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PHILOSOPHY

TRANSCENDENTAL RECEPTION OF EXPERIMENTAL

PHILOSOPHY. KANT AND NEWTON

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Abstract

This paper examines the transcendental basis of Kant's reception of Newton's experimental philosophy through categorial notions of world, matter, motion, space and time.

Kant's theoretical blueprint on origin of world system is established on basis of the results of physical sciences of Newton's experimental philosophy, which was primarily shown in The Mathematical Principles of Natural Philosophy. Kant's work Allgemeine Naturgeschichte und Theorie des Himmels therefore has in the title the fact that it is a universal history of the nature and theory of heavens, or an attempt on structuring and mechanical origin of overall world's building, discussed by Newton's principles. This reception is also conducted in the work Metaphysische Anfangsgünde der Naturwissensckaft, and in a slightly different manner in the Kritik der reinen Vernunft and in the Kritik der Urteilskraft. In addition to this, in several abstracts some Schelling's and Hegel's positions on the main notions of Kant's naturphilosophy are shown, with the aim of pointing to the

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fact that Newton was indeed the important source of knowledge in philosophy of nature in German classical idealism.

Introduction

In General Scholium of *Principia* Newton expressed well known posture, in science and in philosophical methodology, that he does not frame hypothesis, since he was not able to discover the cause of properties of gravity from phenomena by that time; whatever is not deduced from the phenomena is necessary to be called an hypothesis, and metaphysical, physical, mechanical or occult hypothesis have no place in *experimental philosophy*.[2] In such experimental philosophy particular propositions are inferred from the phenomena and generalized by induction. In that way, the impenetrability, the mobility and the impulsive force of the body, and the laws of motion and of gravitation were discovered.

Here, experimental philosophy is narrower concept from natural philosophy (*philosophia naturalis*), or, in the spirit of that time, from physics. In Preface of the second edition of *Principia* (1713), Roger Couts, a board member of St. Trinity and professor of astronomy and experimental physics, presents Newton's philosophy as experimental philosophy, but in a sense of experimental method within the research of natural notions. The task of philosophy, comprehended in that way, is deduction of the principles of everything that exists from the possible simpler principles on the basis of analytical and synthetic method. Thus, forces of nature and simpler laws of their actions are analytically deduced from individually selected phenomena, and afterwards laws of other phenomena are being synthetically deduced from them, so in that manner the system of the world can be explained from the theory of gravitation. Newton's natural philosophy shows exactly this last explanation of world's building, i.e. explanation of the system of the world based on analytic and synthetic method of theory of gravitation.

In Newton's Preface to the first edition (1686) stands that *Principia* is in fact *mathematical basis of physics*, and that should be understood as an attempt of prevailing former differences between rational and practical physics: on one hand, mechanics has the priority in explanation of nature, and on the other hand, natural phenomena are subjugate to mathematical laws, with previous abandonment of substance and hidden properties. *Principia* shows the basic assignment of physics, namely, how to recognize the forces of nature in phenomena of motion, how to explain the rest of the phenomena by that forces, and afterwards how to explain the system of the world from the celestial phenomena by mathematical deduction of gravity forces of the body. Newton said that it would be good to infer other natural phenomena as well, but those phenomena are conditioned by some forces

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[2] Newton, *The Mathematical Principles of Natural Philosophy*, ed. Stephen Hawking, Running Press, Philadelphia-London, 2002, p. 428.

with unknown causes. As those forces are so far unknown, attempts of philosophers to explain the natural phenomena are fruitless.

True philosophy, i.e. experimental, natural philosophy, consequently physics, in contrast to Cartesian and Leibnizian physics and metaphysics, deduces the nature of things from the actual existing causes, searching for those laws by which the great Creator has established the magnificent order of the whole world: at the same time, reason allows comprehension on how the consequence can result from several mutually different causes, but that there is only one true cause, namely the one from which that consequence results.

In the Third Book (System of the World) of *Principia*, Newton sums up his achievement and says that *in the preceding Books he had laid down the principles of philosophy*, principles not purely philosophical as mathematical, namely those by which reasoning in philosophical inquiries can be founded on. Questions about forces, laws, motion, space and time are indeed philosophical questions. According to one of his note (*Philosophical Notebook*), which he seems to start recording in 1661, he was firstly Cartesian, who have read Aristotle's works and then wrote *Amicus Plato amicus Aristoteles magis amica veritas*.[3] Then he read Descartes, Gassendi, Boyle, and particularly literature from the scope of *philosophiae mechanicae*, and during his investigation of the original matter he was on the standpoint of corpuscular philosophy. In the General Scholium of *Principia* he wrote that we can not have ideas about substance and essence of the things, we can only see figures and colours, we can hear sounds, and observe external properties of the body, everything else is not accessible to our senses nor to reflex acts of our minds.

Here lays the essential difference between Descartes and Newton, between *Principia philosophiae* and *Philosophiae Naturalis Principia Mathematica*. First of all, Descartes' theoretical thinking goes from principles towards notions, but Newton's theoretical thinking is a pace from notions towards principles and then again towards notions, which are by now composed in thought by principles. In addition, difference between them is also in the way of asking philosophical questions: Descartes' explanations answers to a question *why* some notion results, Newton's are about *how* some notion results. This *how* is completely of qualitative and analytical nature, and is explainable only by mathematical way of thinking.

Exactly here is placed the philosophical essence of Newton's physics, because experimental philosophy is not some marginal syntagm which names one system of knowledge instead of word physics, but expression which correctly shows the only possible way of accurate knowledge about the internal architectonics of the world's building, matter, motion, space and time of nature. Deduction of system of the world from simpler principles and laws is one of the highest tasks of philosophy, as well as the method of

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[3] Hall, *Sir Isaac Newton's Notebook*, 1661-1665, Cambridge Historical Journal, 1948, Vol. 9, p. 239-250.

deducing that knowledge about system of the world: *Principia*, by means of mathematical principles, shows the architectonics of the world's building, and therefore *Principia*, cosmology and cosmogony, celestial mechanics, and dynamics are, in philosophical sense, ontology and methodology of physics.

Therefore, Kant's theoretical sketch about the origin of system of the world is not by accident set upon the foundation of the results of physical sciences of Newton's *experimental philosophy*, comprehended in that manner. It is written in the title of Kant's early paper that it is a general history of nature and theory of heaven, or attempt about structure and mechanical origin of the entire world's building, discussed on Newton's principles.[4]

World

Referring mainly to Newton, Kant speaks about the world as world's building, for him world is *all worlds of the entire nature*, whole nature, world's orders, universe, and consequently world is system of the systems, and history of the cosmos is nothing else but history of nature, one infinite process. Systematic connection includes entire universe, totality of nature, and that world's organization came into being by evolution from chaos, as a primary condition of matter, and by divine relation between all of the worlds and world's orders, which fulfill the entire infinite space, space of the divine presence. Creation is not an act of the moment, Kant said,[5] it began producing the infinity of substances and matter, and then one after the other worlds and new world orders are formed over millions of years in the remote expanses of the nature center, in order to approach to perfection, where this center of nature is actually the first point of forming and center of creation. For creation time is necessary in order to bring an act into existence. Eternity is necessary to revive the whole boundless expanse of infinite space with the countless and endless worlds. But, in the size of this divine act Kant allows transience; everything that is final and that has its beginning and origin, also has in itself the characteristic of its own limited nature.

That end of the world building is not the end of nature, which proves its abundance with the new creation in the entire volume of its own perfection, that once began in the chaos of unformed matter. But, these scenes of nature can not disrupt the balance of state of peace and bliss of the spirit that was once raised to such heights. And then from the standpoint of such general theory of cosmogony Kant discusses the origin of the solar system where the sun and the stars were taken as a burning bodies, not as masses heated to the highest level of molten and incandescent matter.

Here, however, began the conversation about reasonable human beings, about the perfection of the mind gifted creatures, the perfection of the

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[4] Kant, *Allgemeine Naturgeschichte und Theorie des Himmels, oder Versuch der Verfassung und dem mechanischen Ursprunge des gancen Weltgebäudes nach Newtonischen Grundsätzen abgehandelt*, Werke, Band 1, Vorkritische Schriften bis 1768, WB, Darmstadt, 1983.
[5] Ibid., S. 334.

world of spirits, degrees of perfection of power of thought, their origin at the beginning of the overall universe, which quite eloquently refers to the intellectual order of the universe, therefore to the world which is the act of the mind.

Such idea about the origin and nature of the world is recognizable by Laplace, although Laplace was not familiar with Kant's view of history of nature and theory of heaven.[6] Papers of Galileo, Huygens and Newton as well as the mathematical foundation of calculus were the basis for further construction of the «system of the world», and this task is by Laplace's opinion the task of astronomy, which is by the magnitude of its object and perfection of its theory «the most beautiful monument to human spirit and manifestation of its highest intellect».[7]

According to Laplace's opinion, the solar system was formed from the dissipated nebulae according to natural principles of mechanics, the planets revolve around the sun, satellites orbiting the planet, their orbits are nearly circular, and all these heavenly bodies move around themselves. The present state of the universe stems from its previous state and it is the cause of the later conditions, and a mind which knows all the forces of nature at one time, as well as the current positions of all the things in the universe, could in a single formula include the motion of all bodies and all atoms in the world. For him then nothing would be uncertain, the future and the present would be in front of his eyes.

Furthermore, this hypothesis was accepted as the Kant-Laplace hypothesis on the origin of the solar system, and the first serious opposition was from Jeans (Sir James Jeans) at the beginning of the twentieth century.

Kant's elaboration of the concept of the world does not end with his manuscript about the general nature of the history and theory of heaven. In the *Kritik der reinen Vernunft* Kant discusses the system of cosmological ideas in the transcendental dialectic, and there he re-thinks the world, heavens, cosmos, i.e. universe in the aspect of antinomies of pure reason. The world is understood as a mathematical entity of all phenomena and the totality of their synthesis in both a large and in small, thus it is a combination of all phenomena, and in the transcendental sense, it is "the absolute totality of a set of things that exist."[8] The mind falls into antinomies when thinks of infinity and finitude of the world, because it exceeds the limits of possible

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[6] In his attitude Kant referrs primarily to Newton, and then to Buffont, *Historie naturelle générale et particulière* (1794), Durhamski, *An Original Theory or New Hypothesis of the Universe* (1750). Then Laplace released *Exposition du système du monde*, I-II (1796) and *Mécanique Céleste* (1799), where he criticized Newton and Buffont, and independently from Kant developed a cosmogony hypothesis similar to Kant's hypothesis.

[7] Лаплас, *Изложение системы мира*, Наука, Ленинград, 1982, p. 318 (Russian translation of Laplace's book *Exposition du système du monde*)

[8] Kant, I. *Kritik der reinen Vernunft*, Felix Meiner Verlag, Philosophische Bibliotek, 37a, Hamburg, 1976, S. 447

experience and the first clash of transcendental ideas takes place just between the thesis and antithesis. Specifically, in the view that the world had a beginning in time, and that is spatially enclosed within the boundaries, and then in the view that the world has neither beginning in time nor boundaries in space, and is thus spatially and temporally infinite. Following the general result of criticism of rational cosmology, cosmological idea about the sensible world as a whole is not possible because it is contradictory, while the cosmological idea of an absolute unconditional series of conditions is possible but only as a regulative principle of expansion of a series of conditions *in infinitum*.

However, the general conclusion of the *Kritik der reinen Vernunft*, especially that of spontaneity or transcendental apperception, and then the stand from the *Kritik der praktischen Vernunft* on the primacy of practical reason over the theoretical, thematized the basis for the latter overturn in thinking of the world; namely, the basis for the thinking of the world as the *human* world, where the world will then appear as a *man's* world, or practical consciousness, and history. Then, the man and the world, the man's world and the world for a man will be discussed. A scientific view of the world as a cosmos will in fact explore the universe as an absolute givens of all physical reality, which also assumes knowledge about the production of the empirical state of all physical things of the world with technical mind.

In *Allgemeine Naturgeschichte und Theorie des Himmels*, where in fact the history of nature is not exhibited in detail, Kant discusses, again from the viewpoint of Newton, about the things of nature, starting from the divine act of creation of the world as the origin of the world building, to the matter and forces of nature. Here, the concepts of the world and nature are not significantly differentiated; the natural things, things by nature and of nature, and the prodigal wealth of nature are discussed; world or the universe is the totality of all nature, entirety of the world building and there is a "being of all beings, infinite reason and independent wisdom from which nature has its origin in the entire contents of the provisions." Transcendental concept of nature has been proposed in the *Kritik der reinen Vernunft*. Namely it is said, in the system of cosmological ideas of antinomy of pure reason, that there are two expressions, "the world and nature" (Welt und Natur), where sometimes one is taken instead of the other: first expression, the world, marks the mathematical unity of all phenomena and the totality of their synthesis («...das mathematische Ganze aller Erscheinungen und die Totalität ihrer Synthesis»), both in large and small, but that same world is called nature, if it is regarded as a dynamic entity and if an aggregation in space and time is not considered for it to be made as one quantity, but the unity in the *existence* of phenomena.[9] Thus, the world is a conjunction of all things, and nature is taken twofold, adjectively and substantive: nature, taken adjectively (*formaliter*), means "a connection of the provisions of one thing that is based

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[9] *Ibid.*, S. 447.

on an internal principle of causality"; nature, taken substantially (*materialiter*), is understood as "a connection of the phenomena if they are in complete conjunction on the basis of an internal principle of causality." In the first sense, Kant refers to the nature of liquid matter, fire, etc., and when the things of nature are discussed, then it refers to the totality that exists. According to the difference between mathematical ad dynamical unconditional, cosmological and transcendental concepts of nature are distinguished, where the latter is absolute or unconditional completeness of the origin (Entstehung) of a phenomenon in general and absolute completeness of the dependency of the existence (Dasein) of what is changing in phenomenon (des Veränderlicher in der Erscheinung). Cosmological ideas are absolute completeness of the complexity (Zusammensetzung) of the totality of all phenomena and absolute completeness of the division (Theilung) of the whole in the phenomenon. But in the ultimate purpose of questions about the nature, "reason is able to know about the nature only something which *is* within it, or what happened or what will be", it is not possible that in it "should be" something different than what is. Hence, the metaphysics of nature deals with *what is* (*was ist*), because the reason can only quaere about what happens in nature. Also, "under the nature (in an empirical sense) we understand the relationship of phenomenon in their existence based on the necessary rules, that is on laws", because there are therefore certain *a priori* laws which make the nature possible and empirical laws can exist and can be found only on the basis of experience and according to the primary laws by which the experience is possible. According to this, nature must be managed by us because the categories determine a priori connection of diversity of nature, since the categories are concepts that *a priori* prescribe the laws to phenomena, including the nature as a combination of all phenomena (*natura materialiter spectata*). In *Prolegomena* the nature is existence of things determined by general laws, but not things by themselves because they could not be perceived. Kant refers that nature is possible, in a material sense with our senses, and in the formal sense as a set of rules of all the phenomena, so the general laws of nature can be comprehended *a priori*, which leads to the principle that the highest law of nature must lie in ourselves, in our mind, because the mind does not take its laws (*a priori*) from nature, but assigns them to the nature (»der Verstand schöpft seine Gesetze (a priori) nicht der Natur, sonder schreibt sie dieser vor«).[10] According to this, nature must be sought only in conditions of possible experience.

In the Preface of *Metaphysische Anfangsgründe der Naturwissenschaft* the nature is determined in a formal sense as "the first inner principle of everything that relates to existence of a thing", in material meaning the nature is "totality of all things", inasmuch as they are objects of our senses

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[10] Kant, I., *Prolegomena zu einer jeden künftigen Metaphysik, die als Wissenschaft wird auftreten können*, Werke, Band 5, WB, Darmstadt, 1983, S. 188-189.

and in that manner of experiences, according to which then nature consists of objects of external and internal senses.[11] The word nature then denotes derivation of variety that belongs to existence of objects from their own inner principle. Ultimately, in "general idea of nature", nature is synergy of sensual objects, so it is not imagined as intelligent essence.[12] In *Kritik der reinen Vernunft* it is shown that overall nature is a synergy of all objects of experience, the nature is contained in one system based on transcendental laws that are set by reason a priori: in *Kritik der Urteilscraft* the unity of nature and the unity of experiences are of the same types, where the first one is the sum of the pure phenomena (types of the notions) that can have its objective reality only in experience that is, as a system, possible to imagine on the basis on empirical laws, if the unity of nature is imagined as one system. From this we conclude the principle of power of judgment, to which the nature specifies its own general laws into empirical laws, according to the form of one logical system for the power of judgment. Kant goes on to say that this is where the notion of purposefulness comes to exist as one notion of reflexive power of judgment and not of mind. Therefore teleology explores the nature as "the empire of purposes" and the nature of reasoning is distinguished from other natures in that it sets itself some purpose. Speculative use of reason *concerning nature* brings to absolute necessity of some highest cause of the world, although mind, ultimately, cannot comprehend the necessity of *something* that exists, unless it is not presupposed some condition under which that *something* exists.

Hence, nature according to Kant's notion has no noumenal existence; it is nothing more but the totality of all the phenomena, and by their connection, in accordance to the laws of necessity, the nature is in that sense regulation of things in space and time. Therefore nature is not arbitrary subject matter, subjective construction of overall world of things, but it is the issue of transcendental subject and the structure of transcendental subjectivity are constituted by reason with its system of categories, and senses with its a priori forms: in this light, reason and senses determine what nature is. And transcendental subjectivity is not a mere coincidence of human organization, so the knowledge of nature does not depend on some subject's organization, but the nature is in conformity with the categories, by which multiplicity is connected in certain types of unity. Also, there is no nature by itself, it does not exist for itself, neither nature for us nor nature in itself, there is no nature as essence, substance or phenomenon, the nature is not separate reality. It is an act of transcendental, not of an empirical subject. In this way Kant differs from Cartesian, Newtonian and Leibnizian notion of nature.

From this Kantian notion of nature clearly differs Schelling's with his basis laid for speculative philosophy of nature. According to his general assurances from earlier works, the nature is a system of processes in

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[11] Kant, *Metaphysische Anfangsgründe der Naturwissenschaft*, Werke, Band 8, WB, Darmstadt, 1983, S. 11.
[12] Kant, *Kritik der Urteilskraft*, Werke, Band 8, Darmstadt, 1983, S. 469.

comparison to the creation of conscious intelligence, hence it is unconscious form for reasonable life because life is primary and unique being of nature, it is also an impulse and force only by means of which physical reality is. The nature is the Spirit that arises, "nature is visible spirit, and spirit is invisible reality".[13] The nature or unconscious spirit is unconscious subject-object. Firstly, in *Erster Entwurf eines Systems der Naturphilosophie* nature is considered in its creation by gradually lowering from organic to non-organic, and then in *Einleitung zu dem Entwurf eines Systems der Naturphilosophie* this process of creating nature is considered as creation of non-organic nature by first potency and organic by second potency; before these writings, in *Vod der Weltseele,* the nature is considered according to world's soul or according to the first force of nature that as the fist postulate connects non-organic and organic nature (SW,II). According to general approval the nature is nothing else but totality of all the existence and everything that is individual in nature is nothing else but the form of sole existence which is absolute activity.[14] Hence, "to philosophize about nature means to create nature", so to rise above dead mechanism, to revive with freedom by the very action within the action. The nature is absolutely active and that is why it is its own legislator, sufficient to itself (autonomy and autarky of nature). For *Naturphilosophie*, which is speculative physics, nature is something a priori, nature as a product (natura naturata) is nature as an object, and nature as productivity (natura naturans) is nature as a subject (*Einleituig*, S.W.II). According to *System des transzendentalen Idealismus* it is said in somewhat different manner but essentially the same, namely "the set of everything only *objective* we in our knowledge can call *nature*; the set of everything *subjective*, on the other hand, let it be called I or intelligence." This is central postulate of nature in Schelling's philosophy. Further on, it is specified when it is said in what way nature appears as purposeful product, although according to the production, it is not purposeful, because in its genesis it is not, hence the nature appears as a product which is purposeful but not produced in accordance to some purpose, or the nature is a product produced with consciousness, although it is a work of blind mechanism. Only the organic nature is a complete phenomenon of merged freedom and necessity. On this standpoint, by nature Schelling above all denominate absolute identity in general, if it *in actu* exists under the phenomenon of being A and B (objective subject-object), and in whole everything that is pure foundation of reality is not only reality=nature. Schelling discussed about divine and natural origin of things, about absolute fullness of universe, about how only the spirit is infinite because only it is the unity of all things, and that is also nothing else but God: so, how true God is, then out of Him there is no nature, and as true nature is, then out of it there is no God, as it was said in

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[13] Schelling, *Ideen zu einer Philosophie der Natur*, Sämtliche Wekre, Suttgart, 1856-1861, Bd. II, S. 56.
[14] Schelling, *Erster Enrwurf eines Systems der Naturphilosophie*, Shriften von 1799-1801, Wissenschafliche Buchgesellschaft, Darmstadt, 1967, S. 13.

