THE REFORM OF THE ROMANIAN JUSTICE IN THE POST-COMMUNIST PERIOD BETWEEN PROMOTERS ' ENTHUSIASM AND CITIZENS' DOUBTS

Ph. Dr. Ion Vlăduț

The reform of the Romanian justice after the totalitarian period has constituted an integrated part of the social reform.

The action of reforming the Law in Romania has had a purpose the adoption of a new Constitutional Law, the reorganization of the juridical power, modifications of the Criminal and Criminal Procedure Laws, as well of the Civil and Civil Procedure Laws and others.

In the long run though, the reform promoters' enthusiasm and optimism has diminished 'thanks' to the citizens' attitude of distrust towards the justice as an institution.

Opinion surveys performed by specialists during the years 1995-1999 have reflected an alarmingly bad situation – since more than a half of the Romanian population had only 'little' or 'very little' confidence in Law: 51.1% in 1995; 49% in 1996; 53,5% in 1997; 63,5% in 1998; 70% in 1999 and 77% in 2000.

Even more alarming there has proved to be the fact that – during the above-mentioned period of time – the administration of justice went from bad to worse. The fact leads to the dramatic fall of the citizens' confidence in this fundamental state institution.

And yet this lack of confidence in Law, in justice, is not an isolated phenomenon. It reflects, when deeply analyzed, the completely wrong and in-just way the administration of justice is achieved in Romania.

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Justice, as fundamental requirement of human spirit was and still is to be found as basis of any society. *'Justice'* – as defined by professor Paul NEGULESCU – weighs dramatically in any society. That is why it has been considered the very basis of a society: *justitia est regnorum fundamentum*[1].

Yet, the role of justice in a democratic society and in the rule of law is much larger than that, here the observation of the human rights and fundamental liberties expressing, in fact, the very definition of the above.

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[1] Paul NEGULESCU, *Course of Constitutional Law*, issued by Alex. Th. DOICESCU, Bucharest, 1927

Hence the focus upon the way in which the act of justice is performed, the way the citizens feel it really exists. There is no rule of law without a right justice.

Deformed by the requirements of a totalitarian regime, both in its structure and in the purposes of its courts of justice, as well as in the policy of finding solutions to conflicts appeared at the level of individuals and social groups, after 1989, the Romanian justice engaged on the road of a profound reform. Part of the general reform of the Romanian society, the reform of justice constitutes, at the same time, one of the major components of the integration process of Romania within the European Union. It involves a complex process, dynamic and continuous at the same time, finding its roots in: the Romanian Constitution (1991); the valuable Romanian tradition; European Union model of justice and the international provisions.

Romania has assumed its responsibilities in the domain of justice reform, in the first place those coming from the European Convention of Human Rights and the International Treaty regarding the Human Civil and Political Rights.

Another spring from which the Romanian Justice Reform is drawing its waters is constituted by the valuable experience other states have, an experience acquired along a larger period of time of democratic exercise.

It is undeniable the fact that in Romania, during the reforms which followed the fall of the old political regime, a lot of changes have been taking place within the institution of justice. In this respect the modern norm model has already been created by a series of laws such as: The Romanian Constitution (1991), Law 92/1992 re justice organization, Law 56/1993 of the Supreme Court of Justice, Law 54/1993 re the organization of the military instances and prosecuting offices, Law 35/1997 re the organization and function of Ombudsman, Law 142/1997 re improvement of the juridical organization and many others. Thus, according to the Romanian Constitution, in Romania, law is declared as 'supreme value' (art. 1), 'justice is performed *in the name of law*', and *'jurors are independent*, their only obligation is to observe the law' [art. 123 (1 and 2)].

Justice is accomplished by the juridical power which is '*separated from the other powers in the state,* having its own attributives, exercised within the courts of justice (jurors, tribunals, courts of appeal and the Supreme Court of Justice) and the Public Ministry that, according to Law 92/1992, art.1, shall represent – within the juridical activity – the general interests of the society, and defends the order of law as well as the rights and liberties of citizens, carrying out its attributives by the help of the prosecutors who are organized in prosecuting offices near every juridical instance.

In their turn, the juridical instances are bodies of jurisdiction whose specific functions are those of judging civil, commercial, work, family, administrative, penal processes as well as any other cases which law hasn't provided for. According to the same law, the juridical instances carry out the act of justice with the specific purpose of defending and achievement the rights and liberties of citizens, as well as the other rights and legitimate interests deducted from the act of justice.

In its turn, The Constitution asserts the fact that citizens shall benefit from all their human rights and liberties of our modern times [art 15 (1)]. The citizens are 'equal before the law and public authorities, *without privileges and without discrimination*', in such a way that '*nobody is above the law*' [art 16 (1 and 2)].

