

## ROMANIAN CONTRIBUTIONS TO THE GENERAL THEORY OF LAW AND THE PHILOSOPHY OF LAW IN THE FIRST HALF OF THE XXth CENTURY

Viorel MIULESCU\*

**Abstract.** *It is of utmost importance that the evolution of the general theory and philosophy of law in the first half of the XXth century establishes their scientific and philosophical foundation within the framework of the juridical culture and practice of the epoch, bringing a valuable contribution to the field of the national and European legal doctrine which is valid even nowadays. Moreover, we can also state that the evolution of the general theory and philosophy of law during this interval coincided with the realization of the ideals of national unity and of a modern, democratic society in Romania. Outstanding personalities such as Nicolae Titulescu, Mircea Djuvara, Dumitru Drăghicescu a.s.o. contributed to the fulfilment of these ideals both through their scientific work and their juridical, political or diplomatic activity.*

**Keywords:** general theory of law, philosophy of law, national unity, democratic society, European, scientific.

DOI <https://doi.org/10.56082/annalsarscipil.2022.1-2.49>

The beginnings of the philosophy of law in Romania coincide, in Giorgio Del Vecchio's opinion, with "the awakening of the national feeling of unity, based on the idea of the Romanian origin of the nation,"<sup>1</sup>, some of the chroniclers of the XVIIth and XVIIIth centuries being "genuine public law philosophers." At the same time, the codification work done by some XIXth century jurists (C. Flechtenmacher, C. Bosianu, V. Boerescu) is highly appreciated. During this epoch of spiritual revival an important role was played by Simion Bărnuțiu, a philosophy of law professor in Iași, the founder of a natural and private law system.

It is of utmost importance that the evolution of the general theory and philosophy of law in the first half of the XXth century establishes their scientific and philosophical foundation within the framework of the juridical culture and practice of the epoch, bringing a valuable contribution to the field of the national

---

\* Senior Lecturer, PhD Faculty of Legal, Political and Administrative Sciences, "Spiru Haret" University, Bucharest, member of the Romanian Association for the Philosophy of Law, viorelmiulescu@yahoo.com

<sup>1</sup> Giorgio Del Vecchio, *Lecții de filosofie juridică (A Few Juridical Philosophy Lessons)*, Europa Nova Publishing House, 1995. p. 165.

and European legal doctrine which is valid even nowadays. Moreover, we can also state that the evolution of the general theory and philosophy of law during this interval coincided with the realization of the ideals of national unity and of a modern, democratic society in Romania. Outstanding personalities such as Nicolae Titulescu, Mircea Djuvara, Dumitru Drăghicescu a.s.o. contributed to the fulfilment of these ideals both through their scientific work and their juridical, political or diplomatic activity.

The interests of the jurists in the general theory and philosophy of law can be noticed as early as the first decades of the XXth century. In the Romanian academic world such a subject as *Juridical Encyclopedia* or *The Encyclopedia of Law* was taught by Professors George Plastara, Constantin G. Dissescu, G.G. Mironescu, Al. Vălimărescu or Mircea Djuvara who used this syntagm as a subtitle for their course: *The General Theory of Law (A Juridical Encyclopedia)*. Professor Traian Ionașcu combined these formulas, the resulting title being: *An Introduction to the Study of Law (A Juridical Encyclopedia)*.

The encyclopedia of law subject was taught in Romania starting from 1913, Professors Basilescu and Longinescu being the pioneers in this field. A historical landmark is represented by the four-volume *Juridical Encyclopedia* published by F. Ciorapciu in 1905-1906.<sup>2</sup>

Etymologically, the term comes from the Greek *enkyklios paideia* which described the perimeter of knowledge gained by instruction or the "circular learning process," that is, the complete one.<sup>3</sup>

The designation *Encyclopedia of Law* (the second half of the XIXth century) originally seemed appropriate for an academic field the goal of which was to study the general arguments and perspectives of law. Some authors referred to this subject as "The General Theory of Law" or "General Law".<sup>4</sup>

There have been several approaches to the general theory of law some of them being formulated at an early stage. Thus, according to Edmond Picard, the *encyclopedia of law* is the same as "the pure law," namely, the totality of the law constants.<sup>5</sup>

Being of the opinion that this subject is interconnected with the philosophy of law, being based upon it, C.G. Dissescu submits that "the encyclopedia of law" represents "the synthesis of law in connection with all the sciences exploring the

---

<sup>2</sup> F. Ciorapciu, *Enciclopedia juridică (The Juridical Encyclopedia)*, Aurora Press, București, 1905-1906.

