity to generate virulent consequences when it becomes violent[28]. Nowadays conflict resolution is acknowledged as a legitimate and important theme from an academic point of view, which was mainly focused on the specific techniques and methods, at the level of individual actors, small or big collectivities and at international level. A. C. Tidwell thinks that conflict resolution implies a mature approach by examining all the situation and context factors which influence resolution[29].

Some authors think that conflict resolution tradition is present in three different fields: organization development and management science; international relations and peace movement and alternative resolution of disputes. Each of these has influenced and has oriented the conflict resolution flow. In addition to the sources indicated, there are other sources of influencing conflict resolution, but they are not as important as the ones mentioned[30].

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[25] Idem.
[26] Simon Fisher, op. cit., p. 18.
[27] Robert Wandberg, Conflict Resolution: Communication, Cooperation, Compromise, Capstone Press, Minnesota, 2001, p. 6.
[28] Sandra Cheldelin, Daniel Druckman, Larissa Fast, Kevin Clements, Theory, Research, and Practice, in vol. Sandra Cheldelin, Daniel Druckman, Larissa Fast (edit.), Conflict: From Analysis to Intervention, Continuum, London, 2003, pp. 10-11.
[29] Alan C. Tidwell, Conflict Resolved? A Critical Assessment of Conflict Resolution, Continuum, London, (2001, 2003) 2004, pp. 1-2.
[30] Ibidem, p. 8.

Chapter two, entitled "Methods of conflicts resolution", is structured on three essential aspects. In the first part of chapter two, we referred to conflict resolution over time. Throughout history conflicts between persons were settled by means of different methods, by community, church or state involvement or by means of exclusive participation of the persons in conflict. Each historic period and each nation has its own methods of conflicts resolution related to the shared values and beliefs at a certain point in time.

As we showed in the second part of this chapter, the conflicts resolution methods are divided in two essential categories: traditional methods of conflicts resolution and alternative methods of conflicts resolution. The traditional methods of litigations resolution took shape over time subsequent to society's evolution and related to the specificity of the period when the litigations occurred. Unlike these traditional methods, the alternative methods of litigation resolution took shape as a reaction to the low level of efficiency or the lack of efficiency of the first. Despite this aspect, but also due to reasons related to efficiency, costs and additional advantages, an increase of the humans wish to appeal to conflicts resolution by means of alternative methods was registered. The common aspect of traditional methods of conflicts resolution which is imposing a solution to the parties involved in the conflict is also the common element of alternative methods of conflicts resolution which is the active involvement of the parties in extinguishing and even solving conflicts[31].

The traditional methods of conflicts resolution were defined as being "those methods of conflicts extinguishing, characterized by a certain authority imposing a solution to the parties involved in the conflict". The traditional methods of conflicts resolution are also known as classic methods of conflicts resolution or authoritarian methods of conflicts resolution. The disadvantage of these classic methods of conflicts resolution is that the solution is imposed to the parties involved in the conflict by a third party, the parties having no power of decision[32]. The best known and most used traditional method of conflicts resolution between individuals is represented by the trial court[33].

Other traditional methods of conflicts resolution were identified in the specialized literature among which we mention: the decision of an authority (apart from the trial court) and imposition by force of a solution. With regard to the decision imposed by an authority, this was defined as being "a traditional method of conflicts resolution where a third party intervenes in the conflict, on the basis of the same views as those of the authority on behalf of

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[31] Zeno Şuştac, Claudiu Ignat, 2008, op. cit., p. 51.
[32] Ibidem, pp. 53- 54.
[33] Ibidem, pp. 54-55.

which he intervenes and which does not take into account the parties` interests, trying to impose a solution which is convenient especially for the authority that he represents". In turn, the imposition by force is the "attitude" adopted by one of the parties involved in the conflict who tries "to impose to the other party a method of dispute resolution, taking into account only his/her own interest"[34].

The history of Romanian law shows that it only took shape at the end of 19th century after the law related to judicial organization was adopted. This included provisions related to regional courts, county courts, court of assises and the Higher Court of Cassation and Justice. Subsequent to the codification activity carried out by Al. I. Cuza (Civil code, Penal code, Code of civil and penal procedure), Romania "joined the countries with the most modern legislation in Europe". This aspect had positive influences on the national judiciary theory and practice[35].