Likewise, the fundamental law of our country says: 'The constitutional dispositions regarding the rights and liberties of the citizens are interpreted and implemented according to the *Universal Declaration of Human Rights,* the covenants and the other treaties to which Romania is part' [art 20(1)], and where 'the pacts and treaties that refer to the fundamental human rights to which Romania is part and the internal law are not congruent, the international regulations have priority' [art 20 (1)]. The Romanian legislation after 1989 also ensures free access of citizens to justice, so that '*any person may address justice in order to defend his/her legitimate rights and no law may hinder this right*'. Likewise, according to Romanian Constitution: '*Right of defense is guaranteed for any person*' [art 21 (1)], and '*during trial the parts have the right to a counselor chosen ex-officio*' [art 24 2)]. The Romanian Constitution comprises thirty and six (art 15 through 50) articles that refer to the defense of the fundamental rights and liberties of men. In order that the rights and liberties of citizen should better be defended the institution of Ombudsman was created, he/she 'having attributives ex-officio or at the express demand of the victims, with the stated purpose of defending their rights and liberties' [Law 35/1997, art 56 (1)].

Not getting into any other details of the above, we can say that - during the time passed since the fall of the communism - Romania has actively tried to create a new and modern legislative framework, able to ensure the legal foundation for an equitable justice.

A dynamic process – as this is – the justice reform has imposed many modifications and amendments to the laws that regulate it. Thus Law 92/1992 was modified and amended by Law 142/24 July 1997, which has brought essential improvements concerning the juridical organization, determining a stronger rigor to the concept of *juridical authority* and establishing more accurate attributives for the Public Ministry, the General Prosecutor near the Supreme Court of Justice, and the general prosecutors near the Courts of Appeal, as well

as the place and the role that the National Institute of Magistracy has in training and educating future lawyers and prosecutors, and in carrying out the magistrates' training.

Since any society carries out its justice according to certain laws, Romania has also needed fair and equitable laws. Obviously, during the period passed since the change of the political system (December 1989) and up to the moment, a new legislative foundation, relatively stable, was created through abrogation of former regulations - a new, democratic legislation, able to regulate the relations among individuals. Unfortunately some of laws that have already been adopted by the Romanian Parliament – during this period – contravene the principles of equity and social justice, a fact that leads to forms of passive and active resistance on the part of the public[2]. This situation occurred in the case of certain laws that have as object reparation and recuperation, one of them being the law attempting to regulate the relation between owners and former tenants of the nationalized houses. *'We can say that such laws – aimed at repairing the injustices done by the communist regime have generated - paradoxically enough- inequities and injustice, even greater than the initial law, thus creating a certain* "legislative anomaly" *inside the Romanian society that lead to the decrease of justice credibility and of the trust from the part of many categories of Romanian citizens'.*[3]

Bearing this situation in mind, the actual Romanian Parliament should pay greater attention to the justice of law, taking into account the purposes of such laws, namely: defense of fundamental liberties; positive discrimination of de-favoured citizens; equal chances; the right for all individuals - without any exception - to the system of justice, obligations and contributions; impartiality in accepting the real differences between the winners (the privileged) and the losers (the disadvantaged).[4]

We should also emphasize the preoccupation of those who initiated the justice reform upon bringing changes to the important laws that lie at the basis of the implementation of justice, such as the Civil Law and the Civil Procedure Law, as well as the Penal Law and the Criminal Procedure Law. Significant in this respect is the Government Urgent Ordinance no.138/2000, which modifies and adds to the Civil Procedure Law. This normative act has anticipated to rapidly finding the right solution to civil trials, modernizing and increasing the procedure means, aimed at carrying out the rights provided by law, exercising the rights and carrying out the procedure obligations of the parts, within the provisions of law, sanctioning the abusage of

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[2] Dan BANCIU, *Elements of Juridical Sociology*, 'Lumina Lex' Publishing House, Bucharest, 2000, p 163.
[3] *Id.* p.166
[4] W.G. RUNCIMAN, *Relative and Social Justice*, after Dan BANCIU, Cit. Op., p165

law and the delays of the trials – in short – economy of time and money for the citizens involved in such cases, simplification and acceleration of execution of the act of justice.[5]

Undoubtedly, the implementation of the Government Ordinance - mentioned above - constitutes the beginning of shaping the legislative framework necessary to modernize and make efficient the legislative activity. Yet, because of the complexity and the importance of the domain – which according to law, belongs to the organic law – it would be better if such norms are to be discussed by the Parliament.

