THE OPINIONS OF A GROUP OF LAW STUDENTS REGARDING THE PROCESS OF JUSTICE MAKING – AS A SUPREME VALUE OF THE JUDICIAL SYSTEM

Marţian IOVAN∗

∗ Professor PhD "Vasile Goldis" Western University of Arad, Faculty of Law, 94-96 Revoluţiei Blvd., Arad, Romania, Tel. / Fax: 0040-257/ 284899, E-mail: iovanm@uvvg.ro

Abstract: *Based on a sociological research, the author of this article aims to identify the beliefs and the attitudes of a group of BA and MA students enrolled in university programs of Juridical Science, regarding their apprehension of the principles of justice - as the central value of the Romanian judicial system. This would contribute to the implementation of justice in the actual Romanian economic, political, and judicial structure. The data analysis provides the necessary information for comprehending the extensions of justice and injustice within the specific social context. A real distance between reality and the political doctrines, and the classical and post-modern philosophical theories of justice as well can be noticed. The resulting conclusions could provide solid settings in order to develop a number of strategies / public policies to shape a more honest society.*

Keywords*: legal values; principles of justice; the Romanian judicial system; Schmidtz.*

Introduction

Important thinkers across time have approached Justice in the history of social philosophy, mainly in the philosophy of law and in the political and law sciences. They considered Justice as a central value in the judicial theory and practice, for the management of State

institutions and for strengthening social peace within a general and abstract plan (i.e. Aristotle, Grotius, Hobbes, Locke, Rousseau, Kant, Hegel, Mill, etc.). In their attempt to achieve the desired law order, they identified the essence and principles of Justice, as well as universal procedures to implement it.

Still being so controversial, the value of Justice, and furthermore, the methods to implement it in the human society, community, international and inter-institutions relationships – from small groups to large-scale groups, it can also be examined in international circumstances from a new perspective – meaning the social practice, its effective functioning in different micro or macro-social environments, through results or accomplishments confirmed by the representative social groups, and by the general public opinion (Berlingher, D., Sida, A., 2012: 19-22). Specific sociological methods, procedures and techniques are required to achieve this specific research purpose such as: the sociological survey and questionnaire, the case analysis, the focus-group, the Delphi method, the monographic method, the interview, etc. Such investigation belongs to the sociology of values. (Rezsohazy, R., 2008).

Working Hypothesis and Methodology

Considering Justice neither as a dictionary definition nor as a philosophical theory, a beautiful ideal or a utopian paradigm, a perfect prototype, but as a subjective reality, part of people's consciousness, feelings and attitudes, an element of collective consciousness and of social groups psyche – nationally and internationally as well, having a driving function correlated to their decisions and activities, this study aims to identify the way in which Justice is perceived by a group of BA and MA students. These students are currently enrolled in university programs of Juridical Science within the present Romanian political-judicial system. Also the study intends to establish to what extent the materialization of Justice as value within the limits of socio-economical or cultural background is possible, as well as the improvement of the actual Romanian judicial system and the way in which those who are entitled should act in order to build a more correct society. The research results could provide real opportunities to assess the extent of the distance between the events flaw, the objective social processes and even

philosophical theories of Justice related to the present conditions in the societies which they refer to, and different political doctrines.

To prove this hypothesis, we applied the questionnaire method, the Delphi method, the conversational method and the long-time experience in teaching students / master students in the following disciplines: Legal Sociology, Legal Psychology, Political Science and Law Philosophy; we also used the case analysis (i.e. the Romanian economical-financial crisis, the referendum for the dismissal on impeaching the President of Romania, parliamentary elections of December 2012), and the analysis of several European Union Reports regarding the Romanian judicial system (i.e. the European Commission, 2012).

The data has been collected through the use of a 13 question questionnaire, 9 of them closed-ended answers, each of them with included requests for the respondents to explain their chosen variant and 4 open-ended questions. The sample included BA and MA students from the Faculty of Juridical Science, "Vasile Goldiş" Western University of Arad, a sum of 183 respondents, 14 of which being MA students.

In designing the questionnaire and the methodological approach we have taken into account the complexity and the openness of the concept of Justice, the concept connections with other elements of the axiological system, considering that values are ideas about what is desirable in society and, at the same time, civilization and "what individuals value is strongly influenced by the specific culture in which they happen to live" (Giddens, A., 2000: 633).

Partial Results

When asked the first question: "The lawyers' mission is to do justice in society through fare case sentences. What do you think, is it possible to achieve a just society in this way: YES /NO/ DO NOT KNOW. Please explain your answer and give examples", the respondents' answers highlighted the different perceptions of the concept of justice, the different attitudes about the practical implementation of justice, the influencing features for building a just

society, various arguments on optimism or scepticism for the implementation of justice as a value project.

Referring to the totality of the respondents' answers, these can be categorized in the following types: 1. Lawyers can contribute decisively to build a just society by carrying out their duties independently, fairly and objectively. This optimistic opinion is supported by 46.36% of the interviewed subjects. 2. Lawyers can only partially contribute to achieving a just society, as there are other factors that determine the practical achievement of justice. This moderate attitude is stated by 24.02% of the total respondents. 3. The sceptical answer, claiming that as perfect as a judicial system may function – is still imperfect because a just society is part of a utopian universe, so it is ultimately unattainable (5.58%). An 11.73% percentage of the respondents give evasive or inconsistent answers, or say they do not know.

The respondents with positive attitude regarding the achievement of a just society in Romania (46.36 %) following the path of the efficient judicial system functioning and the rule of law, claim that justice is acquired gradually, step by step, being a process that in the limit will shape a harmonious balanced society, including *per se* more justice – as a socially accepted and assumed value. Some of answers show moderate optimism conditioning the efficiency of the judicial system by increasing the whole-society levels of participatory political-judicial culture, by the lifelong lawyers' professional development, but also by their number, the quality of justice, the increment of public confidence in the legal system achieved by healing the judicial system, and the state functioning as a whole. Among the pathological manifestations of the Romanian judicial system are frequently invoked: cases of bribery and other corruption forms, the professional mediocrity of some jurists, the excessive formalism, communication malfunctions in offering legal services to clients and failures in informing the public opinion, outside interferences also – most of those from power structures, also bureaucracy, lack of judicial education in the pre-university system, dysfunctions in applying legal sanctions for those who violate laws etc.