<sup>3</sup> *apud* Mircea Duțu, *Dreptul: între ipostaze teoretice și avatarurile mondializării (Law: Between Theoretical Positions and the Avatars of Globalization)*, The Romanian Academy Publishing House and The Juridical Universe Publishing House, București, 2014. p.190.

<sup>4</sup> *apud* Nicolae Popa, *Teoria generală a dreptului (The General Theory of Law)*, CH. BECK Publishing House, București, 2012. p. 16.

<sup>5</sup> E. Picard, *Le droit pur: encyclopedie du droit alias premiers principes juridique*, Bruxelles, 1900, *apud* Mircea Duțu, *op. cit.*, p. 199.

human being," that is, an introduction to the study of law in addition to something else. It does not exist by itself. It is different from law, it is not the history of law, nor is it the philosophy of law. It is a mosaic. It is all of these at the same time. Natural and positive law together. All of them organized methodically to show what law is or should be.<sup>6</sup>

The philosophy of law began to be taught in Romania starting from the academic year 1909-1910. Professor Virgil Arion taught this subject in Iași while Professors Felix Solmo, Iorgu Radu, Cassin Maniu and Eugeniu Speranția taught it in Cluj.<sup>7</sup>

Far from being a mere deductive application to the juridical field or a speculative elevation of law to the status of philosophy, the philosophy of law "entails direct and unmediated complex relationships between philosophy and law, areas of confluence and interference as well as of conflict, general elements and specific contours, imperative philosophical questions addressed to the legal science, on the one hand and challenging answers for philosophy coming from the juridical sphere, on the other hand, genesis, success, failure and specific horizons."<sup>8</sup>

The attention paid to the general theory of law and to the philosophy of law ever since the beginning of the XXth century is materialized in the publication of various works both in Romania and abroad: Gh. Nicolaescu Bolintin, *Confeccionarea și interpretarea legilor (The Creation and Interpretation of Laws)* (Minerva Publishing House, București, 1901), Petre Misir, *Filosofia dreptului și dreptul natural (The Philosophy of Law and Natural Law)* (București, 1904), Nicolae Titulescu, *Essai sur une théorie générale des droits eventuels* (Paris, 1907), C. Dissescu, *Introducere în studiul dreptului constituțional: ideea de drept și fundamentul ei (An Introduction to the Study of Constitutional Law: The Idea of Law and Its Foundation)*(Cartea Românească, 1911), G.G. Mironescu, *Noțiunea dreptului (The Notion of Law)*(Cartea Românească Publishing House, 1912) și *Curs de enciclopedia dreptului (An Encyclopedia of Law Course)* (București, 1915).

Ever since the interwar period an upward trend in the field of the theory and philosophy of law has been noticed, the result of which being represented by the

---

<sup>6</sup> C.G. Dissescu, *Ce este enciclopedia dreptului (What is the Encyclopedia of Law)*, F. Goble Busti Publishing House, 1915. p. 2

<sup>7</sup> Sofia Popescu, „Teoria generală a dreptului și filosofia dreptului în România în prima jumătate a secolului al XX-lea” (“The General Theory of Law and the Philosophy of Law in Romania in the First Half of the XXth Century”), in *Dinamica dreptului românesc după aderarea la Uniunea Europeană (The Dynamics of the Romanian Law after Romania’s Accession to the European Union)*, Editura Universul Juridic (The Juridical Universe Publishing House), București, 2011. p. 335.

<sup>8</sup> Paul Mircea Cosmovici, *Foreword to Ion Craiovan, Introducere în filosofia dreptului (An Introduction to the Philosophy of Law)*, All Beck Publishing House, București, 1998.

publication of a large number of valuable works, including academic courses and other works of specialist literature related to: the theory of scientific knowledge in the sphere of law, the creation and application of law, the interpretation of the juridical norms, the philosophy of law, the juridical logic and juridical conceptualism, a.s.o.

