

PHILOSOPHICAL MEDALLION

LUCIAN BLAGA (1895-1961)



Lucian Blaga

University professor, diplomat, translator,
philosopher, poet, dramatist, novelist, memoirist,
member of the Romanian Academy
(b. May 9, 1895, Lancram, Alba county
– d. 6 May 1961, Cluj)

Lucian Blaga (May 9, 1895, Lancram, Alba county) – May 6, 1961, Cluj) was the ninth child of priest Isidor Blaga and his wife, Ana. He did his primary studies at the German school in Sebeş-Alba, then attended and graduated from the "Andrei Şaguna" high school in Braşov and the Faculty of Theology in Sibiu (1914-1917), where he enrolled to avoid being conscripted into the Austro-Hungarian army. Graduated from the University of Vienna (in 1920).

After finishing his studies, he settled in Cluj. He was a founding member of the magazine "Gândirea" (published in 1921), to which he collaborated until 1942, when he founded the magazine "Saeculum" in Sibiu (1942-1943). He has contributed to numerous other magazines. Between 1926-1939 he worked in diplomacy. He was attached and press adviser in Warsaw, Prague, Bern (1926-1936) and Vienna (1936-1937), undersecretary of state at the Ministry of Foreign Affairs (1937-1938) and minister plenipotentiary of Romania in Portugal (1938-1939). During all this time, he wrote and published volumes of poems, philosophical essays and plays. As a result, in 1937 he was elected a member of the Romanian Academy.

Between 1939 and 1948 he dedicated himself to university education, as a professor at the Department of Philosophy of Culture of the University of Cluj, which, following the Vienna Dictatorship, between 1940-1946, functioned in Sibiu. Removed from the department following the education reform, between

1949-1951 he worked as a researcher at the Institute of History and Philosophy in Cluj, between 1951-1953 at the Academy Library - Cluj Branch (as chief librarian and deputy director), and from 1953 until at the end of his life - researcher in the literary history collective of the Cluj Branch of the Academy. Extinguished from life in Cluj, he was buried in his native village, Lancrăm, a farewell word being spoken by his former colleague and friend D. D. Roșca. Mircea Eliade also wrote an emotional obituary, entitled "The silences of Lucian Blaga".

Philosophically, Blaga developed a complex philosophical system, in which he approached the main fields of philosophy, from the ontological and the epistemological, to those with an applicative nature, concerning the philosophy of history, the philosophy of man, the philosophy of culture, the philosophy of values. He presented his system in the form of four trilogies, namely: I. *The Cosmological Trilogy*, consisting of: 1. *Divine Differentials* (1940), 2. *Historical Being* (1977), 3. *Anthropological Aspects* (1948); II. *The Trilogy of Knowledge*, composed of: 1. *The Dogmatic Aeon* (1931), 2. *Luciferic Knowledge* (1933), 3. *Transcendent Censorship* (1934); III. *The trilogy of culture*, including: 1. *Horizon and style* (1924), 2. *Myoritic space* (1936), 3. *The genesis of metaphor and the meaning of culture* (1937); IV. *The Trilogy of Values*, which includes: 1. *Art and Value* (1939), 2. *Science and Creation* (1942), 3. *Religion and Spirit* (1942). In addition to the mentioned works, the *Trilogy of Knowledge* also includes two additional works: *On Philosophical Consciousness* (lithographed manuscript in 1947, published in 1974) and *The Mathematical Experiment and Spirit* (text written between 1949-1953, published in 1977), and *The Trilogy of Values* includes and the supplement *On Magical Thinking* (1941).

The complex philosophical system developed by Blaga includes an ontology, as a vision of the being of the world (the Great Anonymous), a theory of knowing the world in its essence and in its sensitive manifestations, as well as a series of philosophical disciplines, corresponding to the main forms of existence presided over by the great Anonymous : man, culture, values, history - areas addressed, in order, by philosophical anthropology, philosophy of culture, philosophy of values, philosophy of history. Therefore, he conceived the ontology not so much as a general ontology, whose object is exclusively the being of the world, but, above all, as an applied ontology, which refers to the cosmotized being, manifested in the physical universe (*Divine Differentials*), in man (*Anthropological Aspects*) and the history of mankind (*Historical Being*) and, therefore, which also leaves its mark on knowledge, culture and values promoted by man and society. Therefore, we can say that his philosophical system has its cosmological ontology at its center, which deductively spills over into all the other component philosophical disciplines.

In ontology, the author of the *Cosmological Trilogy* and the other trilogies argued, absolutely logically, that the being of the world, as a common background

to all existing things, both physical and psychic phenomena, can only be a neutral background, neither corporeal nor incorporeal. As a result, he called it the Great Anonymous, since it cannot be said what it is (physical/corporeal or psychic/incorporeal), but it can be given various negative attributes, which show what it is not (like concrete existences) and which do not logically contradict the idea of absolute beginning, such as the attributes of unique, unborn, imperishable, necessary, untransformable etc. Proceeding in this way, parmenidean, Blaga considered that the transition from the principle to the determined things is achieved by the fact that the Great Anonymous has the tendency or the will to diversify, through which he generates a series of "divine differentials", from which the great genres of existence, their species and individual specimens. Furthermore, since it cannot logically be admitted that the single principle would multiply into forms identical to itself, resulting in several principles, Blaga added that the Great Anonymous censors itself so as not to give birth to other Great Anonymouses, and also it censures the human being in its cognitive and creative adventures, so that it does not reach the integral knowledge of the Great Anonymous and, therefore, its multiplication.