After several sets of questions and discussion with the tested MA students, it should be noted that the number of those who are

optimist in achieving a just society significantly increased but in certain conditions only, such as: "A just society is possible to be achieved", one respondent claimed, "by fair and lawful resolution of each case, because the citizens would respect more the law or, at least, they would try not to break it, as long as they are ensured that the lawyers do their best to find the correct cases resolutions and are not "impressed" by certain goods that may negatively affect performing their mission." In this respect, justice is considered to be a way of restoring and strengthening the rule of law, a *sine qua non* condition of social peace. Through their work, lawyers tend, with results that increase gradually, towards the effective accomplishment of the ideal of justice. Another respondent reasons that as long as the lawyer who serves individuals or legal persons, injured parties or institutions, ensures that legal provisions are made under the law by strict compliance of the legal norms, and the result is a society with no legal problems, a righteous society where the law represents the watchword.

Another 24.02 % of the respondents sustain that a completely just society is not possible because there are many other influencing factors, working either from within or outside the judicial system. A just society is an ideal project in relation to which lawyers and justice, especially, act to reach and materialize it, without ever attaining a completely just society. The arguments are different, such as: - in all societies there have been and will be individuals and legal persons that violate the law in different degrees, their long-term quantitative evolution being subordinated to the cycles pattern; - not only the lawyers and the judicial system have the mission to achieve justice, but also other social and institutional factors such as the political and administrative power, religion, media, civil society organizations etc. – or correlating their actions in a convergent direction is a very difficult process; - the traditions, the collective attitudes, the education – in some cases, these do not promote justice, but exert adverse effect consequences; - in any society there are deviant individuals and groups, or marginal communities that have a different perception of justice – viewed as value and they act accordingly to their own beliefs; - the democracy and the rule of law

are not yet sufficiently mature or consolidated; - there are many citizens who have no assumed responsibility and active involvement – meaning promoting respect for the law and fighting against the illegal activities; - the real social life requirements are more complex than the regulatory power of the law, with "legal vacuum" sections; - self-interest and greed are part of human nature and often prevail over the principles justice; - there may appear certain situations when lawyers or magistrates cannot solve the case for objective reasons; - the legal system cannot achieve a just society by itself, mutual relationships between the different society subsystems being necessary, in order that the social life as a whole could develop within the normal limits, as a coherent and righteous system; - the role of political power is negative sometimes, other times the assessment of justice without using the public power/authority is inefficient; - in any community, the number of well-informed and correct citizens concerned about the proper functioning / achieving of justice is not large and powerful enough to enforce the laws and the principles of justice, etc.

Another 5.58 % are sceptic about the general obedience of the justice principles to the point of assessing the impossibility of a correct society and believe that the Romanian just society is a true utopia, due to biases of the judicial system functioning or to the extra-judicial factors. We highlight the following arguments: - the distortion of justice exists in all societies where money rules, entangled with the moral traits of character weaknesses specific to a large number of lawyers; - the subjectivity of magistrates, the personal interpretation of the law and their application is widely spread; - in a litigation, each part has a certain amount of justice, compared to the opponent, and the Court will establish which of the litigants is right, through the final sentence; - the multitude of lawyers, including magistrates, is heterogeneous in terms of professional training, of morality and display tendencies for accepting improper benefits; - there are too few honest and incorruptible lawyers; - a question must be asked if some laws or legal rules are just or not, or if they are outdated and defend group or mafia interests, interests which are contrary to the principles of justice; - people of any society have a natural tendency to do justice for themselves – an obvious fact for those

communities where justice does not function correctly; - some parts of the public distrust the quality of justice, correlated with other people's lack of interest and ignorance, all of these obstructing the efficiency and effectiveness of justice; - justice and its principles are an ideal utopian project, hence do not justify to be taken as guiding landmarks for the lawyers activity, etc.

Analyzing the data types, we emphasize how polysemic and relative is the concept of justice as perceived by the respondents (such as "absolute" justice, natural justice, social justice, legitimate justice, macro-social justice, micro-social justice, void of justice, non-justice), and how powerful is the subjective imprint of personal experience and the individual political-legal culture level. Nevertheless, there is a common denominator, shared by the sceptic respondents too, referring to the usefulness and strength of justice, without which social order and peace, the actual separation of right and wrong would not be possible, and the implementing of political, administrative, judicial, educational measure to prevent / eliminate the evil within a society, the "dirt" within the judicial system, to prevent the pathological phenomena in a society and to cure the social life. Supporting these affirmations, a respondent invoked the Latin adage "*Justitia omnia est domina et regina virtutum*".

The majority of the answers are affirmative to the questions focused on the respondents' consent regarding the principles of justice. Thus, to the question "Do you agree that a principle of justice is that people should be equally treated with fair chances: YES / NO / DO NOT KNOW. Please explain the answer and present real cases!" - 91.6% of the respondents answered in the affirmative, 8.39% stated sceptical remarks and 0.01% answered in the negative.

The affirmative answers appeal to *The Universal Declaration of Human Rights* (December 10, 1948), the fact that the Romanian Constitution (2003) and other European constitutions stipulate that principle. The Constitution stipulates that "Romania is the common and indivisible homeland of all its citizens without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin". Article 7 of *The Universal Declaration of Human Rights* states that "All are equal before

the law and are entitled without any discrimination to equal protection of the law ... to equal protection against any discrimination and against any incitement to such discrimination."