The following works testify to the significant progress made during this period: G. Drăgănescu, *Însemnătatea Enciclopediei Dreptului și raporturile ei cu Filosofia dreptului (The Importance of the Encyclopedia of Law and Its Relationships with the Philosophy of Law)*(1920), *Valoarea cunoștințelor științifice aplicate în drept (1939) (The Value of the Scientific Knowledge Applied to Law)*, Andrei Rădulescu, *Câteva noțiuni despre interpretarea legilor (A Few Law Interpretation Elements)* (București, 1937), Radu Goruneanu, *Ideea de drept și procesul ei de formațiune (1931) (The Idea of Law and Its Formation Process)*, C.C. Damian, *Sisteme de filosofie juridică (Systems of Juridical Philosophy)* (București, 1937) and *Transformarea concepției dreptului (The Transformation of the Conception of Law)* (București, 1930), Matei B. Cantacuzino, *Despre libertatea individuală și persoanele juridice (On Individual Freedom and Juridical Persons)* (1924), Traian Broșteanu, *Le syllogisme judiciare-logique, institution et volonté dans le jugement (1932)*, Justin Lupu, *Definițiunea legală (The Legal Definition)* (București, 1939), Eugeniu Speranția, *Principiul rațiunii suficiente în logica juridică (The Principle of Sufficient Reason in the Juridical Logic)* (București, 1946) and many others.<sup>9</sup>

Special mention should be made of some remarkable academic courses published during this period: George G. Mironescu, *Enciclopedia dreptului (The Law Encyclopedia)* (1922 and 1939), Traian Ionașcu, *Curs de introducere în studiul dreptului („Enciclopedie juridică”)* (*An Introductory Course to the Study of Law: A Juridical Encyclopedia*) (Iași, the academic year 1929-1930), Ion Rosetti Bălănescu, *Dreptul în general și noțiunile sale fundamentale. Expunere introductivă în studiul dreptului (The General Law and Its Fundamental Notions. An Introductory Exposition to the Study of Law)* (The "Universul" Newspaper Publishing House, București, 1937), Gheorghe Băileanu, *Teoria generală a dreptului (The General Theory of Law)* (Iași, 1940 and 1948) and *Obiectul și evoluția enciclopediei dreptului (The Object and Evolution of the Encyclopedia of Law)* (București, 1940).

The fourth decade of the XXth century was marked by an effervescent scientific activity in the field of law, especially within the framework of the Law Faculty of the University of Bucharest. Thus, several institutes were set up as forms of organized juridical research, involving the participation of both faculty

---

<sup>9</sup> *apud* Sofia Popescu, *op. cit.*, pp. 334-335.

members and students. Mention should be made of the Encyclopedia of Law Institute, coordinated by G.G. Mironescu, the Dean of the Faculty at the time.<sup>10</sup>

Along the same lines of thinking, the Academy of Moral and Political Sciences was founded in 1939, the axis of which was represented by the juridical sciences, to which other subjects were added, subjects which, historically speaking, were generated within the large sphere of the legal science but either gradually detached themselves from it in order to gain an autonomous scientific identity, such as (political) economics, sociology (juridical sociology too) or witnessed a significant development within the juridical field (such as the philosophy of law). As a matter of fact, one of the branches of this institution, the forerunner of the Romanian Academy of Juridical Sciences (RAJS), was the Sociology and Philosophy of Law section.<sup>11</sup>

Chronologically and axiologically, Mircea Djuvara is part of the plenary system which was represented in Romania by the interwar period. For the first time in its history, our country had realized the ideal of the union of all the Romanians, had set up a modern, democratic regime (from 1918 to 1938) while in the field of foreign policy it was involved in the peace maintaining process and the beginnings of the European construction.

In a substantial monographic study devoted to Mircea Djuvara published in 1995, his former disciple, the distinguished jurist Barbu Berceanu stated that nobody before Mircea Djuvara had been able to direct the philosophers' attention to the juridical phenomenon nor had anyone offered such a vast horizon to the practising jurists although the history of Romanian law was rich in outstanding personalities endowed with a keen juridical spirit, such as Mihai Eminescu and Nicolae Iorga, in people with a juridical background who turned their research interests to studies of history, such as B.P. Hașdeu, to the type of thinking generated by the historical science, such as A.D. Xenopol, the philosophy of history, such as Mihail Kogălniceanu or to synthesis and generalization, such as Simion Bărnuțiu, Titu Maiorescu și Dumitru Drăghicescu.<sup>12</sup>

This kind of horizon was deemed necessary by Mircea Djuvara himself: "The philosophy of law represents one of the defining coordinates of a genuine culture"<sup>13</sup> he said, addressing both the jurists and the philosophers at the same time.