The phrase "ADR" (Alternative Dispute Resolution) or "disputes alternative resolution" was developed as a reaction to the inefficiency of the traditional methods of conflicts resolution and includes the procedures and techniques of conflicts amicable resolution. The conflicts resolution alternative methods are numerous and can be corroborated for ensuring a complete success. As Karl J. Mackie indicates as well, the "ADR" term is an acronym that stands for "alternative dispute resolution methods"[36]. This term has various translations in Romanian such as: disputes alternative resolution, disputes alternative settlement, "disputes alternative resolution systems"[37], alternative methods or ways of disputes or conflicts settlement. At European level, within the European Judicial Network of the European Commission, conflicts amicable settlements techniques are called "Alternative dispute resolution methods" (ADRM). Regardless of the translation of the "ADR" term in Romanian, which is essential is that this concept designates "alternative methods of conflicts settlement"[38].

The latter is the variant we are using as well in this paper but also when we drew up previous works in this field[39]. Another acronym is outlined as well in the Romanian practice used for designating alternative methods of conflicts settlement, namely "RAD", but we do

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[34] Ibidem, p. 55.
[35] Rapeanu Andreea, Istoria statului si a dreptului romanesc, Ed. Universul Juridic, București, 2010, f.p.; Zeno Șuștac, Claudiu Ignat, 2008, op. cit., p. 57.
[36] Karl J. Mackie, Dispute resolution: the new wave, in vol. A Handbook of Dispute Resolution, ADR in action, Karl J. Mackie (edit.), Routledge, London, 1991, p. 1.
[37] Sergiu Vintilă, op. cit., f.p.
[38] Zeno Șuștac, Claudiu Ignat, 2008, op. cit., pp. 59-60.
[39] Idem; Claudiu Ignat, Zeno Șuștac, Cristi Danileț, Ghid de Mediere, Ed. Universitară, București, 2009; Zeno Șuștac, Claudiu Ignat, Ghid de Negociere, Ed. Universitară, București, 2010.

not share the views on the basis of which it is used, therefore in this paper we shall refer to the alternative methods of conflicts resolution using the "ADR" acronym[40].

In the paper "Modalități alternative de soluționare a conflictelor (ADR)" (Alternative methods of conflicts resolution (ADR)), we defined ADR as representing all the methods of "voluntary resolution of conflicts, amicably, where parties (...) decide to solve their disputes by direct involvement in obtaining a mutually agreed upon, solid and sustainable solution, having power of decision in solving the conflict". In accordance with this definition, ADR includes all the amicably methods of conflicts extinguishment, out of court, being an alternative to the judicial methods of conflicts resolution, but one which does not limit, in any way, access to justice, especially when they prove to be inefficient[41].

The alternative methods of conflicts settlement are multiple and are not new; on the contrary, they have a long history. The main alternative methods of conflicts settlement are: negotiation, mediation, conciliation, reconciliation, good offices. What was determined upon the individual analysis of each of these methods was the fact that some of them bind the others and that each of them exist on their own.

The third part of chapter II was dedicated to the theoretical approach of the main forms of ADR. **Negotiation** was presented as "the way by which persons manage disputes and search, by means of dialogue, solutions which express a mutual agreement"[42]. Liviu-Petru Zăpârțan shows that "in current speech, negotiation is used to designate a way of achieving relations between humans by means of discussions, exchange of opinions, ideas, values, as opposed to conflict and violence"[43]. Negotiation has "natural biological roots in the relations between subjects" – an aspect qualified as being "an exclusive attribute of people, (...) a socio-human fact by excellence"[44] and is built "as a voluntary activity for the parties, insofar as each of them wishes that, together with the others, to change the actual position of their mutual relations, guided by a spiritually elaborated project which makes that, in the event it can not be materialized, each actor withdraws"[45]. Owing to this reason, it was believed that before talking about any of the alternative methods of conflicts settlement we must talk about negotiation. And this because, as we shall see, negotiation is found in all the other alternative methods indicated, being either a technique used for reaching an understanding mutually