Since the achievement of the profound reform of the criminal legislation updated the economical and political changes of the Romanian society after 1989, to the new Constitution, to the requirements of the European Convention of Human Rights, and – in general – to all developments occurred in the contents of the criminal institutions (aimed at by the penal doctrine and the juridical practice), constitutes a masterpiece of long perspective, after the revolution, several normative acts issued during the communist regime were abolished because they could no longer represent the new social order, the political and the economical realities (such as Decree-law 7/1990 that annulled the death penalty and replaced it with life prison). Likewise, certain amendments were implemented to the penal law – imposed by the new reality – as a transition towards a penal law of wider amplitude.

For the reasons shown above, the Romanian Parliament has adopted Law 140/1996 aimed at modifying and adding to the Penal Law. This particular law, that takes into account the unusual increase of criminality in our country, deferred some of the crimes and their constitutive contents, and introduced important changes towards more severe sentences. A fact to be noted is that, according to this law, the provisions of the Penal Law regarding the sentences for juveniles who committed crimes, were modified and added, thus the ways of re-education of minors becoming richer and more versatile. As an example, art 103 in the Penal Law regulates the educational measure of monitored freedom for young offenders.

The same law was completed in such a way that art 110, l-1 in the Penal Law, so as to provide for liberty on bail for an in-prison sentence in the case of juveniles, thus giving the lawyer the liberty of pronouncing freedom for minors in more cases than before.

Along this period of transition, the Ministry of Justice has made several attempts in order to promoting different projects of normative acts aimed at new measures toward the reform of the Romanian Justice. Worth mentioning are some important legislative projects issued in 1997 and 1998, drawn up by specialists of the Ministry of Justice in co-operation with renowned

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[5] *Motives of G.U.O. no.138/14 September 2000*, aimed at modification and addition to Civil Procedure Law, published in the Official Monitor no. 479/2 October 2000.

professors in the Faculties of Law. These had as a purpose the modification of the Civil Law and the Civil Procedure Law and the Penal Law and of the Criminal Procedure Law. To these new projects of normative acts that have in view the improvement of the Probation Law and the Law regarding the execution of sentences, laws that unfortunately have had to wait long before being presented and debated within the parliamentary mechanisms.

At the beginning of 2000, the Ministry of Justice initiated a '*legislative package*' meant to accelerate the juridical reform for which the that time Government intended to take responsibility in front of the Parliament.

The '*legislation package*' was aimed at raising the Romanian legislation at the level of the exigencies of the European/ communitarian law, thus integrating the Romanian society into the European Union, and comprised, inter alias, the modifications and amendments to the Civil Law and Civil Procedure Law as well as the Criminal Law and the Criminal Procedure Law, together with the following laws: Law 92/1992 regarding the juridical organization; Law 56/1993 of the Supreme Court of Justice; Law 54/1993 re organization of the instances of the military magistracy; Law 7/1997 re cadastre and advertising; Law 3/1995 re public notary and the notary activity etc.

The initiatives of the authors of this project having as final purpose to attract the political responsibility of the Government into getting into life the '*legislative package*', comprises *'16 laws within a single one'*. It has triggered great controversies within the political media, the media in general, and last but not least, the written press and television.

Thus, the initiative was banned as '*infringement of the <separated powers> in the state* principle', '*brutal denial of the tradition* of the Romanian legislation regarding the concept of law and of the tradition of the European juridical culture', a '*dictatorship* of the Government', '*a degradation of the constitutional act*' (art 113, l 1) and so on.

These are, in short, the main reformatory measures taken by Romania after the fall of the communist regime regarding the changes of the *'abstract grammatical sentences in the law'* that regulate the juridical life of individuals and social groups and *'the concrete rules of taking decisions in trial of conflicts'*, as the famous Austrian juror – Eugene EHRLICH named them.

The efficiency and the quality of the activity of the juridical power system engaged in the process of applying the justice, are closely related to the quality of the human resources found within the system, with their professional competence, with the dominated morality state among these, with the clear definition of the status of those having different positions in this system and most important, the managerial competence of the leaders of the different juridical instances. In

this respect, an important role in implementing the juridical reform in our country is represented by the way the juridical profession and the magistracy have been reshaped.

The dispositions of the Romanian Constitution of 1991, of Law 92/1992 re the juridical organization and of Law 142/1992 re the modification of Law 92/1992 have more clearly defined the statute of the magistrates according to the principles of the rule of law and of the right trial. Thus, the Romanian Constitution proclaims the principle of independence of lawyers, underlying the fact that *'judges are independent but for the law'* (art 123, l 3). In addition, through a series of regulations comprised in the above-mentioned laws, the guarantees of the performance and real independence are stipulated as: *'friendly relations among the practitioners, immovability, establishment of a decent salary in accordance with the importance and quality of work etc.'* Out of the above list, the un-immovability of judges represents the fundamental guarantee of their independence and hence of a fair trial.