---

<sup>10</sup> Mircea Duțu, *Tradițiile academice ale Științelor Juridice în România (The Academic Traditions of the Legal Sciences in Romania)*, The Juridical Universe Publishing House, București, 2015. p. 10.

<sup>11</sup> *Idem*, pp. 9-10.

<sup>12</sup> Barbu Berceanu, *Universul juristului Mircea Djuvara (The Universe of the Jurist Mircea Djuvara)*, The Romanian Academy Publishing House, București, 1995. p. 34.

<sup>13</sup> Mircea Djuvara, „Precis de filosofie juridică (Tezele fundamentale ale unei filosofii juridice)” (“A Precis of Juridical Philosophy. The Fundamental Theses of a Juridical Philosophy”) in *Analele Facultății de Drept (The Annals of Law Faculty)*, București, No. 2/1941. p. 6.

In not so many words, Nicolae Bagdasar had already stated that "it was not until the XXth century that the philosophical approach to law, which had existed in the Romanian philosophy ever since the XIXth century, gained momentum thanks to the works of Mircea Djuvara and Eugeniu Speranția."<sup>14</sup> Likewise, in the preface to an important work devoted to the great thinker, Professor Gheorghe Mihai wrote that "before Djuvara, as far as the Romanian thinking is concerned, there had never been works in the field of the philosophy of law, in the Hegelian or Kantian acceptation of the term, and after Djuvara there have been short-lived, feeble attempts."<sup>15</sup> The historian Neagu Djuvara, a descendant of the same family of distinguished intellectuals, who, after meeting him, declared that "his thinking was so rich and refined in every context that it required a high level of instruction and a large amount of intellectual effort to be able to follow it,"<sup>16</sup> declared that "Mircea Djuvara is and continues to be the greatest Romanian thinker in the philosophy of law field."<sup>17</sup>

Furthermore, we should highlight the contemporary relevance of his view, materialized in two directions at least, according to some researchers:<sup>18</sup> On the one hand, what stands out is the theoretical contemporary relevance of his conception, the Romanian thinker realizing a vast philosophical synthesis in conformity with a number of achievements and approaches in the field of contemporary philosophy. On the other hand, Mircea Djuvara's theory and philosophy of law constitute a concrete solution with a view to improving the current tendency towards excessive relativity manifested on the level of the juridical practice and contemporary society.<sup>19</sup>

Mircea Djuvara's entire work represents an ample analysis combining both elements of general or law philosophy and elements of law theory and juridical sociology. However, Mircea Djuvara's vast project of identifying some solid fundamentals for the entire juridical research is based on complex epistemological and axiological research which implies a certain prevalence of the general theory and philosophical analysis relative to his work as a whole. Starting from the exploration of the juridical phenomena, he perpetually strives to transcend the limits imposed by the rigorously determined thematic framework of general philosophy. "What generally characterizes Djuvara's philosophical attitude is that

<sup>14</sup> Bagdasar, Nicolae, „Filosofia dreptului” (“The Philosophy of Law”) în *Istoria filosofiei moderne (The History of Modern Philosophy)* University Press, București, 1941. p 289.

<sup>15</sup> Gheorghe Mihai, *Mircea Djuvara, a Law Philosopher and Theoretician. Foreword to Dumitru-Viorel Piuitu, (Mircea Djuvara's Juridical Philosophy)*, Sitech Publishing House, Craiova, 2010. p. 11.

<sup>16</sup> Neagu Djuvara, „*Portretul unui senior al culturii române în perioada interbelică*” (*The Portrait of a Senior of Romanian Culture*), Foreword to Dumitru-Viorel Piuitu, *op. cit.*, p. 9.

<sup>17</sup> *Idem*, p. 10

<sup>18</sup> Dumitru-Viorel Piuitu, *op. cit.*, p. 253.

<sup>19</sup> *Ibidem*.

whenever he focuses upon questions related to the philosophy of law he expresses the conviction that they cannot be approached without an epistemological and philosophical integrating view. For, in Djuvara's opinion, the philosophy of law matters are not isolated from the great philosophical questions, but the two branches are closely interconnected, the philosophy of law being organically intertwined with general philosophy."<sup>20</sup>

An outstanding personality of the Romanian culture of the XXth century, Eugeniu Speranția had a special contribution to the development of juridical sciences,<sup>21</sup> especially in the field of the philosophy of law and the general theory of law, areas of research somehow neglected during certain stages of our contemporary history.