[40] Zeno Şuştac, Claudiu Ignat, 2008, op. cit., p. 60.
[41] Ibidem, pp. 61-62.
[42] R. Bourque, Chr. Thuderoz, Sociologie de la négotiation, Ed. La Découverte, Paris, 2002, p. 4.
[43] Liviu-Petru Zăpârțan, Negocierile în viața social-politică, Ed. Eikon, Cluj-Napoca, 2007, p. 25.
[44] Ibidem, pp. 9-10.
[45] M. Hiltrop, Sheila Udall, Arta negocierii, Ed. Teora, București, 1998, p. 14.

acceptable for the parties or a process stage of these alternative methods of litigations settlement.

In its turn, **mediation** was defined in the associated rich specialized literature in various ways. In the paper "Medierea în viața social-politică" (Mediation in the social and political life), Diana-Ionela Ancheș elaborated a classification of the definitions given to the mediation concept depending on the five most important identification criteria[46]. The author observed that mediation was defined from the perspective of the negotiation concept, of its creative side, of its substance, of its expansion range and third party intervention. H. Genn defines mediation by reference to the legal frame as being a "a voluntary process where a neutral mediator tries to help the parties in conflict to reach an agreement which must be acceptable for both parties and which must put an end to the conflict before going before the court" [47]. In accordance with the definitions given to mediation until now, we considered that it can be defined as a "voluntary procedure by means of which a specialized person called mediator helps the parties in conflict to transform a dispute into an agreement", "which can be initiated as well in case there is a trial on the docket, being compatible with legal proceedings"[48].

We approached arbitrage as being a traditional method of conflicts resolution. Arbitration "is carried out under conditions of voluntary participation of the parties and implies the imposition of a solution by an arbitrator". Thus, when a conflict is settled by means of arbitration, the arbitrators are the ones who "decide on the settlement method of the conflict" subject to arbitration[49]. This is one of the reasons why arbitration is not part of the category of alternative methods of disputes settlement, but is a traditional method of disputes resolution[50].

Conciliation is an autonomous form of conflicts settlement where the intervening third party is called a conciliator. Within the conciliation procedure, the achievement of the parties` agreement is pursued with regard to a conflict extinguishment, but unlike the mediator, the conciliator does not analyze the conflict, but "only tries to clarify to the parties the position of each of them in view of reestablishing trust between the parties, correcting their deficient perceptions and helping them reach a reasonable understanding of the reasons

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[46] Diana-Ionela Ancheș, Medierea în viața social-politică, Ed. Universitară, București, 2011, pp. 68-72.
[47] H. Genn, Mediation in action – Resolving court disputes without trial, Calouste Gulbenkian Foundation, London, 2000, p. 9.
[48] Zeno Șuștac, Claudiu Ignat, 2008, op. cit., p. 62.
[49] Ibidem, p. 63.
[50] David Richbell, Mediation of Construction Disputes, Blackwell Publishing, Oxford, 2008, p. 24.

generating the conflict"[51]. As a form of ADR, conciliation is different from the conciliation procedure stipulated by the Romanian Code of procedure. In accordance with the provisions of the latter, the conciliation procedure is a "mandatory procedure instituted by the Romanian legislator which only borrows the name of the alternative method of conflicts settlement"[52]. As the other alternative methods of litigations settlement, conciliation is not a new form either, an important bench mark in the conciliation field being represented by the American Conciliation Service founded as far back as 1917[53].

Reconciliation or "restoring Justice" is considered a term "uncomprehended and elusive which is exploited in rhetoric and which is hard to achieve in practice". The reconciliation term has profound theological and political meanings. In this context, reconciliation was defined as being "a tangible experience of living together within the community"[54]. Reconciliation was associated with the theory about "social harmony", this being the method by means of which the conflicts roots between the parties are permanently eradicated and the relations between the parties are reconstructed in an improved form[55]. Reconciliation is an autonomous term and idea, but in practice, for maximum results, this must be associated with another conflicts settlement method, and could often become a technique of mediation or even of negotiation. This is because only by means of reconciliation a total conflicts settlement is offered helping rebuild the harmonious relations between the parties.