Since he personalized the being of the world, even saying that it can also be called God, the philosopher was criticized by atheist thinkers, but also by theologians (Dumitru Stăniloae and Nichifor Crainic), on the grounds that the Blagian God is not identical to the Christian one. Other historians of philosophy criticized the anthropomorphization of the principle as inappropriate to the philosophical thought and language about the principle of the world. Personally, I believe that, personifying the being of the world, Blaga intended, on the one hand, to impress or even shock the "connaisseurs", but, on the other hand, to express through a mythical-religious language, not having a technical, theoretical language, a theoretical conception about the genesis of the world from a neutral principle. It was logical to admit that the principle, giving birth to both material and spiritual existences, must contain, in a potential, virtual state, both types of existence. Given, then, that the forms of existence generated, from crystals, to plants, to animals and man, present an information that structures them, gives them a certain inner finality, it was also logical to endow the principle with a kind of information, of spirit to foreshadow such forms. In conclusion, the anthropomorphization of the principle by Blaga signifies rather a preformist conception about the existence in germs, preformed, of the current world in an original source. Such a conception shows similarities with pre-classical Greek philosophies, then with Aristotle's philosophy, and among modern conceptions, with Leibniz's philosophy. In the horizon of current knowledge, Blagian ontology can still be suggestive and exploitable by info-matter theory.

In epistemology, in accordance with his ontological vision of the world as a manifestation of a hidden background, Blaga distinguished between paradisiacal

knowledge, focused on the fanic (external) aspect of existence and achievable through the enstatic intellect, and Luciferic knowledge, centered on the cryptic (hidden) background) and accomplished through the ecstatic intellect; he also distinguished between philosophical knowledge and scientific knowledge.

In anthropology, Blaga showed that man lives both in the horizon of the given world and in order to preserve it, as well as in the horizon of mystery, in order to decipher the secrets of the world, by which he is superior to other living things. Consequently, he defined him as a being in mystery and for revelation, thus emphasizing that, by his nature, man is destined both to "tempt" the enigmas of the universe, and to express through his various forms of creation what he has discovered, to reveal what was revealed to him.

In the philosophy of culture, the author of the Trilogy of Culture argued that the origin of spiritual creations lies in the individual and collective unconscious, in a series of abyssal categories, which personify (reverse) in the conscious. Contrary to Freud, he believed that the unconscious is organized (cosmostized) by abyssal categories, which form a stylistic matrix, different from people to people and specific to members who belong to the same community. According to him, the intellectual categories of the conscious and the abyssal ones of the unconscious constitute brakes through which the transcendent, the Great Anonymous, allows man to know and create permanently, but through which he also defends himself from revealing himself and being fully revealed. In opposition to Spengler, who considered that the great cultures are incommunicable, since each one is specific to a certain cultural community, Blaga supported the communicability of cultures, arguing that there are not only differences but also similarities between the stylistic matrices.

In the philosophy of values, Blaga based values and, correspondingly, acts of culture and cultural works, on the abyssal, unconscious categories and on their "efulgurations" in consciousness. Because through the abyssal categories man does not arrive at an exhaustive creation, through which he can identify with the Great Anonymous, therefore because no spiritual value constitutes an absolute revelation of the mysterious background of existence, he will argue that neither the types of spiritual values (theoretical, ethical, aesthetic, religious) are not ranked from inferior to superior.

In the philosophy of human history, Blaga will consider that the history of humanity is, mainly, a history of spiritual culture, and, more broadly, also a history of material civilization, as an outgrowth of spiritual life. The actual historical fact is understood as a cultural fact, with stylistic imprints, some unrepeatable, others repetitive, so that, from some historical achievements to others, in history there is both discontinuity and continuity.

The Blagian philosophical system is deductive to the extent that its ontological core, of a hypothetical type, radiates in all applied philosophical

disciplines, but it is also inductive through the many realistic ideas about knowledge, man, culture, values and history.

The Blagian system includes:

- (1943) *Trilogy of knowledge*, Bucharest, 1943; included the published volumes separately: Dogmatic Aeon (Bucharest, 1931), Luciferic Knowledge (Sibiu, 1933), Transcendent Censorship (Bucharest, 1934)

- (1944) *Trilogy of culture*, Foundation for literature and art, Bucharest, 1944; included the published volumes separately: Horizon and style (Bucharest, 1934), Myroritic space (Bucharest, 1936), Genesis of metaphor and the meaning of culture (Bucharest, 1937)

- (1946) *Trilogy of values*, Bucharest, 1946; included: Science and Creation (Sibiu, 1942), Magical Thinking and Religion (On Magical Thinking, Bucharest, 1941 and Religion and Spirit, Sibiu, 1942), Art and Value (Bucharest, 1939)

- *The cosmological trilogy*, remained in the project stage. From it the author published a single volume, Divine Differences (1940). The other two volumes: Anthropological Aspects, lithographed course, 1948, will be published by the Facla Publishing House, Timisoara, 1976; Historical Being, Dacia Publishing House, Cluj-Napoca, 1977

NOTE: In addition to the *Trilogy of Knowledge*, Lucian Blaga also published the works:

- (1969) *The experiment and mathematical spirit*, Scientific Publishing House, Bucharest, 1969 (Foreword by Călina Mare)

- (1947) *On philosophical consciousness*, course 1947 (published at Facla Publishing House, Timisoara, 1974)

Between 1974-1995, 12 volumes of *Works* appeared, which include Lucian Blaga's poetry, translations, theater, essays and trilogies.