The work of Eugeniu Speranția (1888-1972) – a writer and sociologist – is characterized by a large thematic area and an essentially humanistic vision.

In the field of the philosophy of law, his main works are the following: *Les fondements méthaphysiques du droit positif* (1931), *Lecțiuni de enciclopedie juridică (Juridical Encyclopedia Lectures)* (Cluj, 1936), *Introducere în filosofia dreptului (An Introduction to the Philosophy of Law)* (Cluj, 1946), *Viață, spirit, drept și stat (Life, Spirit, Law and State)* („Gând Românesc”, March-April 1938), *Il diritto come mezezo tecnico dello spirito* („Rivista internazionale di filosofia del Diritto”, Roma, 1936). These works prove that Speranția was a complex thinker, his view of law being integral to his general world outlook, which, as we are about to see, is of a biological nature.

Mention should also be made of the fact that Eugeniu Speranția is one of the few Romanian thinkers who participated in international philosophy congresses and contributed to philosophical publications abroad.

We could highlight the following landmarks of the scientific heritage he bequeathed to present-day research: his contribution to the scientific status of law; his progressive views on legal encoding and law authority; the counteraction of racist theories in the legal domain; the analysis of the relationship between the objective and the subjective law, besides his interest in establishing the objective rules of the evolution of law.

Eugeniu Speranția attempted to define the object of the philosophy of law and juridical encyclopedia. He was of the opinion that the former ultimately consisted in establishing the moral justification and finality, the foundation of good legislation, the essence and determining factors of law while the latter was concerned with an introduction to juridical philosophy.

---

<sup>20</sup> Nicolae Bagdasar, *op. cit.*, p. 387.

<sup>21</sup> Sofia Popescu, „Eugeniu Speranția”, in *Studii de Drept Românesc (Studies in Romanian Law)*, Nos. 1-2/1991, The Romanian Academy Publishing House.

These matters can be organized as follows:

1. The definition of law as a social reality;
2. The classification of law;
3. The historical origin and evolution and law and the rules of this evolution;
4. The ideological principles justifying the authority or the mandatory quality of law;
5. The history of the general and philosophical doctrines in law.<sup>22</sup>

Starting from the premise that law is a social reality, he stated that general sociology and social sciences, particularly ethnography, demography, political economy and political sciences provide a vast informative material indispensable to acquiring knowledge of the juridical life.

Alexandru Văllimărescu, (1899-1984) besides Mircea Djuvara and Eugeniu Speranția, held a special place in the academic and scientific life of the interwar period, having a special contribution in the field of the general theory of law and the philosophy of law.

He was born in Craiova. His father, Constantin Văllimărescu, was one of the first Romanian jurists to obtain a doctoral degree in France (Toulouse, 1874). He was the President of the Craiova Court of Appeal, the supreme office in the magistracy in Oltenia.

Alexandru Văllimărescu held a doctor's degree in law received in Paris as well, his doctoral thesis - *La justice privée en droit moderne* – being awarded the "French State Distinction," the highest form of recognition granted by the French university.

Before turning thirty he passed an examination at the Law Faculty of the University of Bucharest and occupied the position of lecturer in *Juridical Encyclopedia* and taught the course which was materialized in a treatise on the same subject.

He became an Associate Professor in 1932 and Full Professor in 1942 in which capacities he taught courses on the philosophy of law, civil law and the general introduction to private law, at the same time publishing valuable works both at home and abroad.

In the second volume, the second part of *The History of Romanian Law Treatise*, published by the Romanian Academy Publishing House in 1987, Alexandru Văllimărescu is mentioned among the prominent authors in the field of juridical encyclopedia, with three titles: „*La justice en droit moderne*” (1926), „*Pragmatismul juridic*” (*Juridical Pragmatism*) (1927) și „*Tratat de enciclopedia dreptului*” (*A Treatise on the Encyclopedia of Law*), vol. 1 (1932).

<sup>22</sup> Eugeniu Speranția, *Introducere în Filosofia Dreptului (An Introduction to the Philosophy of Law)*, „Cartea Românească” Press, Cluj, 1946. pp. 192, 194, 198, 299.



