NATIONAL UNIVERSITY OF POLITICAL STUDIES AND PUBLIC ADMINISTRATION

Doctoral School

Field of studies „Administrative Sciences”

DOCTORAL THESIS

(Summary)

THE ROLE OF NATIONAL PARLIAMENTS IN THE IMPLEMENTATION OF THE EUROPEAN COURT OF HUMAN RIGHTS JUDGMENTS

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Bucharest, 2024

The Convention for the Protection of Human Rights and Fundamental Freedoms is recognized as one of the most effective international human rights instruments in Europe. Moreover, it is unanimously recognized that a member state's democracy cannot exist and function outside the Convention system.

Since the Second World War, the modern international legal system has created, through emblematic organizations which have been in existence for decades, universal mechanisms for proclaiming and safeguarding the most important human rights. One such universal mechanism is the historic act of the *Universal Declaration of Human Rights*[1], adopted on 10 December 1948 by the General Assembly of the United Nations. Conceived as a pivotal document, which inspired the creation of international treaties or conventions with fundamental legal value, originally drafted as a *"collective pact against totalitarianism*"[2], it is considered to be the foundation of modern European jurisprudence and institutional infrastructure for the protection of human rights and fundamental freedoms. Moreover, the Universal Declaration of Human Rights is *"the veritable blackboard of social and behavioral scientists. Each of the Declaration's thirty articles proposes fundamental values which the scientist - whether sociologist, psychologist, anthropologist or psycho-sociologist - must openly affirm in his or her studies"*[3].

The text of the Council of Europe's *European Convention for the Protection of Human Rights and Fundamental Freedoms* (the Convention), itself based on some of the most important fundamental concepts of human existence - *justice, freedom, individuality, the human being, protection* - concepts which have been a constant preoccupation of human thought since the dawn of antiquity, is the corollary of the development of the schools and currents of legal thought that have followed one another throughout the history of law since its inception, a measure of the depth of the development over time of these concepts, of their inalienability, universality, interdependence and indivisibility, and of the value and competence of the European legal system to preserve and safeguard the legal content of these concepts.

Moreover, with regard to the evolution of human rights, *"it is not possible to date the earliest traces of human rights; their decipherment must be sought in the human conception of the world, in the human-divinity relationship and, of course, in the relationship between power and*

[1] On the historical development and importance of the Universal Declaration of Human Rights, see Irina Moroianu Zlătescu, *The universal declaration of human rights - past, present, and future* – in Law Review, Supliment, 2022, pp. 5-13

[2] Ed Bates, *The Evolution of the European Convention of Human Rights: From its Inception to the Creation of a Permanent Court of Human Rights,* Oxford University Press, 2010, p. 320

[3] Septimiu Chelcea – *Metodologia cercetării sociologice – Metode cantitative și calitative,* Editura Economică, 2001, p. 42

man. Moral commandments, i.e. human attitudes that define good (or bad) conduct, that prescribe rules of behavior to which people must obey and conform in their relations with one another, have sprung from both of these"[4].

Thus, we consider that a first element of the Convention's deep and concrete force derives from the incorporation, in its legal structure, *of the very roots and axiological foundation of the justificatory discourse on the primordial and essential human rights*, which in turn determines the causes, but also the legitimate effects of the supranational character of justifying subtle, direct and indirect constraints on national action. This conclusion is closely linked to *"the idea of justice and equity which the law must ensure"*[5].

The concept of progressive and inclusive integration from which the project to construct the European edifice after the Second World War started was also the asymptotic framework for political, economic and legal action to create a single transnational structure in which landmarks such as *human rights, democracy and the rule of law* were to become fundamental rules[6], transcending the spatial limits of borders, history or cultural vocations. The newly created pan-European and transatlantic organizations, the European Communities, the Council of Europe and NATO promoted security, economic cooperation and political integration. *"The respect for and promotion of human rights and fundamental freedoms is one of the founding principles of the European Union"* [7], as well as of the Council of Europe[8]. All these organizations are made up of states which *"must share a common understanding of democracy, the rule of law, the rule of law and respect for human dignity"*[9].

According to the specialist literature, the idea of integration *"was conceived from the outset as an evolutionary process, continually adapted to the needs that would arise along the way and to the wishes expressed by the Member States to move in one direction or another. Each development towards integration was to trigger further developments (the "gearing" or "spill*

[4] Irina Moroianu Zlătescu, *Drepturile omului - un sistem în evoluție,* Institutul Român pentru Drepturile Omului, 2007, p. 7

[5] Elena Mihaela Fodor, *Legătura dintre drept și timp – discuții privind instituția prescripției*, Anuarul Institutului de Istorie »George Barițiu« din Cluj-Napoca - Seria HUMANISTICA, Editura Academiei Române, 2016, p.2

[6] For a more in-depth analysis, see Irina Moroianu Zlătescu, *Apariția și evoluția istorică a drepturilor omului,* în Drepturile omului – un sistem în evoluție – op.cit, pp.7-17

[7] Irina Moroianu Zlătescu, Human Rights A dynamic and evolving process, Ed. Pro Universitaria Publishing House, Bucharest, 2015, p.158

[8] Article 3 of the Statute of the Council of Europe states: *"Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council"*.

[9] Irina Moroianu Zlătescu, Elena Marinică, Dreptul Uniunii Europene, Ed. Universul Academic, Ed. Universitară, București, 2017, p.42

over" effect)"[10]. Moreover, *"the Convention is one of the highest and most tangible expressions of Europe's determination to integrate"*[11].

What is truly spectacular in this principled legal, ideological, social and administrative choice is the conceptual radicalism of transforming a Europe emerging from war, without moral normative benchmarks, with terrible abuses of human rights, into a Europe of profound reconstruction, returned to the foundations of primordial rights and freedoms and rebuilt on them. Moreover, *"the only important changes, those which bring about the renewal of civilizations, are changes in opinions, concepts and beliefs"*[12]. Between 1949 and the 1970s, deep Europe, and in particular the Western European countries, underwent major systemic transformations, with the constitutionalist trend requiring the guarantee of certain rights and their protection, by strengthening the principles of legal certainty and legality. At the European level, *"both the European Union and the Council of Europe are constantly working together to restore the fundamental values underlying the edifice of European constructions in the states recording democracy slippages. Otherwise, the costs of these drifts become uncontrollable, the institutional systems become vulnerable, the administrative systems become almost useless, and the concepts of the rule of law, democracy, democratic control, independence of the judiciary, balance of powers in the state, become devoid of essence"*[13].