Ioan N. ROȘCA

MIRCEA DJUVARA (1886-1945)



Above all Romanian authors who consecrated the life and work of philosophical and legal writings is **Mircea Djuvara**, the representative figure of Romanian culture, the founder of an original thinking system, of definite theoretical and methodological value^{*)}.

Mircea Djuvara was born in Bucharest on May 18th (30th), 1886, son of Estera (born Paianu), and Traian Djuvara, of a family of Aromanian origin who gave the Romanian society more jurists.

With his existence, Mircea Djuvara marked a new opening in the Romanian interwar philosophy.

A prominent personality of the time, Djuvara is an important landmark for any current research in the field of legal philosophy.

Mircea Djuvara followed, with very good results, the general education in Bucharest, also graduating from high school, the studies having provoked him *“That ferment of ennobling and intellectual creation found in every human consciousness ... when I realize today how complete was the study cycle I have undergone in my childhood and how great was the influence it has exercised in its entire complexity upon my being, I bring through this the highest honor to the high school in which I have studied”* (the “Gheorghe Lazăr” highschool - n.a.)¹.

During high school, which he graduated in 1903 with honors, he was awarded the "Romanian Youth" award, a prestigious pedagogical institution of that time.

He starts his university studies in Bucharest, where he attends the Faculty of Law and the Faculty of Letters and Philosophy. Here he receives the influence, decisive for his scientific orientation, of Titu Maiorescu, a jurist and philosopher himself.

^{*)} *“...Above all, Mircea Djuvara, who through the vastness and depth of his attempts must be recognized not only as the greatest Romanian thinker but also one of the greatest contemporary thinkers in the field of Philosophy of Law.”* (Giorgio del Vecchio, *Lecții de filosofie juridică (Lessons in the philosophy of Law)*, Europa Nova Publishing House, f.a.).

¹ **M. Djuvara**, *Confessions of a former student (Confesiuni ale unui elev de altădată)* in the "Gheorghe Lazăr" High School Monograph in Bucharest, (1860-1935), on the occasion of the 75th anniversary of its foundation, Bucharest, Inst. a.g. Luceafărul, 1935, p. 299 and 301.

In 1909 he defends his thesis, both at the Faculty of Law and at the Faculty of Letters and Philosophy, the latter educational institution awarding him the mention "*magna cum laude*". Later, at Sorbonne, Mircea Djuvara gets the title of Doctor in Law with the thesis entitled *Le fondement du phénomène juridique. Quelques réflexions sur les principes logiques de la connaissance juridique*, thesis which he publishes in 1913.

Characteristic for that age in which he begins to publish his studies, are collaborations in the "Facts" section of "Literary Conversations" where he makes himself known through his high level of knowledge, giving preference to the signaling of the interdisciplinary phenomena, revealing the unity of the universe, by the skill, even then, in the nuanced presentation of moral and social problems, with the desire to become a *homo universale*².

In 1920, he started his university career at the Faculty of Law of the University of Bucharest, where he gradually obtained all degrees and where he would carry out most of his teaching activity. He was also a professor at The Hague International Law Academy and lectured as an associate professor at law schools in Rome, Paris, Vienna and Marburg.

His scientific work materialized - including chronographs, reviews, lectures, conferences and interventions - in over 500 titles, of which, apart from his PhD thesis, we take into account the most important: *Teoria generală a dreptului (Enciclopedia juridică) (The General Theory of Law (Legal Encyclopedia))*, 1930; *Drept rațional, izvoare și drept pozitiv (Rationally, Sources and Positive Law)*, 1934; *Dialectique et expérience juridique*, 1939, *Le fondement de l'ordre juridique positif en droit international*, 1939; *Precis de philosophie juridical (Tezele fundamentale ale unei filosofii juridice) (Précis of legal philosophy (The Fundamental Theses of a Legal Philosophy))*, 1941; *Contribuțiile la teoria cunoașterii juridice/Spiritul filosofiei kantiene și cunoașterea juridică (Contributions to Theory of Legal Knowledge / Spirit of Kantian Philosophy and Legal Knowledge)*, 1942. The entirety of this scientific work was to culminate in a published Legal Philosophy Treaty, practically outlined, at least in part, in three of the aforementioned works: the 1913 thesis, the 1930 printed course and the "*Précis*" started in 1941.

Along with these basic works, Djuvara's scientific research consisted of numerous studies and works of theory and philosophy of law. As early as 1907, he began publishing articles and philosophical studies in the magazine "*Convorbiri literare*", then in other magazines and periodicals as well, such as: „*Democrația*” (1919-1932), "*Dreptul*” (1920-1935), "*Revista de filosofie*” (1924-1940), "*Pandectele române*” (1923-1942), "*Rivista internazionale di filosofia del diritto*” (Roma, 1931-1936), "*Revue internationale de la théorie du Droit*” (1931-1939),

² **B.B. Berceanu**, *Universul juristului Mircea Djuvara (The Universe of Lawyer Mircea Djuvara)*, Academiei Române Publishing House, Bucharest, 1995, p. 26.