The respondents' arguments are legal, moral, philosophical and even religious, such as: - the equality of citizens before law, equal opportunities for all, equal treatment in law enforcement, not allowing exceptions to the rule "No one is above the law!", and all these arguments represent the foundation of democracy, of the rule of law; - the correct, consistent application, anywhere and anytime, of this principle is an essential way to eradicate corruption, injustice of any kind; - the principle is a "barometer" of a civilized society; - although people are different by nature and later, due to personal cultural development, the principle should be applied taking into account their status as citizens of the state; - the principle should not be applied automatically to people because every member of a society owns a unique personality, an adaptive and creative individual potential on a value scale which starts with the less gifted man and ends with the man of genius, but functioning as a real legal principle applied to the citizen status as the equal right member of the "fortress"; - people should be treated equally yet rewards or punishments are according to actions, performances, merits; - applying the equal opportunities and non-discrimination principle is an impulse for those who consider themselves as subjects to discrimination as well as a confinement for those who tend to discriminate; - as all of us are equal in front of God, the same we are within the society, and so all of us must be equal in front of the State bodies and laws alike; - whether discrimination should be accepted, it will be purely positive; - this principle is validated by the existing results of the mature democracies of the European Union, where it can be seen that there is more justice than in the new EU member states.

A relevant part of all the respondents sustain this principle but mention a large number of examples regarding the judicial practice, of the State bodies' activity, in the Romanian public area, violating this principle more or less frequently. To the above-mentioned respondents, a further percentage of 8.39 % respondents accept this principles, while it is considered to be purely theoretical, a human

general wish but with few practical consequences. Different examples of the activity of judicial bodies, state administration, of public institutions violating this principle (i.e. the corruption, the nepotism, the personal merit contempt, the discrimination, prioritizing personal and subjective criteria, the authorities' pressure, the extreme delay of legal processes, etc.) are displayed. A small percentage - 0.01% of the interviewed expressed a totally sceptical attitude, arguing that people are different by heredity, skills, character, spiritual orientation of the personality, professional competence, merit. Also, there are not such things as two identical court cases, two identical legal cases, so that people are naturally unequal. Considering this background, the following question arises: How can you believe that a man is equal to another and treat them equally while they are in fact unequal? Starting from this premise, the respondents conclude that this principle is utopian and unattainable in practice.

Analysing the open answers, we notice that especially the last two categories of respondents do not dissociate the concepts of man and citizen, forgetting that the concept of citizen is just one of the essential characteristics of man. On the contrary, the principle of equality targets the citizen status reported to the law and state's authorities. Yet we should notice that the MA students do not confuse these notions. Therefore, fully accepting this principle, the respondents' comments regarding the numerous injustices in Romania are thorough and logical. The greatest injustice in society springs from substituting the value of justice with the primordial power of money, which has become really "evil eye" - says an old expression; - the biased treatment applied to people within the State authorities, to some financially potent people or holding important social positions. The MA students also exemplify law abuses in certain magistrates activity, and, especially, the violation of the principles of justice by the legislative body, by the government that voted for special laws, unconstitutional, aiming to certain social groups, interest groups, or some mafia based groups. The injustice and discrimination of the Romanian society causes frustration - especially among the young people, feelings of insecurity, rebellion also. All these feelings, being a part of the collective mental, may

influence many people to reject the system they live in, to adopt a disobedient attitude of bypassing legal and moral norms, promoted by the system, and thus these individuals decide to emigrate, to work "illegally", to do tax evasion, integrating in "grey areas" or in marginal social groups. This way the problem of to what extent the law itself represents a source of injustice when the law is incoherent, threaded with internal contradictions, with outdated regulations, contradictory to those of the European Union or does not cover certain socio-economic segments. In this context, the MA students highlight the illegitimate character of certain regulations – as a source of injustice.

To the question: "Great thinkers have affirmed that a just society needs rewarding people on merit and each of them receives what they worth. You agree: YES / NO / DO NOT KNOW. Please explain the answer!", 92.77% of the subjects answered in the affirmative, 5.03% accepted the principle, with the mention that it is poorly applied in judicial practice and 2.23% deny it.

The affirmative answer is reasoned and justified with assertions like: people must be appreciated and rewarded according to their facts: those who respect the society and its values, those who ascend the social hierarchy by respecting the law should be rewarded and respected, while those who are able to work but choose other less legal ways to achieve their goals, must be sanctioned in order to be put back on the right course and helped to socially integrate; - the principle of rewarding people according to their merit completes the principle of their equality before the law, of life opportunity equality, and motivates them to live correctly, and to self-improve. - the proper application of this principle represents a source of human and social self-improvement; - it is the very way to correct those people who think they have nothing but rights; - the equal recompense, disregarding the results, is unfair, demotivates people during the professional exercise, and leads to social dissolution; - the following of this principle has important moral values – not only by encouraging people's active mutual participation, but also by determining their self-achievement, their personality lacks and skills self-assessing, and also pointing to new goals while self-

improvement; - every individual should be rewarded depending on how much he offers – each of us should answer the following question "What do I do for society and what does it do for me?"; - the embracing of this principle will lead to a better life structure, to a proper dimension of personal value options; - "As you make your bed so you must lie"; - without this principle, each of us would do our own justice - resulting in an anomic society etc.

A 5.05% of the respondents consider that the principle is not realistic enough as in everyday life, professionally inclusive, is frequently violated. The following statements were sustained: - with no possibility of actually measuring merits, it is impossible to proper commensurate them; - the promotion in higher positions, vertical mobility, is sometimes based on other criteria than merit, those criteria such as social class, wealth, influence, fame in a different field, relationships, etc. being unfairly taken into account and considered more important by the deciders; - the nowadays Romanian society includes far too many deserving, not-rewarded people and an countless number of those lacking merit but are highly rewarded etc.