Another two of his works should be mentioned: „*Studii asupra raporturilor dreptului cu celelalte discipline*” (*Studies in the Relationships between Law and the Other Subjects*), published in 1929 and „*Teoria dreptului natural, în lumina istoriei și a doctrinelor filosofice*” (*The Theory of Natural Law in the Light of History and of the Philosophical Doctrines*), published in 1930.

In his landmark monography on the subject of jusnaturalism, he analyzed in detail this remarkable and long lasting trend in the juridical thinking, for which he had already expressed a preference in his previous work on juridical pragmatism, in 1927.<sup>23</sup>

The author focused his attention upon the evolution of the school, its ascending phases, apogee, crisis and revival, and particularly upon its essential individualism.

"Natural law" - he wrote - "is the absolutism of the ideas in relation to the absolutism of people in general and of those who govern being in a position to impose the rules of law. Or, these rules of law should not be the expression of the force of those who govern, but the reflex of a set of superior principles which should be imposed to the law makers themselves. This is where the problem of natural law lies."

The school of natural law is characterized as an expression of the individual's rights, of the human rights which should be respected by the state, the following conclusion being reached: the stronger the absolute character of a state is and the less it respects the individual rights, the more prevalent the individualistic feature of natural law becomes.

In his attempt to find an answer to the questions: *What is the Encyclopedia of Law? What is its Importance and How Has It Evolved?* Văllimărescu undertakes a scientific exploration of the theories which provide an analysis of this subject.<sup>24</sup>

Five of these theories stand out:<sup>25</sup>

a) the theory which regards the encyclopedia of law as a summarizing study of the various branches of law, a purely dogmatic study, not involving any critical element;

---

<sup>23</sup> Sofia Popescu, „Alexandru Văllimărescu despre dreptul natural” (“Alexandru Văllimărescu on Natural Law”), in *Dreptul comunitar și dreptul intern. Aspecte privind legislația și practica judiciară (Acquis Communautaire and Internal Law. Aspects of Legislation and Juridical Practice)*, Hamangiu Publishing House, 2008, The Romanian Academy, The Juridical Research Institute. p. 166.

<sup>24</sup> Cf. Mihai Bădescu, *Filosofia dreptului în perioada interbelică (The Philosophy of Law during the Interwar Period)*, Sitech Publishing House, Craiova, 2015. pp. 155-177.

<sup>25</sup> A. Văllimărescu, *Tratat de Enciclopedia Dreptului (A Treatise on the Encyclopedia of Law)*, Lumina Lex Publishing House, București, 1999. p. 18.

b) the second theory considers the encyclopedia of law to be an introduction to the legal science;

c) the third view foregrounds the idea that the encyclopedia of law is identical with the philosophy of law;

d) the fourth system is based on the idea that the encyclopedia of law, seen as a unifying study of all the branches of law, and the philosophy of law, regarded as a science which tries to identify the foundations of law in *a priori* notions, will be combined into a third one, a new subject, namely, the general theory of law, taking over some of the methods pertaining to both of the original fields.

e) the fifth theory – the organic theory – looks upon the encyclopedia of law as a special, autonomous science.

Few have been the Romanian jurists who reached high levels of philosophical thinking just as few have been the philosophers who focused on the juridical phenomenon in their theoretical constructions. Without operating a distinction between these two categories, the ones who started from the juridical science to get to the sphere of philosophy or the ones who proceeded in reverse (such a distinction would be impossible to set up most of the times), we consider that Dumitru Drăghicescu is one of these rare thinkers. He is chronologically situated after Simion Bărnuțiu and Titu Maiorescu but before Mircea Djuvara and Eugen Speranția.<sup>26</sup>

We will not highlight his juridical activity, entailed by the official positions he held at state level, this activity consisting in the mere implementation of positive law, in his capacity as minister plenipotentiary – in this respect it suffices to mention his attending the Romanian-Soviet Conference in Vienna in 1924 – or, on the contrary, in the invocation of that *ius gentium* in the modern formulation of the principle of national self-determination, for Drăghicescu played an active role in that diplomatic action of the entire country the conclusion of which was the Paris Peace Conference in 1919-1920. Nor will we emphasize his juridical activity emerging from his participation in the Romanian political life. What we will bring into relief will be the new interpretation of the juridical life he put forth in his works, which exceed the boundaries of only one domain, their titles offering no indication of their juridical content<sup>27</sup>.