Depending on the social-moral value hierarchies, the binomial *"collective conscience"*[14] – *"collective unconscious"*[15] has brought different qualitative determinations in the articulation of principles, rules or common legal discourse. In these qualitative determinations, the concept of human rights itself has a dialectical function, representing the measure of reconciliation between the authority of the state and the protection of the individual against that authority. Within these limits, the Convention is considered to be one of the first operational mechanisms *"of international law, which organized the protection of the individual against his own State, guaranteeing him*

[10] Constanța Mătușescu, *Drept instituțional al Uniunii Europene*, Editura Pro Universitaria, București, 2013, p. 23

[11] Gordon Lee Weil, *The Evolution of the European Convention on Human Rights,* The American Journal of International Law, Vol. 57, No. 4, Cambridge University Press (Oct., 1963), p. 804

[12] Gustave Le Bon, *Psihologia mulțimilor"*Ed. Anima, București, 1990, p. 7

[13] Alina Mihaela Grigorescu, *Stream liningt he administrative system – recent developments within the framework described byt he Cooperation and Verification Mechanism* - Supplement of Valahia University – Law Study, Conference paper, Editura Bibliotheca - Faculty of Law and Administrative Sciences Valahia University of Târgoviște, Romania International Conference, The 16-th Edition, Knowledge-Based society - Norms, Values and Contemporary Landmarks Târgoviște, October 23-24, 2020, p. 284

[14] Émile Durkheim, *De la division du travail social*, Paris: Félix Alcan, 1893, Paris: PUF, 1930, cap. II, pp. 408-418

[15] On these concepts, see, among others, Carl Gustav Jung – *Arhetipurile și inconștientul colectiv,* Editura Trei, 2003, pp. 11-61

fundamental rights and freedoms"[16], although we believe that both fundamental rights and fundamental freedoms are subject to a non-exhaustive sphere of interpretation, because, as Montesquieu observed, *"there is no word which has received more meanings and has impressed the mind in so many ways as liberty"*[17].

Analyzed in the modern context, we believe that the standard of substantial protection and guarantee of human rights is *the first absolutely quantifiable reflection* describing the degree of perception and extension of state authority within the limits of functional democracy. Moreover, *"the science of human rights is a science whose objectivity and rigor is guaranteed by the independence of human rights from any school of thought or any interpretation of reality"*[18].

Research objectives

The ***general objective*** of the research is ***to demonstrate that the system of the European Convention on Human Rights is itself a matrix that both generates and integrates values, forces and methods which constitute***, for the member states of the Council of Europe, in particular through the ultimate subtle constraining approach of the act of enforcement itself of the judgments delivered by the European Court of Human Rights[19], ***the extended guarantee of respect for fundamental rights and freedoms at the regional level, realized through and by national and transnational institutions, with a fundamental role for the parliaments of the states.*** We also sought to identify and analyze the institutional models and mechanisms for the full and swift enforcement of measures ordered by the European Court.

The general objective of the paper is in line with the priority research theme - *Human Rights in Public Administration* -, given that the requirements for the enforcement of the decisions of the European institution, *"a real international system for guaranteeing and promoting human rights"*[20], are the corollary of the accession of the States Parties, both from a normative and administrative point of view, to an integrated system of supranational protection of human rights.

Starting from the metamorphosis of the Convention system over time, the doctoral research also sought to describe the dynamics of national legislative systems, interdependent with the transformations of administrative, political and democratic progress in certain countries, in

[16] Ovidiu Predescu, Mihail Udroiu, *Convenţia europeană a drepturilor omului și dreptul procesual penal român*, Editura C.H. Beck, București, 2007, p. 14

[17] Montesquieu, *De l'esprit de lois*, *Oeuvres complétes de Montesquieu*, Paris, 1846, p. 263

[18] Irina Moroianu Zlătescu, *Drepturile omului - un sistem în evoluție,* Institutul Român pentru Drepturile Omului, 2007, p. 19

[19] ECtHR

[20] Irina Moroianu Zlătescu – *Protecția juridică a drepturilor omului,* IRDO, Universitatea Spiru Haret, București, 1996, p. 58

close correlation with the reforms of the Convention system, for these reasons having as constant benchmarks of analysis, transdisciplinarity[21], multidisciplinarity, interdisciplinarity[22].

The specific objectives proposed were:

- to analyze the common and shared responsibility of the state powers in relation to the effective implementation of the provisions of the Convention in the domestic system;

- analysis of the role of the Council of Europe in the transformation of national legal systems (the legal system as a normative structure, equity, legal awareness and the rule of law);

- analysis of the influence of the standards imposed by the European organization constituting a genuine acquis conventionnel on the political, legal, home affairs, administrative capacity, assistance and monitoring of the obligations assumed by states;

- identifying appropriate and effective mechanisms for institutional involvement, in particular through national parliaments, in complying with the provisions of the European Convention on Human Rights and the Strasbourg Court's judgments.

Central questions and study hypotheses

The study questions and hypotheses that our doctoral research encompasses and the answers to which we have sought to make known throughout the present research are those that are more related to the intrinsic nature of the evolution of primordial rights reflected in descriptive and empirical normative frameworks, but also in the dimensions of the adequacy of these rights at the level of national - transnational sovereignty. This evolution involves, in addition to the conceptual evolution of the right itself, the way in which it is preserved, generated by constraining legal regulation, as well as the administrative forms that realize this preservation, with an emphasis on the role of national parliaments, the core institutions of representative democracy.

Thus, the research was constructed as a response to a **key question**, which was the subject of reflection and analysis: ***How and why do states, through their national institutions, comply***

[21] Basarab Nicolescu, *Transdisciplinaritatea: Manifest*, Ed Junimea, Iași, 2007, p. 53

[22] For a more nuanced analysis of concepts and methods, see, among others:

Richard Wilson, *"Human rights, culture and context: an introduction"*, Richard Wilson (ed.), in Human Rights, Culture and Context: Anthropological Perspectives (London: Pluto Press), 1997, pp. 1–27

Michael Freeman, *Human Rights: An Interdisciplinary Approach* Ed. Malden, MA: Polity, 2002

Damien Short, *Researching and studying human rights: interdisciplinary insight,* in Contemporary Challenges in Securing Human Rights. Institute of Commonwealth Studies, School of Advanced Study, University of London, 2015, pp. 7-12

Outi Korhonen, *Within and Beyond Interdisciplinarity in International Law and Human Rights*, in *European Journal of International Law*, Volume 28, Issue 2, Oxford, Oxford University Press, 2017, pp. 625–648

with the authority and force of the Convention and the judgments of the European Court of Human Rights, even in the absence of undeniable mechanisms of constraint of the conventional system?

Of course, the research approach to answering this question has generated new levels of analysis, new ***secondary questions***, the answers to which are reflected in the content of the paper in the form of observations - chapters, which capture the relevance of the Convention system over time, through its very evolution and in close connection with the evolution of the rules of law and administrative systems that have implemented this system at the national level. They are also essentially relevant from the point of view of strengthening the arguments presented in the scientific approach:

o *How do the domestic law-making and law-enforcement evolution and the transnational normative and administrative evolution of the Convention system generate each other?*

o How do these institutions relate to the objective need to preserve fundamental human rights?

o What does this normative and administrative architecture look like and what are its limits of territoriality and extraterritoriality?

o Is the execution of the Court's judgments such a complex legal, institutional and political process that it constitutes an index of the intrinsic value of a State's democracy?

o What are the administrative determinants of the Convention system in national spheres of authority?

o What is the role of national parliaments in strengthening the mechanism of implementation and enforcement of judgments of the European Court of Human Rights?

o Are the institutions that apply and monitor this implementation ideal models for the protection of the rights enshrined in the Convention?

o What is the functional relationship between the parliamentary level and the executive called upon to enforce these judgments effectively?

The course of our approach to finding answers to these questions led us to interesting, specific reflections, representative for a deeper understanding of the functioning mechanisms of the

Convention system both between national and transterritorial boundaries, both as a part and as a whole.

Thus, the doctoral research has shown that ***at the basis of any positive or negative action always lies the bivalent principle of human dignity***, ***with its two components: the excellence of universal values and the human being - as a full, vitruvian, axiological being***, in absolute relation with the space in which it evolves.