“*Archives de philosophie du droit et de Sociologie juridique*” (Paris, 1937), “*Annuaire de l’Institut international de philosophie du droit et de sociologie juridique*” (1934-1938), „*Analele Facultății de Drept din București*” (1938-1942), „*Revista cursurilor și conferențiarilor (universitare)*”, “*Revue roumaine de Droit privé*”, „*Forme*”, „*Buletinul Academiei de Științe Morale și Politice*”, „*Cercetări juridice*”, as well as in the newspaper “*Universul*”.

Regarding Mircea Djuvara's entire work, it can be appreciated that it is a broad analysis, in which are included elements of general philosophy or juridical philosophy as well as elements of the theory of law or sociology of law. The great project of Mircea Djuvara, which identifies solid foundations for the entire legal research, is based on a complex series of epistemological and axiological researches, which induce a certain pre-eminence of the philosophical analysis in relation to the whole work. Moreover - as Nicolae Bagdasar claims - from the investigation of juridical phenomena, Mircea Djuvara always wants to exceed the limits imposed by the strictly determined thematic framework of legal philosophy in order to relate to the much broader horizon of general philosophy: “*What characterizes Djuvara's philosophical attitude in general ... is that by examining issues of philosophy of law, he is convinced that they cannot be untied without an overall, epistemological and philosophical conception.. For, according to Djuvara's conception, the problems of the philosophy of law are not isolated from the great philosophical problems, but they are closely related to them, the philosophy of law integrating organically with general philosophy*”³.

Most philosophical concerns of Mircea Djuvara aimed at identifying the ontological and epistemological foundations of law. When inventing the various elements of legal reality, the Romanian philosopher transposes legal analysis in the field of juridical logic, and when the structure of legal appreciation and implicitly the system of juridical values is investigated, research is transposed into the horizon of legal epistemology.

In addition to his scientific and publishing activities, Mircea Djuvara was directly involved in the work of highly reputable scientific institutions and organizations. He was an active member of major institutions: The Association for the Study and Social Reform (later became the Romanian Social Institute on February 13, 1921), the Society for Philosophical Studies (the Romanian Society of Philosophy), the Institute of Administrative Sciences, the Romanian Academy (Correspondent member elected in the Historical Section on May 23, 1936, following the proposal of Andrei Rădulescu, until then the only representative of the law science in that institution), The Institute of Moral and Political Science (which became, on November 20, 1940, the Academy of Moral and Political Science), the International Institute of Philosophy of Law and Legal Sociology in

³ **N. Bagdasar**, *Istoria filosofiei românești (The History of Romanian Philosophy)*, Tipo Moldova Publishing House, Iași, 1995, p. 387.

Paris (at whose congress he participated, being also one of its seven vice-presidents and the president of the Romanian Institute of Philosophy of Law, founded by him and affiliated with the previous one), The Academy of Sciences of Boston (Honorary Member), the Society for Legislative Studies (from its establishment until July 1921) and the Romanian Legal Chamber (from its establishment until February 1942, as Vice-President, at whose private international law session he attended).⁴

As a teacher, Mircea Djuvara has been a lecturer since 1920, an aggregate professor since 1931 (August 10) and a permanent professor (June 1, 1932) at the Faculty of Law in Bucharest. As a professor, he held the chair of General Theory of Law with Application to Public Law, a chair transformed on November 1, 1938 into the Department of Encyclopedia and Philosophy of Law. He held, up until the last academic year (1943/1944), lectures on the philosophy of law, and until tenure, lectures of constitutional law as well.

Djuvara also had an important activity as a lawyer in the Ilfov Bar.

„Those who have known him - colleagues of scientific research, chair or bar, organizers or auditors of conference cycles, students - emphasize his vocation as a researcher and teacher, his culture and intelligence, oratory elegance, urbanity and courtesy in disputes, his sense of justice, character and power of work, his modesty, charm, fine humor”.

Mircea Djuvara was a legal advisor to the Permanent Delegation of Romania at the Paris Peace Conference (1919), during which he edited a Newsletter and published the most comprehensive legal study on Romania's participation in World War I, preceded by a history of the country, unfortunately, only in French.

After the war, Mircea Djuvara was aware of the importance and problems of the Great Union (*“We live in our country in such great times that it would seem that we cannot in any way ascend to their meaning [...] our intellectuals - especially ours - must come to understand, those who have the mission of thinking and not action, that their role today is not in criticizing what is being attempted, but in helping what is being done”*).

Mircea Djuvara brought legal arguments against the local autonomy tendencies, contrary to the decision of the Great National Assembly in Alba Iulia (December 1, 1918), and stressed the necessity of legislative unification, recalling, after J.E.M. Portalis, that *“People who depend on the same sovereignty, without being subject to the same laws, are necessarily strangers to each other”*⁵ and,

⁴ **B.B. Berceanu**, *op. cit.*, p. 27-28, which cites the Romanian Academy, "Anale", 56, 1935-1936, p.128, "Cercetări juridice", 2, no. 2, 1942, p. 121 and "Curierul Judiciar", 28, 1921, pp. 407-408.c

⁵ **M. Djuvara**, *Intelectualii și necesitatea noii constituțiuni*, in the magazine "Revista vremii", 2, no. 24, 10th Dec. 1922, p. 1-2

aware of the weight of developing massive codes, proposed urgent partial changes.