Dumitru Drăghicescu (1872-1943) was a sociologist, diplomat and professor at the University of Bucharest. Although the titles of his works do not reveal any interest in the fields of the general theory of law or the philosophy of law, their

---

<sup>26</sup> Apud Barbu B. Berceanu, *Aspecte juridice din opera lui Dumitru Drăghicescu*, St. de Drept Rom., „Aspecte juridice din opera lui Dumitru Drăghicescu” (“Juridical Aspects of Dumitru Drăghicescu’s Work”), *Studii de Drept Românesc (Studies in Romanian Law)*, 6(39), nos. 403-412, București, October-December, 1994.

<sup>27</sup> *Ibidem*.

content offers ample evidence in support of this preoccupation. A selection of his works comprises the following: „Raporturile dintre drept și sociologie” (*The Relationships between Law and Sociology*), Gutenberg Printing House, J.Göbl, 1904; „Droit, morale et religion”, in *Archives de Philosophie du Droit et Sociologie Juridique*” Nos. 1-2/1932; „Philosophie du Droit et Droit Naturel”, 1935; „Droit et droit naturel” in *Archives de Philosophie du droit et sociologie juridique*, 1938.

Dumitru Drăghicescu started from the premise that there can be only one relationship between law, which was becoming a social science, and the science about society, namely, that obtaining between an abstract science and its object of study. As he saw it, the material being made up of juridical laws, which represent the crystallization of social life, provides the only means for the scientific exploration of society.

He regarded the juridical facet of life as a true “sociometer” accurately registering the variations of the social evolution. Dumitru Drăghicescu considered that the collaboration between the experts in the fields of law and social sciences is necessary in order to adjust the laws in various countries to the actual conditions of social development existing at a certain point in time. In the recent Romanian specialist literature ample analyses have been devoted to Dumitru Drăghicescu’s ideas related to the legal field. Under this heading can be subsumed, for instance, his theory that the psycho-social evolution represents the rational foundation of the juridical laws and the science of social psychology will ultimately identify with the science of law. Dumitru Drăghicescu primarily focused upon the relationship between law as a science, on the one hand and sociology, on the other hand. Moreover, he was interested in the relationship between law and economy.<sup>28</sup>

Special mention should be made of the particular attention he paid to the relationship between law, ethics and religion. He observed that: “Religion is the basis of ethics, which, in turn, is the basis of law.” Drăghicescu underlined that ethics and law share a common essence and pointed out their interdependence and complementarity concluding that the law cannot be separated from ethics to such an extent as to become immoral. Should the law cease to remain just, as a consequence of losing its moral character, he identified the intervention of jurisprudence as a remedy, since jurisprudence may be relied upon to renew and forward not only the philosophy of law but the moral philosophy itself.

What stands out as particularly original in Drăghicescu’s work from a juridical point of view is the identity which he establishes between the social and

---

<sup>28</sup> Barbu B. Berceanu, „Aspecte juridice din opera lui Dumitru Drăghicescu” (“Juridical Aspects of Dumitru Drăghicescu’s Work”), *Studii de Drept Românesc (Studies in Romanian Law)*, No. 4/1994, *op. cit.*

juridical laws. Being aware that he departed from the vast majority of authors, from the other sociologists who were trying to discover the laws underlying the juridical activity (materialized in legislation and positive law in general), these sociologists regarding the positive law as the object of study of sociology, Drăghicescu stated that "the positive juridical laws are the true laws of society, for there are no natural laws governing society apart from them";<sup>29</sup> "sciences are nature's codes just as our legal codes are the sciences of our society."<sup>30</sup>