Bruno, oder Über das göttliche und nattürliche Prinzip der Dinge. Ein Gespräch (SW, Bd. IV).

Hence, the questioning of Reason "why it is not *nothing*, why it is something at all" doesn't go towards Something because there is only All or God, only infinite *is*, an absolute, eternal position of itself, that is God and as God it is All. The unity in infinity is the foundation of nature as "eternal birth of all things": from unity in infinity a visible nature is torn out as its phenomenon, as a blueprint of that All. On the same track Schelling's thought on philosophy of nature is articulated later at Munich lectures on the history of modern philosophy.[15]

With this the philosophy of nature with Schelling is really "Spinosism of physics", now raised towards philosophical idea of announcement. Hegel admits that Schelling understood how the truth of nature, i.e. nature by itself, is intellectual world, but the totality of these postulations with him are not proven nor developed as necessity of development of something logical, i.e. of thinking. It is speculative content of philosophy of nature when existence of forms of spirit in nature is proven, for, after all, philosophy is, according to Hegel, thoughtful observation of nature. Schelling was directed towards the notion of nature, instead of metaphysics of nature, but for him the nature is "dead, iced intelligence", "external modus of existence for systems of mind forms": one of the Schelling's merits is that he introduced the notion and form of notion for nature, "for setting the notion at the position of simple metaphysics of reason", and thus changed the mind categories of nature.

This introduction of mind forms in nature, instead of usual categories of reason, Hegel gave himself as a task. The central Hegel's postulation of nature was set in encyclopedic philosophy of nature and it starts from general postulation of philosophy of nature as "science of idea in its other-being" (*Die Naturphilosophie als die Wissenschaft der Idee in ihrem Anderssein*).[16] Here, the postulation of nature is prepared, and in another note it is said that in nature there is idea that is recognized in the form of alienation, while in the ending paragraph of encyclopedic logic "idea in observation is *nature*" (Anschauung, *Enzyklopädie*, § 244). Hence, absolute freedom of idea consists in the fact that in *absolute* truth of itself it should decide to freely release the moment of its uniqueness or first determination and other-being into immediate idea as its reflection, i.e. itself as nature.

Based on this, "nature was presented as idea in the form of other-being" (*Anderssein*), the idea in the nature's way exists as the negative of itself or as external self, hence "*outer form* makes determination in which it exists as nature" (*Enzyklopädie*, § 247). Nature is idea out of itself (die Idee ausser sich), display of idea, it in its existence does not show freedom, but the necessity and coincidence, nature is furthermore by itself, divine idea, but

[15] Schelling, *Zur Geschichte der neueren Philosophie*, in Sämtliche Werke, Bd. X, S. 99-125
[16] Hegel, *Enzyklopädie der philosophischen Wissenschaften im Grundrisse*, Felix Meiner, Hamburg, 1969, Erster Teil, § 18.

its being does not correspond to its notion, because it is unsolved contradiction. What is very important in speculative observation of notion is that nature is "a system of levels" that necessarily come out of each other where one is the truth of preceding but not by mutual creation but from the inner idea that makes the basis of the nature (*ibid*, § 249). The contradiction is that idea, found as nature, is external to itself, in this way idea sets itself as what it is by itself, from its immediacy and outer qualities goes into itself to become life, so by eliminating this determination that nature is life that creates itself further into existence of the spirit "which is truth and the last purpose of nature and true reality of the idea", according to which then the nature is "by itself alive totality, movement through its gradualness (*ibid*, § 251). Thence, there is powerlessness of nature to hold onto the notion in its derivation, for notional determination can be held only by abstraction, and the derivation of the individual exhibit to external determination.

Transience of nature in its own truth is cancelation of nature as immediate individualities of something concrete that appears as many interconnected indifferent features: cancelation of being-out-of-itself nature is actually subjectivity of the notion, where objectivity of this subjectivity is a notion that is spirit, hence the spirit has its nature as its postulation, the spirit is the truth of nature, its "absolutely foremeost". According to this, as shown in encyclopedic *Phänomenologie des Geistes*, in spirit as in truth the nature has vanished and the spirit was shown as the idea that came to its being-for-itself, having in mind that in nature the notion had its own complete external objectivity (§ 381): "thus, the spirit as the truth of nature has *become*" (§ 388)

This Hegel's philosophical contempt of nature exists in general request of his system of absolute philosophy, for which detailed information on condition of knowledge in natural sciences of that period was not necessary. It was already demonstrated with his dissertation on planet orbits (*Dissertatio philosophica de Orbitis planetarum*, 1801), which is of temporary significance for Hegel's philosophical life, and of no significance in respect to exactness for the natural science of astronomy of that period. Also of no special significance are his earlier works in the area of natural philosophy, later published as *Jenenser Logik, Metaphysik und Naturphilosophie*.

3. Matter

In discussion with Descartes but also with Newton, Huygens postulated a theory on atomically structured matter of nature, identifying absolutely solid atoms with bodies and space with emptiness. All phenomena in nature he explained with matter and its motion, so he proposed a thesis that spherical and wave motions are in the nature of light.[17] Atoms are the first absolutely indivisible and absolutely solid material particles. Robert Boyle, with whom the science of chemistry as theoretical science started, on the principles of mechanistic philosophy of nature, he considered atoms or corpuscles as small instruments, tools to which properties of the extension and not the

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[17] Гюйгенс, *Трактат о свете*, Москва-Ленинград, 1935, p. 13.

motion is important, for the creator of the motion is God. But the motion is a property of the corpuscles also, since in that way infinite multiplication is created in the relation among corpuscles or particles (*minima naturalia*, *prima naturalia*), and what is simple in chemical relation of bodies has complex physical structure of matter. Afterwards Priestley talked about matter as active substance, matter, according to him, consists of centers of various attractions and repulsions, where mind is a property of matter.

According to the testimony of Boscovich, such theory of system simple matter elements is located between Leibniz's and Newton's system: my theory says Boscovich, accepts from Leibniz those first, simple and entirely non-extensional elements, and from Newton's system accepts mutual forces.[18] And Newton was convinced in corpuscular nature of matter, although he thought that this theory was not far from the theory of the wave nature of light, for waves are produced by corpuscles of light. According to Newton atoms are particles of matter that have in themselves the force of inertia (*vis inertiae*), which then moves by some active principle and they are of different proportions, forms and forces. It seems possible to Newton that God in the beginning gave matter the form of these solid, massive, impenetrable particles of various proportions, forms, relations and other properties, so that there is no force capable to divide and break these particles as first principles of God's creation.

With these scientific opinions of experimental philosophy conceived as natural philosophy, which is here primarily physics and chemistry, and before that cosmology as well, it is clearly put in question previous logical way of thinking, by which matter was understood as substance of visible attributes: therefore, instrumentarium of such way of logical thinking should have been created by which the structure of nature is explored, or the structure of matter, which is then a substance, an essence, the element of natural things. This field of scientific thinking on nature of the natural matter, its properties, relations and forms is still the field of philosophy. Hence, his scientific views in physics Newton calls experimental or natural philosophy, Robert Boyle natural or corpuscular philosophy, Dalton chemical philosophy. This method of scientific thought by which matter is considered as inner structure of systems of natural things set the mathematics of physics and then of chemistry and cosmology as the basis for cognition of matter of nature as the structure of its natural things. Other experimental research of theoretical basis of mathematical language of nature followed, especially in 19th and 20th century by which mathematical displays of physical condition of matter structure were shown. With this the scientific and philosophical image of nature was changed in its foundation, although there was a resistance in philosophy and a system was created according to which about matter and nature there is nothing to think about. For, before that mere thinking should be examined, or the subject that thinks, so the matter is *what* the one can

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[18] Rogerio Boscovich, *Theoria philosophiae naturalis*, SNL, Zagreb, 1974, p. 2.

think of it, i.e. the one that has to think, if according to those, thinking about matter is thinking at all.

Somewhere between Leibniz and Newton, but much closer to Newton, Kant was positioned at first with his philosophical thought of scientific knowledge on the nature of matter. In *Allgemeine Naturgeschichte und Theorie des Himmels*, several times he said "without arrogance" in Cartesian way "give me only the matter and I will build the world from it", ("gebt mir nur Materie und ich will enh eine Welt daraus bauen"), or more closely, give me the matter and I will show you how world should incurred from it. Matter is pre-structure of things and its first cause of creation is God, and then the creation of natural things takes place according to laws. Parts of elementary foundation structure were firstly equally distributed in space and then by their movements started to create nature's building according to their laws, for matter determines itself according to its most general laws by which it creates with its natural, mechanical behavior. All matters at the beginning of all things was dissolved into its own elementary foundation structure that fulfilled the entire space of world building, and that is the initial state of nature, after which only infinite diversity in element types contributes to the order of nature by forming things.

But what matter is in one metaphysical system of nature is closely determined according to four classes of category, therefore according to quantity, quality, relation and modality, under which metaphysical principles of natural sciences in general are also categorized: in this way the notion of matter is conducted through metaphysical initial principles of phoronomy, dynamics, mechanics and phenomenology. According to metaphysical initial principles of phoronomy, "*matter* is the *movable* in space" ("Materie ist das Bewegliche im Raume")[19], and that means that matter here is every object of external senses if it is determined not according to what the object is but in relation to cognitive power of the subject. Here the notion of matter is based in the notion of motion where motion is primarily understood as the change of position. Phoronomy is study about the magnitude of motion in which matter is understood only in its quality of motion. Dynamic explanation of the notion of mater presupposes its phoronomic notion, but adds the property of its power to resist some motion inside space, therefore: "*Matter* is the *movable*, so far as it fills a *space*" ("Materie ist das Bewegliche, so fern es einen Raum erfüllt").[20] According to this, matter does not fulfill some space with its mere existence but with one particular motion force that resists to penetration of other matter or to their approaching. In fact, the matter fulfills its spaces with repulsive force of all its parts, and this repulsive force of matter is actually extension force, or elasticity, according to which then all matter is initially elastic. Based on this, matter can be compressed *in infinitum*, but it can not be infiltrated by other matter, hence matter is impenetrable. Therefore, matter is the subject of spatial existence of things, divisible *in infinitum*, but

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[19] Kant, *Metaphysische Anfangsgründe der Naturwissenschaft*, S. 25
[20] Ibid., S. 47.

all of its parts are matter again, for the material substance as something that is for itself movable in space is physically divisible in mathematical infinity. Hence, to each matter in its existence belong a basic, initial attractive and repulsive force, in which it spatially compress and extends. Thus, the notion of matter is reduced to mere moving forces. Hence the third definition of matter is derived, and according to metaphysical initial principles of mechanics "matter is the movable, so far it has as such a moving force" ("Materie ist das Bewegliche, so fern es, als ein solches, bewegende Kraft hat").[21] The first law of mechanics says that with the changes in corporeal nature, the quantity of matter on the whole remains the same, where the quantity of matter is plural of what is mobile in certain space, wherein the quantity of matter is plurality of the *movable* in specific space, and therefore it is the quantity of substance in the *movable*. Thus the moving force of matter in its motion proves the quantity of substance. According to the second law of mechanics, all matter transformations have some external cause, and according to the third law in each transfer of motion the action and reaction are always mutually equal. Eventually, according to metaphysicaly initial principle of phenomenology, "matter is the movable, so far as it can as such be the object of experience". ("Materie ist das Bewegliche, so fern es, als ein solches, ein Gegenstand der Erfahrung sein kann").[22] And thus, modalities of motion of matter are determined considering phoronomy, dynamics and mechanics.

This is how nature in its formal sense manifests as the first inner principle of everything that belongs to existence of certain things and in material sense as totality of all things, if they can be the object of our senses, and therefore the object of our experience, under which the totality of all phenomena is understood.

Transcendental notion of matter is conducted speculatively with Schelling. Firstly by his presentation of inner organization of speculative physics, especially in *Von der Weltseele*, where matter is considered as eternal process of initial forces of nature, namely the attraction and repulsion, with which its appearance is only possible as material principle of light, heat, magnetism, life, which was a philosophical response on stimulus of knowledge in the fields of natural sciences from that period, especially physics and chemistry. That was also obvious in *Einleitung zudem Entwurf eines Systems der Naturphilosophie oder Über den Begriff der speculativen Physik und die innere Organisation eines Systems dieser Wissenschaft*, where the idea of dynamical atomistic is developed and which shows the levels of dynamical process of construction of matter in nature, i.e. magnetism, electricity and chemical process. Ultimately, these are initial constructions of nature and general schemes of constructions of matter.

The notion of matter is here introduced and in S*ystem des transzendentalen Idealismus* this notion is derived by deducing its three

[21] Ibid., p. 100.
[22] Ibid., p. 123.

dimensions from three basic forces, that are necessary for matter construction: magnetism constructs the length (where opposite forces are merged in one and the same point), electricity the width and chemical process the thickness. These three moments of matter construction give three degrees of dynamic processes. Thus, *a priori* derived construction of matter gives the basis for general theory of natural phenomena which is further implemented in atomistic physics. Consequently, nothing else remains but derivation *a priori*, because the last causes of natural phenomena can never be explored by experience.

For Schelling, the notion of matter, as well as the notion of nature in general, is no longer a relevant thought. It is not relevant for Hegel as well, for whom the matter is not some existing thing, but the being as in general manner or in the mode of notion. At first, with ancient philosophers, for the principle of all things a simple specification of that One was taken, and according to that atomistic principle atom and void constitute the essence of the things, where speculative thought is contained exactly in the fact that the void as negation is source and foundation of motion. Latter atomistic science did not understand it in such a way, although atomistic principle was preserved during all the time, in which physics suffers in molecules and particles mostly for non-notional atom and void. Certain confusion occurred to Kant as well. Namely, in his exposition of matter as already done and constructed, although matter is yet to be derived from its elements, and not only to be initiated by forces of attraction and repulsion. And matter is actually simple non-differentiated identity that is the essence, basis or the substratum of form, i.e. *the other* of the form. Indeterminate matter is abstracted from every postulate, from every form of something; therefore it is something that is abstract, that is not visible, not tangible, because what is seen and touched *is* specific matter, i.e. one unity of matter and form. Matter is therefore indifferent to the form; form presume matter and form is presupposed from matter however not as a mutual relation, but as something which is passive as a matter and active as a form: consequently, matter has to be formed, and form to be materialized; hence, to give itself identity with itself in the matter, i.e. existence. In encyclopedic logic matter is abstract or unspecified reflection into the other but also as determined it is reflection into itself. Therefore it is existing reality (*Dingheit*), i.e. the existence of things; thus, thing has its reflection into self in matters, the thing does not exist by itself, but from matter (*Enziklopädie*, § 127), where matter is immediate unity of existence with itself (*ibid*. § 128). The thing thus dissolves into matter and form, but at the same time it is consisted of matter, and the thing which is essential existence that rescinds itself in itself is phenomenon. In encyclopedic philosophy of nature, mater is reality, concrete existence, unity of moments of repulsion and attraction.

4. Motion

Notions of origin, nature and laws of motion were discussed in *Principia* in the context of general philosophical set about inner structure of the world, compiled of matter, motion and space. Matter is infinite number of diverse, mutually separated solid and invariant particles that constitutes bodies in motion, and motion is in fact the state of material bodies which is conducted as transfer in infinite empty space. Hence it is necessary to distinguish absolute and relative motion, absolute and relative space, as well as absolute and relative time. According to Newton, absolute motion is displacement of the body from one absolute place to another, and relative motion is displacement of the body from one relative place to another. As everything happens in time it relates to a certain sequence and as everything is in space it relates to a certain position, where all primordial places are immovable, then those are all absolute places and their displacement is absolute displacement. The forces that bodies possess distinguish absolute from relative motions.

These are metaphysical postulates about the forms of motion and Newton's laws of motion are not derived from them; they are derived from empirical research of physical science of mechanics. According to the first law, every body remains in the state of rest or of uniform rectilinear motion until it is forced to change that state by force action. According to the second law, the change in the quantity of motion is proportional to applied impetus and is acted in direction of force action. In the end, according to the third law, each action has an equal opposite reaction, i.e. mutual action of two bodies are equal towards each other but in opposite direction. Therefore, the laws of inertia, quantity of motion and equality of action and reaction are discussed, the laws that are recognizable with Galileo, Descartes, and the third one even with Aristotle.

In the modern language of physics, the first Newton's law relates to motion of isolated material point, of free body, in other words, isolated material point moves uniform and rectilinear so it has constant impulse. Free body as isolated material point moves with constant velocity or rests in relation to some referential system, which depends on the qualities of space and time, so, according to this, if material point is isolated in one inertial referential system, it will be also isolated in all other inertial referential systems. The second Newton's law of motion refers to the relation between and overall action of all objects on material particle; because the changes in impulse rate of material point is equal to the resultant of all forces that act upon it. Therefore, in principle, the position and velocity of material point can be calculated in any other moment of time if values of position and velocity are known in some point of time. In mutual interaction of two material points, their forces have equal intensities, the same course but opposite direction,

where the change of velocities of material points is reversely proportional to their masses, which in fact explains the third Newton's law of motion.[23]

For Newton motion is mainly the change of position of material bodies in space, but the mere motion does not arise from the inner nature of matter, which is inert, but from the action of forces according to the laws. This is metaphysical acknowledgement of God as the primal activator of all physical motion. On the basis of these Newton's laws, Euler and Lagrange set mathematical equations of motion, by reversing especially the second Newton's law. Thence, according to Euler, for whom the mechanics is analytical science about motion, the equation of motion is dc=npdt/A; or if the course of motion of the point coincides with the direction of the force, then the increase in velocity is proportional to product of force and time divided by the mass of the point.

According to Rogerio Boscovich, from Newton's theory of general gravitation is concluded that rest does not exist in nature, because in planetary system due to interactive actions only the common center is in rest, as some imaginary point around which all heavenly bodies are moving. So, there is indeed strong evidence that "in nature, state of rest does not exist", and which cannot even exist due to infinite number of possible combinations of elementary units of matter, their positions and time points, so the motion is general quality of all material bodies.[24] The motion is continuous; there is no leap because no point of matter moves from one point of place to another without transiting through intermediate positions; from which is concluded that the state of rest is not possible to exist, as well as discontinuity in the motion of points of matter: so Newton was wrong, as well as Spinosa, when viewing the motion just as a modus of attributes of substance extension.

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[23] Investigating the logical status of mechanics as a science, through examination of these Newton's axioms of motion, Ernest Nagel (*The structure of Science*) finds their various alternative interpretations with various scientists and philosophers, as well as the incompleteness of first axiom of motion as a statement which should have some empirical content. Nothing is therefore specifically stated when it is said that the body will remain in the state of rest or uniform rectilinear motion, if it is not forced to change its state under the action of forces. This is in some sense only hidden definition of motion, or just a convention, or general hypothesis which requires experimental proof. Also there are objections to Newton's second axiom of motion. Namely, that it is nominal definition of the term force, or that it is methodological norm or instruction for research of motion of the body. It is evident, according to Nagel, that the axioms of motion, as well as the inherent priority of mechanics in general, cannot be proven by *a priori* judgment: as axioms are not inductive generalizations, so they can not be proven nor rejected on the basis of experimental facts. Furthermore, axioms are not *a priori* truths for which logical alternative do not exist, therefore they can be discussed in terms of schemes in analysis of body motion, as well as in terms of definitions of certain experimental notions, or in terms of statements with certain empirical content. Hence, axiom does not have empirical content by itself, but rather on the basis of theory to which it belongs, with other axioms.
[24] Boscovich, Rogerio, *Theoria philosophiae naturalis*, SNL, Zagreb, p. 39.