The respondents who consider this principle as a pure doctrinarian and utopian one invoke more difficult to accept reasons, such as: - judging people according to their results and merits contradicts the principle of equality; - there are so many examples within a society where people need to be helped or rewarded without ever achieving favourable results or having worked for the society; - people do not pretend rewards for every deed, many of them act out of passion, conscience, or pleasure; - the deciders are unable to determine the correct hierarchy of human merit criterion. Such assertions are but pale, too weak if facing the most respondents' arguments, who consider this principle as a key criterion to evaluate and actually achieve justice. A small part of the interviewed respondents reckon this principle as the most important one.

To the question: "A society is just if people's vital needs are met. Do you agree? YES / NO / DO NOT KNOW. Please explain the answer!", the responses grouped in the following categories: - 70.71% of the subjects answered YES, 9.39% doubted on the validity of this principle, 15.46% gave negative answers and 4.42% said "I do not

know". The respondents in the first category thus motivate: - the main goal of a society is to achieve the means to satisfy people's basic needs in order to have a decent living – without which social peace, the rule of law and democracy are not possible; - an economically more developed society, including a higher GDP level/capita ensures the necessary premises to exert more justice; - a decent life for all society's members being ensured, the conflicts will diminish and the mutual cooperation between the individuals and social groups, between citizens and the rule of law will improve; - there are direct proportional relations between justice, life quality, property, democracy and political culture and nevertheless, state rebellion, civil disobedience, social tensions and inferentially injustice, amplifies due to lower income during economic, financial and social crisis, or within the societies which cannot provide the fulfilment of vital needs for large social categories; - a society is more just when it succeeds to ensure the appropriate material conditions, a better living, and a proper legal framework for the citizens as they should be able to fulfil their basic needs; - A. Maslows's hierarchy of needs is underlined, as an argument, showing the decisive role of primary, vital needs.

A second category of answers - 9.39% argues that this principle of justice is not sufficiently founded, has minimal implications in the practical building of a just society because justice relies more strongly on other items. The principle would be invalidated by justifications such as: - a characteristic of human personality is the discontentment to what and how much a person owns at a given time together with the desire to achieve and have more; - there are many people who place other values such as education, prestige, culture, personality self-development beyond the human basic needs; - in any society there are marginal non-assimilated groups that have opposite values to those of the majority, displaying a different assessment of the human basic needs.

The third category of respondents think this principle is not a path to follow, it is not a prerequisite for building a just society for the following reasons: - all human needs have to be accomplished as the society to be just; - the concept of vital needs is too ambiguous and relative, so that in certain situations, people set as their priority

goals the achievement of certain superior or secondary needs, considered by many people as *primum movens*; - within human communities that have met their basic needs, injustices occur as an aftermath of failing to satisfy other needs – regarded as secondary needs; - the consumer society manipulates and needs you to be conformist and uncritical; - there are more just societies within the underdeveloped societies when compared to the post-industrial ones; - the topic of justice should not be identified when satisfying the basic needs – animals also have basic needs, but to the level of superior needs such as socialization, cultural needs, communication, prestige, creative needs, or adaptation to new tendencies, etc.; - satisfying the vital needs represents just a precondition of justice; - Injustices resulting from criminal acts are generated not only by the non-fulfilment of certain individuals' basic needs, but by many other factors, such as a high crime rate can also exist within the consumer society.

To the question: "A society is just when it really ensures a fair balance between the rights and duties of each individual, meaning the level of rights is proportional to the level and quality of duties accomplishment. Do you agree: YES/ NO /DO NOT KNOW. Please explain the answer!", we identified two types of less controversial responses: most are affirmative (90.34%) and the other are mainly sceptical, negative (9.66%).

Those who declare that in a society there is more justice from actually ensuring a balance between the rights and the duties of every legal entities, if the rights proportionally meet the level and quality of duties accomplishment, state the following: - in a just society, the rights and obligations of individuals and legal persons as well are proportional to the level of duties achievement (and vice versa), which is legitimate and moral too; - if high imbalances would arise between the individuals' rights and duties, there would appear inequities, improprieties, prejudices to either individuals or to society / state - which would lead to increased crime rate; - individuals and legal persons deserve as much as they offer, according to sayings and proverbs; - the principle validity is not refuted by specific cases when certain individuals have more earned rights than others on the

ground that they fulfilled more duties in the right required quality parameters; - the constant application of this principle motivates people to give their best in order to fulfil their duties and consequently to have rights - which leads to prosperity and social healing; - the balance between rights and duties is a prerequisite for the harmonious shaping and development of each and every individual's personality and vice versa; - any action or lack of action generates rights and duties which must be obeyed and in case of infringement, the intervention of the judicial structures and the coercive force of the state is necessary; - this principle does not contradict the positive discrimination to those individuals who are not able to meet their duties (persons with disabilities, unable to work, etc.) – occurrences when an imbalance can be accepted, biased to the rights which are to be applied to those certain categories.

Based on these arguments, a MA student thinks that a society is just when "an effective balance between the rights and duties of each individual is provided because the Art. 15, para. 1 of the Romanian Constitution stipulates: « All citizens enjoy the rights and freedoms granted to them by the Constitution and other laws, and have the duties laid down thereby »".

The second category of answers (9.66 %) – diminishing this principles to the point of its denial, submits the following assertions: - the imbalance between rights and duties for individuals and legal persons (lenders, borrowers, state institutions, state companies, different businesses, etc.) prevails within a society; - both members of the society, and institutions and organizations do not know well enough their rights and duties, and they eventually do not follow them; - the balancing rights and obligations is possible by frequent coercive state intervention, and the achievement of a fair balance claims dictatorship, and the repression of the illegal behaviour - which contradicts the rule of law; - the Romanian media-reflected reality often and intensively contradicts this principle, appearing as having a partial validity; - the legal obligations are met practically, while rights are guaranteed only formally - actually, often being difficult to obtain them within the Romanian system;- the human nature itself bears individual nonconformity so that he/she will not

voluntarily proceed to achieve his/hers duties, state intervention with its coercive means being necessary; - within the Romanian society, duties are unevenly distributed, so that the poor and many have much more duties and much less rights than the potent and rich individuals – enjoy the opposite; - duties are the same for all, while the fulfilment degree of rights differs from person to person depending on skills, character and social importance of the achieved performances; - nowadays some people have no possibility of fulfilling their obligations, while others – owners of resources far beyond their need, do not want to fulfil their duties and seek ways to avoid them. Based on such arguments, some groundless, the respondents concluded that this principle has minimal functionality, at least in Romania today.