It is worth mentioning that all the levels of analysis that are the subject of this scientific endeavor fall within this unlimited paradigm, which is extremely vast and generous, and, moreover, this axiomatic bivalence was the spring that initiated us in the inner motivation to research in depth the multiple components that make up the whole. From this point of view, the normative and institutional analysis that the doctoral dissertation includes, has always captured in a subsidiary way the rational, evidentiary correspondence of the argumentative approach of the European Court in relation to the congruence between universal values (mentioned in the Convention) and the praxis of justice that it complements through national and international institutions.

In this idea, *the incorporation in the deep legal structure of the Convention of the very root and axiological foundation of the justificatory discourse on the primordial and essential human rights has determined the causes, but also the legitimate effects of its supranational character of motivating subtle, direct and indirect constraints on national action and the latter's compliant approach to its fulfillment*. **This was the working hypothesis for the research study**, the basis on which the reasoning was built, representing both the approach towards the conclusion of the theoretical deduction and the approach towards the confirmation of the binomial relationship between the proposition (hypothesis) and the verification of the durability of the proposition over time (empirical proof). This inductive and deductive binomial is not new in the literature and can be summarized by the conclusion expressed as the aphorism *"Only a connection between phenomena A and B can provide us with information about A through B, and about B through A"*[23].

On the other hand, *"once the starting point has been established, the scholastic thinker logically deduces all the consequences from this point, even invoking observation and "testing" of the facts as arguments when they are favorable to him; the only condition is that the starting point remains fixed and does not vary with experiment and observation, but, on the contrary, the facts will be interpreted to adapt them to the starting point. The researcher, on the other hand, never*

[23] Victor Săhleanu - *Interdisciplinaritatea în antologia contemporană*, Coordonatori acad. Ștefan Milcu și dr. Virgil Stancovici, Editura Politică, București, 1980, p.87

admits a fixed starting point; his principle is a postulate from which he logically deduces all the consequences, without ever considering this postulate as absolute or beyond the scope of experiment"[24].

Under these conditions, **the presumptions from which we started our research** are circumscribed by a variable space of concepts, themselves of a fluid nature (for example, we consider the principle of proportionality or subsidiarity, or the concept of sovereignty or that of the margin of appreciation, as appropriate, concepts which we have used in the course of our research and which seem axiomatic), as well as the actual description of the functioning of some systems in relation to others (this is the case of the reciprocal influences of national and transnational legal and administrative systems dedicated to protecting and guaranteeing fundamental human rights and freedoms):

o The abstract nature of the rights enunciated by the European Convention, as the depository of the preservation of the primordial and essential human rights, gives the Convention system the quality of a living, diachronic international instrument for the description, determination and concrete measure of the limits of the coordinates of the evolution over time of national legal and administrative systems;

o The Convention system is an instrument which generates an irreversible process of congruence between national public orders;

o The metamorphosis of the legislative and administrative systems of the States has been obligatory in terms of the interpretative and constitutional paradigm, the correlations being indispensable for an elliptical approach, in which the domestic norm finds correspondence in the legal articulation regulated by the level of the European Convention on Human Rights system and vice versa;

o The legitimacy of the Strasbourg court is closely linked to its flexibility to respect the diversity of national standards of interpretation of fundamental rights and freedoms;

o In the course of its operation, the ECtHR has developed a sophisticated legal system, whose formal approach, both in domestic law and in the policy of the contracting states, is limited only by the ever-expanding scope of the Convention itself;

o The enforcement of the judgments of the ECtHR is becoming a fully assumed obligation at both regional and national level, representing in itself the projection of the level of European and national democracy, the degree of cultural, administrative, legal, historical evolution, on the scale

[24] Claude Bernard, *Introduction à l'étude de la médecine expérimentale*, Culture et civilization Bruxelles, 1865, p. 84

of the fundamental values of today's multicultural and transcultural societies. Moreover, it is unanimously recognized that a Member State's democracy cannot exist and function outside the Convention system.

o The implementation of international norms in domestic systems requires the involvement of all three branches of government as *"active subjects of respect for the principle of loyal cooperation"*[25]*;*

We consider interesting, at the same time, the observations drawn both from the analysis of academic studies, specialized literature and from the analysis of specific functional institutional models, generating original and transitory hypotheses, which have refined and finalized the scientific approach. We have also tried to capture, throughout the research, the causal relationship between the spirit of the norm, the norm itself and the effect of its existence, which we have considered as central particles around which the inflection of the forces that determine the nature and the legal, administrative, sociological, historical, philosophical nature and implications of the Convention system revolve. The study has focused its descriptive, analytical attention also on the capacity of the international regime and its transnational court to determine and shape national law, policy and administration.

At the same time, we refrained from generalizing the observations resulting from our analysis, in the idea that the American sociologist Peter L. Berger[26], taken up by Septimiu Chelcea, appreciated the presence of four symptoms in contemporary sociology: *"**limitation** (the misconception that it is possible to make generalizations about the world from a hidden corner of it), **triviality** (manifested methodologically by the effort to imitate the natural sciences, with excessive recourse to quantitative methods), **rationalism** (the rationality of sociology is impermissibly extended to the world, adopting theoretical models based on the paradigm of rational action) and, finally, **ideologization** (the partiality of sociology and the advocacy position of sociologists)"* [27]. We consider that ***these four landmarks*** extrapolated to the subject of research in the administrative sciences are perfectly superimposable, since the dynamics of notions, concepts, interpretations and analysis place the researcher in a non-exhaustive referential system, which includes a multitude of variables that are possibly applicable to all the elements subject to these dynamics. ***Continuous transformation***, which adds to the four dimensions imagined by Berger ***a fifth dimension*** summarized by the adage of the Greek philosopher Heraclitus *"Everything flows,*

[25] Emil Bălan, Gabriela Varia, *On the Right to Good Administration: European developments and national administrative practice* – Academic Journal of Law and Governance, No 8/2020, Ed. Wolters Kluwer, T&T Academic Publishing, București, 2020, p. 8

[26] Peter L. Berger, *Sociology: A Disinvitation?* in Society no.30, November/December 1992, pp. 12-18

[27] Septimiu Chelcea – *op. cit.*, p. 12

nothing remains unchanged", therefore cardinally extends the frame of reference that we have constantly had in mind.

Thus, in the present research, the delimitations of the general, as examples of conventional rights with universal value and, beyond that, of their concrete application through institutional administrative systems, have constituted an invariable in the analysis and deepening of the treated theme, an initiating point to discover and reveal the complexity and variety of the individual, in its component parts, our approach reaching the idea that the objective need to analyze the general - individual relationship cannot be dissociated from the inverse, transcendent, individual - general relationship, in all its forms.

Research methodology

The research has taken into account **qualitative methods**, such as analysis based on literature review, normative and case law analysis, statistical data analysis. Both primary, basic documents of the analyzed institutions, national and international legislation, and secondary or tertiary, derived documents, resulting from the processing of primary documents: case law, reports, studies, statistics, specialized works, monographs, treatises, encyclopaedias, were taken into account.

The research also looks from **a historical, diachronic perspective** at the dynamism of concepts, rules and institutions, going as far as the legal and administrative transformations of national systems that have taken place following the Strasbourg Court's rulings through the general measures imposed by these rulings. The chronological development of legislation on the protection of fundamental rights and freedoms, a process in which national parliaments play the most important role, is analyzed, with the main emphasis on the changes needed to safeguard the Convention rights violated in the signatory states of the Convention. The work also presents the transformation of administrative systems in accordance with the standards imposed by the Convention, in close connection with the transformation of the Convention system itself.

