

ROMANIAN CONTRIBUTIONS TO THE DEVELOPMENT OF THE PHILOSOPHY OF LAW

Mihai BĂDESCU¹

Summary. *The foundation of culture and civilisation, philosophy and the great philosophical systems have been meditations on the nature, essence and purpose of human existence. Knowledge of the fundamental theories, concepts and ideas contained in the whole of legal philosophy, in the work of our philosophers and jurists, is not possible without a broad framework of philosophical and legal debate at world, or at least European, level. The present study falls into the category of restitutions due, in terms of knowledge and appreciation of the remarkable contributions of some Romanian specialists in the philosophy of law, many of which have long been forgotten, distorted, truncated or simply eliminated from the national scientific heritage. At the same time, the work aims to highlight the social need for philosophy of law, to highlight the value of Romanian contributions at a time when, in global society, there is a tendency to ignore and fade away specific valuable contributions, capable of entering the universal heritage of legal thought. In Romania, the beginnings of the philosophy of law coincide with the awakening of a unitary national sentiment, based on the idea of the Romanian origin of the nation. We can consider as important landmarks in the birth, evolution and development of the philosophy of law in Romania, the works of the chroniclers of the 17th and 18th centuries (some of whom were true philosophers of public law) or the first codification of private law, through the work of various jurists. The interwar period brought an increasing affirmation of the concerns devoted to the philosophy of law in Romania. We note the major contributions to the development and affirmation of the philosophy of law in Romania by authors such as Alexandru Văllimărescu, Traian Ionașcu, Petre Pandrea, Radu Goruneanu, Dumitru Drăghicescu. Eugeniu Speranția, author of an impressive work in the field of philosophy of law, was a first-rate thinker and true encyclopedic spirit. Mircea Djuvara was above all the Romanian authors who devoted their lives and work to legal-philosophical writings, a representative personality of Romanian culture, founder of an original system of thought of great theoretical and methodological value. What is the encyclopaedia of law; subjective and objective in law; thinking, judgement and the value of judgement; objective and subjective theory of value; the finality of law in relation to the judgement of legal value; the concept and idea of justice; legal methodology; the "problem" of subjective law. The relationship between the individual and the social environment (or the relationship between freedom and determinism); the relationship between law - morality - religion; the role and importance of the philosophy of law; the definition of law; norm and normativity; objective law - subjective law; the state - the outgrowth of the need for justice; spirit and law; the opposition between social and biological determinism, the modern doctrine of punishment, are just a few themes of reflection brought to Romanian philosophical thought and which are meant to highlight the real contribution of Romanian philosophers of law to the*

¹ Prof. PhD - A.S.E. Bucharest (The Bucharest University of Economic Studies), full member of Academy of Romanian Scientists, <https://www.aosr.ro>, e-mail: badescu.vmihai@gmail.com

development and affirmation of the philosophy of law in the world as a whole, in an attempt to explain and evaluate the principles on which one of the major dimensions of human existence is based, the normative (ethical and legal) dimension.

Keywords: legal philosophy, legal encyclopedia, Romanian philosophers, idea of justice, spirit and law

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1. Introduction

The beginnings of *the philosophy of law* in Romania coincide with the awakening of the unitary national sentiment, based on the idea of the Romanian origin of the nation. This idea is strongly and proudly expressed by the "chroniclers" of the 17th and 18th centuries, some of whom were true philosophers of public law. The same idea inspired the first codification of private law, which was carried out separately in Wallachia and Moldavia at the beginning of the 19th century by various jurists, including C. Flechtenmacher (1785-1843). This codification was renewed in a unified form, in particular through the work of C. Bosianu (1815-1882) and V. Boerescu (1830-1883), after the Revolution of 1848 and the Union of Wallachia and Moldavia into a single state in 1859. Among the first Romanian contributions in the field of philosophy of law, Samuil Micu's translation (after Baumeister), entitled *Ethica și dreptul firii*, published in two volumes in Sibiu in 1800, should be mentioned. The idea of "natural law" - as G. Bogdan-Duică remarks - "*came to us at once with the first historians and philosophers who returned from Rome and Vienna*"², Half a century after Samuil Micu's translation, *Logica judicare followed by Logica conscientiere*, whose author was Alexandru Aman, appeared in Bucharest in 1861.

2. Romanian legal philosophers in the interwar period

The interwar era, which was particularly prolific for Romania in general, was a dominant era that our country experienced or, more precisely, created for itself between 1918 and 1938. During these two decades,^{*} our country enjoyed the fulfilment of its lifelong dream - the union of all Romanians - and the exercise, for the first time, of its sovereignty: internally - through the establishment of a modern, democratic regime, and externally, through bold and prestigious collaboration in the new construction of the old continent. A time of freedom and creative exuberance, these years - devoid of major threats and crises - were "*an unrivalled synthesis of Romanian excellence and European integration...a multiple, rich zenith, visible in all fields and modes of creation... an ambitious*

² G. Bogdan-Duică, *The Life and Ideas of Simion Bărnuțiu*, Romanian Academy, 1924, p.143.

^{*} As Prof. Paul Alexandru Georgescu assures us (in "Introductory word" to B.B. Berceanu, *The Universe of Mircea Djuvara*, Ed. Romanian Academy, Bucharest, 1995).