To the question: "A society is just if people do not harm each other, and they do no damage the groups they belong to. Do you agree: YES / NO / DO NOT KNOW. Please explain the answer", a percentage of 86.46 % of the total gave an affirmative answer, accompanied by comments like: - the consistent application of this principle involves a high degree of responsibility, active civic culture and strong moral conscience; - the principle works even if there is selfishness, envy and hate in all societies, materialized in crimes, in prejudice against the fellow citizens and against society; - the efficiency and effectiveness of applying this principle are subject to compliance with other principles of justice, and the degree of social justice, social peace and social understanding is in inverse relation to the etiology of illegal deviant individual/groups behaviours; - mutual respect is an essential civic / moral value so that those who comply will be respected, and those who deviate from legal norms must be sanctioned; - the persons and property security is a fundamental right of the people so that the principle legitimates the democratic states constitutions and laws; - following the principle results in human cohesion, all levels social prosperity and thus the socio-political anarchy premises are erased;- people cooperation and good coexistence are constructive and beneficial for everyone, while conflicts are destructive and evil; - this principle is validated by the Christian religious tradition with biblical precepts such as "thou shalt love thy neighbour as thyself", "You shalt

give false testimony against thy neighbor", "You shalt not covet thy neighbor's house".

A lesser proportion of respondents - 13 by 54%, minimizes the importance of this principle claiming that: - if people would not hurt each other and the society to which they belong, that does not automatically mean that it would be more justice; - people do not behave like "saints" (if all men would be saints, the subject of justice would have no relevance) and human nature drives them to choose to commit negative, antisocial deeds, contrary to generally accepted values; - conflicts, wars and violence, as well as crime, have been and will be a part of all societies throughout the nations history - hence this principle is platonic, and it will not surpass the condition of an ideal project; - this principle is unlikely to be properly followed in Romania, but it may be a condition to legitimize the law and other regulations update; - Earth is not like Heaven, and equality and justice are only in Adam's Heaven. 6.47 % of the interviewed reject this principle.

To the question: "A society is just when its individuals and legal persons mutually respect the agreed contracts and promises. Do you agree: YES / NO / DO NOT KNOW. Argument your opinion", the answers show hardly any doubt and comments. Thus, 97.1 % respondents answered in the affirmative, while 2.9% minimizes the role of this principle in building a just society. The first category of respondents justifies their position claiming that: - mutual respect of contracts and promises is not only a moral but also a legal duty – keeping the given word is a moral duty, specific to human nature, while respecting contracts is a legal obligation; - applying this principle agrees with the divine law and gives more confidence, solidarity and respect to people;- the following of this principle leads to the strengthening of social order, to the moral unity of the community and the development of the society's civilization level; - applying this principle generates the opportunity to evaluate the services quality provided by state structures, mainly the judicial system; - the importance and effectiveness of this principle are underlined by the need for a proper protection system to the society members and legal persons against unfair terms or law

nonconforming, masterly hidden into contracts and accepted by contractors, due to inefficiency or ignorance. 2.9% respondents consider this principle as minimal in doing justice for the society either because it is assimilated by the other principles or it has just a small "core" of truth. Much more is needed to build a society with a high-level of justice. One respondent notes: "The contractual agreements within the society, between individuals and legal persons do not highly influence justice since their complying does not exclusively depend on the parties' will, other items being implied as well".

To the question: "A society is more just than others only whether its members value more the moral norms than the legal ones. Do you agree: YES / NO / DO NOT KNOW. Please explain the answer", there are three types of answers and arguments. The first category (49, 2%) shows the affirmative answers; the second supports the necessity for equal appreciation of the moral and legal norms while the third type of answers denies this principle of justice.

The first group of respondents asserts the following arguments: - though not equivalent terms, since moral norms include legal norms, throughout the history, the latter emerged from the first, i.e. customs, traditions and beliefs, a society is more just if it is primarily based on values, norms and moral convictions; - citizens' legal compliance generates legal order, while respecting the moral norms fulfils this order imposed by the state institutions, thus resulting a more just society; - whether the members of a society follow the moral norms, then they will respect more easily the legal norms too; - if the morality and civilization level of a society is advanced, then the rule of law will be created having an increased efficiency so that the state will seldom have to use the law for punitive purposes; - we acquire the moral norms and customs in family and school, where we attain moral beliefs and feelings that will determine the decisions and behaviour within our own consciousness (see Mateos et all, 2013), or the legal norms are compelled from outside ourselves; - the law is not known by each and every individual of the society, while the moral norms are supposed to be well-known by everybody, thus having a crucial role in shaping a just society; - the society's welfare and

individuals' behaviour largely depend on their moral creed, on their beliefs and feelings, so that justice is simply an "adjusting" system; - if "social justice" is essentially a result of the law compelling system on the individual willpower, the means being of less importance, it can be noticed only a law order – and not a rule of state, or a right and legitimate society; - life principles and moral values as honesty, kindness, integrity, have priority in building a just society, and in the regulation of society members civic behaviours; - human beings are first and foremost humans, and then citizens – the latter obliging them to comply with the legal standards – and as human beings we must obey the principles of justice as foundation to the judicial system. A MA student states: "On the assumption that the legal rules spring from and complete the moral norms, most often being in full compliance, I think that a society that values moral norms on a higher level is more just than others. Furthermore, compliance to moral norms creates a just society, while respecting the rule of law creates legal norms.