Mircea Djuvara was a delegate of Romania at the General Assembly of the League of Nations and other international conferences, being also Vice-President of the International Union for the League of Nations and Chairman of the Executive Committee of the Romanian Association for the League of Nations. He was minister from August 29, 1936 to March 31, 1937 (but with the portfolio of Justice only until February 23, unable to stand in the defense of legality to the Carlist junctions). He was the only Minister of Justice - to give a single example of respect for the lawfulness - under which the positions of the State Attorney, a post of that time, was given through an examination, in accordance to a law not respected by those who had promoted⁶ it; He has politically militated for barring the fascist ascension⁷.

The dictatorships established under the pressure of Nazi fascism were, for Mircea Djuvara as well, a difficult challenge. He followed his way, continuing to promote, under the new circumstances, the values he believed in. Thus, in 1941, he opposes to the Nazi ideology, the subject of *the Romanian Nation as a principle of our law*⁸ and combats that "nationalism ... which, instead of remaining the representative of one of the holiest sentiments, of justice, foreign subjects to an unfair regime without any legitimate reason or which counts other nations as devoid of any rights".⁹

He keeps alive the idea of freedom in Nazi Germany - in Berlin, Vienna, and Marburg - and still defends the Romanian view of the nation, underlining the difference between it and the German-Italian conceptions (more precisely the idea of *Volksgemeinschaft* of the German National Socialists and the Fascist Italian Conception, Which, in relation to the nation-state report, claims that the state creates the nation and not the other way around).

Mircea Djuvara, at the same time, adds that "*in international law we cannot also admit the violation of national rights, and we also acknowledge here a supreme justice that is not based on either security or interests*", That we tend "to a community of nations as a beginning of a new universal age", that the struggle of every nation throughout history must be carried out "with all sacrifice" but only "for justice, defending itself and rounding itself where Their essential rights are disregarded "¹⁰, An attitude that is a true condemnation of the invasion

⁶ see: Arh. St. Buc., Min. Just., Dir. Judiciară, dos. 18, 1936, vol. II, F. 468.

⁷ **Armand Călinescu**, *Memorii (Memoir)*, 25th Oct. 1936, Arh. ISSIP., fond XV, DOS. 65.403

⁸ **M. Djuvara**, *Națiunea română ca principiu al dreptului nostrum (The Romanian Nation as a principle of our Law)* („The Academy of Moral and Political Science”, 4th Dec. 1941), The Academy of Moral and Political Science, Communications, 3, „Buletinul”, 1941/1942, p. 41-68.

⁹ *Idem*, *Precis of philosophy of law (Fundamental theses of a legal philosophy)* în „The Annals of the Faculty of Law”, no. 34, p. 58.

¹⁰ *Idem*, *Contribuție la teoria cunoașterii juridice/Spiritul filosofiei kantiene și cunoașterea*

war of the Third Reich and its general policy.¹¹ It had previously fought the idea of Grozraum ("great space"), later became the *Lebensraum* ("vital space"): "*It is beyond any doubt that any state, even a small state, possesses spheres of interest that often extend very far, in <large spaces>, because of international solidarity*"; but such interests intertwine and their existence "*does not imply any right of tutelage or international domination for one another*". In no way, therefore, "*can there legally exist Great Powers, be they global or European, destined to govern the Little Powers*"¹².

He also criticized the Nazi doctrine, which reduces the right to physical and biological phenomena. And still during full Nazi eruption, he dedicates a work to Professor Frantisek Weyr of the occupied Czech Republic, the only time he dedicated a work to a person (except for participation in collective homage). At the death of Henri Bergson (1940), Djuvara published a warm obituary and, from the chair, emphasized the greatness of the one who neglected his life because he understood not to use the regime of favor in relation to the one that was imposed on his Jewish countrymen by the Nazi occupation (whose responsibility for the premature death of the French philosopher was thus underlined)¹³.

Also, in this last period of life, Mircea Djuvara wanted to inform and warn the Romanian reader about the content of some writings by the Nazi lawyers, emphasizing their removal from the science of law, signaling their misgivings and removing the ambiguity, underlining their lack of scientific quality and Legal, ironizing and defending the idea of law.

Concerning the domestic law, in which the constitutional regime was suspended (1940-1944), Mircea Djuvara observes that such a regime presupposes the existence of principles over which an abusive lawmaker cannot pass; For without a wise interpretation that would lead to an objective and unyielding justice against the legislator himself, "the rule of law can easily be translated, especially to us, in the reign of whim".

In his last year of life, struggling with the illness, he seeks, accompanied and watched by his wife, to continue his courses and even suggests to students, at a time when such initiatives were unthinkable, to take a political attitude ("*... and what are you waiting for?*"); He organizes seminars with students at home, requests of the members of the institute that he be allowed to chair the meeting while lying on the couch. He thinks and writes until the last day of his life, dying

juridică (Contribution to the theory of legal knowledge / Spirit of Kantian philosophy and legal knowledge), in the "Analele Facultății de Drept" ("The Annals of the Faculty of Law"), Bucharest, 4, no.1-2, p. 67.