At last, **the good offices** are as well an ADR form and they imply using diplomatic means for reestablishing the relation between the parties, their invitation to various meetings, but also offering suggestions for conflict resolution. In the public international law, the good offices can include as well truces supervision. As an ADR form, good offices are often used in commercial litigations, but as international conflicts resolution, good offices and mediation, conciliation and negotiation are considered traditional methods of resolution. Regardless of the situation whey they intervene, good offices imply voluntary cooperation of the parties with a neutral third party which, in the case of international disputes, can be an individual, an international organization or a state which offers to grant assistance to the parties in view of

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[51] Anne Ward Platt, Conciliation in Healthcare: Managing and Resolving Complaints and Conflict, Radcliffe Publishing, Oxon, 2008, p. 6.
[52] Zeno Şuştac, Claudiu Ignat, 2008, op. cit., pp. 63-64.
[53] Julie Greene, Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881-1917, Cambridge Univ. Press, Cambridge, 2004, p. 245.
[54] John W. de Gruchy, Reconciliation: Restoring Justice, SCM Press, London, 2002, pp. 1-5; Robert Morneau, Reconciliation, Orbis Books, New York, 2007.
[55] Mindie Lazarus-Black, Everyday Harm: Domestic Violence, Court Rites, and Cultures of Reconciliation, Univ. of Illinois Press, Illinois, 2007, p. 167,

settling the disputes between them by means of negotiation, and which does not fulfill an arbitrator role in the dispute[56].

In addition to the indicated ADR forms, we must mention that it has other unconventional forms as well: "**Online Dispute Resolution**" – well-known under the acronym "ODR" or "e-ADR"; "**Med-Arb**", "**Arb-Med**", "**early neutral evaluation**" (EPN or *Early Neutral Evaluation*), "**Collaborative law**", **Ombudsman.** The foreign literature dedicated to ADR mentions as well other hybrid forms of disputes alternative resolution such as: facilitation (which is also a technique used by the already reminded forms of ADR), designation of an expert, mini trial, Med – Rec, facilitated negotiation, private trial, etc. Some of these hybrid forms do not have yet a corresponding term in Romanian, for example: *Settlement conferences* or *Fact Findings*. The array of these hybrid forms comes to show once again the dissatisfaction with the traditional methods of conflicts resolution[57].

The final chapter of the paper is dedicated to the future on which the ADR forms presented in the previous chapter are focused, namely building a culture of peace from the narrowest level – the individual one, to the widest level – world level. The building of a culture of peace implies two essential aspects. On the one hand, it is necessary to build a positive spiritual picture about the culture of peace[58], and, on the other hand, we must look at the picture created by reality, namely by human predisposition to violence, but also human capacity to develop peaceful environments[59]. Rivera shows that in a culture of peace people must have a behavior that promotes empathy and well-being of everyone. Surely this behavior must be supported by creating an adequate institutional framework based on specific rules and values. Such a culture would offer, in accordance with opining expressed by Boulding, security by acknowledging diversity and human identity appreciation by toleration[60].

The initiative of the United Nations came, among others, to support the creation of such a culture of peace. The idea of the United Nations for building a culture of peace for the humanity's future was developed within the UNESCO International Congress of 1989. After

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[56] Amelia Porges, Dispute Settlement, in vol. Preferential Trade Agreement Policies for Development: A Handbook, Jean-Pierre Chauffour, Jean-Christophe Maur, The International Bank for Reconstruction and Development, Washington, 2011, p. 489.

[57] See Alternative Dispute Resolution in North Carolina: A New Civil Procedure, Jacqueline R. Claire (edit.), North Carolina Bar Foundation, North Carolina, 2003, pp. 199 et seq.; Susan D. Franck, Challenges Facing Investment Disputes: Reconsidering Dispute Resolution in International Investment Agreements, in vol. Appeals Mechanism in International Investment Disputes, Karl P. Sauvant (edit), Oxford Univ. Press, Oxford, 2008, pp. 143-179.