The **logical method** is one of the most important research methods for the chosen topic, given the complexity of the notions, concepts, principles that have been analyzed and related in order to capture the internal structure and dynamics of complex realities. We applied this method to a wide sphere of legal and administrative problems such as the definitions of some legal concepts with which we operated, the formulation of possible new theories on some principles, the rationale,

the spirit, the purpose, the systematization of legal norms, as well as the analysis of the deep structural elements of the institutions that complement the act of justice and administration.

The content of the doctoral research encompasses and describes innovative concepts and ideas to which the **heuristic method** of research led us. The deductive and inductive have given rise to new conceptual levels of analysis, which have led to original conclusions, such as, for example, the new valences of certain principles on which the legal and administrative systems are based.

In concrete terms, we have shown that the principle of subsidiarity derived from the text of the Convention and analyzed in the research paper is expressed in two distinct, concomitant forms, both applicable to any territorial or transterritorial, national or international legal or administrative system or system of law, which goes beyond the Convention system, but both equally important in assessing the extent, force and impact of the Convention system in national legal systems.

Closely related to the logical method is the **prospective method**, forecasting which is based on the relationship between certain stable elements of phenomena in continuous transformation. The prospective method has been used to foresee possible answers to still controversial questions on the degree of competition between national sovereignty and the structural collective sovereignty of the Convention system.

We have naturally integrated in our research **the case method (case study)**, relevant as the core of the argumentative basis of the content and conclusions of the scientific approach, in order to include the common or specific aspects of the particularities of the general, applied individually, to give consistency and vividness to the universal values proclaimed by the European Convention, transposed normatively and institutionally between national borders. The case-study method, which involves analyzing and presenting the development of legislation and the institutional structures with a specific role to play, takes into account the various (non)limits of national interpretation and implementation of the Convention system, as well as the methods of enforcement of the Strasbourg Court's judgments, the specific supervisory institutions set up and certain legal rules that have resulted from the general judgments against certain states. This process has become, for the ratifying states, an indirect source of continuous reporting to the dynamism of the induced or inferred conventional precedent.

In our doctoral study, this method was used in an unmediated way, by formulating a set of questions relevant to the research work, directly related to the research hypotheses, submitted to the

specialized structures of the parliaments of the *ECPRD network member states*[28] and qualitatively analyzing the answers provided by the 17 specialized parliamentary structures of the responding member states.

The **jurisprudential methodology**, which involved analyzing the case law of the European Court of Human Rights and its most relevant decisions in relation to the rulings of national courts, was also used in the research paper. In the research we also brought to attention the methodological specificity of the jurisdictional activity of the European Court of Human Rights as a guarantor of the respect for human rights at the regional and national level. The Court determines in its decisions whether there has been a violation of the Convention, and its jurisdiction extends to all cases concerning the application of the Convention brought before it. From our point of view, the jurisprudential methodology may constitute a substantial benchmark for the specialized structures of national parliaments, by acting in anticipation of the necessary reform of national legislation, in line with the judgments of the ECtHR against other States.

Recurrently, framed in the principles of globalization of sciences, interdisciplinarity, transdisciplinarity, pluridisciplinarity, in which both concepts and factual (both generating presumptions) transcend the constants and variables of disciplines alike, offering us a new research perspective, that of analyzing the confluence of systems (Convention, administrative, administrative, legal, constitutional, institutional, institutional, of preservation and guarantee of fundamental rights and freedoms, philosophical, political, democratic), from which we have drawn interesting conclusions concerning the limits of sovereignty. The limits of national political, legal and administrative systems in relation to the systems of values and principles that are possible or applied to respect for human rights, and the limits of sovereignty of the Convention in relation to the extent of the jurisdiction of the Convention system, in its many aspects (interpretative, philosophical, institutional, administrative, procedural, legal).

[28] The results of the analysis of the responses of the ECPRD (European Centre for Parliamentary Research and Documentation - ECPRD) network member states have been integrated into the research text and the summary of the responses is summarized in the sample tables in Chapter III of the thesis and Chapter VI of the thesis.

https://ecprd.secure.europarl.europa.eu/ecprd/private/request-details/682040 (rețeaua ECPRD - *European Centre for Parliamentary Research and Documentation – Răspunsuri oferite de parlamentele naționale la cererea României (4988/2022)*

https://ecprd.secure.europarl.europa.eu/ecprd/private/request-details/698547 (rețeaua ECPRD - *European Centre for Parliamentary Research and Documentation – Răspunsuri oferite de parlamentele naționale la cererea Adunării Parlamentare a Consiliului Europei (5050/2022)*

Description of chapters

The research paper is organized in chapters, which comprise sections and subsections:

Chapter I - *Introductory and methodological considerations* - deals with the importance of the research topic and the contextual framework of the application of the Convention system. Thus, the concept of integration from which the project of the European edifice after the Second World War started was the framework for political, economic and legal action towards the creation of a single transnational structure, in which landmarks such as human rights, democracy and the rule of law were to acquire the status of fundamental norms. The Convention was the document that represented ***not only a code of the Council of Europe member states' aspirations*** for a common democratic area, ***but also an exercise in the ongoing commitment of the nations***, reforming their regulatory and administrative systems, to fulfill these aspirations. From this point of view, the generality of concepts and methods has been individualized and absorbed at national level, completing a single geographical territory guaranteeing fundamental human rights and freedoms, in which the space in which man himself evolves has represented and continues to represent the level of correspondence between the need for individual freedom and the limits of that freedom. It also represented and still represents the degree of normative and administrative overlap (determined in political, philosophical, legal coordinates) of the existence of the substance of rights themselves and the limits of the exercise of these rights.

The chapter also lists and describes the research questions and working hypotheses on which the research was built, the objectives we had in mind and the methodology we used to determine the analysis and conclusions of the paper.

Chapter II - The scope of the European Convention on Human Rights - is focused on describing the interdependent relationship between the value, role and force of the European Convention on Human Rights in the international legal system and the principles with which it operates. The functions and effects that the articles contained in the Convention generate are described, in which the European Court of Human Rights acts as a constitutional court, a role increasingly recognized in national and international legal and political circles, ***based on the thesis of unity of interpretation and exercise of fundamental rights and freedoms*** both at the transnational level of the Convention system and at the national level of spheres of power.

The common reference to these concepts essentially describes ***the European constitutional area for the preservation of fundamental rights and freedoms,*** which can be a source of inspiration for a new generation of rights of universal value which, on the one hand, can subtly and indirectly limit State sovereignty, but, on the other hand, can provide and offer complementary protection and guarantees to a vast number of individuals and nations. The integrated and comprehensive exercise of this new generation of fundamental rights and freedoms of universal value, we believe, is an expression of one of the levels of the shared exercise of the limits of sovereignty and subsidiarity between the jurisdiction of national administrative and legal systems and the jurisdiction of the national democratic system. In this context, we are talking about ***collective sovereignty***, but this is also reflected in ***the idea of a diarchy of sovereignty levels***.

The analysis also captures some of the conflicts of a principled nature instituted by the jurisprudence of the Court in relation to the autonomy of national legal norms, determining the possible causes of these criticisms, as well as possible solutions, by identifying and reconciling the system of common values, dedicated to the concern of safeguarding the general ethics, which also work to the advantage of the particular interest.