## REFERENCES

### I. BOOKS

1. Bădescu, Mihai, *Filosofia dreptului în perioada interbelică (The Philosophy of Law during the Interwar Period)*, Sitech Publishing House, Craiova, 2015.
2. Berceanu, B. Barbu, *Universul juristului Mircea Djuvara (The Universe of the Jurist Mircea Djuvara)*, The Romanian Academy Publishing House, București, 1995.
3. Ciorapciu, F., *Enciclopedia juridică (The Juridical Encyclopedia)*, Aurora Press, București, 1905-1906.
4. Cosmovici, Paul Mircea, *Foreward to Ion Craiovan. Introducere în filosofia dreptului (An Introduction to the Philosophy of Law)*, All Beck Publishing House, București, 1998.
5. Dissescu, C.G., *Ce este enciclopedia dreptului (What is the Encyclopedia of Law)*, F. Goble Busti Publishing House, 1915.
6. Drăghicescu, Dumitru, *Raporturile dintre drept și sociologie (The Relationships between Law and Sociology)*, București, Gutenberg Press, J. Gobl, 1904.
7. Duțu, Mircea, *Dreptul: între ipostaze teoretice și avatarurile mondializării (Law: Between Theoretical Positions and the Avatars of Globalization)*, The Romanian Academy Publishing House and The Juridical Universe Publishing House, București, 2014.
8. Duțu, Mircea, *Tradițiile academice ale Științelor Juridice în România (The Academic Traditions of the Legal Sciences in Romania)*, The Juridical Universe Publishing House, București, 2015.
9. Picard, Edmond, *Le droit pur: encyclopedie du droit alias premiers principes juridique*, Bruxelles, 1900.
10. Piuitu, Dumitru-Viorel, *Filosofia juridică a lui Mircea Djuvara (Mircea Djuvara's Juridical Philosophy)*, Sitech Publishing House, Craiova, 2010.
11. Popa, Nicolae, *Teoria generală a dreptului (The General Theory of Law)*, CH. BECK Publishing House, București, 2012.
12. Speranția, Eugeniu, *Introducere în Filosofia Dreptului (An Introduction to the Philosophy of Law)*, „Cartea Românească” Press, Cluj, 1946.
13. Văllimărescu, Alexandru, *Tratat de Enciclopedia Dreptului (A Treatise on the Encyclopedia of Law)*, Lumina Lex Publishing House, București, 1999.

<sup>29</sup> D. Drăghicescu, *Raporturile dintre drept și sociologie (The Relationships between Law and Sociology)*, București, Gutenberg Press, J. Gobl, 1904.

<sup>30</sup> Id. (D. Drăghicescu), „Droit, morale et religion”, in: *Archives de Philosophie du Droit et de Sociologie juridique*, Nos. 1-2, 1932, p. 243.

14. Vecchio, Giorgio del, *Lecții de filosofie juridică (A Few Juridical Philosophy Lessons)*, Europa Nova Publishing House, 1995.

## II. ARTICLES, RESEARCH PAPERS

1. Bagdasar, Nicolae, „Filosofia dreptului” (“The Philosophy of Law”) în *Istoria filosofiei moderne (The History of Modern Philosophy)* University Press, București, 1941.
2. Berceanu, Barbu B., „Aspecte juridice din opera lui Dumitru Drăghicescu” (“Juridical Aspects of Dumitru Drăghicescu’s Work”), *Studii de Drept Românesc (Studies in Romanian Law)*, 6(39), Nos. 403-412, București, October-December, 1994.
3. Djuvara, Mircea, „Precis de filosofie juridică (Tezele fundamentale ale unei filosofii juridice)” (“A Precis of Juridical Philosophy. The Fundamental Theses of a Juridical Philosophy”) in *Analele Facultății de Drept (The Annals of Law Faculty)*, București, No. 2/1941.
4. Drăghicescu, Dumitru, „Droit, morale et religion”, in *Archives de philosophie du droit et de sociologie juridique*, Nos. 1-2, 1932.
5. Popescu, Sofia, „Alexandru Văllimărescu despre dreptul natural” (“Alexandru Văllimărescu on Natural Law”), in *Dreptul comunitar și dreptul intern. Aspecte privind legislația și practica judiciară (Acquis Communautaire and Internal Law. Aspects of Legislation and Juridical Practice)*, Hamangiu Publishing House, 2008, The Romanian Academy, The Juridical Research Institute.
6. Popescu, Sofia, „Eugeniu Speranția”, in *Studii de Drept Românesc (Studies in Romanian Law)*, Nos. 1-2/1991, The Romanian Academy Publishing House.
7. Popescu, Sofia, „Teoria generală a dreptului și filosofia dreptului în România în prima jumătate a secolului al XX-lea” (“The General Theory of Law and the Philosophy of Law in Romania in the First Half of the XXth Century”), in *Dinamica dreptului românesc după aderarea la Uniunea Europeană (The Dynamics of the Romanian Law after Romania’s Accession to the European Union)*, Editura Universul Juridic (The Juridical Universe Publishing House), București, 2011.