[58] F. Polak, The image of the future, E. Boulding (trad.), Jossey-Bass/Elsevier, San Francisco, 1972.

[59] Joseph de Rivera, Introduction, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, New York, 2009, p. 1.

[60] Idem.

more than 20 years since this initiative, the European Union received, on December 10, 2012, the Nobel Prize for Peace in Oslo, Norway, for its efforts and demarches made in this direction. The introduction of the culture of peace theme in this paper is justified, in our opinion, by the major objective that ADR formulates: an application as extended as possible of the peaceful methods of conflicts resolution and this can only be achieved in the context of building a culture of peace.

The phrase "culture of peace" became the fundament of the resolution adopted by the General Assembly of the United Nations[61] which defines it from the perspective of the values, attitudes and behaviors which reject violence, which prevent conflicts by settling their causes and which solve problems by means of dialog and negotiation. As well in the framework of this resolution the idea that both states and civil society can reunite their forces for promoting a culture of peace by advancing a few of its essential aspects was proposed: **education** (especially with regard to the amicable litigations settlement); **sustainable development** (to be understood as eradication of poverty, reduce of inequalities, etc.); **human rights**; **gender equality**; **democratic participation**; **understanding, tolerance and human solidarity**; **communication and free flow of information exchange**; **international peace and security**. These aspects are interdependent and complex[62] and were debated in the second part of this final chapter.

In the third part of chapter three we considered that we must make short references to the philosophical conceptions which took shape with regard to peace: "peace as slavery or subjugation", "peace as modus vivendi", "peace of a right and quiet order" and "positive peace"[63]. Among those who distinguished themselves for their contributions to building a culture of peace we must reminded Dante Alighieri, Pierre Dubois, Georges Podiebrad, Emeric Cruce, Saint Pierre abbot. We referred at large to Grigorio López and the "kiss of peace" [64], but also to Immanuel Kant and the "eternal peace"[65].

Finally, the last part of the paper is dedicated to analyzing the general and special methods of building a culture of peace. In the category of the general methods of building a culture of peace are included: *peaceful actions and trust*; *means of amicable settlement of conflicts*; *deliberative dialogue* and *restorative justice*. The category of special means

[61] A/RES/52/13 - http://www.culture-of peace.info/history/introduction.html

[62] Joseph de Rivera, Introduction, op. cit., p. 2.

[63] Andrew Fiala, Pacifism, *The Stanford Encyclopedia of Philosophy (Fall 2010 Edition)*, Edward N. Zalta (ed.), URL = http://plato.stanford.edu/archives/fall2010/entries/pacifism/

[64] Kiril Petkov, The Kiss of Peace, Ritual, Self, and Society in the High and Late Medieval West, Vol. 17, Brill, Leiden, Boston, 2003, pp. 33-34.

[65] Charles Covell, Kant and the Law of Peace : A Study in the Philosophy of International Law and International Relations, Palgrave Macmillan, 1998, pp. 4-5.

includes: *personal transformations*; *peace in the family*; *participation to community actions*; *reconciliation – as a base for a culture of peace*[66].

The peaceful actions promote social rules which avoid violence. This help building trust between individuals and groups and helps disperse power within the society, enhancing the confidence of groups that might be excluded, contributing to the democratic participation and to appreciation of communication between groups. The engagement in nonviolent actions promotes the creation of institutions that respond to the interests and the needs of the community, which reflect rules of social justice and which perform efficient actions[67]. *Trust* is a social relation between individuals, between individuals and groups and between groups. Trust is based on the direct interactions between them. By means of interaction, social norms are created which favor dialog, cooperation and reciprocity. Some authors define trust as being a concept "built by moderation, in stages, by facts, not words, and which is supported by openness in interpersonal relations"[68]. Other authors think that "trust is context related"[69]. In his paper, F. Fukuyama shows that the trust benefits, such as cooperation and capacity to build, are born from trust, but only if it is mutual[70]. From this point of view, it is considered that trust is strictly related to the "organic solidarity" phrase promoted by Durkheim. This is because the actors of a community rely on trust to survive. Thus, trust has a functional component and acts a binding social element between the members of the society, by means of organic solidarity. The members of a community must, as a general rule, adhere to the norms and values promoted by the organic solidarity[71]. Failing trust, people pass to relations costs evaluation[72].