Chapter III - Good administration represented in the documents of the Council of Europe and in the case law of the European Court of Human Rights - describes, within the scope of the normative praxis of the Convention system, the standards of good administration of the Council of Europe, reflected in the case law of the European Court of Human Rights. We are talking about the so-called pan-European general principles of good administration, which encompass (and are reflected in) the entire institutional sphere of the Council of Europe and in all levels of action of these institutions, from the structural, legal and procedural points of view. These principles have the task of ensuring a democratically legitimized, transparent and open administration of the state, in full compliance with the rule of law. In another sense, they have the task of ensuring the administration of an integrated regional area, beyond territorial or cultural borders, similarly democratically legitimized, transparent and open. The constraining function of these principles, both as creators of transversal spaces of governance/administration in the interest of protecting individuals, but also as vertical spaces limiting arbitrary power, is convergent and summable to the description of the first justification that led to the birth of transnational human rights organizations: the protection of the primordial and essential rights of individuals and the creation of a new order in the perception, scope and form of application of these rights of universal value.

The research presents the sources of the principle of good administration in Council of Europe documents, statutes, recommendations and resolutions of the Committee of Ministers and also presents the interpretations of the European Court of Justice, reflected in the cases before it, in the administrative field.

Chapter IV - The metamorphosis of constitutional systems in relation to the evolving standards of the European Convention - analyzes first of all the influence of the Court's rulings on national constitutions and Constitutional Courts, which have resized the limits of the application of fundamental rights and freedoms at the national level in normative and administrative terms. What we are talking about here is an ***integrated, interconnected constitutionalism*** that has identified the fine-tuning between the confluence of the national fundamental rule in the dimensions of the reality in which it applies and the rule described by the Convention in the reference framework of the European reality. At the same time, this integrated constitutionalism has had the sensitive role of balancing the sovereign ambitions of domestic legal systems with, paradoxically, the concrete projection, within the confines of those same domestic legal systems, of the effects of the protection of universal rights guaranteed by the Convention.

Moreover, the research has argued the precept that ***the principle of protection and guarantee of fundamental rights and freedoms is transcendent to national constitutions and domestic systems of norms and laws***, because, being an intrinsic part of the deep internal structure of European states, it does not necessarily need to be concretely provided for in constitutional texts, as it has absolute value.

By way of illustration, the paper analyzed the transformations of constitutional rules brought about by the successive revisions of the fundamental laws of some Council of Europe member states. These countries were chosen precisely because of the differences between their constitutional systems, in order to show the many dimensions of the existence of universal principles for the protection of human rights and fundamental freedoms in the national structure and the variety of ways in which they are interpreted and applied: Belgium, Italy, France, Germany, Italy, Romania and Germany.

The research study has shown that in all the countries studied, the Convention system and the case law of the ECtHR exert a great influence on the spirit of the law and national jurisprudence, whether the system is predominantly ***monist*** (as in France, Belgium and, to some extent, Germany and Romania) or predominantly ***dualistic*** (as in Italy). In this respect, the constitutional courts in all the States studied have developed interpretative tools that allow them to

frame the provisions of the Convention within their own national law and to delimit their own responsibilities from those of other powers, using the case law of the ECtHR and the authority of the Convention system within the limits of the margin of appreciation that the treaty grants to the High Contracting Parties.

Chapter V - Enforcement of judgments of the European Court of Human Rights - captures, describes and explains how the institutional and procedural mechanisms for the operation and enforcement of the Convention's provisions are strengthened, analyzed both at the national level and at the level of the Convention system. It also describes the measures imposed by the Strasbourg Court to ensure individual and general justice, as well as the procedures for supervising the execution of judgments, depending on the complexity of the measures ordered, the monitoring of the execution of which falls within the competence of the Committee of Ministers of the Council of Europe.

The role of the national authorities in this complex process of implementing judgments is analyzed not only from an institutional perspective, but also from a normative perspective.

The cases in which the ECtHR has handed down judgments against states, referred to in the structure of the doctoral thesis, highlight the way in which the Court interprets the provisions of the Convention, constructing a whole edifice of preservation and guarantee of these provisions at both European and national level. Through these judgments, the Court not only ensures individual or general justice, but also contributes to the increasingly complete definition of an ideal area of standard-setting, with preventive value, to which States must continually refer.

Chapter VI - Involvement of national parliaments in the implementation of the standards of the European Convention on Human Rights and the enforcement of ECtHR judgments - describes how national parliamentary mechanisms can be strengthened to meet the standards required by the Convention. This process, which gives substance to some of the most important characteristics of the rule of law - respect for human rights, access to justice and the enforcement of a court judgment - is also an integrated exercise of the forms of relation of the state, of power itself, to the collective interest and the limits of national sovereignty. The doctoral research shows that, from this point of view, in certain situations generated by serious systemic or structural deficiencies, ***national parliaments are the institutions that open and close the circle of the enforcement of ECtHR judgments at national level***, by their corrective, corrective generative function on the inadequacies, errors or shortcomings of the judicial and/or executive systems that have led to the condemnation of a State. Continuing the idea, the doctoral thesis also shows that

national parliaments are the link in a chain of the enforcement process at the international level, because ***a final judgment of the Strasbourg Court is only the starting point of enforcement.***

It also outlines the role of national parliaments as direct contributors to the implementation of human rights standards through the normative acts elaborated, which enshrine national actors and their role in ensuring the guarantee and protection of human rights in accordance with the provisions of the Convention.

The last chapter, ***Chapter VII of the thesis***, is dedicated to the ***conclusions of the research study.***

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In the field of knowledge, the confrontation between rationalism and empiricism only makes sense if it is ontologically linked to the deep structure of the ultimate goal of an endeavor.

From this point of view, ***the doctoral research has framed and treated in its content concepts that have constantly dominated human thought since the twilight of antiquity: freedom, justice, individuality, individuality, the human being, protection, justice, institutions***, all of this with the idea of completing transdisciplinary paradigms of rationality, alternative or complementary to a common ideal space on the protection of human rights. The work has integrated in its analysis legal concepts, procedures and phenomena, as well as developments - institutional and administrative systems - brought about by the transformation over time of the Convention system. At the same time, the study also captures the philosophical and historical dynamics of the development of States on their path towards the current models for guaranteeing and protecting fundamental human rights and freedoms.

At the regional structural level, ***the praxis of these concepts within the limits described by the Convention system identifies its theoretical and empirical correspondence in this system, and the method of exercising this praxis is always in competition with the limits of social, cultural and historical individuality of nation states***. The complementarity is evident, captured from our point of view on three levels: institutional, legal and functional. ***The paper analyzes these (dis)balances, dealing extensively with principles and functions developed by the Convention system and the case law of the European Court of Human Rights:***

- the *res interpretata* principle (section 2.3.1);

- the principle of subsidiarity (section 2.3.2);

- the principle of proportionality (section 2.3.3);

- principles of good administration (Chapter III);

- ensuring individual or general justice, by establishing a minimum level that States are obliged to guarantee to their citizens (section 2.3.4.);

- the interpretative function (section 2.3.4);

- the essentially constitutional nature of the Convention system in relation to the provisions of its body (section 2.4);

- the impact of the Convention system on national administrative and regulatory systems (section 3.3).

- the role of national parliaments in preserving this impressive edifice.