Kant's work *Allgemeine Naturgeschichte und Theorie des Himmels* was set as an attempt of thinking the structure and mechanical origin of overall world's building, which was discussed according to Newton's principles. Because exactly Newton, "this great admirer of Creator's self-qualities from the perfection of its deeds", announced to nature its decay according to natural affiliation, for which mechanics of motion has; and this is due to the fact that it must be a moment in infinite departure of eternity when gradual reduction of nature has exhausted all motion. Nature, by mechanical sequence of its laws of motion, has powers to produce the order of world's building; thence, the source of the world's order is mechanical development from general laws of nature. In *Neuer Lehrbegriff der Bewegung und Ruhe*[25] Kant disapproved the existence of absolute motion and absolute rest according to which follows that all motion is relative and that there is no inertial force in motion of material body.

Closer consideration about motion, and following the traces of Newton, Kant published in the paper *Metaphysische Anfangsgriinde der Naturwissenschaft* that should have been like *Philosophiae naturalis principia metaphysica*, metaphysical supplement to Newton's work *Philosophiae naturalis principia mathematica*. This paper from critical period of Kant's philosophy advocates the position that metaphysics of nature is possible only as rational physics, and the latter as the system of rational cognition of the objects of external senses, actually as analytics of the notion of matter that is based on categories application. Thence, according to starting metaphysical postulations of phoronomy, matter is determined as *the movable* in space (das Bewegliche im Raum), where all motion that constitutes the object of experience is only relative motion. And because spatial mobility of objects cannot be comprehended *a priori* and without experience, in *Critique of Pure Reason* Kant didn't include the notion of motion in pure notions of reason; because it is empirical notion of natural science as applied metaphysics, which, according to Kant, is of interest to empirically given notion, although according to *a priori* principles. Hence, the notion of matter is based in the notion of motion, and motion of a thing is determined as the *change of external relations* of that thing within some given space ("*Bewegung eines Dinges ist die Veränderung der äußeren Verhältnisse desselben zu einem gegebenen Rau.*"[26]*),* which means that motion is not only spatial change of place, for motion of a thing is not the same as motion inside that thing. In relation to that, rest is permanent presence (*praesentia perdurabilis*) at one and same place. According to this, phoronomy examines the motion of matter in relation to space; phoronomy is in fact study of the magnitudes of

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[25] Kant, *Neuer Lehrbegriff der Bewegung und Ruhe, und der damit verknüpften in den ersten Gründen der Naturwissenschaft, wodurch zugleich seine Vorlesungen in diesem halben Jahre angekündigt warden*, in Kant, Werke, Band 2, WB, Darmstadt, S. 27.
[26] Kant, *Metaphysische Anfangsgründe der Naturwissenschaft*, S. 27.

motion, where the notion of magnitude is actually the notion of idea of some object using the same type composition.

By dynamic determination of the notion matter, matter is the *movable* quality if it fulfills some space, which implies that here the motion of matter is presupposed as a product of attractive and repulsive forces. These forces are matter initiators; and only with them it is possible for matter to fulfill the space with its motion. Dynamic notion of matter considers only this fulfillment of space with matter that is moving, but not the existence of initial impetus in the matter that is moving: therefore, the task of mechanics is to consider initial forces of matter, placed into motion, because matter is the *movable* if it as such has impetus. Hence the laws of mechanics are derived, where the first law claims that during all changes the quantity of matter remains the same, second claims that each body tends to stay in the state of rest or to move in the same direction and with the same velocity if not coerced by some outer force to change that state, and the third law claims that action and reaction are always the same in all transfer of motion. In the end, according to metaphysical initial postulations of phenomenology, to which matter is *movable*, if it is as such the object of experience, motion is given only as phenomenon, as something which is presented through the senses. According to categories of modality, motion of matter is determined here in compliance with its possibility, reality and necessity, therefore the motion is rectilinear, circular and inertial, and the motion is only relative, since that absolute motion is not possible, although motion is possible, except in relative and absolute space that is here understood as idea that should be the norm by which all motion in it is considered only as relative motion.

By rejecting this Kant's approach to the notion of matter, and therefore to the notion of motion which is derived from deductive construction of matter i.e. from repulsive and attractive force, Hegel determined the notion of motion as transition and reproduction of self space in time and time in space, where time sets itself spatially as place, but in such way that this indifferent spatiality is immediately posited as temporal. Motion is therefore contradiction. Attraction and repulsion as important properties of matter are actually forms of its motion which is shown as inner meaning and life of substance; therefore, motion is development, and development, which is motion, is substantial foundation of phenomena, as accession of the essence in existence. Because the motion is immanent to the substance, i.e. realization of unity of existence contradictions, therefore it is the process of substance development. With postulating motion as transition and reproduction of self space in time and time in space, the relation of space, time and motion is marked, and that relation which indeed was not meant in this paradigm thinking, became the basis for dialectical postulation of motion in philosophy of Marxist' materialism.

5. Time and space
According to determinations of absolute and relative motion, Newton in *Principia* distinguished absolute and relative conceptual validity of space and

time, although only in one Scholium, and only to emphasize the meaning of these notions, which are presumably generally known. Prior to that, in Definitions, place is determined as part of the space which one object fulfills; body as that which fulfills this place; rest as remaining at one place and motion as change of places. Hence, Newton differs absolute, mathematical, and true time which, by its nature, uniformly flows without relation to anything external, and which is called duration, from relative, apparent and common time, which is actually sensory and external measure of a part of some duration taken from motion, and these measures are hour, day, month, a year, which common people use instead of true time. According to this, absolute space, by its nature and without relation to anything external remains the same and immovable and relative space is that measure or movable dimension of absolute space which is determined with senses on the basis of mutual relations of bodies.[27] In space, all things in nature are distributed according to their position; in time all things are distributed in the order of sequence and those are actually empty beings that exist in absolute mutual independence.

However, according to the type and size absolute and relative space is one and the same, but not according to the number, because absolute space is one and unique, and thus in physical status, it is comprehensive cosmic coordinate system of three-dimensional Euclidian geometry, and relative space is multitudinous, because the bodies are in space which is found in other space, these in the following one...

This Newton's standpoint slightly differs form Descartes' view. Only God as a perfect being is infinity of space and time, and this perfect infinity of Cartesian God is not Newtonian absolute space, and absolute time, although here in question is congruence of some properties of God with something by which space and time *are* according to their substance. More specifically, not one single being exists or can exist out of and independent from space; therefore, nothing exists that is not everywhere or somewhere; God is everywhere, and material bodies are somewhere. The same applies to time, because of parallel ways of space and time: God is always and everywhere, through his actions as well as his substance. But the eternity of duration in time and infinity of spatial presence are the attributes of divine existence, therefore Newtonian notions of absolute space, time, and motion have some properties of Cartesian God, although they are not Cartesian God. Newton's absolute space is the *sensorium* of God, because it is, as God, all-present, so God hears, sees and feels physical world, by which it becomes the body

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[27] Newton, *Mathematical Principles of Natural Philosophy*, p. 6. In original: Spatium absolutum, natura sua sine relatione ad externum quodvis, simper manet similar & immobile (*Definitiones, Scholium* II). Tempus absolutum, verum & mathematicum in se & nature sine relatione ad externum quodvis, aequabiliter fluit alique nomine dictur duration (*Definitiones, Scholium* III). That corresponds to postulation of absolute motion, hence: Motus absolutes est translation corporis de loco absolute in locum absolutum (*Definitiones, Scholium* III).

of His existence. But the physical body of God and God by himself are not quite the same, thus absolute space is not as well, God, although it has properties of divine existence. Hence does not stand Leibniz's remark according to which Newton identified God with space, from which is concluded that God has parts, because it is quite clear that Newton's absolute space does not relate to anything that in any way actually *is*. However, this does not mean that and time are not objective reality.[28]

Newton displayed conceptual analogy of matter, space, time and motion, but still their ontological status he discussed as mainly mathematical notions about things in their mutual physical apartness. Space is the place of matter; matter is independent reality from space and motion, and then from time. Physical status of universe as the system of world of matter, space, time and motion is shown as coordinate system of three-dimensional Euclidian geometry, with mutually independent entities of torn out reality.

Kant sets, until that period, the highest point of philosophical acknowledgement of space and time. At the same time it is the highest point achieved in philosophy of knowledge about the origin and nature of cognition of space and time from the standpoint of the world as coordinate system of three-dimensional Euclidian geometry. Theoretical outcome of such Kant's accomplishment are Descartes, Leibniz and above all Newton's experimental philosophy.

Newton's position on existence of absolute space Kant tried to prove with his early work on the differences between directions in space; and later, in a debate on sensory and extrasensory world, he presented space and time as pure sensations *a priori*, which was his previous posture for transcendental aesthetics in the *Kritik der reinen Vernunft*. And transcendental aesthetics of transcendental theory on elements – *Kritik der*

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[28] This conception of absolute space Max Born in the *Die relativitätstheorie Einsteins* called *limited absolute space*, because the posture on relativity of mechanical phenomena largely restricts physical reality of that notion. With no necessity of postulation of existence of absolute space and time the law of inertia doesn't make sense at all, but the question is whether physical notion of reality belongs to these notions: namely, in the practices of science of physics there are no convictions according to which the property of reality is attributed for example to the absolute space in which there are no places. Thus, Newton's absolute space already loses significant part of its unpleasant existence, and therefore is necessary to work on the change of classical principle of relativity, since that rest of coordinating system in absolute space obviously has no sense in physics. By introducing the notion of *inertial system* instead of the notion of space, under which infinite number of reference systems that are completely equal is understood, the classical principle of relativity has a postulation, according to which there are infinite number of equal inertial systems that are mutually relative in the motion of translation and in which laws of mechanics are valid in their simple classical form. And according to this space does not impose its form to things but things and their physical properties determine the form; this Max Born's view accomplishes its final achievement in Albert Einstein's general theory of relativity.

reinen Vernunft – for Kant is a science on the principles of sensuality *a priori* ("Eine Wissenschaft von allen Prinzipien der Sinnlichkeii a priori nenne ich die transzendentale Ästhetik."[29]) In fact, transcendental aesthetics examines the time and space as *a priori* forms of sensory knowledge. This examination is metaphysical and transcendental, where metaphysical examination is possible when concept contains what the notion which is given *a priori* shows, while examination (expositio) is generally distinct, though not detailed, idea about what belongs to one notion; transcendental examination is explanation of one notion as a principle for possibility of other synthetic *a priori* knowledge.

And what are time and space? Are they real beings (wirkliche Wesen) or these are just postulations or relations of objects to which they would belong by themselves, or which would depend on subjective property of consciousness without which these predicates cannot be attributed to any thing? The manner in which Kant asks here about the properties of space and time unambiguously point to metaphysical and transcendental answer.

According to metaphysical stance, space is not empirical notion, abstracted from external experiences, it is one essential idea *a priori* which is the foundation of all external perceptions, thus, the space is not discursive or general notion about relations of things in general, but it is one pure perception, and as such is presented as one *given* infinite size; accordingly, the original representation of space is an a *priori intuition*, not a *concept* ("Also ist die ursprüngliche Vorstellung vom Raume Anschauung a piori, und nicht Begriff").[30] With transcendental examination of the notion of space, space is shown only as a form of external sense in general, so it has its place in the subject as formal property so it can be affixed by the object and thus arises an immediate phenomenon or intuition, where this intuition is pure and not empirical, because it has to precede to all perceptions of some object. Thus, all stands of geometry are apodictically set; geometry is science which synthetically determines the properties of space, it is synthetic *a priori* knowledge.

From these notions Kant concluded: space is not a property of things by itself, their relations and postulations, space is just a form of all phenomena of external senses, subjective condition of sensuality, under which the external intuition is only possible; thus, on space, scattered beings etc. can be talked about only from the view of man, because abstracted from subjective condition idea on space doesn't mean anything.[31] Thus, the space includes all things that are as external givens in phenomenon, not as things by themselves, because the conditions of sensuality are not conditions for possibilities of things, but just conditions of their phenomena. This is empirical reality and transcendental ideality of space.[32]

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[29] Kant, *Kritik der reinen Vernunft*, S. 64.
[30] Kant, *Kritik der reinen Vernunft*, S. 69.
[31] Ibid., S. 70.
[32] Ibid., S. 72.

In complete accordance with this, Kant discusses about time as well. Thus, from metaphysical point of view, time is not an empirical notion, abstracted from experience, but it is necessary idea that makes the foundation of all intuition, it is given *a priori*, therefore only in it all reality of phenomena is possible, and on that *a priori* necessity axioms of time are based; time is not general, discursive notion but one pure form of sensory perception, and that original idea which is time, is given as infinity. In other words, time cannot be destroyed, it has only one dimension and it is single, and different times are only its parts, parts of one simple time. From transcendental point of view it is about necessary *a priori* foundation of possibilities of apodictically basic principles on time relations or on time axioms, which was already marked with metaphysical examination of time: it is also about the notion of motion as change of place that is only possible on the basis of idea of time and in the idea of time.

From these follow Kant's conclusions, according to which time does not exist by itself nor as objective postulation of external things, time is a form of inner sense, and as such it is formal condition *a priori* for all phenomena in general. Thus, the empirical reality and transcendental ideality of time are discussed, and that implies objective application of time concerning all objects that can be given by senses and impossibility of abstracting time from subjective conditions of sensory perceptions, for then time is nothing.

In the final stand of *Critique of Pure Reason* time and space are two source knowledge, pure forms of all sensory knowledge where synthetic judgments are a priori possible. Mathematics testifies to this, where geometry researches the figures in space and arithmetic numbers in time, so synthetic and a priori judgments of mathematics apply in pure and applied mathematics of spatial and time phenomena. Therefore, no absolute reality of time and space exist.

Metaphysical basic postulation of phoronomy in *Metaphisische Anfangsgründe der Naturwissenschaft,* by which matter is determined as *the movable* in space, says: space which is movable is called material or *relative space*, and space in which all motion is imagined, that is though immovable, is called pure or *absolute space*.[33] However, by itself absolute space is nothing; it only represents any other relative space in some other space, and this in some third wider space, etc. which is the matter of imagining, so by abstracting from empirical spaces it consists pure non-empirical absolute space, so the logical generality of any space turns into physical generality of real space. And with metaphysical postulations of dynamics, the space which is not fulfilled is an empty space[34], where matter does not fulfill some space with its mere existence but with some certain motion force, i.e. repulsive force of all its parts. In general note along with phenomenology of metaphysical basis of natural science Kant marks three necessary notions of its foundation, the notion of motion in relative (movable) space, the notion of

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[33] Kant, *Metaphisische Anfangsgründe der Naturwissenschaft*, S. 25.
[34] Ibid., S. 47.

motion in absolute (immovable) space and the notion of relative motion in general. However, in the basis of all stands the notion of absolute space, which is essential reasoning notion or idea.[35]

This is Kant's ontological stand on the gnoseological status of time and space where the primacy of time over space is quite visible, because time somehow enables space, which in time happens as succession of natural things, separated from them and from things by themselves, since the space like time is not determinants of external things. This subjectivity of time is the basis for historical comprehension of time, time as events in the world, as human process; history actually is chronology of the world. This started with Aurelio Augustine who also discussed the ideality of time, although Aristotle's position also remains used in its position of spatial determination through the notion of division of time as succession. As already shown, time for Augustine is not the property of things, time was not present before God and his creation, by which he constructed time as well; time is creation before creation and independent from creation there is no time, time is in fact the history of divine creation of the world.

In writings from the field of philosophical consideration on beginning of general history of humankind and accomplishing the world's civil order, Kant started from the idea on ideality of the time. Man, says Kant, from raw instinctive natural condition stepped into humankind, into realm of history of freedom under the leadership of mind. The history of freedom is history of human action and its fundamental condition is exiting its own natural state, which is God's deed, in order to obtain his own purpose. Thus, for the highest purpose of nature is considered the historical formation of civil society. Therefore, Kant equally stands before the question on relation between nature and history, relation of causality and freedom and then before the question on relation of mind and freedom, because in finite sense justification of nature is basic presupposition for theoretical foundation of world history.

About one, although not divine, fulfilled time as world's history, discussed Schelling and Hegel, from their own speculative points of philosophy of nature and philosophy of history. Their discussion is possible only as a mere speculative generality of Kant's transcendental reinterpretation of Newtonian conception of absolute and relative motion, of space and time of matter in world system, as shown by mathematical principles of experimental philosophy.

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[35] Ibid., S. 127.

THE IMAGE BETWEEN COMMERCIAL AND UNDERGROUND

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The interrogation on the work of art as object has begin, perhaps, with the sale of the first object that either was purchased only for its beauty, either (certainly much later) with the sale of the first object which no one would be able to figure out its purpose. Of course, this question is too old and it has received too many responses, so the mere attempt to give an inventory of all the replies would be futile. This question has found various answers from philosophers of art, psychologists, sociologists and artists (probably that any artist who ever sold a work pondered upon it, because both the images and objects connect when we talk about the trade of artworks). We will stop only on the passage from avant-garde artistic movements towards postmodernity, and then from there to postmodernism to analyse this aspect. However, this issue goes to another: the commercial image and value of works with a great trade value creates new interrogations and exertions because a work of art with a high commercial value is, first and foremost, a famous work of art that has been exposed and viewed so that, most of the time, precisely because we know it so well, we refuse, or forget, to look at it.

According to Greenberg we notice that pop art is blamed because, in its attempts to suppress the space between art and life, it has reached some kitsch level (Rațiu, 2001, p. 143). These attempts are translated into marketing and entertainment. Greenberg notes that Postmodernism subscribes the line of these kitsch trends (Rațiu, 2001, p. 143). Now we

come to a difficult task, because we see that today, no matter how we try, we can not avoid kitsch, and this happens primarily because we can no longer answer the question: what is not kitsch?

Bad taste and art form an inextricable duet. However, observing the intention of the one who produces, where appropriate, kitsch and postmodernist art, we can see that the distinction between the two is an even more significant one: kitsch is not aware of the fact that it is kitsch, instead, post-modern art manages to use the kitsch conscious and thus to control it.

Greenberg identifies a particular degeneration in pop art and this is due to the fact that this sort of art functions on the basis of a set of conventions or (which is almost the same thing) on the basis of trends (Rațiu, 2001, pp. 142-143). The stereotype involved in the pop art of Greenberg is considered another sign of degradation as well as the accessibility of these works; their exaggerated fame brings them closer (than the object) to the image, creating around them a real cult. Without meaning that the subject and the image are the poles of the artwork, we point out, however, briefly, the relationship between these two elements. There are, of course, objects that do not constitute a work of art; however, we ask ourselves whether or not these articles have an image. Here we have two possibilities. If these objects have a picture, i.e. meet certain functions of the image (meaning the ambiguity, its poverty of meaning, and other aesthetic functions) then they could be works of art. On the other hand, if we sustain that they are objects that do not have an image then remains the question if we contradict the mere evidence that if they do not have an image, then, however, we see every day objects that are not works of art. We believe that the way out of this apparent paradox is that we need to distinguish between image and representation. If the goal of images would be the representation of reality, we cover two problems far worse than the paradox from which we strive to get out:

What *reality*?

If the image is meant to represent, then the image should be unambiguous, to relate to a transcendent reality (problem) in a unique sense?

Going forward in this classification, we get to the images that are not at the same time objects (e.g. performance arts). There is also a tendency to release the object from its environment and transform it into an image (ready-made) and there is also an opposite trend to carry the environment in which the object is retrieved using the image transposed in object (kitsch). We note, therefore, that if we look at the subject and the image in relation to their intentions regarding the environment in which they are taken over, we come to a clear opposition between ready-made and kitsch. We believe that this opposition is treated distinctly by providing that the famous opposition of Greenberg (*Avant-Garde and Kitsch*) corresponds to the end of modernism. Postmodernism, however, gets to another opposition.

Art value represents the image. The avant-gardes have lost the bet with pop art because the force of commercial surpassed that of innovative.

How the image does presents itself in its most postmodernist variants and what would be the most vivid embodiment of postmodernism we will discover analyzing what could constitute a new category of aesthetic: the commercial. Commercial images are those images that thanks to their good reputation we refuse to look at.

The image centred on itself (from the works of abstract expressionism in particular) appears as an attempt to draw attention to the image as such and at the same time an attempt to destroy the myth of mimesis. This is the great merit of the image self- centred. Once these images have never set up something new they have ceased to be called avant-garde works. These images opened a problem that has not been dissolved along with the decline of the avant-gardes. The image itself, centred on the functions of image (except the imitative counterpoint) on image effects, on a moral of image build on the core of postmodernity is extended also in post-modern.