In their turn, according to the constitutional regulations: 'the prosecutors carry out their activity according to the principle of legality, impartiality and hierarchical control, under the authority of the minister of justice' (art 131, l-1).

Thanks to the norms of the statute of the magistrates, improvement of salaries and employment of the graduates of the National Institute of Magistracy (founded in 1997), there were working approximately 3,400 judges (at the end of 1999), instead of 2,600 at the beginning of 1997. Thus, almost all vacant positions within the juridical power were occupied, this fact leading to the dilution of the number of cases per judge, and of course to the improvement of their work.[6]

Unfortunately the reiteration of the profession of the juridical executor and that of the registrator of ownership, as well as that of a counselor are still in draft.

The raise of the capacity of the juridical instances system and the solution for the legal process also represent an important direction towards the Reform of the Romanian Justice. Thus, at the end of 1999, out of 1,724,668 cases pending trial at the national level, 1,434,412 cases were solved – that is 83% of the total[7] (...). But that has been only a momentary success since no less than 290,256 of the cases implying the fate of hundreds of thousands of people, remained unsolved. Likewise, the reform of the justice required great efforts aimed at the improvement of the material conditions of the legal premises.

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[6] Flavius A. BAIAS, *The Reform in Justice is a Continuous Process* (1), in The Palace of Justice revue, nb.2, 1999, page 8.

[7] *1999 Summing Up*, excerpt from the report of the instances activity and of the Ministry of Justice for 1999, The Palace of Justice review, no. 2/2000, page 9

It is well known the fact that no reform – be it in justice or anywhere else – is no easy task; it is not just a mere formality. The reform has proved to be much more a complicated thing than it was thought at its beginning. On one hand, many a contradictory aspects occurred and on the other hand many difficulties it has been confronted with. Of course when analyzing the reform of justice in our country one cannot ignore the difficulties the Romanian economy is going through, together with the general crisis specific to countries crossing transition periods. Within this framework, many of the normative acts and measures taken at the level of the juridical instances, magistrates and auxiliary personnel (executors, clerks etc) have not succeeded to achieve their expected effects, although the success was what everybody looked for. The reform of justice implies, in the first place, its initiators – judges, prosecutors and so on – all those entitled and obliged to perform the act of justice. But, in its capacity of *'performing the act of justice'*, justice also involves all those who await justice to be done – the suitors, the petitioners, the victims and generally speaking, all the citizens, the true beneficiaries of the act of justice.

The reform of the juridical system, of law, does not represent only a purpose in itself. It should mirror the way in which justice is performed, the way this act is directly felt by each and every citizen.

Citizens are not so much interested in the theoretical measures referring to the reform of the juridical power, but more in the way the reform is carried out – its practical, material aspects.

Unfortunately, from this point of view, the situation in Romania has been far from perfect. Nowadays, in order to obtain a juridical sentence/decision, one has – almost always – to exceed the *'reasonable'* term as established by the European Convention of Human Rights. Many times the act of justice does not convince the public opinion. Hence the citizens' lack of confidence in law. Thus, the low synthetic indicators of the perception of citizens have as regards the act of justice and implicitly the result of reform.

The citizens' faith in Romanian justice has constantly deteriorated it being a real reason for concern, since the beneficiaries of the justice painfully feel the results of the reform applied in this domain.

Thus, a party – Ional G., aged 59, has uttered some bitter words, at the same time making an un-dissimulated requisitory of the Romanian justice reform – words that express vividly the way the changes in the domain have been perceived by the common people: *"Probably, when speaking about the justice reform, the specialists – people having responsibilities within the Ministry of Justice, the Supreme Court, the County (Judetz) tribunals, the Courts of Appeal and so on, think of matters connected with the justice administration, the essence of judging and solving juridical cases. We, the ordinary people, don't think so high but of our daily*

cares, ponder over things as forced by the reality, by the small details that willy-nilly we run into, every moment of our life.

The justice reform means for us a reform - for the better - of the things that we see and meet in the pending cases [...]. I'm speaking about a reform of the act of act of justice. This reform should refer firstly to the observance of my right to the procedure [...]. I am sure that the reform of justice implies many details that refer to the essence proper of justice and administration. But first, those responsible for the act of justice should deal with the so-called 'small things' [...]; what meaning has for me – a simple citizen, a petitioner – the concept of 'perfect laws', competent judges, lawyers and prosecutors etc [...] when I am called in front of a court for I don't know what cause and in I don't know what position.