¹¹ **B.B. Berceanu**, *op. cit.* pp. 30.

¹² **Carl Schmit**, *Völkerrechteiche Grossraumordnung mit Interventionsverbot für raumfremde*, Deutscher Rechtsvereag Berlin-Wien, 1939, in "Analele Facultății de Drept București" ("The Annals of the Bucharest Faculty of Law"), 1 no. 2-3 apr.-sep. 1939, p. 382-384

¹³ **B.B. Berceanu**, *op. cit.*, p. 31.

in Bucharest - we could say symbolically - on November 7, 1944¹⁴, at the age at which Immanuel Kant, who influenced his philosophical conception and whose life he had as a model, had just begun working on the *Critique of Practical Reason*.¹⁵

Mircea Djuvara's main merit - even between 1918 and 1938 - is of having extended the creative effervescence of the time from the literary-artistic field to that of moral, legal and political disciplines. “*In this circumstance - writes Prof. Paul Alexandru Georgescu - Mircea Djuvara worked as a multiplier of brightness. He extended the plenary system, integrating a doctrine of the philosophy of law developed on the basis of the Kantian concept, but with direct and fertile applications in our country*”¹⁶.

The state of philosophy of law in 1936 was simple: neo-kantianism was the dominant center, challenged only by extremes: Marxism and totalitarian nationalism. The differences between these positions being radical and the exacerbated adversities they did not pose the problem of synthesis or integration.

Djuvara's philosophy in the history of doctrines of law philosophy was the third stage of development that brought about the solving of the millenary confrontation between fact and normality, between the world of *Sein* ("what is") and *Sollen* ("what is needed"). After the metaphysical postulation of a natural right with the pretense of being eternal and immutable, occupying antiquity, the Middle Ages, the Renaissance and extending with the rational right of the century of Enlightenment, following the unrealistic reaction of the Historical School and the legal positivism which, with the help of sociology, denied values and subdued the right to the brutal facts — interest or force — the critical idealism, supported by Mircea Djuvara, alongside and often beyond prestigious neo-kantians like Stammler and Radbruch, appears as a final solution, as a superior synthesis of the previous thesis and antithesis¹⁷.

Djuvara allies and dialectically articulates the two major components of the legal phenomenon: the rational irradiation of the idea of justice, conceived as an open consistency of logically constrained activities and wills and the concrete social realities that justice and the legal norms inspired by it assume and to whom they apply. In this vision, the State becomes a reporting and attribution center, and the legal experience a network of assessments containing increasing doses of justice, within a legal order that gains a somewhat mathematical structure. This

¹⁴ He was incinerated at the “Cenușa” crematorium on the 9th of November 1944, at 12⁰⁰.

¹⁵ **B.B. Berceanu**, *op. cit.*, p. 31.

¹⁶ **P.A. Georgescu**, in the *Preface* to the work of **B.B. Berceanu**, *Universul juristului Mircea Djuvara (The Universe of the Lawyer Mircea Djuvara)*, *op.cit.*, pp. 13.

¹⁷ *Ibidem*, pp. 14.

consisted of a continuous series, consisting of acts and act-generated situations, both legally built¹⁸.

In any encyclopedic dictionary, Mircea Djuvara appears as a neo-kantian thinker, a neo-kantian "*logico-methodologist (Marburg School), also receiving echoes from the Baden School of Values, but closer to Kant than the two neo-kantian schools*", the result of direct research and self-reflection. Djuvara himself did not conceal his point of departure: "*We have started our scientific, legal and philosophical studies in the University, with the premise conviction that empiricism, sensualism and utilitarianism are the truth: strict positivism was our only method. A lesson by Titu Maiorescu about Kant's <transcendental aesthetics> was a true revelation to us and changed our perspective all at once. Since then, we have continually gone into this new direction: we have sought to deepen the spirit of Kant's philosophy, further enlightening his criticism, detaching from him what remains alive today, and completing it with new scientific and philosophical contributions*¹⁹ "*His own conception was presented as "a new return to Kant," a Kant "transformed by Fichte and Hegel and adapted to the contemporary scientific themes"*²⁰.

For Mircea Djuvara, Immanuel Kant was, if not the "deepest thinker that mankind had"²¹, he was anyway "the one who, after Plato, was perhaps the greatest philosopher of all time,"²² who opened before us an "imperial path", which gave "the only philosophy of the ideal that can be coherent", i.e. a logical idealism contrary to the psychological one, a concept in which <empirical realism> is solved in a "transcendental idealism"; Which put the "theoretical basis of contemporary science and culture"²³; The one whose philosophy "fits, explains and legitimizes all the advances of contemporary science"²⁴; The one to begin with in order to reach W. Wilson's principles of the Peace of 1919, as well as the socialist theories of the era²⁵.

¹⁸ *Ibidem*.

¹⁹ **M. Djuvara**, *Precis... op.cit.*, p. 5-6.

²⁰ *Idem*, *Contribuție la teoria cunoașterii juridice (Contributions to the theory of legal knowledge)*, II. *Ideea de justiție și cunoaștere juridică (the idea of justice and legal knowledge)*, *op.cit.*, p. 63.

²¹ *Idem*, *Teoria generală a dreptului (Enciclopedia juridică) (general Theory of Law, Legal Encyclopedia)*, II: *Noțiuni preliminare despre drept (Preliminary Notions of law)*, Bucharest, Librăriei Socec Publishing House, 1930, p. 44.