The means of amicable settlement of conflicts were analyzed at large in chapter II of this paper. The Program on International Conflict Analysis and Resolution (PICAR) and various other initiatives in this respect have created conflicts resolution groups which promote amicable methods for conflicts settlement. PICAR focused on three main aspects: evaluation of conflicts settlement interventions efficiency and performance of comparative studies of the various methods of amicable litigations settlement; conflicts settlement properly; and analysis

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[66] Joseph de Rivera (edit.), Handbook on Building Cultures of Peace, Springer, Worcester, 2009.
[67] M. Cromwell, W.B. Vogele, Nonviolent Action, Trust and Building a Culture of Peace, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, p. 231.
[68] J. Blasé, J. Blasé, Empowering teachers, Corwin Press, Thousand Oaks, 1994, p. 18.
[69] A. Seligman, The problem of trust, Princeton University Press, New York, 1997.
[70] Francis Fukuyama, Trust: The social virtues and the creation of prosperity, Free Press, New York, 1995, p. 23.
[71] J. S. Coleman, Foundations of social theory, Harvard University Press, Cambridge, 1990; R. Hardin, Trust and trustworthiness, Russell Sage Foundation, New York, 2002.
[72] F. Fukuyama, op. cit., 1995, p. 31.

of the interference between the conflicts settlement efforts and the activities meant to the human rights observance[73].

Unlike the alternative methods of conflicts settlement whose role is to help parties to a conflict to conclude a mutually acceptable agreement, the role of dialogue is to build a better communication between the parties, to build relations and to help to the understanding between persons or groups engaged in a conflict situation or at a loss. In such cases, the deliberative dialogue can be used for establishing the bases for negotiated or mediated solutions or for developing a respectful communication. The deliberative dialogue is thus the basis of a constructive social co-existence. The deliberative dialogue can be used when the communication process in which people are involved hinders them from achieving their objectives. These are the cases when the parties are at a loss, and the communication between them is unproductive. The effect of the deliberative dialogue depends as well on the parties' implication and interest. Only in this way the deliberative dialogue can help build and support a culture of peace by generating better communication, by generating understanding and relations, creating and maintaining the fundamentals of co-existence and of a sustainable system of amicable conflicts settlement[74].

The subject of restorative justice is closely related to the process of building a culture of peace, although it represents a side of the criminal law. The criminal law is the instruments by means of which the state fulfils its central role of doing justice[75]. The restorative justice phrase was defined by *Mediation UK* as being "an approach which focuses around determining the prejudices caused by law's breach and finding the adequate means of their reparation"[76]. The restorative justice represents "a challenge for the life style of a community, for the way it responds to conflicts and justice problems and social injustice". The restorative justice has the potential of influencing all social life fields[77].

Next to the general methods of building a culture of peace, the specialized literature refers as well to certain special methods of building the culture of peace, meant for special levels. The culture of the peace was defined as being "a particular set of (…) values, attitudes,

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[73] S. Nisenbaum, op. cit., 2009, p. 250.
[74] M. Chakraverti, Deliberate Dialogue, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, pp. 259-270.
[75] H. Zehr, Retributive justice, Restorative justice, MCC U.S. Office of Criminal Justice Occasional Paper, Elkhart, Indiana, 1985.
[76] Mediation UK, 2006, http://www.mediationuk.org.uk/
[77] B. Toews, Restorative Justice and Prison Reform, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, pp. 283-284.

traditions, behavior models and life styles"[78]. This definition was analyzed by certain authors who addressed themselves questions related to what type of *personal transformations* are necessary for building a culture of peace, the reason why personal transformations are important for building a culture of peace, the existence of a potential universality of values, attitudes, behaviors and life styles which are the basis of building a culture of peace, but also their methods of rendering efficiency[79]. The fundamental component of any culture consists in its conception of human nature, but also of the implicit or explicit personality model. Numerous actors have characterized the personality normative models specific to the globalized stage of capitalist expansion, which are particularly relevant for creating and consolidating a culture of peace. To this effect, it was affirmed that "cultural conception and ego configuration are shaped by the economy and the politics specific to the period in question"[80].