In my opinion, in Romania, the reform of justice should be – or, maybe, still should begin with observing the fundamental rights, which have already been provided by the law [...]. Maybe the justice reform has already begun a long time ago – as the specialists assert -, maybe it has already engaged on the right way. If so, where are its first steps [...] – the strict observance of the fundamental rights?"[8]

In its turn, 'the spokesman of the public opinion' – the written press, has proved to be even more vehement when describing the stage of the Romanian justice, and implicitly, the results of the processes of reform in this domain, appreciating that: *"in a country where everybody considers himself/herself to be a 'Voda' (Romanian ancient word describing a 'king' or a 'leader'), the magistrates have 'discretionary powers' and are 'servants of an injudicious court' – where the abusage is daily seen because of the 'incompetence and unfairness', 'rottenness that kills the Romanian juridical system', 'some judges who have changed the act of justice into a juridical farce conducted by irresponsibility, incompetence and corruption', '83% of the court sentences are a professional reject' and therefore 'scandalous and forged' so that the act of justice tends to become one of the most crooked facts in Romania".*

Perhaps many of these accusations represent only exaggerations of the press. But the truth is that, as former president Emil CONSTANTINESCU himself observed on the occasion of his oath as Judge of the Supreme Court of Justice: *"The Romanian public opinion is unconfidently looking at the act of justice because certain juridical decisions are simply incomprehensible".*

Proof of this assertion stands the results of the numerous public surveys initiated by the designated institutes research centres during the recent years.

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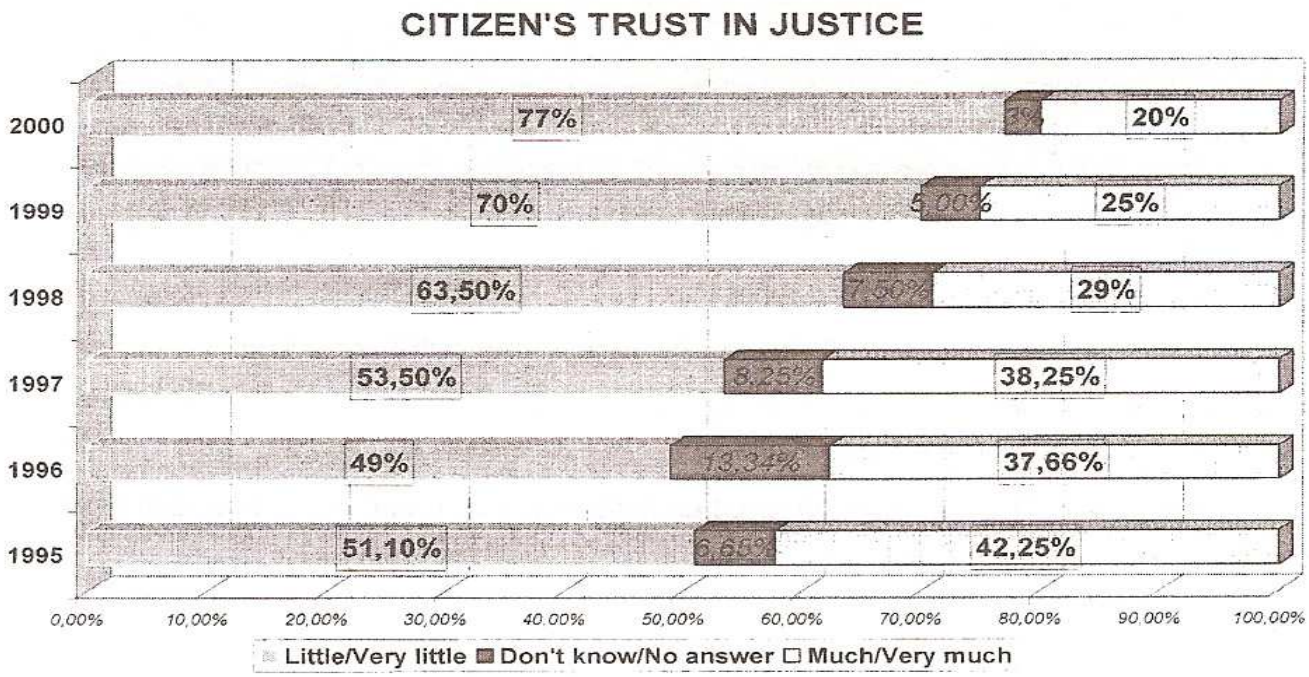
[8] *Among Problems with the Magnifying Glass*, interviews realized by Titus Andrei, 'Palace of Justice' Revue, no. 6/1999, p.9