A second group of respondents (36.19%) affirms that legal and moral rules must be equally valued by the society members who must evenly follow both of them. A MA student claims that "moral and legal norms must be on the same level in terms of compliance. We must take into account the advice of our parents since we are children and what our society "requires" by general and special laws. From my point of view, I believe that moral rules must be obeyed by us as people and the legal standards must be obeyed by us as citizens.

A third group (14.28%) do not recognize this principle, citing arguments such as: - modern society is governed, essentially, by legal rules which are mandatory; - the rule of law and citizens security, guaranteeing the fundamental rights and freedoms are legally insured, while moral norms and values hardly have any value in this area; - pragmatically, legal rules are beyond moral; - there can be many different cultures and moral values in a society which can not achieve the social stability through their particular power, while the legal norms are mandatory to all state citizens, even if the state is multicultural, being the method to actually achieve a just society; - one can not determine precisely which rules are most important – the

moral or legal norms – each system has distinct and irreplaceable functions. When asked: "Do you consider that there are connections between the above-mentioned principles of justice, and that any contemporary society can increase the level of real justice by following these principles? Do you agree: YES / NO / DO NOT KNOW. Please explain the answer", the answers are unanimous affirmative, emphasizing the indissoluble connection between the principles of justice, meaning that they mutual complete and influence each other in exercising their role of coordination and decision adjustment, of willpower and human behaviour, of micro- and macro- social groups and institutions as well. The principles of justice form a whole unit because they stem from the people's needs, interests and aspirations, display when peacefully coexisting, from people's fundamental rights and freedoms, being in full compliance with GOOD and TRUTH. Their usefulness resides in driving society's history dynamics, in state internal and external relations, helping the growth of real justice, and of social balance and harmony. Furthermore, they constitute an ethical-philosophical model, an axiological paradigm designed to regulate the legislative initiatives, the constant legal system adjustment to meet the objective requirements of social development, the constitutional reform, which will always find legitimacy in their compliance with the principles / value of justice.

Some respondents argue that a binder of the principles of justice, their unity, originates in the individual and people willpower, and, especially, in the political determination. These principles implementation, the practical achievement of a more just society fundamentally depend on unity of willpower, and the political society demand to activate them. This happens because the principles of justice are not mere general imperative, but part of an affective-motivational and volitional system dominating in a certain extent the collective mind of a solid society. The stronger the desire to implement the principles of collective actions are, the greater the possibilities to achieve more justice. The MA students have particularly reasoned that the multitude of injustices, and the social diseases such as corruption, nepotism, the differences of wealth and

opportunities, chronic unemployment, discrimination, etc., in the Romanian society could be diminished by asserting a strong political will to this goal through the development of active legal-political culture in mass scale and the effective functioning of the rule of law.

Other respondents affirm that there are people who respect the principles of justice, persons who do not comply, licit and illicit behaviour, conformists and nonconformists in any society. In such instance, the evolution of society opposite to the value of justice results in the people disaccords degeneration, conflict and wars - always present throughout the history. To do justice means, first of all, to act for tempering and eradicate conflict, to increase the number of people with moral, legal behaviours, and to reduce the mass of those who do not comply with the legal norms; justice means to gather the communities and nations efforts to maintain peace and social harmony. Penalties and negative sanctions for those who oppose justice are not the main course to follow but rather the persuasion and the political and civic education.

Discussions

Briefly analysed, the answers, beliefs and attitudes of the interviewed, about the value of justice and its implementation in society, resulted the following quantitative pattern:

Subjects adhesion to the principles of justice	**YES %**	**Partially YES (%)**	**NO %**	**I do not know %**
1. Justice is a result of proper lawyers' work.	46,31	24,02	5,58	11,73
2. Justice is to ensure equal opportunity and equal treatment of the people.	91,6	8,39	0,01	-
3. Justice means rewarding people for merit.	92,77	5,03	2,23	-
4. Justice must satisfy the vital needs of people.	70,71	9,39	15,46	4,42

5. Justice must grant a fair balance between rights and duties.	90,34	9,66	-	-
6. Justice involves people's good cohabitation and cooperation without any harm done to each other or to society.	86,46	7,07	6,47	-
7. Justice implies mutual respect of contracts and promises.	97,1	2,9	-	-
8. Justice implies people appreciating moral norms more than the legal ones.	49,52	36,19	14,28	-
9. A modern society can increase the level of real justice by respecting the previous principles seen as a whole.	100	-	-	-

The analysis of above quantitative and qualitative data shows that the subjects hold within their consciousness an "image", a "schema", a concept of justice made of several elements or defining characteristics, completing each other. The lack of accord in displaying the aspects of justice connotations reveals the content relativity of this concept, characterized by insufficient precision, clearness and intransigence, and the concept range bears a relatively certain core and a vague polysemic edge, consisting in fluid, probable and questionable elements. We can observe that some common characteristics of justice have broad support; the subjects' pro- arguments and justifications show deeper belief than other points of view. Thus, creating the necessary condition to guarantee equal chances, citizens equality to law, the compliance with the human fundamental rights and freedoms in a society is appreciated by 91.6 % of the respondents beside the 46.52 % who think that the principle according to which there is more justice within a society where the respect for the moral norms prevails before legal norms. The principle of individual fair merit rewarding and the principle of mutual respect of contracts, promises and given word, are highly valued than other principles.

The concept of justice structure, with a relatively clear core and a probabilistic type edge, is valid for a community mentality - in our case, this being composed of young students and MA students. We do not reject the possibility that this concept to be identified in other social groups too, yet, the ratio between the core and the edge is certain to be modified, but not in such a high degree to endanger its structure and essence.