In these qualitative determinations, ***we have shown the charge of the concept of human rights, a concept which itself has a dialectical function***, as a representation of the dimension generated by the measure of reconciliation between the authority, force and power of the State (with its multiple valences expressed in a multitude of models) and the protection of the individual against this authority.

Also, ***one of the important conclusions of the research is that these two great systems of preserving and guaranteeing fundamental rights and freedoms, legal-administrative, regional-national, are not antithetical, they do not rival ideologically, nor from a normative point of view, nor from an administrative point of view, but are parts of the same cardinal paradigm of ontology***, as a manner of complete existence of the human being, nuclei around which revolve the ways and forms of complying with fundamental rights and freedoms. From this point of view, everything that the Convention system has built up for the protection of fundamental rights and freedoms is part of a detailed, particular, ideational, initiating model of framing an objectively subjective reality within an abstract, lax, dynamic regulatory and procedural framework for assessing the extent of the praxis of these rights, since the *"order of the State, once sacrosanct, has increasingly come under scrutiny by an emerging order of law"*[29], especially in the field of human rights. What we are talking about here is the validation of a ***three-tiered complementarity***, as presented in the content of the paper[30]: ***functional complementarity, legal complementarity and institutional complementarity***.

[29] Mihai Milca, *Criza democrației, statul de drept și drepturile omului*, Revista Drepturile Omului nr. 4, Ed. IRDO, București, 2015, p. 23

[30] Section 2.3.4. of thesis

But all this impressive unifying, integrating edifice, with a complex conceptual and procedural value, with a spectacular democratizing force in a humanitarian, altruistic sense, an edifice built over decades of national and regional development in terms of the preservation of essential fundamental rights and freedoms, perfectly framed within the trinomic referential system represented by the geographical area in which it is applied, the system of values it promotes and the purpose for which it was set up, cannot survive without the practical involvement of administrative structures and instruments to ensure its sustainability, stability, flexibility, durability and efficiency. Thus the principles of good administration in the exercise of fundamental rights and freedoms, integrated into the extended code of principles of good governance, are those which bring together, refine, finalize, balance and mediate between the abstract of the rule and the purpose for which it was created, the structure of the principles and their application *in situ*. Truly remarkable and substantial in this model is the force that binds all these variables in a dynamic, initiating, rational but non-rationalizable determinism, creating universal systems harmonized at national and regional levels.

In the research sections we have also dealt with one of the most topical issues in the academic debate, ***the constitutional role of the European Court of Human Rights***, which, in our opinion, ***is the key to considering and analyzing the structural dynamics of the normative and administrative systems*** specific to the preservation and guarantee of human rights and fundamental freedoms, both at national and regional level. The principle of the primacy of supra-national and international law generated by the Convention system is not necessarily one of the constitutionally enshrined principles, even though it has constitutional value, and is not necessarily and specifically laid down in the fundamental laws of the States, but ***derives from their commitment to building a common body of justice with shared values and standards***. In our view, ***balancing national sovereignty with the collective sovereignty*** described by the Convention system not only determines the long-term effectiveness of a regional system for the protection of rights, but ***also irreversibly strengthens the exercise of rights intrinsically linked to the nature of the human being as a living being, in his or her fullness, in absolute relation to the space in which he or she evolves***.

In this respect, we have come to the conclusion that the concept of national sovereignty and the modern concept of international protection of fundamental human rights and freedoms are in a necessary dynamic compromise, resulting in a perennial, self-generating system.

In the course of this paper, we have described the ***institutional edifices*** that play a major role in upholding the provisions of the Convention and in executing the judgments of the ECtHR, both at the level of the authorities established under the Convention and at the national level, through which the treaty's provisions are implemented: the Parliamentary Assembly of the Council of Europe, the Committee of Ministers, the European Court of Human Rights, national constitutional, legislative, executive and judicial institutions, administrative authorities, government agencies for the European Court, with a special, fundamental role for national parliaments.

Moreover, ***the illustrative models*** contained in the doctoral research and the ***analysis of the metamorphosis of the legal and administrative systems under the authority of the Convention*** are eloquent from this perspective, as the information contained in them faithfully portrays ***the concrete picture of the impact and strength of the Convention system at regional and national level*** in terms of the conceptualization of the instruments described by the ECtHR case law, taken up in the national systems, in terms of the institutional administrative machinery and the relationship between them, regional - national and in terms of the implementation of the ECtHR decisions, as an exercise in understanding the essential features of the rule of law, in the idea that *"to understand is to become one with what you want to understand."*[31]

We have also dealt, in the content of the paper, with ***the conflicts of a principled nature instituted in relation to the case law of the ECtHR***, starting, before any analysis of the cases that have led to criticism of the considerations with which the ECtHR operates, from the observation that the text of the Convention is a code that attempts to superimpose a subjectively objective normative reality (*norma agendi*) solemnly proclaimed (through signature and ratification) over an evolving, objectively subjective legal reality. In this overlapping, which is not perfect, the interfering element consists in the existence of primordial, elementary, eternal, inalienable, *supra-positive rights*, whose validity does not depend on whether they are accepted or denied by the subjects of the law, but are part of the human being in its entirety: the right to life and the right to liberty. All the other rights covered by the Convention are extensions or details of the former. In making this distinction *ab initio*, we have excluded the analysis of the conflicts of a principled nature resulting from this classification, which we believe could be the subject of a study of the philosophy of rights. With this assumption in mind, we have started our analysis from the premise that the rights enshrined in the Convention are part of a whole that does not prioritize the rights themselves in terms of their content. Within this paradigm, we have analyzed the causes of these criticisms and ***identified the solution in the recognition of the system common value system that***

[31] Andrei Pleșu, *Obscenitatea publică*, Ed. Humanitas, București, 2004, p.205

States must have as a benchmark, given the dynamics of the Convention system, similar in substance to the dynamics of administrative and normative profound dynamics of States.

With regard to the metamorphosis of the legislative and administrative systems determined by the case law of the ECtHR on the basis of the text of the Convention and the Additional Protocols, ***the research led to the conclusion that changes have been made at national level, starting with the fundamental laws, constitutions, in the idea that the effect of normative provisions has concrete representation and is credible only in the space in which the normative function of the provision is permanently correlated with the reality in which the norm is applied***, the supranational and national orders being interconnected and interdependent. Beyond this reasoning, ***the principle of the protection of fundamental rights and freedoms is transcendent to national constitutions*** and domestic systems of rules and authorities, because it is part of the deep structure of the principles of the European continent, constituting a block of constitutionality at an abstract level. As an argument, we have taken into account the constitutional transformations in Belgium, Italy, France, Germany, France, Romania and Italy, which have conclusively highlighted ***the thesis of constitutional dualism***, in which we have as praxis ***the concomitant and substantial approach to the guarantees conferred by both constitutional rules and the case law of the European Court of Human Rights and the principles contained in the Convention***, as a balance between the protection of the interests of the State and the protection of individuals or groups in the area of fundamental human rights and freedoms.

As regards the strengthening of the institutional and procedural mechanisms for the operation and enforcement of the provisions of the Convention through its protocols, ***we conclude that the reforms of the Convention system have reshaped the architecture of an integrated regional space of institutions, procedures, rights and obligations*** that guarantee full, constant and effective protection of fundamental rights and freedoms. In this paradigm, the enforcement of the judgments of the European Court of Human Rights becomes a fully assumed obligation at both regional and national level, representing in itself the projection of the level of European and national democracy, the degree of cultural, administrative, legal and historical evolution on the scale of the fundamental values of today's multicultural societies.