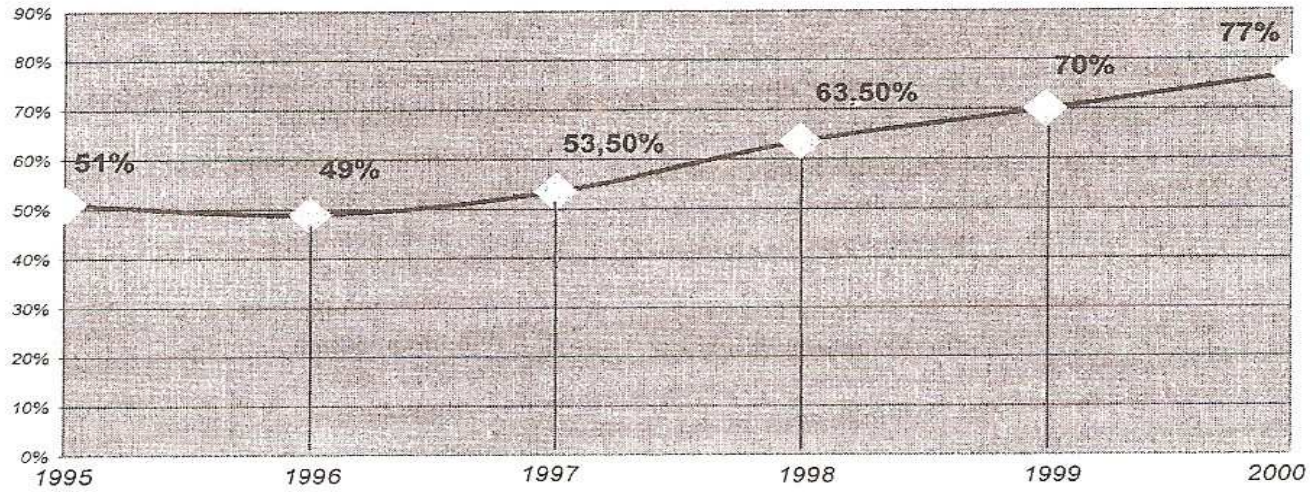
A mere look at these surveys results carried out beginning with 1995 through 2000 show that as regards the citizens' confidence in justice, this institution of the rule of law, which is so important in a state, enjoyed 'much' and 'very much' confidence in a proportion of 42.25% in 1995, 37.66% in 1996, 38.25% in 1997, 29% in 1998, 25% in 1999 and 20% in 2000. The highest percentage showing the citizen's confidence in justice was recorded in 1995 – 42.25% and the lowest – in 2000: 20%.



But a real matter of concern is the figures rendering 'less' and 'the least' confidence in justice: 51.1% in 1995, 49% in 1996, 53.5% in 1997, 63.5% in 1998, 70% in 1999 and 77% in 2000.[9]

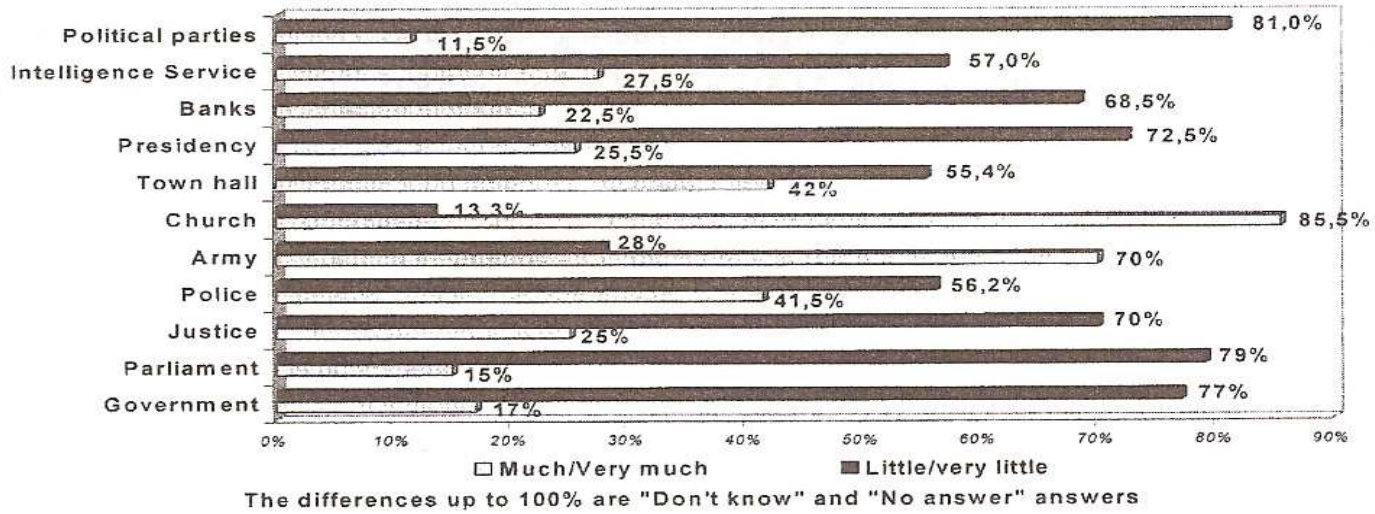
[9] *Barometer of Public Opinion*, nov.2000, Center for Urban and Rural Sociology – Course, p.20