²² *Idem*, *Contribuție la teoria cunoașterii juridice (Contribution to the Theory of Legal Knowledge)*, I: *Ceva despre Kant: Spiritul filosofiei lui (About Kant: the Spirit of his Philosophy)*, p. 3.

²³ *Idem*, *Teoria generală.... (General Theory...)* III: *Realitățile juridice (Legal Realities)*, p. 158.

²⁴ *Idem*, *Contribuție...I: Ceva despre Kant...*, p. 4.

²⁵ *Idem*, *Teoria generală.... I: Introducere*, p. 28, II: *Noțiuni preliminare despre drept (preliminary Notions of Law)*, p. 77-78.

What is certain is that Mircea Djuvara has treated Kant's work and less that of neo-kantians²⁶; Alongside Kant, Djuvara distinguished between knowledge and reality, while emphasizing the connection between them ("between knowledge and its object cannot be an abyss")²⁷; Along with Kant he attested to the existence of values, mainly of the ethical idea, first of all of the right-obligation, being at the antipode of positivism and, to the extent that it encompasses it, at the antipod of psychological and intuitionistic trends.

Mircea Djuvara accepted the Kantian distinction between numen and phenomenon. But Kant's assimilation of the former with an incomprehensible "thing in itself", parallel to the relativization of the value of experiential knowledge ("for Kant, experience is a combined product of the work itself and of thought"²⁸), a thesis considered having the quality of rejecting an absolute idealism (and also an absolute realism) did not prevent Mircea Djuvara from condemning it ("It is bizarre to see the reason that he reaches a conclusion of his reflection on himself, to his own helplessness"; "a reality in itself, incognoscible, has no significance"²⁹); Or to bring <this thing in itself> into the sphere of thought, for "nothing is given, everything is built; And even to consider that it is "a rational formula, which, in its entirety, gives objectivity to knowledge". Still, between the obligatory and the incomprehensible <thing in itself> there is no, as it had been interpreted, the cause of the phenomenon (which can only be a phenomenon as well), but as M. Djuvara interpreted in time - <the act of knowledge>, "If we look at him in his logical nature, in his rational, inherent and necessary tendency towards truth," he is apart from time and space, he will become an object of psychological knowledge, a phenomenon.

Kant and Djuvara's eternal intangible ideal is more than a nuance³⁰. "The activity of knowledge gives itself, in accordance with the internal logical necessity which constitutes its law, its own object"³¹ For knowledge and its object are correlative, and one cannot think without the other (Aristotelian thought that thinks of oneself).

In another hypostasis, the "thing itself" is, "in a good interpretation of Kant," the freedom.

²⁶ For more, please see **Alexandru Boboc**, *Kant și neo-kantianismul (kant and Neo-kantianism)*, Bcharest, Științifică Publishing House, 1968.

²⁷ **M. Djuvara**, *Dialectique et expérience juridique*, in "Revista de Filosofie" no. 2 (April-June) 1938.

²⁸ *Ibidem*, p. 7.

²⁹ **M. Djuvara**, *Considerations sur la connaissance en général et sur la connaissance juridique en particulier: la Realite, la Verite et le Droit*, in "Annuaire de l'Inst" 2, 1935/1936, Paris, Libr. Du Recueil Sirey, 1936, p.83-96".

³⁰ **B.B. Berceanu**, *op.cit.*, p. 38.

³¹ **M. Djuvara**, *Contribuție la Teoria...*, p. 17.

Concurrently, therefore, Mircea Djuvara defended Kant and at the same time opposed him, the danger in his system was removed, that which stated that the minds oppose themselves, as ourselves - in our aspiration for truth - to hinder ourselves³².

The characteristics of Djuvara's thinking, which divide both Kant and Comte, consist also in the dual approach to the object of his thought, his conception of the double epistemological approach. It is not just the inductive approach, starting from the individual to the general, attributed to science and the deductive, attributed to philosophy, the expression of two methods compensating each other, but also the psychological and logical approach, the empirical and the transcendental approach, of the development of knowledge and a priori principles.

Thus, Djuvara's philosophical thinking was influenced by his legal knowledge; The idea of a relationship, specific to law, is fully present in its general philosophy.

Djuvara's pro-Kant philosophical attitude did not prevent the former from appreciating the founder of positivism A. Comte and, in general, the French positivists³³, to appreciate institutionalism³⁴, pragmatism³⁵ and other trends of thought, and to retain from these thinkers and these trends of thinking to aid in setting up his system, valuable elements³⁶.

If the history of Romanian law has benefited from broad-minded personalities, with a penetrating legal sense — such as Mihai Eminescu and Nicolae Iorga — if he guided people of legal formation either to the science of history — as BPHasdeu — to the thought of the science of history — As ADXenopol — or directly to the building of history — as Mihail Kogălniceanu — or to generalization and synthesis — like Simion Bărnuțiu, Titu Maiorescu and Dumitru Drăghicescu — we can say that no one up to Mircea Djuvara brought the legal phenomenon under the eyes of the philosophers and no one offered practitioners such a wide horizon, a horizon they considered necessary: "*The philosophy of law is one of the indispensable elements of a true culture*"³⁷, he said, addressing both philosophers and lawyers³⁸.