The research results partially confirm more or less appropriate, the classical theories of justice, since the 4th century BC sophists (Protagoras, Trasimah, Callicles, etc.), Plato, Aristotle, Thomas Aquinas, Hobbes, Grotius, Thomasius, Rousseau, Kant, Hegel, etc. and to the post-modern scholars (Hayek, Kelsen, Rawls, Nozick, Schmidtz, etc.) and invalidate any attempt to conceive justice as absolute, eternal, immutable or reduce it to some certain and infallible principles.

Classical theorists sought principles using the reflective, metaphysical method, the comprehension and, in many cases, they identified and expressed them philosophically. For example, Zeno of Elea (336-264 BC) considered that justice is an eternal and universal law from which all legal rules enacted by the state and the life of the state itself as well should issue. In this case, justice is a value beyond people; a true society is just when its people faithfully obey the laws, discarding everyday life lusts, pleasures and anxieties. Thomas Hobbes (1588 - 1679) imagined justice as a result of the social contract between people, with a harmonious society and social peace being built on, injustice being any type of action violating the social contract fundaments. Following the same notional thinking, Hugo Grotius (1583 – 1645) defined justice as a result of four principles reflected in all deductive positive legal laws. These principles are: 1. *Alieni abstinentia* (everything others have must be respected: life, property etc.). 2. *Promissorum implemendorum obligatio* (keeping promises, commitments, and given word). 3. *Damni culpa dati reparation* (compensation for damages caused to others). 4. *Poenae inter hominess meritum* (Due punishments should be applied to those violating these principles). Grotius' principles have logical value such as axioms or truths in geometry, being above all people, even beyond kings, imperatively mandatory to all members of the society. Another

example is the Im. Kant's concept of justice, which resumes to a human existence law, to a universal and categorical imperative, that compels everyone to certain actions and hinders them from others; this concept of justice can be expressed as: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end". Justice is the state of society in which people's free wills harmoniously blend resulting social peace, good for everyone, every man adjusting his own freedom so that it is in accordance to the freedoms of others.

Significant differences such as those between philosophy and science result when comparing the classical conceptions of justice to our research conclusions. The sociological research on justice outlines the content, the dimensions, and the justice dynamics as life, as directional regulatory part of collective mental, as reference value to people's options and decisions within an actual socio-cultural and political-legal context. Our research highlights that justice is not only a set of axioms and principles, a flowchart that directs the perpetual renewal of laws, of judicial systems, but a relative concept, a relative "map", supported by a significant part of society, questioned or even rejected by some people. In other words, the general concept of justice has widely accepted elements and is not necessarily universally accepted and supported (see, for example, Schmidtz, 2006); it also has fluid random elements which differentiate the societies.

The vision of justice, procedural justice, individual justice, micro- or macro-grup level justice, the implementation of justice, the just society are relative and not absolute concepts (Voicu, B., 2008), open and not immutable concepts and can be understood in depth if related to the socio-economic, political, legal, spiritual realities. The achievement of this goal needs a separation between the office thinking on justice and the devotion to the means and methods of the sociology of values (Rezsohazy, 2008).

A research method about effective ways of justice and its implementation, having obvious theoretical and pragmatic achievements, was developed in the knowledge of the recent decades

(Rawls, Nozick, Hart, Schmidtz, etc.). In this regard, the American theorist David Schmidtz believes that all theories of justice have counterexamples because any theory guides us as a map, and no map represents the only reasonable way of seeing the terrain (Schmidtz, 2006: 18). Justice analysis must not be reduced to conceptual analysis. It is true that people can agree on some common characteristics of justice (i.e. justice is to give everyone his due, justice requires impartiality, integrity in law enforcement, justice is to treat similar cases similarly, etc.). J. Rawls expresses a truth by writing that "those who hold different conceptions of justice can, then, still agree that institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life (Rawls, 1971: 5). The fact that the value of justice becomes a common good for the people, for communication between them, does not mean it fits all situations, in all contexts. People may have different views about what justice is, according to the area in which it materializes, they may challenge or deny depending on the options and the hierarchy of values they possess. Therefore, the theory of justice is pluralistic and functionalist-contextual (Schmidtz, 2012: 33); we should not blindly trust theories, because any theory of justice has counterexamples. However, some elements of justice are essential and general. Other items may not be included in this concept, but a theory that excludes them will be hard to believe (Schmidtz, 2012: 252). The author is sceptical about the formulation of a unified theory of justice, able to answer all the questions on justice. But it is certain that "justice will always be connected to merit, reciprocity, equality and needs" (Schmidtz, 2012: 253).

Postmodern theories of justice have a high degree of certainty, because their authors as Rawls, Nozick and Schmidtz, use, besides the methods of philosophy, the methods and means specific to the positive sociological approach, including case analysis, the ideal experiment, the abstract correlation with specific social facts etc. In this context, the ideas of interpretive sociology may be useful and provides an insight founded on the idea that "the sociological

understanding of behaviour must include the meaning that social actors give to their actions and those of others" (Johnson, A.G., 2007: 330). But the approach of justice within the actual social context using the sociological methods leads to very important theoretical and practical results.

Conclusions

The study of values using the specific means and methods of sociology leads to findings and conclusions with operational and practical value superior to the general and comprehensive theoretical approach. In this respect, the empirical research on justice in nowadays Romanian socioeconomic, cultural, political and legal context highlight content characteristics, achievements and shortcomings in implementing justice at the micro and macro social level. The quantitative relationships between just and unjust, identified in the arguments and justifications of the respondents in the sample, the performance obtained in the implementation of justice in Romania, according to its constitutive elements, express the prevailing attitudes within the interviewed group mental towards the specific social context, the political power and, especially, towards the judicial and administrative system today.