"LITTLE" AND "VERY LITTLE" TRUST IN JUSTICE
- EVOLUTION BETWEEN 1995-2000 -



When analyzing the confidence of citizens in justice – in 1999 regarding the eleven most important social institutions of the country, we can see that the Romanian population had 'much' and 'very much' confidence as shown below: Government 17%; Parliament 15%; Justice 25%; Police 41.5%; Army 70%; Church 85.5%; Town hall 42%; Presidency 25.5%; Banks 22.5%; Intelligence Service 27.5%; Political parties 11.5%.

Citizen's trust in the fundamental social institutions
- 1999 -



The differences up to 100% are "Don't know" and "No answer" answers

Thus, justice finds itself on the seventh place after the Church, Army, Town hall, Police and the Intelligence Service, and before the Banks, Government, Parliament and the Political Parties.

A symptom – and a severe one, one must say – is that *'the very symbol of justice'* enjoys much too little confidence from public.

The situation of this institution has, indeed, become alarming, because, within any organized society, justice should represent its very foundation.

Henceforth *'a country in which confidence in justice lacks or is very low, the human liberties cannot be observed and that particular dignity of the citizen, that freedom of thought as well as that initiative representing the glory of the Western European peoples cannot exist either'*[10], as the famous professor Paul NEGULESCU drew out our attention on, more than seven decades ago.

The low confidence in justice of the citizens is not a mere accident, but it reflects the way in which the reform in this domain is being carried out, the way in which the act of justice is being performed in Romania, the fact that, during the process of justice administration, there have been numerous shortcomings and dysfunctions that led to the massive erosion of the confidence of the Romanian citizen in justice we witness today.

The reasons are many; some of them are objective, others subjective. They can be found outside the juridical system, as well as inside it. Reasons such as lack of coherence, instability, and at times lack of consistency of the normative dispositions of the act of justice the magistrates perform, the increased number of cases pending trial (about three times more during the latest 10 years), the modest financial means put at the disposition of the juridical instances have pulled and pushed the system from outside, thus influencing negatively the quality of the juridical services.[11]

Another category of reasons can be found within the intricate juridical procedure provided for by our Procedure Law, be it Civil or Penal that lead to excessive difficulty and length of trial. At the moment, during a civil trial, there are useless terms, given either when requested by the parties, or by the judge. This cause unpardonable delays of the verdict. To this the procedure shortcomings, the blackmail and cavil, and misuse are also added.

In certain cases the procedure law hinders the very right of the citizen to free access to justice, by lack of ways to attack the wrong juridical decision or the wrong interpretation of law. As an example, at the moment, because of the modifications occurred within the Criminal Procedure

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10 *'99 Report*, an excerpt from the report of the activities of the juridical instances and of the Ministry of Justice during the year 1999, 'Palace of Justice' revue, no. 2/2000, p.9

11 Silviu Alupei, *Reform of Justice, The Rule of Law in Which Sentencing Equals Aquital,* 'Free Romania' newspaper, September 28, 2000, p.26

Law by Law 59/1993, many of the inadequate juridical sentences have become unchangeable at the courts of appeal and tribunals, thus being impossible to be further attacked.

At the same time, we may speak about a certain lack of complexity of norms aimed at the judges' ways of training and behavior, in order to help them avoid the arbitrary. There is need of certain legal dispositions that limit the liberties of a judge. Yet, the Romanian Law cannot be excused of its own shortcomings and errors. Paraphrasing Hegel who said, referring to punishment of the wrongdoer: *"His own deed itself acts upon him"* we could say that *'it's his/her own behavior administrating justice that acts upon it'* this leading to the very low percentage of trust from the citizens.