The image as it appears in postmodernity has the merit of removing aesthetics from the dominative exigencies of ethics. This domination begins with Plato (Nietzsche blames Socrates for it) and is underlined by the domination of knowledge requirements (Beauty is subject to the canons of Good and of Truth at Plato). The role of the image is to be received and in order to be received is necessary primarily to be seen, but when this feature is exaggerated this overvaluation of image is reached through excessive exposure. The overexposure of visible leads to obscene.

We have seen above that every time we come from a phenomenon to its overvaluation, the result of this hyper-telos is the opposite of the initial phenomenon. Postmodernity marks the transition from Gutenberg civilization to the civilization of image. The way it was possible to make this passing that transforms images into something like a cultural model we can conclude only once we show what it did to surpass the solid civilization of printing. Before the invention of printing it was the manuscript, and before the invention of the manuscripts the culture was placed under the sign of an oral tradition. Plato has a negative reaction vis-à-vis the transition from oral tradition to manuscript in *Phaidros*. He is the first to draw attention to the risks of writing (McLuhan). The transition from Gutenberg civilization to the civilization of image brings a facilitation of internationally communication, since we do not have to talk the same language in order to receive the same images[1].

The domination of a civilization of the image opens up the possibility of something like a Babel of communication unrestricted by linguistic barriers. The wrapped objects from works of art take things (as trivial as those things can be) that belong to the world of common objects and places them in the work of art. These objects were visible before, but no one *pasted* them in order to place them in a work of art. Two examples can be cited to illustrate this theory. The first is the work of Christo and Jeanne-Claude *Wrapped Coast* (1968-1969), and the second is an anecdote that belongs to a friend of

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[1] Here we have a narrower meaning of image, which does not include, obviously, the social image or literary images

Miró, "When I pick up a stone is a stone. When Miró picks up a stone, is a Miró." (Julius, 2002/2008, p. 119). In the second example seems to work the myth of the author regarding the rational chose of an image (or privileged images) which will be a work of art. Although this example is more like an irony addressed to the problem of the author as such is not exhausted in spite of the efforts of Sherrie Levine. We can find also serious examples that support author's superiority, and the most solid argument is perhaps the signature of Andy Warhol affixed to various objects, including banknotes, turning them into works of art and giving them a value related to the random choice of an article and turning it into an image (here with the meaning of work of art) but also a commercial value. The signature on the painting represents the element which sends us to its economical value Guattari (Bourriaud 1998/2007). This sort of art is named by Levine the art of seizure (Julius 2002/2008). This art consists in photographing famous photos or some famous works of art of any kind, not only pictures. However, in terms of theoretical support of this endeavour is obtained an unavoidable paradox. The paradox created by Levine's art is that for the artist is impossible not to create new and original images protesting against the new and original. Apparent she tries (it is possible that without grasping the paradox and this explains her efforts) to remain dedicated to the effort of copy famous work showing just the fact that her works are only copies[1].

A work of art the more commercial it is the more will be more exposed. Economics perspective on works of art is named by Bourriaud "relational aesthetics", Louis Althusser it defines it as "materialism of meeting" (Bourriaud 1998/2007, p. 16). Art history shows us that the desire to sell works there was always present at artists, actually the Dadaists are declared against this practice, and perhaps a relevant example is the auto destructive machine. We can ask ourselves if the art really escapes commercial. Perhaps by this strategy works become more famous than would have been if these works were sold. So we see that what so far we have called the commercial should be rethought terminologically, recognising that the refusal of sale of the works increases their visibility.

In his first analysis Baudrillard emphasized the trace from modern opposition between subject and object to the overthrow of such oppositions. The superiority of the subject on the object is in the modern period one outright. Baudrillard takes as a starting point the economical relationship between consumer and goods. Until Baudrillard, the universe of goods seemed to be a meaningless one. The one who has the power to invest these goods with meaning was the consumer. At Baudrillard, this relation seems to be reversed because the customer is defined by a desire to acquire these values; the objects represent *images* of these values. From here Baudrillard reverses the relationship between subject and object. The subject is not seduced by the object since the seduction seems to not be doubled (the seducer doesn't appear in turn seduced in the game of seduction in *Fatal Strategies,* for example in the letter that contains the eye), otherwise

the object appears as being capable of malevolent strategies. These strategies underline the passage on the unsafe field of postmodernism.

The feeling that the objects are our increasingly more sophisticated and increasingly more efficient technologic slaves disappears when we read the works of Baudrillard, *The Consumer Society: Myths and Structures* and *The System of Objects* because his analyses show how the objects around us creates dependence of comfort and this dependence transforms us from their masters in their slaves. These are just a few of the "adverse effects" (Baudrillard 1970/2005, p. 30) of the reversed relationship between the subject and object. The subject does not become consumer because the goods correspond to the needs for which they are produced. The subject becomes consumer because these goods are valorised as signs of belonging to a social group. As described by Grădinaru this theory underlines that "the society is focused more on the production of signs and images than that of the goods themselves" (2010, p. 226). To create such a paradox of consumption – despite the fact that the objects we buy represent images of a social status (objects represent the membership of a group of individuals) they are not, however, helping the individual to integrate a social group to which the objects sent as signs, purchasing them the individual does not end up being surrounded by other people but by more and more objects, the feeling of solitude is amplified though buyer's purpose was to be identified as belonging to a group (Baudrillard 1970/2005, p. 108).

Art represents the image of value (Bourriaud 1998 fires 2007, p. 34). Ready-made operates by reducing the creativity at selection. Similarly, the photography does not intend, in the artistic field, the representation of reality, but rather, "the mechanical reproduction of images/simulacra" (Rațiu 2001, p. 176). Feminist discourse goes in the same direction, being a marginal speech is integrated in the perspective of post-modern culture. The representation of modern Western painting is centred on the topic, having as its main function the representation. Postmodernism seeks to surpass such claims of authority and universality of representation by promoting discontinuity (Rațiu, 2001, p. 177).

Art history shows us that the artists always had the desire to sell works. The Dadaists declared themselves against this practice, perhaps a more relevant example is the auto destructive machine installations but we can ask ourselves if these examples really escape commercialism? Perhaps by this strategy works become more famous than would have been if these works were sold. So we see that what so far we have called *the commercial* should be rethought in terms of terminology, recognising that the refusal of sale of the works increases their visibility.

In *The Consumer Society: Myths and Structures* Baudrillard analyses the image in advertising or the image as advertising discourse (we could nominate it here in this manner because it has a double use: on the one hand the consumer is selling the product being advertised and on the other hand the advertising as such - the image of the product – is created by the

image campaigns, not by the producer). Grădinaru observes that Baudrillard and Debord focus their studies on the relationship between the sign and the value from the Marxist concepts of merchandise and alienation. The image in the field of advertising acts as merchandise.

"Alienation is established as a major mark of modern man, which lies in a continuous gap, which does not mean distance from an self ideally constructed, essentially, completely constituted, but signifies an increased importance of the image and objects in the formation of an self-image, even if it is temporary one" (Grădinaru 2010, p. 237).

The sign-value represents for the work of Baudrillard, just an early stage (because we encounter it in works like *The Consumer Society: Myths and Structures*) and is intended to describe modernity (because it is in relation to the new, the abundance, etc). Sign-value does not correspond to works *La transparence de mal.*

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[1] An example is the work of Levine Fountain/ after Marcel Duchamp 1991. We can observe that the title suggests her dedication to the intention of copy.

KANT'S AESTHETICAL JUDGEMENT

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Any analysis of the work of art – and any research concerning the artistic act – represents a challenge for the person who does it. On the one hand because the work of art expresses itself in a specific language, often connected to the production of some tangible objects, on the one hand because there is a specific manner of representing the world, I mean because we usually present a symbolic universe which is linked to our sensibility, intuition, imagination and ideas haunting us. Although this is something abstract, it belongs however to reality and it creates an illusive world which often becomes the substitute for the reality itself). The artistic act supposes in the same time a specific dialogue between the artist and the reality, between the work of art and its "consumer".

If we pay a little attention to this dialogue, we'll observe that the philosopher, in the search of unity, often encounters the objects belonging to our material world in the transcendental horizon of God or the Being, which is a horizon of communication where the work of art is created (represented by the forms in which it manifests itself: the literary text, the painting, the musical creation etc.) In the following pages we'll try to investigate the structure of such a dialogue which takes place, through the work of art, between the author and its receptor according to Kant's vision of the aesthetical judgement.

How the receiver and the sender become spectators of the manner in which God, the Being expresses itself through art? Is art privileged? Does it have the chance to reach "the object in itself"? Or does it remain hidden within the communicative artistic act?

The human being, thinks Kant, does not only have abilities like intellect and reason. It also has a third ability which is linked directly to the feeling of pleasure and unpleasure – judgement. It stands between the two abilities, realizing the passage from the field of natural abilities to the concept of freedom. Kant thinks that the intellect can only get to know the phenomenon, being uncapable when facing the concept itself. If Kant's practical reason sustains the existence of God, between the two abilities there is a gap cancelled by judgement.

Any artistic experience is an aesthetical one and its object is beauty. Whichever the opinions about what is beautiful might be, we have to accept that there is a group of rules uttered by the receiver of art which refer to "what is beautiful". This group presents itself as a variety of opinions. The acknowledgement of this variety is involved in what is known as taste. Kant will begin his analysis on the field of the aesthetical experience. He tries to render its main signification involving the implication of our aesthetic judgements. Kant's artistic dialogue refers mainly to the receiver which evaluates through a diversity of opinions on beauty. We call interest the satisfaction with the representation of the existence of an object." That is why such a satisfaction is always related to desire, as its determinative agent or at least as a necessary link to its determinative agent. When we ask ourselves if something is beautiful we don't want to know if we or somebody else is interested in the existence of this thing or if it could interest us. We want to know the way that we appreciate it in the pure contemplation".[1]

Kant will specify the nature of the taste judgement in relation with judgement in general. The logical judgement differs from the aesthetical one; the first refers to an object, the last to the one who judges. If we say that an object or its representation is beautiful we are not formulating a feature which could belong to the object. The phrase : " this object is beautiful " reflects the way in which the object has an impact on me and not the way in which it is in itself. "The above mentioned phrase wants to say the object is attractive, that is it awakes in the receptor a positive sentiment. The aesthetic judgement is based only on this sentiment. The starting point of Kant's artistic dialogue will be the pleasure. It will not be about an epidermic satisfaction but a vital sentiment. The judgement of taste isn't based on a sensation which will offer the knowledge of the object but on a subjective sentiment."[2]

But, says Kant, the pleasure of the judgement of taste is a distinct, particular and irreducible pleasure, a disinterested pleasure. A disinterested action is that action which does not have the profit as a mobile. When we start a dialogue we must consider the problem of the profit, of its presence or

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[1] Immanuel Kant, *Kritik der Urteilskraft*, I, 2.
[2] Ole Hansen-Love, Kant, *Analytique du beau*, Hatier, Paris, 2000, p.7.

absence in the artistic pleasure: "we only want to know if the simple representation of the object will produce some satisfaction in me, no matter how indifferent I might be to the existence of the object of a representation."[3] In the same time we must analyse the concept of interest to which Kant refers to in order to specify the aesthetical pleasure, and this is on the one hand in order to distinguish it from the good. The interest is the satisfaction we associate to the representation of the existence of an object.In this definition we find the two elements belonging to the judgement of taste: the satisfaction and the representation, taking yet into consideration the peculiarity of the representation which refers to the existence of the object: " in order to say that the object is beautiful and to prove that I have taste I start from what happens within me due to representation not from what makes my dependence on the existence of the object."[4] The interest has its source or goal in the pleasure which the object gives us because it exists. That is why it is connected to desire. Interested satisfaction may be differentiated in two types: my sensitive nature which finds an interest linked to the existence of the object because it gives it a certain satisfaction it needs. It is about what is agreable. But we don't only have a sensitive nature. We are also rational beings who have another type of satisfactions. In this latter case the satisfaction is not generated by the sensible representation but by the intellectual one, by the concept of an object which offers itself as goal for our will. The object may be good if it is also useful, that is instrument for another goal or it may be good in itself. The sensible or intellectual representation agreable or good refers in these two cases to the object in its existence. The talent or will refers to the existence of this object and the satisfaction it gives us is interested. Unlike them the beauty gives us a pleasure which is indifferent to the existence of the object.

Through a judgement of taste we get detached from the existence of the object. There is interest only where there is need. We call need talent when its source can be found in the satisfaction of the senses and will when its source can be found in a goal determined by will. We can find in us only two natures – sensible and intelligible – source of a need, which is of an interest.

That is why any satisfaction which does not manifest a dependence on the existence of the object is disinterested and that is why beauty is different from the agreable and the good. "Kant's approach presupposes, in this first moment, a distinction among beauty, agreable and good. What is agreable is not always good and what is good is not always agreable. The values I respect, says Kant, are not always something I have a talent for. The aesthetical judgement activates in us a positive feeling of plenitude, the unique pure satisfaction connected to talent and respect."[5]

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[3] Immanuel Kant, *op.cit.*

[4] *Ibidem*.

[5] Ole Hansen-Love. *op.cit.*, p.16.

We perceive that Kant's artistic dialogue generates a special pleasure, which is a disinterested pleasure, being accompanied by a pure satisfaction which materializes itself in a sentiment of plenitude. However " the judgement about an object of our pleasure may be disinterested but in the same time very interesting. In other words taste is not based on any interest but it generates one. Kant wants to say that when we enjoy beauty we are not determined from the outside by pressures and impulses of our own body. He wants to prevent the conclusion that disinterest, liberty, contemplation may be terms which presuppose detachment and a purely intellectual attitude towards beauty".[6] In the same time, between the receptor and the object created by the initiator of the artistic dialogue, the artist, there is a relation in which each person becomes active and present: the receptor receives the beauty not as if it were a property belonging to the work of art, but in a different way, as it is influenced by the object, that is reconstructing it its signification. Kant's aesthetic dialogue is an active one and, in the same time, a dialogue which takes place within the space of the purity of aesthetic sentiments. "Beauty, says Kant, is loved in a universal way, without a concept. The analysis of the qualitative moment of the judgement of taste established the fact that the satisfaction produced by beauty is disinterested. This qualitative feature of the aesthetic dialogue has a quantitative consequence. A satisfaction, says Kant, which is not based on a personal talent or on an objective interest, may be attributed to everybody." [7]

The judgement of taste does not have an objective justification because it is not subordinated to any concept. However we talk about beauty as if it were contained in the object, without having any knowledge about it that is any concept of beauty in the object. Or, better, in it itself, says Kant. A concept cannot engender a sentiment of pleasure or pain. The aesthetic pleasure is disinterested. Thus even if it were a concept, this couldn't be the cause of this pleasure. So, if we considered our judgements of taste as being objective and logical we couldn't explain our disinterested pleasure.

As we personally observe beauty, Kant says, we can suppose that each of us will observe it as such. Kant calls this attribution of a satisfaction felt by many when facing beauty, subjective universality. Kant's artistic dialogue is a subjective one as much as the senders give value to the work of art, appealing to the subjective universality of the judgement of taste: "when somebody says that something is beautiful, he attributes the same pleasure to the others: he is not judging only for himself but for anyone and talks about beauty as if it were a property of the objects. That is why, when he says: the thing is beautiful, he does not expect an aproval from the others about his judgement of satisfaction, because he knows that the others shared his oppinion many times before. He demands this approval. He scoulds them if they judge differently and denies the good taste he demands

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[6]Gilbert Katharine, Kuhn Helmuth, *A History oh Eshetics*, Copyright 1953, Indiana University Press (trad. rom.l972, Meridiane, p.298)
[7] Ole Hansen-Love, *op. cit.,* p. 19

them to have. Thus, we cannot say that any of us has his or her own taste. This would mean that there is no good taste, which is an aesthetic judgement which could rightly demand the approval of any of us "[8].

Kant returns then to the distinction which he established at first, between beauty, agreable and good but he considers it from the point of view of quantity. The inclination expresses a personal sentiment, an individual preference which has a certain value only for the one who announces it. Kant defines the term of taste: taste is connected to senses - the perception of which is agreable - and taste of reflection - the representation of which is beautiful.

We have only one term in order to designate two distinct realities, fact which may cause confusion. To say that something is beautiful means to speak for yourself and for the others. While I may like green or red, someone else may like violet. The resemblance concerning the unanimity of tastes in connection to what is agreeable and the universality of judgements of taste is superficial. The former is about fact, the latter about right. There is a paradox in the fact that we can note an almost unanimous agreement concerning the agreeable, while, about the judgement of taste which claims the agreement of each of us we can encounter a lack of agreement. " There is, concerning the agreeable, a social mimetism which determines people to think and feel like the others. "

This so called taste is determined by an empirical law and subordinated to some particular circumstances. This empirical law functions in most of cases, but I can't know if it functions in all cases. The argumentation constitutes an indirect critique addressed to Hume's theory. This states that the judgement of taste is relative for each individual at a certain moment, and that there is a uniformity of judgements formulated by the human species. Kant says however that this uniformity of judgements of what is agreeable has not connection with the unity of human species, but with that "social mimetism" which functions so often in society. "I like an object from an aesthetical point of view in an impersonal way, and that which I like in an impersonal way, I like as a member of humankind, not as an isolated individual. Therefore, Kant considers himself rightful to describe the aesthetical judgement or the judgement of taste as universal and necessary. When we say that something is beautiful we ask everybody to agree with us. And yet we are not capable to indicate the other people the exact reason for which they should agree with us"[9].

The judgements of good are universal, but universality is based on a concept; good may be the object of a definition. The comparison between beauty and good supposes that we should distinguish the subjective universality from the objective one. The comparison between beauty, agreeable and good, from the point of view of quantity shows us that exactly what distinguishes beauty from agreeable – the universality – is what brings

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[8] Immanuel Kant, *op. cit.,* I, 2.
[9] Katharine Gilbert, Helmuth Kuhn*, op.cit.,* p. 299.

it closer to good. The same, what distinguishes it from good - the absence of concept - is what brings it closer to agreeable. The aesthetical judgement combines the sensitive nature of humans with the intelligible one.

The universality is proper to the judgement of taste. Kant considers it as a requirement without which beauty looses its sense. The universality of the judgement of taste shows a subjective relation of the representation with the feeling of pleasure or pain. The subjective universality of the judgement of taste does not allow me to establish a rule valid for a class of objects, as it happens in the case of logical universality. The aesthetical judgement will always be singular, because it is addressed to a single object which it indicates as being a totality. Therefore, we cannot indicate a rule which could help us recognise the beauty of a thing because that rule would suppose a logical universality. We have thus in the aesthetical judgement an objective singularity. The judgement can be applied to a single object and to a subjective universality. The aesthetical dialogue proposed by Kant is universal and subjective. It is universal because the judgement of taste to which the receiver of the work of art launches an appeal is valuable for all those who have the representation of the aesthetical object, but in the same time it is subjective because the judgement of taste doesn't permit me to make a rule concerning beauty, valid for a whole class of objects. The judgement of taste asks for everybody's agreement, in virtue of a rule which cannot be formulated, for which other's agreement is the only confirmation possible. "Though it seems to formulate a judgement about an exterior thing to itself in fact it formulates a judgement about itself. The authority of the affirmation of the universal validity of aesthetical pleasure is proper to a state of mind which we can rightly suppose that exists in all humans on certain conditions. This subjective condition is the harmonious interaction between reason and sensible perception."[10]

In the next pages Kant speaks about the following problem: if in the judgement of taste the feeling of pleasure precedes the judgement regarding the object or not, in other words if the aesthetical dialogue between the receiver and the work of art supposes a preeminence of the pleasure produced by the latter in comparison with the appreciation of the former. Analysing the disinterested pleasure, Kant states that it would be absurd to speak about the aesthetical pleasure where there is no agreement concerning the satisfaction in relation with the existence of a vital sentiment. This fact does not mean though that the pleasure si prior to the judgement of taste.