The illustrative table[32] in the content of the doctoral study, which describes the status of the Convention in relation to the domestic legal system and the influence of the Convention's provisions in the administrative changes of the states chosen as models of representation (Albania,

[32] Section 3.6 of thesis

Austria, Belgium, Croatia, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Norway, Poland, Romania, Sweden, the United Kingdom), brings one of the most important conclusions of the research, that ***states have incorporated the conclusions of the supranational court into their legal and/or administrative systems in many similar or different forms, transforming and/or forming a new administrative or legal order capable of standardizing and harmonizing procedures, institutions and rules in order to achieve the common goal of preserving and guaranteeing fundamental rights and freedoms. Parliaments play an essential role here.***

This formative, structural, constitutive architecture, which is based on the prevalence and universality of fundamental rights, is about to reshape national sovereignty in the area of fundamental rights and freedoms, while maintaining an undeniable balance between the purpose of the Convention system and the method of achieving that purpose. The edict of the Convention, as the cardinal instrument of European public order and of guaranteeing fundamental rights and freedoms, may become the key to the full development of national administration, legal doctrines and national legislation on the protection of fundamental human rights and freedoms, a new stage in the development of democratic national systems, opening up new horizons for the exercise of the substance of the rights and freedoms provided for both at national level and by the Convention. Our scholarly research plays a crucial role here, which has led us to consider at a different level the European trends towards harmonization towards a code equal in authority to the national fundamental law, whose interpretation is constantly anchored and amplified by the rulings of an international judicial body. In this respect, we have concluded that ***we are faced with a source of universal law which goes far beyond the territorial boundaries of its action and constantly and consistently introduces new conceptual, legal and administrative levels of interpretation and praxis that subtly resize the sovereignty of states*** and, at the same time, provide protection and complementary guarantees to a vast sphere of persons.

The doctoral study describes the procedural mechanisms for the execution of ECtHR judgments, capturing the technical details and administrative interdependence of institutional bodies at the regional-national level, which mark the strong functional link between the Strasbourg Court and national constitutional courts, between national courts and law-making institutions, between national administrative systems and the system established by the Convention. This institutional and normative interdependence is also visible in the interpretation of concepts and supranational Convention case-law, which has thus gone beyond the original objective of ensuring individual justice, which is constantly linked to national rules and the legal and administrative

systems' relationship to those rules. In this context, we are also referring to the approach that has tended to strengthen the direct effect of judgments (delivered by the Strasbourg Court) in the State against which the judgment is given, coupled with the indirect effect, i.e. the interpretative role of the ECtHR case-law extended to other contracting states not involved in the case in which the Court has given judgment, but interested in the judgment, in terms of the specific features that may be applicable on their own legislative or administrative systems.

The involvement of national parliaments in the implementation of the Convention's standards and in the execution of ECtHR judgments is based on the Council of Europe's flagship documents, recommendations, resolutions, reports, declarations, which describe how legislating institutions are integral parts of the Convention system, with an essential and substantial role, and which the research has included in its analysis[33]:

- creation and strengthening of effective internal control mechanisms for the implementation of judgments;
- involvement in the procedures for verifying the compatibility of draft laws, normative acts in force and the correlation of administrative procedures with the Convention standards and the Court's case law;
- adoption of legislation revising the complex structural problems referred to in the Court's judgments;
- creation of permanent parliamentary structures dedicated to monitoring the execution of Strasbourg Court judgments;
- informing, organizing regular debates at parliamentary level on the Court's judgments;
- parliamentary scrutiny of the implementation of Strasbourg Court judgments;

We found it particularly relevant to present the British model of parliamentary control[34] of the implementation of ECtHR judgments on the executive, *the Joint Committee on Human Rights (JCHR)*, one of the most effective parliamentary forms of monitoring and implementing the execution of the Strasbourg Court's judgments, in terms of the powers and competences conferred, but also in terms of the extent of political involvement, abstract, beyond the normative provisions, in the idea of absolute respect for the rule of law and, beyond that, as proof of the balance of powers in the state. In our opinion, this specific committee, although one of the oldest structures at European level for monitoring the executive on the implementation of the ECtEC judgments, represents one of the most successful parliamentary models.

[33] Chapter VI of thesis
[34] Section 6.4.of thesis

In conclusion, in this paradigm of concrete completion of the Convention system and effective implementation of the judgments of the European Court of Human Rights, ***national parliaments play a pivotal role, through their ability to give concrete and correct dimension, within the limits of the balance of powers in the State conferred by the fundamental laws, to national legislation and the administrative systems that apply it***. Over and above this role, national parliaments, by virtue of the axis of representative power that is intrinsic to their conceptual and institutional structure, have the task of calibrating the aspirations of the national societies they represent and administer with the form and concrete force of the founding aspirations of the European Convention system.

In relation to the involvement of the national authorities in the execution of the judgments rendered by the ECtHR, we considered it necessary to present the changes in the national administrative and normative nature, as well as the manner of execution of the judgments for a number of 4 states, Albania, Belgium, Poland and Romania, in the descriptive table[35], which revealed that, especially following the delivery of the pilot judgments which imposed general measures to remedy the structural deficiencies, the state authorities were fully involved in order to make significant changes at the legislative and administrative level, under the supervision of the Committee of Ministers of the Council of Europe.

In this way, the steps of national and transnational authority (normative and institutional) merely balance the method by which justice is achieved with the purpose of justice itself. Only in this way, the original and fundamental purpose of the realization of the act of justice, in full correlation with the purpose of administration itself in all its complex aspects - the preservation of the rights and freedoms provided for by the Convention system - is achieved.

As far as ***Romania*** is concerned, PACE documents mention it as having major problems in meeting the standards of the Convention in several areas (non-execution or late execution of judgments, the right to a fair trial, excessive length of judicial proceedings, poor conditions of detention). Moreover, statistics for the period 1994-2020[36] on compliance with the provisions of the Convention and its protocols show repeated violations of Article 6 of the Convention (right to a fair trial) and Article 1 of Protocol 1 to the Convention (protection of property), with a total of 495 and 462 judgments against Romania respectively. Other violations concerned degrading or inhuman treatment (302 judgments against Romania), excessive length of judicial proceedings (150

[35] Section 6.4.3. of thesis

[36] https://www.statista.com/statistics/1098872/violations-of-the-echr-by-romania/

judgments against Romania), the right to an effective remedy (145 judgments) and the right to liberty and security (123 judgments).

In this paradigm we have described the Romanian model of parliamentary involvement in the execution of Strasbourg Court judgments.

The conclusion of the analysis of this model highlighted that, in order to strengthen the national instruments, it is imperative to set up a joint parliamentary structure (Senate - Chamber of Deputies) to monitor the execution and implementation of the judgments rendered by the European Court of Human Rights against Romania. This, in the exercise of the role of parliamentary control over the Executive conferred by Articles 111 and 112 of the Fundamental Law and within the limits defined by the principle of separation of powers in the state. And, beyond this, in the consolidation of the rule of law and the assumption of power in a responsible manner and for the benefit of the full and effective protection of fundamental rights and freedoms. The parliamentary committee set up in this way would be the necessary point of balance between the powers of the State with regard to the implementation of the judgments of the ECtHR, especially if its governing bodies were impartial, because only in this way would Articles 111 and 112 of the Constitution find their real meaning beyond the letter of the law.

