



# "Ovidiu Șincai" European School

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## Report regarding the Third Seminar of the "Ovidiu Șincai" European School – edition 2005-2006 Predeal, 30 March – 2<sup>nd</sup> April 2006

The Third Seminar of the "Ovidiu Șincai" European School – edition 2005-2006 was organized by the "Ovidiu Șincai" Institute in the interval 30 March – 2<sup>nd</sup> April 2006, at the *Orizont* Hotel from Predeal mountain resort. The third seminar was unfolded around the theme of *Politics and Society in a European Democracy*. The lectures were presented by **Gabriel Andreescu, Founder of the Romanian Association for the Protection of Human Rights – Helsinki Committee (APADOR-CH) – "Multiculturalism in a Europe of the Nations"**, **Dragoș Șeuleanu, Vice-President of the Romanian Chamber of Commerce and Industry – "Politics, Civic Organisations and the Citizen's Interest"**, **Viorica Costiniu, President of the Romanian Association of Magistrates – "Justice – between Professionalism and Politicking"**, **Marius Profiroiu, State Secretary in the Ministry of Administration and Interior (2001-2004) – "European Policies in the Context of the Romanian Public Administration"**.

### 1. Gabriel Andreescu – "Multiculturalism in a Europe of the Nations"

Multiculturalism can be defined as a source of policies concerning the management of cultural diversity from a society. At the same time, it can be regarded as a conflict generator, through which energies are exhausted. Multiculturalism must be considered according to the specific features of the space in which it unfolds: 1. *The Canadian Context* (which lies at the origin of this very concept) – in this case, the government has led a policy of encouraging preservation of group identities representing import minorities; 2. *The American Context*: the government leads a policy of encouraging minorities that are into a fragile situation, which have traditionally had a marginal status. For example, people with disabilities, gay people; 3. *The European Context*: the symbolic situation of minority communities (ethnic, linguistic, cultural) within the state's existence.

Multiculturalism is linked with the necessity of managing the ethno-cultural diversity in a country. Thus result its principles:

- The need to have a policy of intercultural integration based on the integration of national minorities. That means political life must be non-discriminating, any citizen having access to public offices.

- This concept must not be confined only to integration, as minority communities also need separation, better said internal auto-determination. The term of internal separation could be replaced with the formula “right to private life” or *privacy*. The two terms do not exclude each other; the degree of integration can grow simultaneously with the degree of privacy. If we refer to religion, it can be considered the communitarian dimension of faith (which is individual).

- Positive discrimination is a special measure, that must be applied, but which can create problems. Multiculturalism means accepting the group’s privacy, as the community better manages problems at local, internal level.



Multiculturalism can be either *liberal* or *non-liberal*. Liberal multiculturalism supports auto-determination up to the fundamental values of the democratic society, which are common for all. The non-liberal option places community in a higher position than individuals and supposes the unlimited right to auto-determination of the community (a sort of *communitarianism*). The greatest danger is to treat societies from an

ideological and not from a practical point of view. At international level, the liberal form is preferred, but there are some exceptions: the *Amish* sect and the Native American Reservations in the USA.

Another distinction must be made between globalism and localism. European integration is an expression of globalism. At present, the two phenomena are taking place at the same time, emptying of content the intermediary level of the nation. Globalism offers resources to localism by altering the meaning of state borders.

Multiculturalism represents the means of protection of minorities. And, in order for this to happen we must acknowledge three sets of rules: 1. Respecting the system of fundamental rights and liberties; 2. Respecting the principle of non-discrimination; 3. Applying special measures, which are actually affirmative measures in order to alter a negative existing situation (sometimes, through positive discrimination). This kind of measures is compulsory only when blatant social differences exist.

In the case of Romanian society, the term of *multiculturalism* has not been used until 1998. The integration of multiculturalism in the Romanian public vocabulary was for a long time disguised under the form of inter-culturalism. A short evolution of the phenomenon: - January – March 1990, stating of the theme of *privacy* by ethnic Hungarians; - March 1990 – December 1996, integration of the Hungarian community

into the opposition (from a political point of view); - December 1996 – present, the Democratic Union of Hungarians in Romania is part of the governing coalition.

## 2. Dragoş Şeuleanu – “*Politics, Civic Organisations and the Citizen’s Interest*”

The main things that must be said concerning the Romanian civil society are the following:

- At present, we need to create *solidarity* of civil society. We must act in such a way that interest groups cease to be seen as illegitimate. A way would be to restrain the use of secret ballot to fewer fields as possible, in order to make the various interests transparent.

- *Credibility* of civil society is given by the coincidence of declarations and facts. Financing of civil society depends on the credibility of the respective organizations. And the involvement of NGOs in politics shows a lack of professionalism from their part, and has attributed a negative connotation to the concept of “interest groups”.

- *Representativity* of civil society. Lately, the degree of representativity of NGOs has increased, as a growing number of them benefit of the support (financial, logistic) of international organizations, which offer them credibility.

In conclusion, we are witnessing the maturing phase of Romanian civil society, as citizens have understood how much we need it.

## 3. Viorica Costiniu – “*Justice – between Professionalism and Politicking*”

### a) *The Relation between the Ministry of Justice and the Romanian Association of Magistrates*

The Romanian Association of Magistrates is an independent organization that was founded in 1993. Due to its critical, balanced position, it has managed to gain an important status, both domestically and internationally. The association has undertaken a constant activity regarding justice reform. The process began in 1991 and it was very difficult, taking place with small steps.