The quantitative dimensions of negative and sceptical responses regarding the perspectives on the justice versus injustice ratio in the Romanian society and on the diversity of criminal deviance actions of those invested with the authority to do justice in their area of competence, as well. Thus, the most serious violations of the principles of justice are identified in the following levels:

1. The vertical mobility of employees, in violation of the merit principle. Promoting people of merits has been replaced, in many cases, by the corruption, nepotism, political affiliation, etc. based promotion.
2. Wages and pensions that by irrational and unfair sizing generated an unjustifiable and strong polarization of Romanian society (the maximum wages and pensions are higher than 50 times the lowest).
3. High unemployment, especially among youth.

4. Diverse and frequent dysfunctions, anomic decisions in justice and administrative power activity. In this respect, the beliefs and allegations of a relevant part of all subjects is consistent with the Report from the Comission to the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism (2012).

5. Limiting the principle of equal opportunities for youth and for citizens of Romania, in general, due to the high percentage of the population living in poverty (Zamfir, C., 2004).

All these manifestations of injustice are symptoms of a pathological society and recovery should follow the strategic directions / public policies to eradicate them, developed and practically accomplished by specific public authorities.

References

1. Aristotel. *Politica (Politics)*. Book tree, chapter 12, Bucharest: Univers Enciclopedic Publishing.
2. Arts, Will & Loeck, Holman, editors. (2004). *European Values at the turn of the Millenium*, Leiden: Brill.
3. Boudon, Raymond. (2001). *The origin of values: sociology and philosophy of beliefs,* New Brunswick, N.J., London: Transaction Publisher.
4. Carbonnier, J. (1978). *Sociologie juridique.* Paris: P.U.F.
5. European Comission.(2012*). Raport al Comisiei către Parlamentul European şi Consiliu privind progresele înregistrate de Romania în cadrul mecanismului de cooperare şi verificare (Report from the Comission to the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism)*, în http://juridice.ro/w.
6. *Constituţia României (The Romanian Constitution).* (2003). Modificată şi completată prin Legea de revizuire a Constituţiei României nr. 429/2003, publicată în Monitorul Oficial al României, Partea I, nr. 758. (As amended and supplemented by the Law for the revision of the Constitution of Romania, No. 429/2003, published in the Official Gazette of Romania, Part I, no. 758).

7. *Declaraţia Universală a Drepturilor Omului (The Universal Declaration of Human Rights).(1948).* United Nations, December 10.
8. Ferreol, Gilles & Jucqois, Guy. (2005). *Dicţionarul alterităţii şi al relaţiilor interculturale* (A Dictionary of Alterity and Intercultural Relations), Iaşi: Polirom.
9. Giddens, Anthony. (2000). *Sociologie* (Sociology), translated in Romanian by Radu Săndulescu, Vivia Săndulescu, Bucharest: BIC ALL.
10. Giddens, A. (1990). *Consequences of Modernity*, Cambridge: Polity Press.
11. Hart, H.L.A. (1961). *The Concept of Law*, Oxford: Clarendon Press.
12. Hayek, Friedrich. (1995). *Le Mirage de la justice sociale,* Paris: P.U.F.
13. Hayek, F. (1960). *The Constitution of Liberty*, Chicago: University of Chicago Press.
14. Hegel, G.W.F. (1969). *Principii de filozofie a dreptului* (Elements of Philosophy of Right). Bucharest: Romanian Academy.
15. Iovan, Marţian. (1998). *Lecţii de sociologie juridică* (Legal Sociology Lessons), Arad: Multimedia.
16. Johnson, Allan G. (2007). *Dicţionarul Blackwell de sociologie* (The Blackwell Dictionary of Sociology), translated in Romanian by S.G. Drăgan and V. Russo, Bucharest: Humanitas.
17. Kant, I. (1991). *Scrieri moral-politice* (Social and Political Writing). Bucharest: Editura Ştiinţifică.
18. Kumlicka,Will. (1999). *Les Theories de la justice. Une introduction,* Paris: La Decouverte.
19. Nozick, Robert. (1997). *Anarhie, stat şi utopie* (Anarchy, State and Utopia), translated in Romanian by Mircea Dumitru, Bucharest: Humanitas.
20. Mateos, A., Amoros, P., Pastor,C., & Cojocaru, C. (2013). PROGRAMA GENER@T: Social Educational Programme for the Prevention of Dating Violence among Adolescents. *Review of Research and Social Intervention*, issue: 41/ pages: 163-175.

21. Mill, John Stuart.(1994). *Despre libertate* (On Liberty), translated in Romanian by Adrian-Paul Iliescu, Bucharest: Humanitas.
22. Rawls, John. (1999). *A Theory of Justice*, Cambridge: The Belknop Press of Harvard University Press.
23. Rezsohazy, Rudolf,(2008). *Sociologia valorilor* (The Sociology of Values). Academica Collection, Iaşi: Institutul European Publishing.
24. Rousseau, J. J. (1957). *Contractul social* (Social Contract). Bucharest: Editura Stiinţifică.
25. Schmidtz, David.(2012). *Elemente ale dreptăţii* (Elements of Justice), translated in Romanian by Tudor Glodeanu and Ionuţ Sterpan, Bucharest: Humanitas.
26. Sida, A., Berlingher, D. (2012). *Teoria generală a dreptului*, Editura Cordial Lex, Cluj-Napoca.
27. Speranţia, Eugen. (1944). *Introducere în Filosofia Dreptului* (Introduction in Law Philosohy), Sibiu.
28. Van Parijs, Philippe. (1991). *Qu`est-ce qu`une societe juste ? Introduction a la pratique de la philosophie politique,* Paris: Seuil.
29. Voicu, Bogdan. (2008). *Valorile şi sociologia valorilor* (The Values and Sociology Values), in www.iccv.ro/valori/texte/valori-cvb,%20v4pdf.
30. Zamfir, Cătălin.(2005). *Spre o paradigmă a gândirii sociologice* (Towards a paradigm of sociological thought). 2nd Edition, Iaşi: Polirom.
31. Zamfir, C. (2004). *O analiză critică a tranziţiei* (A critical analysis of the transition), Bucharest: Expert.