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CONSIDERATION UPON THE PROTECTION OF THE HUMAN RIGHTS

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Abstract

The purpose of the present article is to bring general information connected to the human rights. We all know the fact that in the traditional international law, the protection of the human rights through international actions was not to be found. The concept of the international law of the human rights appears only in the second half of the 20th century, and thus matters connected to acknowledging and respecting them become problems of international interest and they do not depend exclusively only on the internal jurisdiction of the states.

Romania admitted, appreciated and regulated the citizen's rights as well as the theories that argued their existence and also it has ratified the majority of the universal and European treaties concerning the human rights.

Key words: *individuals, states, fundamental rights, conventions.*

INTRODUCTION

After the Second World War two processes that had a significant role in the appearance of some fundamental rights recognised as belonging to people, evolved in a parallel way. We take into account the Charters and the international conventions regarding the human rights, recognised in some continental constitutions. In both cases the question that arose was if the norms concerning the human rights were also applied to the relation between people.

In 1984 the General Union of the United Nations adopted and proclaimed the Universal Statement of the Human Rights.

Elenore Roosevelt, the chairman of the commission that elaborated the Universal Statement of the Human Rights, shows that the human rights must be understood through the person's world, through the immediate frame of his life (the place where he lives, the place where he works or studies, etc.) If the human rights do not take into account the above mentioned, they are meaningless. Without the citizens' concentrated action to ensure these rights in their lives, the

signs of progress in the universe in which they live will be searched in vain. (*K. Vasak, 1978, p.375*).

However, the direct applicability of the legal relation between persons through the provisions comprises in the Universal Statement of the Human Rights, remains doubtful. The Universal Statement of the Human Rights is not a treaty, it was adopted by UN General Assembly as resolution thus it does not have compulsory power.

So, we may state, that the Universal Statement of the Human Rights, has more likely represented a reference model for what came next, regarding the protection of the human rights on European level in the international context.

In what the Constitutions that appeared after the Second World War are concerned, it may be said that they brought up the transition from the concept of the individual, perceived as an abstract subject, to a person whose rights are recognised, the person being understood not abstractly speaking, but as a real individual with social and biological needs.

The Charter of Fundamental Rights of the European Union is considered to be the document with the greatest impact on the European Community. Thus, this has defined, in the best way possible, the concept of human's fundamental rights protection and has traced the best direction for the states belonging to the European Union, when it comes to the process of national law making of this aspect.

Romania is a party to numerous international treaties specialised in human rights, among which we mention:

a) Universal International Treaties having a general value

Romania is a party to all the treaties comprised in this category, as it follows: International Covenant on Civil and political Rights, here also being included the two Optional protocols to the Pact as well as the International Covenant on Economic, Social and Cultural Rights.

b) Specialized international treaties

The main international treaties of a specialized nature are: The Convention for the Prevention and punishment of the crime of Genocide ratified in 1950; The Convention for the Suppression of Trafficking in Human beings and the exploitation of prostitution of others, ratified in 1954; The Convention on the fight against discrimination in Education, ratified in 1964; The Convention on the Rights of the child, ratified in 1990; The Convention on the status of Refugees, ratified in 1991.

c) Regional international treaties of general value: The Convention for the Protection of Human Rights and Fundamental freedoms (European Convention on Human Rights) including its amending and additional Protocols; The revised European Social Charter, ratified in 1999

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d) Specialized international regional treaties: The European Convention for the Prevention of Torture and inhuman or degrading punishment or treatment, ratified in 1994; The Framework Convention for the Protection of National Minorities ratified in 1995 (Romania was the first one that ratified it).

Of all the above-mentioned treaties, the one that had and still has a significant impact in the national juridic order is The European Convention of the human rights. (*Corneliu-Liviu POPESCU, 2000, p.251-256*).

The compliance of the human rights represents for Romania and for the European Union, a priority of external politics. Romania ratified the European Convention on Human Rights on 20th June 1994. This has paved the way of the individual petition for ECHR made by Romanian individual and legal persons. In order to be accepted in the European Union, Romania had to comply with the Copenhagen criteria, criteria that also comprise the human rights.

Today, as a member state, Romania, belongs to a group that wants to be a model, internationally speaking, regarding the exemplary protection of the human rights and it requests to its partners to follow this path.

Romania has ratified the majority the European and universal treaties concerning the human rights.

According to the 20th article of Romanian Constitution: “The constitutional provision on citizens’ rights and freedoms will be interpreted and applied in agreement with the Universal Statement of Human Rights, with the pacts and the other treaties to which Romania belongs. If there is any disagreement between the pacts and treaties regarding the fundamental human rights, at which Romania belongs, and the internal laws, the international regulations will come first, excepting the case when the Constitution or the internal laws comprise more favourable dispositions.

Being a member state in the “European Convention for protecting the human rights and the fundamental freedom”, Romania obeys the jurisdiction of the Human rights European Court in Strasbourg. Also, within the European Union, Romania signed in December 2007, the Lisbon Treaty that contains “The Charter of Fundamental Rights”.

The Romanian Constitution ensures, in equal measure, the right to life and mental and physical integrity (article 22), the right of defence (article 24) and consciousness or speech freedom (articles 29 and 30). The European Convention on Human Rights also enshrines the right to freedom and safety (the 5th article) freedom of assembly and association (article 11). Regarding the civil or political rights, Romania is a party to the two documents adopted within UN: “The International Covenant on Civil and Political Rights” and “The International Covenant on Economic, social and cultural Rights”.

Romania has also proven that the attention given to the minorities’ rights, to ways to assert and protect ethnic and cultural identities, is the way to stability, peaceful coexistence and social development, our country has established the

institutional and legislative mechanisms through which the ethnic minorities' rights are ensured.

Our country has made progress when it comes to promoting and defending the human rights, progress that was appreciated by the majority of the delegations present when the national report regarding the respect of the human rights in our country was presented, within the universal periodic examination made by UN Human Rights Council.

CONCLUSIONS

As we all know, respecting the human rights has become one of the conditions that Romania had to fulfil in order to be accepted in EU, but in the same time it also represents one of the principles that governs the EU's external relations. This principle has to go beyond simple statements and become a reality that is imposed with power and which must govern the relation between the states not only at a European level but also at international level.

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