Families can contribute to peace promotion, but these can constitute a center for developing hate, prejudices and violence. Violence and abuses are often encountered in the life of many families around the world. The creation of a culture of peace requires the consolidation of the families` ability to interact peacefully and to prevent violence and abuses. This consolidation can be done from "top to bottom" by taking certain measures which determine the change of social norms or from "bottom to top" by reducing conflicts and increasing cooperation, negotiation and tolerance within families. The contextual factors such as stress, economic resources, life quality, neighbors, etc. influence the family's capacity to apply the amicable methods of conflicts resolution. For this reason, families must be supported in implementing the means of creating and supporting a culture of the peace[81].

Peace building requires the participation of all, including the poor, for finding solutions for the problems of the community, for improving the resources management capacity and for the vulnerabilities reducing process. These objectives can be achieved by engaging everybody in the community, voicing the common concerns and contributing to the participation capacity increase in the community's activities. A participation capacity increasing method is represented by rural participation to the community decision making and management process. It is necessary as well to pay close attention to the community's voice,

[78] United Nations General Assembly, Declaration and Program of Action on a Culture of Peace, UN Res. A/RES/53/243, op. cit.

[79] A. Brenes, Personal Transformations Needed for Cultures of Peace, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, p. 305.

[80] P. Cushman, Why the self is empty: Toward a historically situated psychology, in American Psychologist, 45(5), 1990, p. 599; A. Brenes, op. cit., 2009, p. 305.

[81] Sandra T. Azar, Megan C. Goslin, Yuko Okado, Achieving Peace in the Family, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, pp. 319-320.

the responsibility toward its members, transparency, efficiency and equity. It is thus considered that rural participation represents a good approach of developing *participation in the community's actions* and of social change which can contribute to the building of a culture of peace[82].

One of the most important challenges with which the international community is confronted is represented by the amicable settlement of the numerous violent conflicts occurring nowadays. The challenge is manifested on two levels, as Bar-Tal shows. Firstly, these levels refer to the temporary management of conflicts which imply negotiations, mediation or other means of amicable litigations settlement which lies with leaders and elites and which, in addition, requires support from the population. The second level of challenge is deeper and is represented by *reconciliation*. This requires social change shared by the members of the society. Thus, the roots supplying the conflict must evolve towards aspects, ideas and values which can serve as a base for building a culture of peace[83]. Reconciliation determines both laying the foundations for conflicts settlement and preparing the society's members to live in a peaceful context[84].

Reconciliation is, by nature, gradual, mutual and voluntary. The fundamental requirement is that the psychological foundations to reach social mentality so that they are shared by most members of societies[85]. Only by making these changes we can guarantee the possibility of conflicts settlement, and afterwards the "solidification of the peaceful relations between rival groups – a stable basis which is rooted in the humans' mentality". The initiation of such a change depends of factors such as violence level, available resources for sustaining a conflict, the extent to which people and their leaders support the peace process, the humanization level of the opponents, but also on the international community support[86].

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[82] Ibidem, p. 336.
[83] C. Geertz, The interpretation of cultures: Selected essays, Fontana Press, London, 1993.
[84] D. Bar-Tal, Reconciliation as a Foundation of Culture of Peace, in vol. Handbook on Building Cultures of Peace, Joseph de Rivera (edit.), Springer, Worcester, 2009, p. 363.
[85] K. Asmal, L. Asmal, R. S. Roberts, op. cit., 1997; D. Bar-Tal, From intractable conflict through conflict resolution to reconciliation: Psychological analysis, in Political Psychology, 21, 2000, pp. 351–365; J. P. Lederach, op. cit., 1997; E. Staub, Reconciliation after genocide, mass killing and intractable conflict: Understanding the roots of violence, psychological recovery, and steps toward a general theory, in Political Psychology, 27(6), 2006, pp. 867–894.
[86] D. Bar-Tal, op. cit., pp. 365-366.