Regarding the ***ideal model for the protection of human rights and the monitoring of the execution of the judgments rendered by the European Court of Human Rights, as well as the secondary question formulated at the beginning of the research - Are the institutions that apply and monitor this legal norm ideal models for the protection of the rights set forth in the Convention?*** - we believe that this research paper has provided a wide range of arguments for considering these themes as important for the rhetorical construction of the approach itself. The conclusion we have reached is that it is not possible to envision an ideal and generally applicable national model covering the broad range of issues related to the national guarantee of fundamental rights and freedoms, because the Convention system itself offers States a wide margin of appreciation, both in terms of the measures to be taken in certain circumstances and in interpreting, *in extenso*, the limits of national sovereignty. However, this flexibility of the Convention, which gives substance to its very preservation as a pan-European legal instrument for the realization of rights, must be interpreted by States as the minimum standard for the protection and guarantee of human rights.

It is up to the States to find, by corroborating and comparing the norms of the Convention with the national norm, the balance between this limit and the national interest in its breadth, in

order to achieve full protection of their own citizens, but also of the regional area of values. National parliaments have a fundamental role in this equation. If this balance is not achieved, States have an obligation, by virtue of their membership of a regional culture of security of rights and freedoms determined by the Convention system, to find solutions to reconnect to the common system of values. This is the key to this ideal model of human rights protection, and the national institutions, the national parliaments, effectively involved in this process are, over and above the administrative mechanisms that make up the model, integrated instruments of cooperation in the protection of rights. In this idea, institutional strengthening, together with the development of clear and binding procedures for relations between the institutions involved in implementing the judgments handed down by the European Court, and between the institutions that apply this normative framework for preserving and guaranteeing human rights, becomes a common objective of ongoing commitment to the Convention's standards and their realization.

With regard to ***the functional relationship between the parliamentary level and the executive called upon to implement these decisions***, we believe that both parliaments and executives of states must constantly bear in mind that both are component parts of the democratic machinery, as legitimate and representative instruments for complying with the norm that justifies and fulfills their purpose. We are thus faced with a one-way relationship at both horizontal level, parliament-executive, and vertical level, national administration - the system of the Convention in terms of the *de facto* and *de jure* preservation, guarantee and fulfillment of fundamental rights and freedoms. It is only in this relationship that both the national and the Convention systems can specifically subsist and be applied in the field of human rights.

Ultimately, beyond the legal norms that both parliaments, the democratically legitimized representative bodies of states, and national executives are duty-bound to devise and use in ***the exercise of fundamental rights, the political exercise on which both depend in the concrete application of the standards is the centerpiece of the hermeneutics of human rights in their depth, from concept to purpose, from origin to the stage of present becoming***. This, in a vision in which, as presented in specialized literature, *"the missions of the public administration are established by the political power, by transposing them into law, the administration having a secondary role, of implementation in a way that harmonizes the rigid letter of the law with the circumstances of concrete reality"*[37]. The idea of effective parliamentary control over the executive

[37] Emil Bălan, *În proximitatea dreptului. Științele administrative și perspectiva normativistă asupra funcționării statului,* în Spațiul administrativ în secolul XXI - Administrative space in the 21st century / coord.: Emil Bălan, Marius Văcărelu, Gabriela Varia, Dragoș Troanță. Ed. Wolters Kluwer, București, 2021, pp.56-57

enshrined in the constitutions of most democratic states not only underpins the rule and the specific procedure, but also the inflection of the principles for which the rules and procedures were created.

Returning to ***the pivotal question*** around which our scholarly approach was built - ***How and why do States, through their national institutions, comply with the authority and force of the Convention and the judgments of the European Court of Human Rights, even in the absence of undeniable mechanisms of constraint of the Convention system?*** - we have shown that the profound and concrete force of the Convention, based on the incorporation in its legal structure of the roots and axiological foundation of the justificatory discourse on the primordial and essential human rights, has determined the causes, but also the legitimate effects of its supranational character, as well as the congruence between the legal construct of these rights and the praxis of justice that the Convention complies with. From this point of view, the description of the space in which it evolves has acquired innumerable valences, corresponding to the States integrated into this universe of legality as a physical and metaphysical, corrective-coercive, but also evidential space, of the degree of normative-conceptual and procedural overlapping over a determined matrix.

This evolving, living matrix, in accordance with the evolution of *Heidegger's being-together*, has generated - in relation to the protection and guarantee of fundamental human rights and freedoms - normative, administrative, procedural, interpretative and argumentative changes both at the level of States and at the level of States' relations with the supranational system of the Convention, in the exercise of building a common space of security of rights intrinsically linked to the nature of the human being. In the modern era, as Heidegger said in Parmenides , *"security becomes the fundamental feature of human behavior, because security, understood as unconditional certainty, comes to have full primacy precisely because of the insecurity that man tries to assert in the face of everything and everything; (...) Security is not that activity by which man consolidates a position he already has, but it is the securing that man aggressively and preventively carries out precisely in order to acquire security"* [38]. ***This is the overriding role of the Convention system: securing (through standardization, justification and argument) in order to acquire security (effective and full protection of fundamental rights), because "security, before being an end in itself, becomes a condition of freedom"*** [39]**.**

Through inductive and deductive reasoning, the scientific approach has crystallized and demonstrated the opinion that, in relation to the concrete exercise of fundamental rights and

[38] Martin Heidegger, *Parmenide, Ed. Humanitas*, București, 2001, pp. 239-240

[39] Mihai Milca, *Statul de drept, drepturile omului, siguranța cetățenilor și starea de excepție*, Revista Drepturile Omului, nr.2, IRDO, București, 2016, p.18

freedoms, *"the supreme good, justice in itself, beauty in itself, operate on man without his will"*[40], by virtue of becoming itself, as a component part present timelessly present both at the level of the individual and at the level of society. The Convention simply transcribes these continuous, immutable values, perfectly adapted to the level of expectation of societies in perfect harmony with the historical time they are living through, integrated into the multidimensional system of a universal culture of rights and freedoms.

For these reasons, states have adapted the rules, concepts and praxis to their own level of political, administrative, legal and historical evolution, which our research covers and attempts to explain throughout.

In conclusion, the theme chosen for the research topic was a particularly generous one, offering us the opportunity to explore concepts and topics of particular value in relation to the general framework of preserving and guaranteeing fundamental human rights and freedoms.

Beyond this evidence, the act of research itself, as an exercise in understanding, deepening and applying concepts from their origins to praxis, has revealed to its author and, through its transmission to researchers and practitioners in the field, the vastness of the multiplicity of principles, methods and instruments of the Convention as the repository of some of the most important values of the human being.

In this respect, I believe that each individual chapter or sub-chapter may constitute a new topic for in-depth research, proving the importance of the Convention system in the regional architecture of an area of rights and freedoms, realized through institutions and norms.

By the quality of the information it contains, by the models it has approached, by the communications and publications it has incorporated during the course of the study, we consider that the research approach makes an important, forward-looking and visionary contribution to the strengthening of institutions, legislation, concepts, procedures the practices and mechanisms for implementing the standards of the Council of Europe in general and those described by the *Convention for the Protection of Human Rights and Fundamental Freedoms* in particular, implicitly in the control of the implementation of the judgments of the European Court of Human Rights, as the final form of realizing justice, equity and, ultimately, justice.

[40] Petre Țuțea, *Reflecții religioase asupra cunoașterii*, Ed. Nemira, București, 1992, p. 74

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