The lack of celerity of the act of justice also constitutes a major cause for the citizens' distrust in their institution. Although we shouldn't make a fetish out of the desire of quick steps towards a solution, we still cannot ignore the fact that, within the European Convention of the Human Rights, the right to a fair trial within a reasonable period of time is considered one of the fundamental rights of people.

The statistics show that most of the petitioners addressing the Ministry of Justice complain about the unfairness of justice and the lack of the legal basis and especially about the length of time a case is subject to. They find the processes far too long. Many times one faces the fact that in a '*rule of law*' state one may await for the sentence of the Court for several years as well as for the verdict of the Court of Appeal. Numerous complaints are 'solved' by simply being cancelled without even being taken into consideration. Although, at the moment, measures are being taken in order to a faster solution of a case, many are the files for which '*the reasonable time*', as defined by the European Convention of Human Rights, is exceeded.

Another major reason for the distrust of citizens in justice is represented by the extremely large number of the civil and penal sentences annulled by the superior instances of appeal and recourse. It's unbelievable that the annulment rate in 1997 was of 83.43% and even 75.69 in 1998 some County (Judetz) tribunal (namely Ialomitza).

Unfortunately this does not happen only In Ialomitza County, but also at the level of the entire country, where, although the figure of annulment is not that dramatic, it still remains incredibly high, at least from the point of view of European legal norms.

As an example, in 1999, the tribunals and the instances of appeal *reshaped* – not only penal cases – a total of 16,128 sentences from a total of 38,212 appealed cases. (An annulment ratio of 42.21%.) Also, the tribunals – this time as instances of recourse – judged 19,649 penal cases, admitting recourse for 7,191 – that meaning an annulment ratio of 36.60%.

Some controversial sentences passed by several juridical instances have also constituted a reason for distrust of citizens. Many difficult to understand decisions passed by the Romanian instance courts have simply bewildered the public opinion.

As an example can be given that of the acquittal – on September 13, 2000, by an instance court in Brasov – of the Syrian citizen Zaher ISKANDARANI, who had been accused of embezzlement, use of false documents, cigarette and coffee smuggling, and financial evasion, although initially he had been charged only with embezzlement and use of false documents.

A court in Constantza, '*The Rostock*' case - on August 11, 2000 - conducted a second case that stirred amazement. Alexandru DIMA was acquitted after previously having been sentenced to pay a fine of $150,000 and lei 1,500,000 under the accusation of embezzlement, theft, abuse in service and use of forged documents.

Upon these two major cases of corruption, the citizens may have wondered which was the correct verdict: the one given by the tribunal or the one given by the supreme courts of appeal and recourse.

Likewise, the decision of the supreme court of justice when sentencing Myron COSMA – the leader of the '*Valea Jiului*' Miners' Union – to 18 years imprisonment after the change of the initial verdict has had as a consequence not only to the miners' marches to Bucharest but also to hot controversies. Ample controversies were also stirred by the sentence passed, by the Military Tribunal in Bucharest, in the case of '*Cigarette II*' file. The controversies referred to the administration of punishment. For example, colonel Gheorghe TRUTZULESCU (from the Guard and Protection Service), considered to be the '*head*' of the whole operation, was sentenced to 7 years imprisonment, only one year more than the *'General Distribution'* owner's wife, and 7 years less than commander Ioan SUCIU, whose sentence was 14 years of confinement for smuggling.

Such controversial decisions as the ones shown above are not the only ones – a fact that weakened considerably the trust of citizens in the Romanian system of justice.

Often the magistrates and the auxiliary juridical personnel are drawing the citizens distrust because of their inadequate conduct. There were cases in which the magistrates didn't carry out their legal duties. The fact led to admonishment and dismissal from Magistracy. Others were disciplinary moved for a period of time. Certain magistrates believed that their immovability, independence and stability were theirs for keeps ex-officio, for their own profit, not for servicing of citizens.

Certain shortcomings have also been noticed among the auxiliary personnel. It is true that at this level the personnel are not adequately trained. But what was really grave refers to the act of corruption – even at the level of the magistrates. If we are to believe everything our press

says, the cases of corruption have reached the level of a phenomenon. Many times, the fundamental rights of citizens were infringed.

It's obvious that the Romanian justice goes through a complex process of reform meant to change the juridical institutions, and the legal people, in such a way, as to really attain the real role of justice in a democratic society.

Important steps have already been done at the level of structure, organization and legislation, but the bigger step towards the achievement of justice – still waits to be done.

In future the promoters of justice are expected to accelerate the reform, focusing on the way its mechanisms work, so as the Romanian citizens should benefit of the good services of an institution able to really defend their rights and liberties as human beings.

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