Mircea Djuvara felt the need to draw attention to the fact that "*most lawyers are content to make simple compilations for legal practice or, in public*

³² **B.B. Berceanu**, *op. cit.*, p.39.

³³ *Constitutional Law, Part II, Ph.D. and Ph.D. [The Methods of French Positivism in Public Law]1924-1925.*

³⁴ *Idem, Some observations on the relationship between the philosophy of intuition and today's great tendencies of law, a fragment of the conference "Henri Bergson and the Modern Trends in Law", Universitatea liberă, 22 November 1922, in "Convorbiri literare", 55, 1923, pp. 378-389.*

³⁵ *Idem, New trends in philosophy: pragmatism, în "Convorbiri literare", p. 43, 1909, pp. 765-775.*

³⁶ **B.B. Berceanu**, *op. cit.*, p.37.

³⁷ **M. Djuvara**, *Precis*, nr. 2, p. 6

³⁸ **B.B. Berceanu**, *op. cit.*, p. 34 și urm.

law, they think they are doing science through simple acts of obedience to authority"³⁹; But "only the scientific understanding of the idea of justice and rational elaboration can ensure a strong affirmation of cultural legal values, in light of which we must guide the world that is meant to create and apply our positive right", a goal analyzed by the philosophy of law ⁴⁰. He devises for this this law "a profound and original analysis" in a work that he — at one point — divided it into four parts: I - philosophy, II - the philosophy of law, III - applications of the philosophy of law, IV - politics. The philosophy of law thus makes the connection between philosophy and positive law, and politics, in the same conception, studies the means of achieving the law. The philosophy of law is a part — a necessary part — of philosophy, the goal of which is to bring the whole Truth (the right itself has a rational character) and to guide the positive right.

Mircea Djuvara's thinking can be described as dialectical idealism. It is not a subjective idealism, which is rejected by the following: "*It is impossible to firmly support idealism in the form of the unique and exclusive existence of my own self, in which the world would only be a representation in the sense of a subjective image. My conscience is, quite contrary to itself, a product of relationships that necessarily and objectively, through their creative dialectics, put forth a plurality of consciousness.*" But obviously, an idealism whose epistemological way requires the experience, a conception in which — after C. Rădulescu-Motru's formulation — matter and spirit are confused, forming two simple aspects of the experience⁴¹, whose ontological result "*reduces everything to objective relationships*"⁴².

Mircea Djuvara is a strict rationalist⁴³. It is a danger to believe — he says — "*that our lives can work without categories*"⁴⁴; His confidence in the possibilities of knowing reason is total: *Cogito ergo realia sunt*, he will say at some point. According to Mircea Djuvara, there is no human consciousness without its own philosophy, the practical attitude towards life, an inherent attitude

³⁹ **M. Djuvara**, Review of Romul Boila's work: *The State*, vol I: "Considerații teoretice" (Theoretical Considerations), (Tipografia Cartea Românească Publishing House, Cluj, p. 246), în "Analele Facultății de Drept București", 3, no. 1-2, Jan-Jun 1941, p. 486-489 1018

⁴⁰ **M. Djuvara**, *Filosofia dreptului și învățământului nostru juridic - fragment dintr-un memoriu* (*The philosophy of law and our legal education - fragment from a memoir*), in "Pandectele române" 21, 1942, IV, p.7.

⁴¹ **M. Djuvara**, *Dialectique et expérience juridique*, in "Revista de filosofie" no. 23, 1938, p. 21.

⁴² **N. Bagdasar**, *Mircea Djuvara* in "Istoria filosofiei moderne", vol. V, București, Societatea Română de Filosofie, 1941, p. 310.

⁴³ **B.B. Berceanu**, *op. cit.*, p. 35.

⁴⁴ **M. Djuvara**, review of the work of **Mircea Gorunescu**: *Reinhard Höhn și disputa în jurul personalității juridice a Statului* (*Reinhard Höhn and the dispute over the legal personality of the State*), in "Cercetări Juridice", year I, no. 2, April 1941, p. 491.

for each one, which "determines, of course, in any consciousness with reason, a certain philosophical consciousness".⁴⁵ It reduces to rational data all other human values. Djuvara believes that reason, detached from subjectivity, predominates in every human being. The very Law — the expression of social relations — has a predominantly rational character, for, according to Djuvara, as attitude towards life determines in a certain human conscience a certain philosophical consciousness, as the attitude towards society determines a certain legal consciousness⁴⁶. Mircea Djuvara's logical idealism did not stop at the possibilities of logic: "... The whole knowledge, and hence the whole human action, is the product of a sui generis creative activity, the so-called dialectic, this activity proceeds in successive and unceasing differentiations, and the systematic ordering of its products leads to the idea of truth ⁴⁷".

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⁴⁵ *Idem*, *Câteva reflexiuni asupra laturei filosofice a sufletului reginei Elisabeta (Some reflections on the philosophical side of Queen Elisabeth's soul)*, in “Convorbiri literare”, 50, 1916, p. 361.

⁴⁶ **M. Djuvara**, *Dialectica creatoare a cunoașterii juridice (The Creative Dialectics of Legal Knowledge)*, lecture, 1935/1936.

⁴⁷ *Idem*, *Problema fundamentală a dreptului*, în "Convorbiri literare”, 70, 1937, p. 2.

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