Kant will use the method of the reduction to absurd in order to demonstrate its thesis. "If pleasure is aterior to and is at the basis of judgement, it can depend only on the initial representation of the object and this representation is a particular one. The pleasure which could provoke the visualisation of the work of art by the receiver would only be an individual and powerless one when formulating a universal consent." As this pretention

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[10] *Ibidem*.

is a constitutive element of the judgement of taste, pleasure will be a consequence of the judgement of taste formulated by the receiver and not by its principle. What is transmitted through the judgement of taste is not knowledge, but a state in which the conscious spirit finds itself, excepting any particular knowledge."[11]

However Kant showed in the "Critique of Pure Reason" that the conscious spirit consists in the reunification of the imagination, which synthesizes the opposite of the sensibility, the intellect, the one which unifies the representations under a rule. In the judgement of taste, the representative faculties – the imagination and the intellect – interfere in a free and harmonious game. We can draw a conclusion from here, the fact that the receiver is active within Kant's artistic dialogue: the judgement of taste which it formulates about the work of art supposes a free and harmonious agreement between the imagination and the intellect. This harmony constitutes in fact the disinterested pleasure which the work of art generates. The free agreement between the faculties of knowledge is subjective because it doesn't determine any knowledge; in particular it is at the base of a pleasure which contains in itself the others' agreement. Kant will call intersubjectivity this fundamental communication of knowledge. The aethetical judgement is a fundamental act of communication of the receivers who actively take part in the dialogue proposed by the work of art.

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[11] Ole Hansen-Love, *op. cit*., p. 25.

THE SIGNIFICATION OF THE WORK OF ART

IN THE POSTMODERN VISION

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The postmodern era offers to the public, the receiver of art a series of innovations in comparison with postmodernism. At the end of the 70's the critiques addressed to modernism become more and more evident. Emphasis is laid now on the individual attitude promoting the freedom which gives everyone the task to judge and evaluate. The criteria and the norms established by the modern art are rejected and the currents called "postmodern" are considered remedies which have to solve the crisis.

In his essay "The Postmodern Condition" Jean Francois Lyotard said that the most important scientifical, moral and artistic theories of the modern period are old fashioned.

Nobody believes any more neither in the progress of humanity, nor in the emancipation of human beings due to science and technology. The crisis is irreversible. The term "postmodern" is synonym to "the critique of modernity", and "the post-avanguard" – the artistic version of postmodernism – can be found in painting, literature, music and philosophy. The postmodern artists juxtapose and mingle in an eclectic way the heterogeneus styles in the same work of art.

"Hassan too identifies some specific features for this period: urbanism, the city as a cosmos, the physical materials of arts change, there appear new means of communication, new artistic forms, the book as an artefact, art becomes common, optional, anarchic, radical, irony predominates, the entropy of sense, the comedy of absurd, the black humour, the negative parody, fantasy, game, humour, happening, a greater self reflexivity, the fusion of forms, the end of traditional aesthetics focalised on the beauty or unity of the work of art."[1]

Newman too will select some specific terms to postmodernism: the transavangarde, term borrowed from the Italian critic Achille Bonito Oliva which builds a model discontinuity, according to which the work of art instead of being a fragment belonging to a totality transfers its scope from the outside to the inside, from here resulting the possibility of isolating only one of its fragments, as an expression of totality.

Roland Brathes is among the first who anounces the death of the author and the autonomy of the text. However in many postmodern novels the author returns to the narrative under the form of a character. This character takes the name of the author on the cover and writes the novel we are reading.

The Allegory is another procedure specific to postmodernism. In the allegorical structure a text is read through an other. The creator does not invent images, he confiscates them. In his hands the image becomes something else. He doesn't establish the initial meaning (which could have been lost) again but gives a new meaning to the originary image.

The bricolage consists in putting together some fragments from other words of art in one single work of art or in using second hand objects and fragments of old materials in nowadays sculpture.

For the postmodern " bricoleur " nature is already culture and culture represents a second nature, the city and the mass - media being a multitude of signs.

The " bricolage " is a procedure possible for the making of the subject without a centre and its artefacts, more exactly for collecting the right images, quotes and fragments which form the postmodern work of art.

The simulation supposes the general expansion of the field of the reproduction of images, through mass - media or clothing, in a way which avoids the references to ideology.

The parody is so often found in the contemporary art that it can be considered one of the caracteristic strategies through which one can define the postmodern art.

Achille Bonito Oliva said in 1980 that the present context of art is catastrophical as it supposes a generalized crisis of all systems. The sentiment of the global crisis is affecting art, culture, economy and politics.

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[1] Mihaela Constantinescu, *Forme în mişcare, Postmodernismul*, Bucureşti, Univers Enciclopedic, 1999, p.18.

The artist of the postmodern era has no other chance than the repeted retrospective of the past and the acceptance of the present. Liberated by the modern utopy he is invited to enjoy the benefices of the contemporary era. Postmodernism is not a movement or an artistic trend but the current expression of the crisis which the Western society has to overcome. The sentiment of the generalized crisis is common to any ending of the century. Nothing is more evident than the 90's motto which states that " art is in crisis, crisis is in art, chaos is everywhere and everything is chaos."[2] Marc Jimenez asks himself if the crisis does not reflect afterall the permanent state of artistic evolution because the birth of a new trend in art has always been accompanied by a crisis which implied the revolution of the values which had to be overcome. Every era oscilated between two tendencies: that of the already seen and that of the new or the unseen. The present crisis is illusion or reality? Two answers which oppose each other standing at the basis of the perplexity of the contemporary artistic reflection.

We wonder, however, if the crisis and the absence of the crisis are not the two sides of the same phenomenon, which is the birth of a powerful economic system which has to deal with the cultural and artistic practices. The institutions and the cultural industries have developed very much lately. The modern cultural system has the advantage of cancelling the old antagonism from the bourgeois art, often elitistic, and the art of the masses, reserved to the public in general. Governed by the principle of rentability he gives a maximum of cultural goods to a huge number of people, accepting all forms and styles of the old, modern and contemporary art, not paying too much attention to the gerarchies of values, being even not interested in the value of the works of art. However he has his own criteria, known only by the experts and the specialists of the world of arts. The work of art is appreciated more according to the fame of the artist and less according to its intrinsic qualities.

It's outstanding that the term "culture" is substituted in most of cases by the term "art" in the everyday language. Art or arts become a subordinate of a sphere in constant expansion. This sphere is the sphere of cultural communication and has all the technological and media techniques used in order to promote these products. We can talk, the author says, of a cultural logic in order to designate the process of universalisation which deals with the exigence of democratisation within the modern society.

However this cultural logic doesn't satisfy all expectations of the individual or collective aesthetical experience. The public is often shocked in front of intriguing creations of contemporary art and is waiting in vane for the revelation of the aesthetical criteria. Being excluded from the game in which it doesn't know the rules the public finally is convinced of the existence of a consensus among the initiated and it is condemned to play the role of the docil and profane consumer. Frustrated and disoriented, it is assisting at the total dissolution of the aesthetical criteria. The nowadays reflexion on art

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[2]*Ibidem,* p. 48.

spends an important part of its efforts in order to solve the tension between the cultural and the aesthetical logic, between the passive acceptance of the benefits of the cultural system and the will to legitimate the appreciation and judgements connected to the works of art.

Which solutions can be imagined in order to prevent the disintegration of the aesthetic criteria? The first could suppose the restauration of the old criteria, the second the replacement of the obligation to judge and evaluate with the immediacy and spontaneity of the aesthetic pleasure and the third the search for new criteria.

The appeal to traditional criteria is very problematic. Which type of criteria should we use and from which era? Antique, classic, romantic, or modern? The aesthetic norms and conventions express the sensibility of a society at a certain moment. The second solution - the transformation of the artistic pleasure in criteria of quality and artistic succes of a work of art - isn't new; its origins can be found in the XVII - th century and reminds us of a dispute between those who used to base the judgement of taste on sentiment or reason.

Everybody recognizes that the week point of a work of art is that it can make the others feel indifferent or bored. The problem of criteria can be solved faster for the contemporary art. We eliminate the judgement, evaluation, and hierarchy of values and simplify the term "pleasure" very much. We acknowledge tacitly the fact that pleasure is something real in a pure state and that it can be felt according to one's temperament, sensibility and education. The pleasure specific to the aesthetic field is not criteria of the artistic quality.

The third solution supposes the redefinition of the aesthetic criteria which refers to the contemporary opera. The criteria are among others, the expression of a particular historic and social situation. There are no eternal immovable criteria which could permit us to appreciate from the same point of view Botticelli's paintings, Francis Bacon's works of art, Pallestrina's and Ligeti's music. If we want to talk about criteria we have to search them in the opera itself. We'll admit, for example, that it is difficult to consider that a work of art is successful – a chef d'oeuvre – when it is not noticed. The work of art designates an object, an action, a gesture. Applied to the contemporary art, the problem of criteria looks false.

The postmodernist current was defined as being the schizophrenic condition of the late capitalism. The schizophreny of postmodernism is like a *fin-de-siecle* parody or the caricature of a dualism inherent to the Western philosophical tradition, where the ego is defined as a transcendental rationality which supposes the gap between what it considers to be irrational concentrated on the schizophrenic circumstances caused by the fragmentation and other situations which prevent him from imagining the future in a coherent way.

We can define ontological security as the trust which most of people feel about their identity and the consistence of the social media and the

materials around. An insecure individual does not know if he possesses one or a multitude of egos, if the others really exist or if what he perceives really exists. Some mad people (the schizophrenics for example) think and act this way. This fractured vision of the reality represents the starting point of the construction of the postmodern character. Docherty considers that under the influence of the existentialist philosophy the concept of reality was seriously questioned in the postmodern narration. The character does not exist. He is always about to be postponed endlessly. Because the postmodern narration fractures the identity of the character this becomes incoherent, contradictory, confuse.

His characters are not repeated but contradicted all the time, and the proper names, where they exist, are used in an unconsistent way, gender is confuse. To cut a long story short there is a calculated ambiguity, a programmed confusion, an undetermination which touches both the text and the reality. "The identity of the character is always postponed, left in suspension, because the proliferation of information about a character leeds to irrationality, incoherence, selfcontradiction."[3]

The fictionality of the text and of the characters which inhabit it is questioned. From here we can note the confusion between the ontological status of the character on one hand and reader and author on the other. In order to give an example about the uncertain ontological status of the character, Docherty choses one belonging to R. Barthes, Menelau from the story The Menelaiad. Menelau's voice starts to tell the story of his own life to Telemach, Pisistrate and a hypothetical listener, obviously the reader. During the story he mentions he met Elena, who, evidently asked him to tell the story of his life. During this story, situated at a different ontological level and in another temporal scheme he met Proteus, who also asked him to tell the story of his life etc. In other words, Menelau is never fully present to himself. Any time he wants to identify himself he has to appeal to another Menelau who exists in a different narrative and temporal frame. Menelau's identity is characterised by this alterity potentially endless. He is always postponed, redefined, underlining himself endlessly in different situations and under different identities. Another of Barth's characters is Todd Andrews from the novel, *The Floating Opera* who is constructed as an endless sum of parts each with an infinite range of possibilities, however none complete or satisfactory. Being involved in an investigation about his father's death who commited suicide many years ago in the basement, Todd discovers he will never be able to find out the truth because the investigation goes on and on, an endless number of pages and explanations. With endless Borgesian intersections the investigation on his father's death is only a chapter of another investigation on his father's life, which this time refers to himself. Todd thus realises that the existence can't be explained in terms of a logical causality, because there is no source of individual behaviour, even if one refers to the psychological, environmental or physical arguments.

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[3] *Ibidem*, p. 81.

In the same terms, the schizophrenic protagonist narrator from Donoso's story *The Obscene Bird of Night* lives the ontological insecurity of the postmodern individual as a psychological disease. Telling the story of his life he assumes a variety of identities offering multiple and conflictual versions of the events in a desperate effort to build his own identity, which he never had, protecting himself from a hostile, scary world. The result of this effort leads to confusion, uncertainty, chaos. Another example, for instance from Robert - Grillet's novel *La Jalousie*, the central character – the husband – is never named or described. The identity is always undermined, questioned.

"In the postmodern novel we experience a symbolical death of the protagonist, in a conventional language we assist at the end of individualism. For postmoderns, the ego is fictional, a linguistical convention. The same, the postmodern characters are conscious about their own fictionality. Mc Hale considers they usually serve as agents of metalepsis, disturbers of the ontological hierarchy through the act of making conscious the recursive structures in which they can be found. For instance, in the novel Cien Anos de Soledad, the last Aureliano reads the profetical narration of the gypsy whose name is Melquiades about the destiny of the Buendias until the page where it is presented the moment of his lecture. The spectrum of the infinite regression is anticipated, cancelled through the instantaneous distruction of the manuscript and of the reader, act which represents, in the same time, the end of the book."[4]

Marquez operates in his fictional novels with characters - symbol. One of the most interesting characters, the dictator, has more metaphysical features than politic ones. The dictator is one of Borge's characters. He is obliged during his life to cheat but in the end he will finally be caught. Besides being a centre of negative existence, the patriarch becomes a magical centre. In the microcosm which he created he mistakes fantasy for reality, imposing to himself and to the others his uncertain and confuse condition.

"Postmodern teoreticians characterise the subject as lacking a true autentical representation and, therefore, being uncapable of self representation."[5]

The character seems to be situated beyond ideology, being defined through different representations, images and discourses which reproduce it. The postmodern subjectivity claims the right to difference, variation and metamorphosis. It's interesting to mention a statement made by the teoreticians of postmodernism, which is that the postmodern art is an art of diagram tracing and combining lines of division, operating of course with aesthetical materials. Initially the conscientization of the cultural production guides the postmodern art so that it can discover useful instruments in order

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[4] *Ibidem*, pp. 80-81.
[5] *Ibidem*, p. 83.

to liberate materials of their capacity to mean something so that they can build new semiotic regims and constructions without sense. Afterwards the mingle of some different semiotic regims becomes a strategy in order to free representation.

The postmodern deconstruction of identity, form and place constitutes a decomposition of the modern way of thinking and constructing.Linda Hutcheon[6] notes that the realistic notion of characters that coexist in a legitimous way if they belong to the same text is questioned both historically and fictionally. The facts of these fictional representatives are as true as false as can be facts in a transcription of history as they always exist as facts not as events. The same, postmodernism underlines and undermines in the same time the idea of a coherent, self sufficient subject as a source of signification or action. In order to surprise his readers, Barth[7] borrows characters from his own works (as in the novel *Letters*). They write letters to each other to themselves or to the so called "author". Many times the characters of the postmodern novels are artists, novelists who write novels ar characters who explicitly manipulate the others as if they were a director or a playwright. For Tester[8] the inhabitants of the postmodern fiction are a kind of nomads; they are not connected to one time and place and cannot be characterised through a fixed identity and, therefore, one cannot say about them that they follow a unique and exclusive path of history. The signification can be created only in the present, there cannot exist stable identities, fixed meanings or values.

One of the most important problems of postmodernism is to deconstruct the humanist conception of "individuality", of the coherent essence of the ego who exists beyond ideology. The postmodern texts place the subject in the middle of the political, social, racial forces who exert a certain influence on him.

Postmodern fiction plays with the structures of authority. It exists within the space between power and the undermining of power. Postmodernists say that the rational autonomous ego of the modern theory disintegrates, or that it has only been a myth and they sustain plural, not centered multiple forms of subjectivity. They try to cancel the modern, bourgeois, humanist subject. In the postmodern context, the "body" becomes a metaphor for the metaphorical postmodernist. Its connotations cover both the alter ego and the carthesian metaphysical subject. Postmodernists place language in the centre of this new vision, stating that the ego is built and modelled with the help of language games. The passage from the existentialist theories of interpretation, in which the ego has a central place, was very important when

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[6] Linda Hutcheon, *The Politics of Postmodernism*, London and New York, routledge, 1989.
[7] John Barth, *The Friday Book, Essays and Other Nonfiction*, New York, G.P. Putnam Os Sons, 1984.
[8] Keith Tester, *The Life and Times of Post-modernity*, London and New York, Routledge.

talking about the structuralist analysis. The structuralism shows that the signification represents the expression of the tensions between opposite pairs of terms, life – death, masculine – feminine. The deep signification of a text is controlled by these oppositions and not by the author himself. The ego has a multitude of layers. It is composed of social forces and especially of language. Smyth[9] also considers that the text of the postmodern novel is fragmented, fortuitous, disarticulated and the reader is provoked, obliged to assume the responsibility of establishing the order which the printed text refuses to him.

The passive traditional reader was replaced by the complice reader who will collaborate with the author trying to realise the interpretative synthesis which the text itself ceased to offer. The reading is first of all an option. Reading means to give a global sense, to place the action in what is called an existentialist language "an existentialist project". The reader is the one who achieves this. Only through the pact writer – reader the work of art exists as an aesthetical object, being in fact the conjugated effort of the writer and of the reader in order to make evident the concrete and imaginary object which is the work of art of the spirit. However the reader must pay attention to what exists in the work of art.

The postmodern author establishes a special relation not only with the reader but also with his own narration, entering a relationship of perfect equivalence, constructing itself and cancelling itself reciproacally. The authors create using linguistic, artistic and cultural conventions says Waugh[10] The postmodern writer reinvents the world and imaginates an alternative of the world, one of the multiple variants possible, an unfinished variant in itself. He is constructing his fiction starting from the principle of a fundamental opposition between the construction of a fictional illusion and and the revelation of this illusion. In this way there appears the author - narrator, critic and protagonist who is confronted with his own text. He places himself within the text in order to undermine and question the process of writing fiction itself.

The postmodernists are interested neither in the historic origin of the works of art nor in the structural analysis of the forms but in deconstructing the work of art so that the creative process can be seen. In the postmodern novels the meanings are rather plural than singular making us feel that the final act of the writing process is completed by the public. Postmodernism resembles a game, the hierarchical principles through which modernism structured attentively a feeling of order are replaced by other principles, those which favour chance, incident, process, fragment and not a finite, static state of being.

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[9] Edmund Smith (ed.), *Postmodernism and Contemporany Fiction*, London, B.T. Bataford Ltd., 1991.
[10] Patricia Waugh*, Metafiction, The Theory and Practice of Selfconscius Fiction*, London and New York, Routledge, 1984.

The work of art will have the status of an event. The artist becomes the spectator of this process and the public is invited to participate in the experience of the creation of the work of art.

Kernan[11] observes that the author was declared dead or that he was simply called a "bricoleur" of various fragments of language and culture in texts which come from works of art in simple cultural collages or texts with a temporary meaning.

In the postmodern novel the power of words to have a sense of their own is cancelled because any attempt to give a stable linguistic sense is decomposed in a free game having a multitude of connotations which deny truth. Olsen underlines the fact that the existence of discoursive "buffoneries" in postmodern text questions not only the theories referring to language but also the thing which words try to express - our world, our culture.The use of a mixed style underlines the fact that writer "is playing", refusing to offer the reader a stable compensatory vision of things.

Though the literary fiction is only a verbal reality it builds through language an imaginary world which has a full referential status, as an alternative to the world in which we live. The postmodern texts define themselves through an endless ambiguity of interpretation. They deconstruct grammar, logic and rethoric, contradict any statement as soon as they utter it, and postpone meaning endlessly. The ambivalence exists in any word, the void appears in any construction, and the coherence of the structure is definitely lost. To juxtapose or overlap different languages, registers or discourses means to place different worlds, maybe infinite in a space of tense confrontations. This aspect may appear in cultures or periods in which there exists a multitude of languages or discourses. Such a period is the postmodern period.

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[11] Aloin Kernan, *The Death of Literature*, New Haven and Londons Yale University Press, 1990.

THE BOUNDERIES OF IMAGINATION.

ASPECTS OF THE PLOTIN'S POLEMIC WITH THE STOICS

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In his polemic discussions with the stoics, Plotin will try to demonstrate the anteriority of the One towards reason generally and towards phantasy (*phantasia*) particularly, witch the stoics are trying to postulate as the only existing thing that could be said about One.

I will try to show the two points of view by presenting the main concepts that the two theories are involving also with a spectral view on the implications of these theories.