The evolution of the system passed through the following important moments:



- 1991 – The Constitution vouches the existence of the Superior Council of Magistracy (CSM) and independence of judges;
- 1992 – The first law of judicial organization is adopted, leading to the extension of constitutional provisions. Council of Europe has become an important factor in justice reform;
- 1997 – An enlargement of CSM competencies takes place;
- December 2003 – We are witnessing a setback of justice activity, attacked by the press, political environment, civil society, all institutions being discontent with the direction of justice evolution process.
- February 2004 – As a result of the existing situation, the Alliance for a European Justice is formed, having as purpose to stop the negative reform of justice. This is the starting point of law 315 of CSM, establishing the organisation pattern and the statute of magistrates. CSM is the organization managing the justice activity, but separately from the executive power.
- 2005 – A negative element appears again, politics getting involved again in the justice process. But, at the same time, a big step forward is taken through the effective recognition of prosecutors' independence. Also, the National Association of Magistrates is formed.



But reform also means legislation, which has to be adapted to European norms. The important progresses Romania has made were recognised, but there are still some problematic fields, which have to be tackled. Thus, the justice and the auxiliary personnel are insufficient for the 2 million annual cases. Also, the duration of processes, the non-

unitary character of practice, are elements to be improved. Nonetheless, justice is the most transparent power, with the most intense activity.

#### *b) The Relation between the Ministry of Justice and the CSM*

Until 2004, the Ministry of Justice was the only institution having the right to decide in the field of Justice, it appointed judges and prosecutors. Admission into magistracy was though treated superficially, based on a too great flux of new people, without a significant experience. Starting with 2004, CSM is endowed with more attributions, as a more elaborate and consistent procedure of electing magistrates is adopted. The

Council also gains a higher material and political independence. Thus, the Ministry of Justice is present at the plenary and discipline sessions, but it has no voting rights.

### *c) Independence of Judges*

At this moment, the system is not entirely independent. Judges have a certain degree of independence, which is (most important) encouraged at present. The judge has to be master of his decisions, no matter of interest, and to come with the correct solution. Therefore, formation of judges is very complex, and he has to have at least seven years of experience and to benefit from a continuous formation process, all along his career.

### **4. Marius Proftiroiu – “European Policies in the Context of the Romanian Public Administration”**

In the field of public administration there is no *acquis communautaire*. At the point when Romania will join the European Union, all tasks will be accomplished by the Romanian administration. But this is an advantage, as the Romanian administration is the most entitled to find its own model that will function properly for Romania. We must take into consideration the standards of the other European states and to adapt them according to the administrative patterns of our country.

The following European values have to be considered:

1. *Transparency*. Romania has the task to implement European public policies. Although we have laws, they are not yet well put into practice. It was noticed that only 25% of the administration law provisions have been applied during 2004, which shows that there is only a declarative and not a practical transparency.

2. *Responsibility*. In Romania, responsibility is still shared among numerous people and, in the end, nobody is held accountable. While in the EU there are clear provisions concerning the person accountable for certain activities (usually there is a single person per activity).

3. *Efficiency*. In public policies we have *input* and *output* and the practitioners evaluate the *outcome* (the effects of the two). Within Romanian administration only inputs and outputs matter, nobody looks at the outcome. In 2002 special groups of *modernizers* were created at the level of all ministries and counties, having as purpose modernization of public administration in order to decrease lack of communication and to increase efficiency.



4. *Predictability.* At present, centralisation proves to be counterproductive and decentralisation is a good solution. In Romania, the internal administration is not sufficiently de-concentrated – the central level has too many attributions. Therefore, it would be necessary to change the leadership pattern only in central institutions and to eliminate the political factor from public administration, such as it was the case of European administration. In 2001, the EU introduced the self-evaluation system which Romania has adopted.

5. *Flexibility.* The Romanian system is extremely rigid, as there is still the confusion between management and administration. Management has as a purpose measuring performance. Together with other European states, Romania has introduced a system of post-university professional formation in order to be thus able to respond to the EU requests. Through the creation of elites a professionalization of public administration is thus achieved.

Romania still has to do some progress in the field of administration. The priorities would be:

a) The reform of the public function – through the motivation of human resources;

b) Symmetrical decentralisation – it must be achieved firstly where there are financial conditions. Local administrations are closer to citizens and are the engines of local development. Until 2015, it is desired to achieve compatibility with the EU. Funds that will be allocated in the period 2007-2013 for improvement of legislation implementation capacity have already been established;

c) Improvement of evaluation in the field of public development policies.

Administration must not prevail on politics, but vice versa, it has to be able to apply the political projects. The main long term project is that of increasing the number of high quality civil servants.

## 5. Evaluation of questionnaires

The appreciations of the participants concerning the organization of the second



seminar compared to the first seminar were generally “as good as last time” or “very good”. In what concerns the evaluation of the relations established between participants and lecturers, the good communication from the first two modules was preserved both among participants and between participants and lecturers.

Among the main benefits of

participating to the three seminars organised in Romania by the “Ovidiu Sincai” European School, participants have emphasised; finding new useful information, socialising, getting acquainted to some personalities and approaching actual problems in the context of European integration.

Recommendations of the participants aim at following aspects: sending information about accommodation and meals in Strasbourg in due time, providing some materials in electronic form and introducing new courses concerning national security, geopolitics, Romanian and European culture and civilisation.