The genesis of the discussions surrounding the first principle it must be identify in the platonic dialogue *Parmenide*[1] who proposes the existence of the 3 main hypotheses regarding the first principle: the first henologic hypothesis regarding One, is that who shows the singularity of the principle, he being the one who can withdraw from knowledge and being. The next hypothesis is that of the plural One, and the last one is that who combines the first two, is that of the "single and plural" One.[2] Trying to make more comprehensible the platonian exposure from *Parmenide,* Plotin will propose a hierarchy between the levels of reality who will correspond to the 3 main

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[1] Platon, *Parmenide* 137c et seq., trad. Sorin Vieru, București, Paideia, 2008.
[2] Parmenide, *ed.cit.*, 155 e 5.

platonian hypotheses and by this they will become for him hypostasis[3]. The single and plural One will be identified with the Soul of the World, who is singular as an image of the intelligible model and plural by producing the sensible universe. The second plotinian hypostasis, in ascending order, will be that of the divine intellect who will correspond to the plural One hypothesis, match due to the plurality of the intelligible ideas that plural One beholds. Finally, the last one, the platonian hypothesis of the single One, will correspond to the plotinian One, preceding knowledge and being, anteriority that Plotin will try to demonstrate against the stoics also.

Even though Plotin makes this distinctions trying to prove the transcendence of the One by sustaining his fundamental qualities, those of being beyond knowledge, being and reason, still, for stoics there cannot be One as a general principle who can generate afterwards the existence of the sensible things, or even more, he cannot be seen as a reality that can sustain a singularity who is also capable of excluding even her self identity. The corporeal reality that characterizes the stoic world will suppress the possibility of such a principle that goes beyond existence, a principle who is capable to generate a diversity of ontological gradations and that can also overcome the possibility of human comprehension. The denial of any sort of transcendence from the stoic universe makes that even the idea of a principle who can generate and coordinate the sensible things be a simple notion generated by our reason when she finds borders in comprehending certain things, but even so, this simple notion has for the stoics no real fundament.

The stoic notion of the One, who must be able to explain an determined thing, enters in a very strong opposition with that of Plotin, in witch we not only have a singular principle who transcends this reality, but who is also trying to explain an unique origin of the world, in what regards the sensible world and also the intelligible world by having the 3 dimensions of the unity of the One (at the level of the 2 worlds, but also in himself, beyond all that exists). This opposition its felt more clearly if we take into account the different status that "One" as a notion is having in the two different philosophical systems. Thus, before we take into account this opposition regarding the validity of a transcendent principle, which is beyond reason and being, we must envisage the fact that, for Plotin, things present in them a unity and, as a fundament of each thing, this unity exists yet from the sensible world, long before it arrives at the first principle.

The position that the stoics are adopting it remembers of the Aristotelian point of view, according to witch the existence of a first principle that goes beyond reason and being is rejected, given the fact that to be one means for Aristotle to be a unique thing, so that one cannot be in itself , because he will be always accompanied by the being of that thing.[4] The

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[3] Plotin, *Opere* I, *Enneade* 5, V, 1-8, trad. Andrei Cornea, Humanitas, 2003, București, pp. 228-239.
[4] Aristotel, *Metafizica* 998b20, 1088a 1-16, trad. Ştefan Bezdechi, Bucureşti, IRI.

plotinian rejection of the way in witch Aristotle understands the first principle is built on the impossibility of any sort of identification between One and being, because for Plotin, One can only be accompanied with Being. On each ground of existence, One its making himself manifest, and by this, any being presents a unity of her own. We still have to pay attention here because this unity for Plotin it's not canceling the necessity that the first principle must be anterior to reason and being. This is a necessary condition because only in this way we can talk afterwards of a unity in each being.[5] Because there is the difference that I've spoken before, between the platonian One, seen as a first principle and One existing in things, as an inner principle of them, Plotin will create this opposition against stoics starting from this inner unity of the things, still, I will try in the development of my paper to use stoic arguments to prove the validity of an transcendent principle.

We must observe that Plotin creates a sort of reversal of the multiple sense that the verb "to be" has for Aristotle: "to be" for Plotin will mean to be one and not to be plural. Given the opposite way in witch Plotin understands the first principle, we arrive now at what he opposes to the stoics also.

For Plotin, a thing is determined in his own being because of the presence of the first principle in him. Quite in this regard the stoics differ a lot from Plotin by rejecting any sort of platonic ideas or numbers existing in their own. They do, in exchange, admit the fact that we could have mental representations about particular things. Such as the plotinian One generates ontological gradations, we could speak also in the stoic system about the existence of a supreme genre, but this is the particular, that something (*ti*). Because of this concesion, we could speak about One as a corporeal unity, given the fact that One is a concept subordinated to the higher genre.[6]

As a result, for the stoics, One can only be as an alteration (affectation) of the soul, in the way in witch our soul perceives every thing as one.[7] In the stoic epistemology, within the theory of perception, a central concept is *phantasia,* image, impression, presence or representation, witch, regarding Chryssip's theory, is born from an existing object, being engraved according to the object itself, *how it would not be possible to happen from an inexistent object.*[8] For stoics, phantasia was seen as a change, as an alteration of the soul (*alloiosis*). We could sense in the stoic concept the aristotelian influence on them, so we may assume that the stoics could have been following an adaptation of the aristotelian way of seeing and discussing phantasy for a materialistic way of interpreting the existence.

Some enlightenments on the stoic concept of phantasy we could get from the materialistic epicureian vision. In the theory of perception, *phantasia*

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[5] Parmenide 142b7-c(e)5, *ed. cit.*
[6] Plotin, Enneade, VI, *ed. cit.*, pp. 250-263.
[7] Brehier, *Theorie des incorporels dans l'ancien stoicisme*, Paris, Vrin, 1928.
[8] Dufour, *Chrysippe ouvre philosophique*, Paris, Les Belles Lettres, 2004 (personal translation).

is the one who helps built an image, as Epicur says, the result of a succession of similarities that are belonging to an object that hits us and all of them are creating a complex image of an object.[9] In the birth of an object's image there are involved a variety of *phantasiai* who are entering in contact with our own perception, even if Epicur talks about an unique type of *phantasiai* who can affect straight our mind, the images of gods.Starting from *phantasia,* from something that was from the beginning presented to us, we will acquire afterwards *prolepsis* or apprehension, later understanding of the thing that stoke us before. The understanding of the world starts from the first *eidola* (images) that are interacting with the sensitive object, raising thereby *phantasiai* who will afterwards give birth to preconceptions. The fact that stoics are seeing the formation of *phantasia* as an alteration of the soul, proves the manner in witch our faculty of being affected (*aesthesis*) must be understood, as the soul's power of perceiving, in a sense that is situated above the common sense of perceiving. The *prolepsis* provides clarity and a sense between the semnifications of the images received.[10] Still, even if the role of the preconceptions is this, to offer a clarity to our knowledge, the epistemologically described system its not infallible, because if the phantasy wouldn't be able to give a coherent representation of the image formed and they would offer a misleading one, this will lead to the formation of a wrong preconception who will affect the whole path of knowledge. We could discuss in this point the possibility that such of situation could be avoided. Even if we have the straight line to follow for certain knowledge, this type of errors couldn't be avoided, only if we play all the cards on the mental capacities of the receiving subject, especially in the way that he is exercising the upper part of his soul.

As what is concerned in the plotinian theory of cognition, the problem of knowledge is posing regarding the conditions in witch we can grasp and assign an infallible knowledge to the single level of universality witch allows the possibility of being thinkable, the Divine Intellect.[11] If we follow the stoic conceptual development, we can relate in neoplatonism the problem of perception with the possibility to demonstrate the reality of the Divine Intellect, for whom the is no necessity to demonstrate the truths that govern this world, because they are evident.[12]

The concept *eidola* that we mentioned earlier regarding the stoics we could find it also in Plotin, but with a different meaning, for Plotin *eidola* will be an image in witch nature will leave the content of the image, making hereby that the sense of the stoic individuality be lost and the only way of finding a sense for subjectivity will be only by returning to the soul. If we

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[9] Phantasia in Classical Thought, cap.III, The epicureans and the stoics, pp. 38-5.

[10] B. Inwood, Cambridge Companion to the Stoics, Stoic Epistemology, R.J. Hankinson, Cambridge University Press, 2000, pp. 59-85.

[11] Llyod P.Gerson, Cambridge Companion to Plotinus, Kjalar Emilsson, Cognition and its object, pp. 217-249.

[12] Plotin, *Enneade*, V, 3-5, ed.cit, pp. 230-233.

apply here the aristotelian principle of anteriority, we will see that we cannot have a material image without a preexisting eidola, the purpose of existing in the soul immaterial images is that of producing a modification at the level of the subject's interior life (Phidias and the bronze statue), even though we find the same alteration of the soul in producing phantasia in the stoic system, there is not one capable of modifying the nature of the subject as *hegemonikon* because these changes will take place at the cognitive level. For neoplatonists, in the processes of knowledge, the individual soul is the one that receives the shape or the essence of the object. But, he cannot be directly affected by the sensitive objects, because his nature inclines towards the intelligible realities, and the way in witch he will arrive at the shape of the sensitive object will be through a primary affectation (*pathe*) of the sense organs, this process of "assimilation" as Plotin describes it, will be later transmitted to the soul. The transformation that the process supposes it will be that it will arrive at the soul from an affectation of senses in a form of judgment. But the judgment that it will return to the soul will be that of the sensitive object, not of the affectation.[13] The affectation caused by sense objects its one that keeps the trace of the qualities that the exterior object had, but in a way, they differ because these qualities left the content of the object, his substance, but they don't become entirely intelligible still keeping the spatial characteristics of the object.

We seen now clearly that in Plotin's theory of perception, what is known through perception its an image (eidolon) of the object, and not the object itself. The common point in witch Plotin seems to encounter here the stoics is the fact that, for neoplatonics also, the ground of our knowledge is still a representation, through perception we arrive at a subjective representation of the exterior object. But the main difference that Plotin will depict here is brought by the perceptible qualities of the object, by what they represent and transmit, they will be images or representations of the intelligible essence of the thing and especially this intelligible essence will be the real thing.[14] Unlike the stoics, we encounter in neoplatonism the fact that the material substance of the things posses a formative principle that constitutes their essence. In this study[15], we encounter the problem if imagination can be held responsible for the good action. Before we could go deeper in this problem, we must clarify that for stoics the way in witch we perceive and reason lead to some differences between phantasias.[16] Their main detachment will be in phantasiai that will correspond to the rational beings (logikai) and logoi for the irrational beings (animals).

Logikai phantasia will refer to inner reasoning and language. Also these ones will divide accordingly with the way in witch they are produced:

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[13] Cambridge Companion to Plotinus, Cognition and its object, pp. 217-249.
[14] Cambridge companion to Plotinus, ed.cit., pp. 223.
[15] Sophie Haraouluniau-Gordon, Aristotle's Phanatasia and its role within Phronesis.A Question, Northwestern Philosophy.
[16] Phantasia in Classical thought, ed.cit., pp. 45.

the ones that are formed through division of the senses will be aisthetikai phantasiai and the ones realized using reason will be ouk phantasia, this being the case of incorporeals and of those obtained through reason.[17] Even though these are explained by language, their will have an inner judgment.

We can see once again the difference between the two philosophical systems because the material soul of the stoics, even if at first creates the impression that he is a sort of tabula rasa, however he contains in himself the power to form afterwards his own ideas, unlike the plotinian system where for being able to generate the sensible reality the soul starts from the image of the intelligible ideas that he receives by contemplating a superior transcendental step.

By trying to explain the way in witch in the stoic system the comprehensive representation is taken as a measure for truth, we will indistinctly arrive at the distinction that the stoics are making between the corporeal hings and the *that something* that can be created in our mind due to the fake thoughts. The existence of this particular genre of things, this *something* (*ti*) shows how important was for stoics to find in things this particular, much important than to determinate their particular being, what this particular found in things is or a transcendent principle that can govern the world. The corporeal inexistence of an object that creates phantasia leads, however, to the formation of an apparition (phantasmata) that form *something*, appearing as an object of a mental state. For stoics, the genres and the species its realized only by referring to mental concepts, witch aren't "something", but "apparitions" who are behaving as they ware "something"(phantasmata), but with all this, this controversy regarding if they are or aren't something still remains because we may encounter different perspectives in witch these apparitions are "something"[18].Following this example that shows the complicated nature of the concepts we can see the type of argumentation that sustains the existence of *something* as a supreme genre for stoics: this type of concepts if they cannot be something, they still cannot be something else, but by arguing like this we arrive in the end at considering them something, because for the stoics anything is something. We can try to approach the stoic concept of phantasmata of the plotinian One, because for stoics there are concepts that couldn't mean something and phantasmata designates the objects towards whom our mind is pointed when we have in mind abstract things (phantasia). These concepts are continuing to be something even if they don't ask for corporeal existence; they still exist in our mind in a shape of something.

We can see now the main difference between these two concepts, the fact that they are changing the ontological register in witch they are formed

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[17] Phantasia in Classicalthought, p. 53.
[18] Intentionality in ancient philosophy, After Aristotle, Stanford University Press, 2007 http://plato.stanford.edu/entries/intentionality-ancient/#6.

and also, for stoics any sort of cognition takes place in the corporeal reality while for Plotin One has to be anterior to any corporeality and existing independent form any mental exercise. Taking in account all of these we cannot raise an objection to the plotinian system especially if we follow the stoic way of thinking because the way I witch Plotin proposes the arrival at the One can be a modality and implicit a limit to our reasoning, because we cannot think simultaneously, when we think we will always separate the thing thought from other things in a manner in witch he can result from the things of whom representations we have. Plotin will argue the impossibility of sustaining these ideas because the idea of the One cannot be obtained from the representation that we make of One due to her lack of unity.[19]

The formation of a representation supposes always an object and a subject. For Plotin One is much more than a simple representation, One is already in our soul, he is the reason of us being human beings. Because there is the possibility of limitation the characteristics of One, Plotin will draw attention that there is a difference between the notion of the thing in witch there is One can be found and the notion of the One. By this Plotin is trying to clarify the nature of the One and the correct way of understanding it.[20]

Unlike stoics where the notion of the One supposes an alteration of the soul who will generate only units reducible to determinate nature of the things, for Plotin, a reason who reflects of One will report in her exercise to the nature of the One who is irreducible to the things in witch One can be found. Including the reflection of the One cannot be realized without the One.[21] The variety of the determinate meanings that the mental contents we have regarding the incorporeal objects, expressed in language (axiomata), who can still be considered something and the plurality of genres and species uses to Plotin as an argument for showing that something is different because its an otherness to One.[22]

For Plotin there cannot be no thought about a plurality that cannot be reported to One.[23]We see now clearly the plotinian difference between One who thinks (the unity that exists at the level of our way of thinking) and One that exists before being thought.[24] Plotin puts forward this way of thinking by reasoning that including the inexistence of One is based also on his existence.[25]

Concerning what stoics are adding later to the thing that our mind reflects on, for Plotin this unity its self subsisting, being previous to the thing witch is added and to the reason that thinks it. Another obvious difference that results from the critique that Plotin does to the stoic representation of the

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[19] Plotin, Enneade, 6, 6-8, Ed.cit. pp. 260-263.
[20] Plotin, Enneade, 6-8, idem, p. 264.
[21] Idem, pp. 260-264.
[22] Parmenide, ed.cit., p.
[23] Plotin, Enneade 6,ed.cit.
[24] Idem, pp. 259.
[25] Idem, pp. 250-258.

One is the loss of the fundamental character of the One, as a result we may refer to two different concepts: for Plotin, One that is identified in determined things does not share the same natures with them, he must be perceived in an intelligible way, being One through participation and separating himself from the nature of the thing in witch he was perceived, remaining intelligible; unlike the stoics where he is only a representation occurred after thinking of a thing that has the character of an unity.

This type of approach that we find in the stoics reminds us of the aristotelian identification between One and being. For Aristotle, One cannot exist in itself, because he will be met in every class of objects together with being.[26] In this manner, One will only be only what our reasoning customize form the existing particularity only for being able to practice her role, that of thinking, this shows that we discover things already in a sort of way of being, already integrated in a category. In the practice of thinking of the One, our reason will always represent something specific. Same as for stoics, the thinking of the One beyond existing things its not possible, even more this thinking of the One will not enrich our knowledge, not adding something to the thing witch is thought. As contrary principles, One and plurality are both belonging to the same science.[27] Such way of thinking cancels the anteriority of the One supposes by Plotin as necessary for the existence of an unity of being. The claim made by Plotin for the existence of One before all the units identified at the level of being we encounter it in Platon's Parmenide, where One can accompany being in all her parts just because he is different from her.[28] Once again we notice a slightly difference between Plotin and stoics regarding the origin of the plurality of things. For Plotin this plurality of things will hit the limit imposed on them, namely One, because things exist as plural beings only to the limit imposed by One. In the stoic universe, the plurality of things its admitted in a world that is identical with herself, the cause of this plurality are the seminal reasons that exist in plants, animals, people. People present the rational principles (logoi) who guide their development and for inanimate things the hectic soul will assure the cohesion of the things and the cosmic unity.[29] This cosmic unity will be realized in neoplatonism by the Soul of the World who will create the corporeal order requested by the Intellect. The creation will be the result of contemplation, the Soul will look at the eternal Ideas, conceiving afterwards immaterial logoi who will affect the lowest parts of the soul, as logoi affecting the matter or the substance of the world. The stoic passive substance of the world it's activated by the active logos who is immanent to her. The spermatic logoi, as parts of the soul, show like this that the logos it's a corporal one. This rejection of any sort of transcendence by the stoics its once again proved by the fact that, during the

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[26] Aristotel, *Metafizica*, 1088a 1-16, București, Humanitas, 2008, trad. Ștefan Bezdechi.
[27] Aristotel, *Categorii*, trad. Constantin Noica, Humanitas, 1998.
[28] Platon, *Parmenide*, 142b -143a ed. cit., pp. 95-97.
[29] The Cambridge Companion to the stoics, ed.cit., pp. 231-248.

conflagrations, the logoi as eternal causes will survive and they will take, in the stoic system, the place of platonic Ideas.

Neoplatonism once again will operate a dematerialization of the stoic concept of *spermatikos logos*, because the Soul of the World will be Logos, and thereby the one who will interpret the Intellect in the sensitive world.[30] Logos is seen as a part of this soul and because there is participation he is part of the Nous also, who logic cannot be distinguished given the fact that discursive reason it's the one that expresses the logos. The materiality of the stoic logos its rejected by neoplatonism because for Plotin, the soul, and not the matter, contains logoi. The development of the world through logos spermatikos starts for stoics from the immobile seed who passes through a gradual evolution to a plurality, and the reproach that Plotin makes here its that, in this way, the logos spermatikos will lose his inner unity, extending outside of himself.[31] Beyond the loss of an inner unity of the world, Plotin will reproach to the stoic system also the fact that the logos who exists in matter will no longer be an act of the soul or the result of contemplation, remaining only a capacity to modify matter.[32]

We see now clearly the two aspects-logos situated in the body for stoics and logos found in the soul for Plotin, this difference it's necessary to strengthen the plotinian critique of the concept of the One, because it will underline especially the lack of unity in the stoic system both in the corporeal world, the lack of an unity in the individual things, as well as a lack of unity at the intelligible level, by lacking a transcendent principle.

Eve if resemblances could be identified, and the more important oe is the ontological status of the Logos, we do agree with R.E.Witt[33]in the fundamental point in witch the two philosophical systems differ: is the manner in witch the cosmos is built: for Plotin, the creation f the world its without time, without a historical conflagration that can destroy it. Following this distinction, we will identify now two fazes in the development of the Logos for Plotin- its one who reproduces and the other who gives order in this world and they form together the universal Providence.[34]

Even if, for Plotin this essential limitation imposed on being is the one that will make possible the existence and definition of being, it's also the one that will assure stability for being (beyond plurality, the unity its necessary for being to exist). By demonstrating that there is a unity of things that isn't separated from our own thinking, the stoics show only the fact that our own reason has boundaries being unable to perceive beyond a plurality of things. For Plotin, this unity it's a subsisting nature of the thing that forces the limits of our reason and the only thing left for reason it's to suspect this strange

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[30] R.E. Witt, The plotinian logos and its stoic basis, The Classical Quartely, Jstor, Vol. 25, Nr. 2, 1931.
[31] Plotin, Enneada III, 7, pp. 214-249.
[32] Plotin, Enneade, II, 3-14, pp. 179-201.
[33] The plotinian logos and its stoic basis, ed.cit.
[34] Plotin, Enneade, III, 3.4, ed.cit., pp. 209-210.

nature and to recognize as it.Beyond rejecting this sort of transcendence in the plonian system, the stoics have no room for any sort of incorporeal.[35] The only place where we can have the trace of transcendental effect its when, following Chryssip's arguments, a conflagration takes place.

In the plotinian anthropology, the production of images plays a central role[36], but unlike for stoics, the essential aspect will be exactly this detachment from the body and the acceptance of the soul as an image of the Intellect, because only like this we will be able to obtain practical and theoretical wisdom, as a permanent necessity for understanding.

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[35] E. Brehier, *Theorie des incorporels dans le ancient stoicism*, Vrin, 1928.
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GMO – BIOETHICAL ISSUES

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Abstract:
During the last fifteen years biotechnology, genetic engineering, transgenic organisms or genetically modified organisms (GMOs) have been raising numerous controversies. In the scientific sphere, genetic engineering and GMOs represent a special challenge for geneticists, breeders and physicians, in philosophy it is a topic of interest for bioethicists and agricultural ethicists, environmentalists are interested in the interconnectictions between new technology and environment protection, for multinational companies this is a potential source of huge profits, and for certain governments they represent an instrument for strategic control of food production within their countries as well as internationally. By taking into account the views of both advocates and opponents of this "revolutionary" method, the author believes that we should not *a priori* reject new and insufficiently studied technologies, but that in this particular it is necessary to be extremely cautious, in other words that from (bio)ethical point of view only those GMO investigations limited to scientific purposes are justified, provided that all required precautions have been taken. Also, the author is of the

opinion that in this region as well as in Europe as a whole, at this moment, transgenic organisms are not necessery, neither in agricultural production nor in the food chain. Arguments for such a statement are found primarily in the potential issues that intentional breeding of GMOs might inflict upon the human health and environment. Namely, if borders of individual species are not overstepped and if their endogenous traits are made stronger, the potential risk of causing irreparable damage for both present and future generations which may be brought by changed biological succession will be reduced, i.e. one of the four fundamental bioethical principles will be applied and that is the nonmaleficence. Further intentional decreasing of biodiversity should not be allowed, which means that it is necessary to respect as much as it is possible the complexity of the very nature, its autonomy and "otherness".

Key words: GMO, biotechnology, bioethics, agricultural ethics, "Green Revolution", "Gene Revolution", potentiality, actuality, controverses.

Biotechnology, molecular genetics, genetic engineering, transgenes or genetically modified organisms (GMOs), represent methods, technologies and products that not only were shaking the scientific circles at the end of the previous century, and certainly will not remain an exclusive topic for narrow academic circles in the new millenium, but they will also become a subject of approval or rejoice for laymen. At the very beginning it is necessary to clarify the actual meaning of the key phrase of genetically modified organisms. The problem has occured due to its relatively frequent, differentiated and uncritical use, and also since the "self - explainatoriness" of a certain term is never sufficient and its commonality is never philosophically relevant, because it neither says much about the term itself nor facilitates its understanding. Genetic modification, in its broadest sense, implies any alteration in genes, potentially by recombination of inherited parent genes, and is obtained by combination of parent organisms, hybridization during the process of breeding and selection of organisms. Genome changes can be also changes in the number of chromozomes, or larger changes in genetic makeup, obtained by cytogenetics techniques. Genetic modification can occur at a gene level, or at the level of a smaller group of genes, by techniques of molecular genetics, i.e. genetic engineering. All organisms obtained in the above mentioned ways can be considered as genetically modified. So, by genetically modified organisms we mean organisms whose genetic makeup has been altered in ways not possible through traditional reproduction or through natural recombination of existing genes of the species. In other words, these genetically modified or transgenic organisms have had their genetic makeup modified in the way that could never have happened in nature. Gene constructions by which the host genome is modified most frequently originate from totally unrelated species, and thus the limits in the natural gene flow of changes of genetic information are either

eliminated or moved.[1] DNAs of genetically modified organisms contain genes introduced from a different species, or genes introduced by laboratory methods and techniques. Genetic material introduced into DNA of the host cell can be taken from plants, microorganisms, insects and animals, including humans, while so called synthtetic genes have been also mentioned recently.

Almost until the mid-XX century, the production of the majority of agricultural crops was dominated by local populations, i.e. cultivars characteristic for specific growing regions, well adapted to local conditions. These varieties did not require large production investments and generated, for the time being, sufficient yield and quality level in agricultural regions. Demand for higher yields and the logic of capital led to gradual retreat of these populations in favor of more intensive hybrides. Although the replacement of local populations in production by more intensively breeded crops began in early XX century, full intensification of the agriculture production did not gain momentum until 1940. The end of 1950's and early 1960's were marked by so called "Green Revolution",[2] which by shortening the wheat stems changed the ratio of vegetative and generative parts of the plant in favour of the latter one, thus facilitating a significant increase in production primarily of wheat and rice.

In order to introduce new varieties and hybrides of agricultural crops 13 international scientific and research centers have been opened for the studying of different agrarian systems. These centers are located in Mexico (for corn, wheat), Philipines (rice), Columbia (tropical food crops), Nigeria (tropical food crops in humid and subhumid tropical regions), Ivory Coast (for rice production in West Africa), Peru (potato), India (food crops of dry tropical regions)... Owing to the center in Mexico, for example, wheat yields have been tripled and this country has become the founder of "Green Revolution". Similar results have been achieved in Pakistan and India, while Philipines International Rice Research Institute has achieved a significant success by introducing high-yield rice varieties. These varieties, named Philipine varieties, not only provide high yields but also grow significantly faster enabling for 3-4 harvests per year, and therefore they have spreaded in all countries of the Southeast Asia.

Irrigation procedure, in addition to new varieties and hybrides is also important since new grain varieties could realize their potential only in areas with favorable humidity conditions. Therefore, while the "Green Revolution" was started in many countries, mostly in Asia, more attention began to be paid to the irrigation of agricultural crops.

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[1] Over 3.000 plants, animals and microorganisms have been developed in this way, mostly in laboratories in USA. However, only a little over 40 species of GM plant culture has been approved for marketing and a relatively small number of projects has been completely commercialized.

[2] The central figure of the "Green Revolution" is the American scientist N. E. Borlaug, Nobel Peace Prize lauerate for 1970.

The third component of the "Green Revolution" success is related to the application of contemporary agricultural engineering, synthetic fertilizers, pesticides, etc. Nitrogen fertilizers are particularly important because new Mexican wheat varieties, for example, require even three times more nitrogen fertilizers per hectare than usual varieties (130:45 kg/ha).

Positive effects of the "Green Revolution" in some developing countries were evident. They led to the increased food production, thus somewhat mitigating the issue of hunger in the world. According to some data, during 1960's the "Green Revolution" helped save around a billion people from hunger, mainly in Asia and Latin America. In addition to the increase of grain yield, its consumption per capita was also increased. India, Pakistan, Tailand, Indonezia, China and some other countries reduced or stopped importing grain and thus became self-sufficient in this respect.

The last forty or so years of the 20th century in which the "Green Revolution" was implemented have also brought about a series of negative effects. First, it has to be said that positive effects of the "Green Revolution" are mainly visible in Asia and Latin America, whereas in Africa, for example, the spread of new wheat and rice high-yielding varieties constitutes only 2%. It is a fact that at the beginning of XXI century people living in the countries of Sub-Saharan Africa are still dying of hunger, and that the availability of food per capita in this region, since 1990 until present, has decreased for at least 3%. The issue of world hunger is certainly not caused by mere technical scarcity of food, which in fact we have in surplus and which is even being destroyed in order to retain favorable prices at the market, but by much more complex social and political reasons which are still today holding back the availability of food to the poor, and thus makes them even poorer than they used to be at the beginning of the "revolution". Second, growing intensive varieties and hybrids at large areas led to disappearance of many local and indigenous, "wild" populations, resulting in the errosion of genetic diversity, i.e. reduction of biodiversity. Third, irrigation and intensive cultivation led to significant errosion of arable land and soil degradation. In the fourth place, agriculture has become highly dependent on fuel products, primarily oil. In the fifth place, agricultural production has also become dependent on the use of chemical substances (pesticides and fertilizers). In addition to the increase of production costs this resulted in the pollution of soil, water and overall environment. Six, more intensive agricultural production led the most developed countries to a better geopolitical and economic situation, and they were able to organize and finance plant breeding programs, as well as intensive agricultural production and to market seeding material and agricultural products globally. In the seventh place, production in monoculture led to greater frequency of weeds, diseases and pests. The problem of such "factory" agricultural production in monoculture was particularly obvious in USA, i.e. in the countries which used to organize

such production at large areas, as is the case of the American Midwest (so called Corn Belt).

A resolution for the problem brought about by monoculture and by constrained variability of breeds and hybrids, was sought after in GMOs, which are more distantly related to their indiginous "relatives" then their breeded, selectioned and intensive predecessors obtained by classical hybridization used to be. In what way is this increased distance reflected? It is generally known that plants in natural populations, wild relatives, are highly adaptable. This adaptability is reflected so that, when all conditions are unfavorable, they will reproduce minimally, merely to propagate the species. The more conditions favorable the conditions, the greater scale of reproduction there will be, though it will never turn into a super production. The imperative of modern agricultural production is exactly to "demand" plants to produce as much as possible, as stable as possible, almost regardlessly of environmental conditions. Such a "request" has to lead to increased human intervention in agricultural production and to lead to further and further modifications of plant genome. Classical breeding (crossing of parents of the same variety or closely related and selection of off-spring) was not a sufficiently efficient method anymore to offer a satisfactory solution, so the technology of creating transgenic organisms entered the scene. Legitimacy of the new technology is once again being attempted by mentioning the old problem: "resolving the issue of world hunger", while what was going on backstage was a much more prosaic struggle of highly developed countries to gain monopoly in all segments of plant production, as well as large multinational companies running after maximum profit rates.[3]

How do relevant data on GMO, or as they are more and more often euphemistically called *biotech* plants look like?[4] Summarily, total area in the world used for growing of GMOs, in the period from 1996 to 2010, amounts to somewhat over 1 billion hectars. Areas from 2010 of 148 mil. ha under GMO represent an increase for about 87 times in comparison to initial 1.7 mil. ha in 1996., and shows that "Gene Revolution" undoubtedly represents the fastest adopted bio technology in modern history.

Today GMO is grown in 29 countries at all continents,[5] which represents a significant change in comparison to the initial stage. Namely, in 1996 GMOs were grown in only 6 countries, primarily in USA, Canada,

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[3] Most frequent transengenic plant species in production are those whose genome was modified by inserting gene constructions for broad range herbicide resistance, i.e. total herbicides. Indicatively, as a rule, these are specifif herbicides produced and patented by the same company whic had produced and patented related transgenic crop, as well as gene construction.

[4] Data further below have been taken from: C. James, Global Status of Commercialized Biotech/GM Crops, *ISAAA Brief* No. 42., Ithaca, NY, 2010 (Internet address: http://www.isaaa.org).

[5] In addition to these data there are estimations that by 2015 GMOs will be grown in about 40 countries at about 200 milion hectars.

Australia and Argentina, with the majority share (1.45 million hectars out of total 1.7 mil. ha) being grown in USA. Although, still today, about 45% out of the total area under GMO is in USA, and 87% out of all areas in the world are at the American contintent, there is a tendency of the spreading of areas under transgenic plants. Analysts are particularly pointing out the expansion of GMO growing in India, China and South Africa. Indeed, areas under GMO in these countries are rapidly increasing: mostly in India where areas under Bt cotton seeds starting from less than 50.000 ha in 2002 rose to 9.4 million ha in 2010. In China areas under GMO have been increased from modest 34.000 ha in 1997 to 3.5 million ha in 2010. South Africa has risen from negligible areas in 1998 to the 9th place in the world with 2.2 million ha under GMO.

EU market does not accept food with GM ingredients. The culmination was reached in 1999 when EU introduced moratorium to transgenic crops, also implying a ban on importing of all transgenic products from USA to EU. This reflected on sowing plans of American farmers in 2000, who became additionally concerned due to the requirements for GM food to be specifically marked, as well as by the obligation of traceability i.e. documented tracking of a certain product along the entire production chain. This is certainly one of the reasons why the year 2000 was a year of decelerated growth in growing of GM crops. Introduction of 17 new transgenic corn varieties (modified by "MON 810" transgene) to the common variety sort of EU at the end of 2004 by some authors subsequently was interpreted as *de facto* lifting of the existing moratorium.[6] The report for 2010 shows that GMOs are grown only in 8 EU countries, out of the total of 27 countries that belong to this organization. Spain is the leading country under GMO last year, and it is the only European so called *biotech* mega-state. Other six members of EU (Czech Republic, Portugal, Germany, Slovakia, Romania, Poland and Sweden) grow Bt corn or potato on small areas (total area under GMO in EU in 2010 amounted to 91.643 hectares). Although areas under GMO in Europe are proportionally small, in recent years there is a tendency to proclaim regions where transgenic plants will not be grown, i.e. so called "non-transgenic zones". In some of the EU countries GM-free region networks are declared, and many European cities are adopting declarations on GMO-free status.

Researchers, like James, tend to point out the fact that in 2010 the number of developing countries (19) growing GMO was 90% higher than the number of industrially developed countries (10). It is also a fact that about 59% of the total world population lives in the afore mentioned 29 countries where GMOs are grown. Also, somewhat more than a half of total areas under plant crops in the world (which amount to about 1.5 billion hectars), i.e. 52% or 775 million hectars, is located in the afore mentioned 29 countries. Nevertheless, we should not forget that GMO, with 148 million hectars

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[6] EU faces an additional problem of the banning of GMO cultivation at its territory, after it lost the WTO dispute brought by USA, Argentina and Canada against it.

proportion, cover only about 10% of total world area under different plant species.

Among transgenic crops which in 2010 were the most cultivated ones, there are soybean, cotton, maize and canola. GM soybean covers 81% (or 73.3 mil. ha) out of the total area under this crop in the world (90 mil. ha). Here we should also add that GM soybean covers about half (49%) of the total area under all GM crops. GM cotton covers 64% (21 mil. ha) out of total cultivated areas under these crops (33 mil. ha), at the same time covering 14% of areas under all GM plants. GM maize, which is increasingly grown in this way, covers 29% (46.8 mil. ha) out of the total area under this crop in the world (158 mil. ha), and 32% of all GM plants. GM canola is grown at 23% (7 mil. ha) of all areas under this crop (31 mil. ha), thus representing 5% of total areas under GM plants.

Since the beginning of commercial growing of GMO resistance to herbicides has been the leading genetic modification.[7] Areas under such modified crops have increased, from the initial 6.9 million ha in 1997, to 89.3 million ha in 2010. There is an interesting data that in 2010, for the fourth time in a row, areas under crops with two or three simultaneous genetic modifications, were larger (32.3 million hectars or 22% out of total areas under GMO) than areas under GM crops with insect resistance (26.3 million hectars or 18% out of total areas under GMO).[8]

GMO proponents claim that GMOs have led to increased quality and fertility of agricultural crops, increase in the quality of food products (longer durability and better tolerance to transport conditions), as well as a better resistance of crops to disease, insects and weeds.[9] It has been stated that GM technology is intended to widen the area of crop growing, improve the tolerability to low temperatures or draught and increase the exploitation of currently non-productive degraded soils by growing better adapted agricultural crops. The elements of the food produced in this manner would be of greater quality and enriched by essential amino-acids, mineral substances, vitamins and non-caloric sweeteners.[10] The idea is that, for

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[7] Herbicide tolerant soybean represents the leading GM crop. This data also has not been changed since the first areas were sown in 1996.

[8] Statistics also shows the category of virus resistance, but the incidence of this type of modification, in all of these years, was less than 0.1 milion hectares.

[9] An example has been mentioned of rapid increase of the yield of sweet potato in Africa by introducing transgenic cultivars with installed resistance to Feathery Mottle Virus. Without application of pesticides, about 60% of yield used to be lost due to the attack of this virus.

[10] Desirable nutritional properties such as modified proteins or fat content are particularly significant, because, as it is generally held, for example, genetically modified rice containing more β-carotene and iron will contribute to resolving of the problem of their defficiency in the countries where rice is the major food source, which should directly contribute to the mitigation of the risks of blindness and anaemia. Unfortunately, although this seems to be a humane idea, the project of so called "golden rice" was demistified as far back as 2000 and, despite high

example genetically modified tomato and pepper will produce significant amounts of lycopene, which is a highly important anti-oxidant. The application of biotechnology has also increased the level of unsaturated fatty acids in canola, soybean, sunflower and peanuts, which increase biological and nutrient properties of oil. The carbohydrate content can be also modified by biotechnology and, as a result, tomatos with higher content of dry matter, more suitable for industrial processing have been created. Some tropical crops, such as bananas, are genetically modified to produce proteins which can be used as vaccines to prevent hepatitis, dysentery, cholera, diarrhea or other stomach infections characteristic for developing countries. The futuristic representation of genetically modified plants also suggests their medicinal properties, let's say of potato, banana and tomato, which could be modified to contain vaccines, while for example tea will become flavonoid-enriched. The project of modifying plants to produce insuline has been started in order to enable insulin regulation through nutrition instead of by injections. Transgenic organisms are also supposed to, according to this optimistic projection, enable the production of cheaper medicines and organ transplants. By applying the new biotechnology, eventually, environment protection will be raised to a higher level by microbiological purification of polluted watercourses and waste waters and by decreased application of chemical substances in agriculture (herbicides and pesticides).

However, it needs to be said that at this moment majority of things related to so called the second and third generations of transgenic plants[11] have not progressed much further from proclamations. Their realization implies that first of all the transgenic technology needs to become widely accepted, which still is not the case. A particular problem is the fact that GMO promoters quite rarely mention, or even consciously avoid mentioning,

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investments, it has turned out to be a complete failure in resolving the mentioned problems (for more details see: M. Jošt, T. Cox, *Intelektualni izazov tehnologije samouništenja*, Ogr. Mat. hrvatske, Križevci 2003, pp. 93-102).

[11] Generally, three generations of genetically modified plants can be distinguguished: the first generation has been known for a long time and consists of projects such as resistance to herbicides, viruses or insects. Recently, genetic modifications have become much more comlex, they imply introduction of a larger number of genes into the genome of the host plant, so called stacked properties (example is resistance of corn to corn borer and total herbicide). Simultaneosly there are attempts to change the number of existing metabolic paths in the plant, by deactivating the undesired and/or activating desired genes, therefore it is expected that this second generation of transgenic plants will be marked by genotypes with altered nutritional values. These so called output properties shall supposingly keep fruit and vegetables fresh longer, affect healthier fats and oils, increased nutritional value such as for example higner vitamine contents, creation of soybean with more anti-cancer proteins (genes found within the same genome) and a wide range of high value foods (for example high-lysine maize). The third generation, so called special properties, probably will represent plants that will be used for the needs of pharmaceutical industry as bioreactors or as an efficient metod of creating and using vaccines.

the negative effects of these products. In this way the findings of experiments showing that GM food causes a potential risk to human health are minimized,[12] harmful effect upon the environment or general deterioration of the quality of agricultural crops. The topic of endangering traditional agricultural production has also been neglected, by direct interventions of multinational companies when laws or directives are passed, whereby they undoubtfully demonostrate the corporate power of money, as well as classical dilemas related to the risk of irreparable damage upon present and future generations which can be inflicted by biological heritage. Authors of this paper are at the standing point that patenting living organisms by multinational companies is bioethically unacceptable and unjustly, not only because of monopolies in production and trade of GM plants, but also because of attempts to achieve domination over the life itself.

Introduction of GM agricultural crops into production and their influence upon biodiversity,[13] can be considered at least in two ways. It is a fact that new genetically engineered genotypes are to a certain extent also carrying new genetic diversity, but at the same time it is a fact that by introducing transgenic technology into agriculture the trend of endangering biodiversity started by intensifying agricultural production and "Green Revolution" is continued. By growing several GM crops in monoculture across large areas and by their spreading in developing countries, surpressing of local populations which small farmers are still growing in these countries is continued. GM agricultural crops exert a strong selective pressure on the insects feeding on them as well as on weeds, and quite often, in terms of a food chain, on non-targeted organisms but are feeding or parasite on organisms and are considered as pests in plant production. Therefore, they become target organisms of transgenic technology.

Spreading of the GM agricultural crops can indeed pose a threat to biodiversity, particularly at the centers of origin of agricultural plants, i.e. in those regions of the world where the specific species of important agricultural crops originate from. These centers of origin are also characterised by the highest genetic variability for those species and can be used as useful gene sources in spreading the genetic variability in conventional breeding. Due to transgression of genes from a GM crop to spontaneous (indigineous

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[12] The American company Pioneer Hi-bred International in order to increase the content of proteins introduced a gene from Brazil nut responsible for this property into soybean. Thus modified soybean was causing allergic reactions in people allergic to Brazil nut, so the project was soon withdrawn. Another example that led to identical consequences was transgenic tomato containing a fish gene, which has understandably caused problems to people who are allergic to fish.

[13] Biological diversity, or abbreviatedly biodiversity, implies variety, i.e. variability of plants, animals and other living organisms in a certain area. In other words, we are talking about the variety of species in a particular ecosystem. Biodiversity is a complex notion comprising not only variability, but also mutual influences (interaction) of organisms, both mutually and with the environment they live in, so it is not easy to define it unambigiouslly.

relatives) these natural resources of useful genes may be significantly endangered.[14]

Common reasons for questioning genetic modifications are connected to their opposition to nature, i.e. to the firmly expressed attitude that GM is something unnatural. From the bioethical point of view it seems that human intervention to an organism is not generally questionable, since controlled breeding is acceptable, unlike the intervention conducted at the level of DNA. The argument that genetic modification of an organism is impersmissible from the bioethical point of view since it is in opposition to the natural flow of things, i.e. because it is unnatural, should be additionally problematized. Namely, to (self)understanding of the essence of man belongs the feeling or image of a kind of the sundering of the direct i.e. natural existence of man, which makes man in its own perspective a unique event in the world, because his existence is represented to him as un-natural, artificial, modifiable, as second-nature or the highest point of the continuity of nature. In other words, spiritual existence of man may be understood as the highest step of his natural existence (or nature in general), or as a walkaway from natural existence. Hence, to say that something is un-natural does not mean nor imply that it immanently bears a negative axiological sign. It is interesting that the argument of nature is also used by both the proponents and opponents of genetically modified organisms. Proponents believe that genetic modification is acceptable from the bioethical point of view, since unexpected and sudden changes in DNA do happen in the nature itself, just like the exchange of genetic material between species. GM opponents, on the other hand, use this fact to confirm that given phenomena are not common in nature, and thus they are not acceptable bioethically. The reasoning presented in both versions implies a common sense approach, which potentially may form the public opinion by understanding the natural as something "normal". However, it certainly must not determine the philosophical consideration of genetic modifications.

To proclaim something as "unnatural" in the specific case means that genetic material is being transfered accros the borders of certain species. Certainly, it is not possible to define a species once and for all and its concept may vary from one epoque to another and depend on the given context. In one sense "species" may indicate a group of individuals being similar in appearance and properties, while in the other it is related to individuals which belong to the same species when they can bear or produce fertile offspring. In plant life, further, it is not always possible to make a clear distinction between certain species. If we add to this their previous common

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[14] The threat is even greater since GM seeds are brought illegally into many countries and often even the producers do not know what they are sawing. It is interesting that multinational companies, which are very consistent in the protection of their own property and patent rights, do not exhibit the same promptness and interest to protect their rights in the case of growing illegally imported GM seeds to certain countries, without a signed contract.

origin, there is a reason why some authors, based on the statement that species have changed their characteristics during the evolution process, have indicated the fact that *telos* species is not a static but dynamic category.

Rolston shows that the *telos* of species should be connected to the intrinsic value as somebody's adaptable ability in an integrated entity of an ecosystem. The articifical selection with the assistance of breeding or transgenic technology most frequently violates the adaptibility of species in wilderness and thus reduces their value. In case of transgenic organisms, it might be said that reduced adaptibility is desirable, because thus the risk of a threat upon environment in the course of transgenic spreading would be reduced. Rolston thinks that this influence on *telos* can be allowed, however the values inherent to species should be acknowledged and maybe to sustain the balance by ensuring for "such intactness to stay somewhere else in wilderness on this miraculous planet".[15] What Ralston's thesis implies is that genetic modifications do not imply bioethically unacceptable crossing of borders of species *per se*, and therefore this can not serve as a confirmation to the objection of layman's public related to the crossing of the borders of species.

Interdisciplinary research projects supported by the European Union emphasise the moment of staying within the borders of a certain species. This is also the case with genetically modified strawberries, which were called by the biologists engaged in this project as *cisgenic* organisms in order to differenciate them from *transgenic* organisms, because such genetically modified strawberries do not contain the material of any other species. The question that could be asked is whether there is a bioethically relevant difference between modifications happening inside a certain species and between different species? Nielsen has pointed out the fact how much it is necessary to be accurate in expressions, i.e. how much scientific achievements need to be accompanied by clear language distinctions between related however not identical concepts. He used the term *intragenic* and not *cisgenic* organism for modifications performed inside the borders of a species. Other categories which Nilsen mentions are: *famigenic* organisms, in which modifications are performed inside the same family, *linegenic* organisms, and modifications are performed inside the same filogenetic line, *transgenic* organisms, modifications with unrelated DNA material, and *ksenogenic* organisms, which have laboratory constructed genes inserted. In this latter case we are speaking about genes which can not be found in any of the existing organisms.[16]

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[15] H. Rolston, "What Do We Mean by Intrinsic Value and Integrity of Plants and Animals?", p. 10, u: D. Heaf, and J. Wirz (eds.), *Genetic Engineering and the Integrity of Animals and Plants*, (Proceedings of a Workshop at the Royal Botanic Garden, Edinburgh, UK), Hafan 2002.

[16] K. Nielsen, "Transgenic Organisms – Time for Conceptual Diversification", *Nature*, 21 (3), 2003, p. 227-228.

Without going into all nuances of the Nilsen's analyses here we are going to mention and point out only the reason why it is important from the bioethical point of view to make a clear distinction between intragenic and transgenic organisms, because this difference is relevant for the argumentation against the crossing of the borders of species. Following Nielsen we can say that the risk and potential mistakes of scientists in production and spreading of intragenic organisms is being significantly reduced since the (newly)introduced properties are already present in the organism itself. In addition, by staying within boundaries of a species respect is shown for the "otherness" and "dissimilarity" of nature, whose mechanisms and laws can not be, we could even say luckily, completely controlled.

If we consider the thesis that transgenic modifications lead to more radical changes in plants than intragenic modifications, it shows that such changes may lead to and actually do lead to many risks, and to potentially greater damage for the present as well as for future generations. Unreliability and risk certainly do increase as the plant is becoming more distant from the gradualness of the processes that are taking place under natural conditions, in the same way as when inserted properties have not shown up earlier within the species. It might be said that by introduction of genes which are foreign to some species, a potential problem is maximalized and the culmination is certainly represented by introduction of synthetic genes.

Improvement of certain traits within the same species, for example strawberries, enables significant reduction of the risk, and this being for several reasons. First of all, a certain trait is already present within the plant which limits and reduces the area of the potential risk. Effects of the mentioned trait are known, let's say of the high level of proteins in a strawberry, in a usual environment which enables significantly better basis for estimation of the consequences of the continually higher level of the same trait in the same circumstances. The number of unknown factors is being reduced, and thus reduced are the chances for completely unexpected consequences which may arise as a result of insufficient knowledge of the very scientists. All of this should taken into account when considering bioethical moments of growing and producing intragenic crops, as well as in normative regulationg of the whole procedure.

The fact that species change over time may represent the key argument for not overstepping the borders of the very species. Although this at the first glance may seem paradoxical, it should be known that besides the fact that the species are dynamic entities, they have a certain role in a certain environment. Each individual organism is in interaction with other organisms and changes in one organism change these forms of interaction through the process of adaptation. Therefore each species is a part of bigger entity which is developed according to its own patterns and laws. As a rule, evolutionary changes are slow, they are minimal and geographically restricted over a long period of time, thus enabling other organisms to adapt to the changed characteristics without possible catastrophic consequences

upon the existing equilibrium. Slow changes and similar gradual expansion of the changed implies that the traits of the species are only gradually changed, even when individual organisms are gaining radically new traits due to mutations. Also in these cases, when the changes of traits can cause radical changes in the local ecosystem, spreading of these traits to other ecosystems requires a lot of time. Therefore the probability of changes which would be destructive for a great number of species over a wide range and a short period of time is very low. In the modern intensive agricultural production with GM tehnology new varieties with dramatically changed traits are introduced at many locations in very short time intervals, which demonstrates how much this intervention is different from the evolution itself.

Ecological system represents a fragile state of constant changes, a so to say dynamic equilibrium, which is changing, although at the same tam it retains the basic traits over time.[17] Despite the rapid increase of the quantum of knowledge in recent decades, due to the complexity of the ecosystem, the scientists are not in a position to completely estimate the consequences even of highly limited changes. The science still lacks sufficient understanding of how biological systems function, in contrast to the system that men have constructed themselves, where the causes are well known, and the consequences of changes upon the system itself can be foreseen up to the smallest detail. In this sense, the nature is not something that can be completely controlled and which can be easily managed. In this way the laws of biology uncover the "otherness" i.e. "difference" of nature. Biological systems therefore at this moment can not be completely predictable, so when the biotechnology intervenes into them it makes a kind of a shortcut, as compared to the ways in which the changes usually occur in nature. Transgenic crops radically change the characteristices which were introduced simultaneously into a wide range of coverage, by which unique peculiarity of these systems is not taken into consideration at all and thus the power of the technology itself is being overemphasized. This could be an adequate interpretation of objections that the man "is playing God", thus making the products of modern biotechnology "unnatural". Naturally, rigidly implemented this approach may imply rejection of any kind of modern biotechnology, while if led to absurdity this attitude may imply that we should abandon the postulates of modern agriculture in general, which certainly is not an intention of the authors of this paper.

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[17] This wording is close to Aristotle's definition of substance from *Metaphysics* 983b6-18, which is defined as something that is everlasting in intself while it is changing in its properties (*pathos*). Strictly speaking, Stagirites does not say that the properties are changing, but that the substance is changed through them, whereas it remains unchanged. Permanence or stability in its own nature while undergoing changes is a characteristic of the substance which is always emphasised. In a similar way it could be said that an ecosystem remains unchanged in its substance, while at the same time it undergoes uncountable modifications.

As it has been already said, the natural selection process, which represents a basic mechanism of change inducing in nature, is quite a slow process. Respecting the fact that the science can not explain all details of the interaction of elements in nature, it is necessary to respect restrictions regarding the rate and dispersion of changes in nature in the way they have been expressed in changes caused by evolution. If evolution constraints of genetic changes have been taken into consideration, products of human intervention will be more predictable because thus experimenting with the unknown in the complete sense of the word is slowed down. The option of avoiding any kind of intervention at the level of DNA i application of knowledge which is also rapidly developing in the field of functional genomics which is an area of molecular biology, in order to advance the process of breed is possible and valid.[18] The other option, which is elaborated in this text, advocates the constrating of the level of changes being introduced by means of genetic modification, at the same time maintainging the advantages of this technology. Intragenic modification can, finally, be determined as a genetic modification by means of reproductive DNA technology to produce an organism which could have been also obtained by traditional breeding measures. It is also well known that intragenic modification in some cases may result in changes which are not possible by traditional breeding. In such cases objections can be identical as in the situation of "unnatural" intervention in transgenic plants. Moreover, such plants should not be even called intragenic plants, despite the fact they were produced in a similar way. These plants are functionally similar to transgenic plants, and the accent in differentiation between intragenic and transgenic modifications should be placed onto the novelty of properties, and not on the origin of genetic material.

The key element of this argument is not primarily the avoidance of unexpectable damage, but the respect of "otherness" of nature. If anywhere the lesson of helenic understanding of *hybris* can be applied then it maybe should be appled in wantonness of the man towards "otherness" of nature and subsequent consequences for its disregard. By remaining within the borders of a species in contemporary scientific research, and also during genetic modifications, the man accelerates the process of changes in accordance with their own requests, and simultaneously demonstrating the

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[18] Multinational chemical companies which were exponents and financiers of transgenic projects have predominantly taken car how to facilitate the production process for the farmers, i.e. how to make this process safer and more profitable, and then, or in the first place, how to capitalise on investment in such projects as quickly as possible. In this way transgenic programs with herbicide resistance genes were forced despite the fact that for example for corn there is a whole range of herbicieds of high quality. Theoretically it is, of course, possible to create plants tolerant to almost all herbicides, although commerical application have only economically more important plant cultivars and herbicides of favorable properties (glyphosate, gluphosinate ammonium, imidazolinon herbicides, sulphonylurea herbicides, cyclo-hexandions, bromoxynil, etc).

respect for these borders set by the evolution process. Such an act also demonstrates the respect of basic postulates of bioethics set by J. F. Childress and T. L. Beauchamp, such as nonmaleficence and autonomy, and also even justice and beneficence.

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LE PARADOXE DE L'INFORMATION SPIRITUELLE

DANS LA HERMÉNEUTIQUE TRANSDISCIPLINAIRE[1]

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Le but d'une *autre* herméneutique, configurée d'une manière voilée mais transparente par Jésus dans l'*Évangile de Thomas,* réside dans la réalisation de la liaison entre l'univers *intérieur* et *extérieur.* Mais le fait de retrouver l'unité implique l'intuition profonde du sacré comme source de la conscience de l'homme dans le monde. Le paradoxe : la méthodologie scientifique, indispensable à une recherche, ne s'applique pas dans le domaine de la conscience, qui est corrélative aux domaines de la spiritualité, de la culture et de la religion. En sortant du domaine disciplinaire, on a besoin d'une nouvelle méthodologie : la méthodologie transdisciplinaire comme méthodologie alternative, complémentaire à la méthodologie scientifique, sans s'exclure l'une l'autre.

Contextualisé dans l'*Évangile de Thomas,* le postulat de l'unité d'entre la connaissance poétique, imaginative, symbolique et la connaissance spirituelle marque une rupture entre les concepts fondamentaux du langage de l'*homo religiosus* et ceux spécifiques à l'*homo poeticus.* Le captage de l'invisible par l'observation du monde du visible dans un imaginaire religieux, par l'intermède de la révélation, de la parabole, des symboles et des mythes est en discontinuité avec les lois qui gouvernent la création métaphorique. Le paradoxe : le *logion* est en même temps un texte sacré et poétique, mais ni sacré, ni poétique. La solution transdisciplinaire : *circulation d'information spirituelle orientée herméneutiquement par la cohérence des niveaux de Sens.*

Dans l'*Évangile de Thomas,* l'un des manuscrits découverts à Nag-Hammadi (Egypte), en 1945, on peut trouver „les paroles du Secret", par lesquelles Jésus rend possible la *trans-mission de l'information spirituelle,* sous la forme d'une anthologie de *114 loggias,* attribuées à Dydymus Judas Thomas, une figure apostolique à grande résonance dans le christianisme syriaque.

Comme *partie de la Bible, reconnue seulement par les chrétiens, qui comprend les faits et l'enseignement de Jésus Christ,* l'*Évangile* est directement assimilé à une tradition spirituelle – le christianisme, et d'une *incarnation* essentielle à lui : Jésus. Le paradoxe de l' l'*Évangile de Thomas* consiste dans le fait qu'il appartient à une religion – le christianisme, comprenant des *faits et des enseignements de Jésus,* sans être pourtant *intégré complètement* à cette tradition spirituelle. Autrement dit, l'*Évangile de Thomas* l'est et ne l'est pas de tradition chrétienne et, en même temps, c'est complètement quelque chose de nouveau. Dès le début, ce texte ouvre la problématique d'une *nouvelle logique,* concernant la revalorisation du concept d'*Évangile,* comme étant autre chose que ce qu'approxime la tradition chrétienne. L'expression *lettre / mot d'évangile,* utilisée dans le sens „de chose absolument certaine, au delà de tout doute", ne trouve pas sa place dans l'horizon sapientiel de l'*Évangile de Thomas,* situé sous les auspices du *trouble* et de l'*étonnement,* donc de la *recherche* (*logion* 2). Par conséquent, un objectif majeur qui traversera en profondeur l'exercice *herméneutique* tout entier est représenté par la reconsidération et la redécouverte de deux concepts fondamentaux : *Tradition et trans-religieux.*

Une direction possible de recherche est celle disciplinaire, correspondante au domaine théologique et fondée sur une logique mutuellement exclusive :

le terme *A* : les éléments chrétiens

le terme *non A* : les composantes non chrétiennes – gnostiques, ésotériques etc.

Ces abordages seraient de type *réductionniste*, dans la mesure où ils limiteraient / réduiraient l'*incomplétude de Sens de l'information spirituelle,* encapsulée dans les *Dires* de Jésus, à un seul *niveau de Réalité* ou de *perception.* Mais l'*Évangile de Thomas* est un ensemble de multiples niveaux

de Réalité et de perception que l'information spirituelle sonde et traverse dans un circuit cohérent, destiné à créer une *unité ouverte.*

En même temps, le texte de l'*Évangile de Thomas* permet aussi une autre approche : celui du chercheur libre de toute préjugé religieuse ou disciplinaire, intéressé plutôt à la manière dans laquelle l'expérience intérieure acquiert un Sens en captant l'intuition du sacré. La vocation d'herméneute de Jésus est convergente à sa mission, dont la logique génère la nouveauté.

La définition du type textuel de l'*Évangile de Thomas* de la perspective du *trans-langage* et l'analyse du statut typologique du texte sacré dans l'ouverture du trans-religieux, sont deux coordonnées essentielles du sondage vertical de la texture des *114 loggias,* de la perspective des postulats de l'herméneutique transdisciplinaire.

L'échelle herméneutique qu'on propose, en résonance avec la pensée de Jean-Yves Leloup, contribue à l'élimination des confusions entre les contradictions apparentes, au niveau herméneutique et les contradictions ontologiques qui renvoient toujours vers un autre niveau de compréhension, en accomplissant le rôle de tiers inclus entre l'être et la connaissance.

La contextualisation des postulats méthodologiques transdisciplinaires s'articule autour de deux axes notionnels fondamentaux : *information spirituelle* et *niveaux de Sens.* L'investigation en profondeur de l'organisation et de la structuration herméneutique de l'événement singulier de l'apparition du Sens dans la texture de certaines *loggias* de l'*Évangile de Thomas,* nous ont permis la réalisation trans-horizon de l'objectif central du travail : *la circulation d'information spirituelle herméneutiquement orientée par la cohérence des niveaux de Sens.* Ces trois sections, chacune validant les multiples potentialités des niveaux de contextualisation : le postulat ontologique incluant les niveaux de Sens, le postulat logique délimitant le domaine du Tiers Caché et le postulat de complexité orientant la circulation de l'information spirituelle dans le vitrail des ternaires herméneutiques.

La transmission et la trans-mission de l'information spirituelle sont sondées dans la complexité de leurs possibilités de rationalisation à la traversée du niveau poétique, imaginatif et symbolique de l'*Évangile de Thomas,* en correspondance avec le niveau du corps, de l'esprit et du cœur du herméneute. Les niveaux de Sens sont décrits au point de convergence alogique entre l'horizontalité et la verticalité du circuit ouvert de l'information spirituelle :

Sur l'horizontale : *mot poétique – imagination – paradoxe linguistique*

Sur la verticale : Mot Vivant, imaginaire, paradoxe ontologique

Dans la zone du Tiers Caché : le Mot révélé, imaginal, transparence absolue

La structure ternaire du Sens comme dynamique intérieure de la cohésion du Sens résistant, du Sens Vivant et du Sens transgressif (trans-significatif) est la voie de recherche transdisciplinaire qui permet une compréhension profonde de la complexité de l'expérience imaginale de

l'incarnation et de la configuration des niveaux paideia dans l'activation des niveaux de connaissance inhérents à la ré découverte de l'unité du monde et à la réunification de l'être.

Les idées développées sont des nœuds conceptuels qui génèrent la nouveauté transdisciplinaire par la captation des interactions des parties constitutives : le vitrail des ternaires herméneutiques, les contenus des niveaux de Sens dans l'organisation et la structuration herméneutique du Ternaire échelle, la discontinuité et l'inséparabilité herméneutique, résistance et non-résistance spirituelle, le circuit d'information spirituelle entre les ternaires épistémologiques, ontologiques et transgressifs.

Le collier des nœuds conceptuels originels configure, par l'empreinte subjective de l'expérience de la *recherche,* du *trouble* et de l'*étonnement*, notre contribution à l'élaboration d'une définition et d'une méthodologie de la herméneutique transdisciplinaire, en valorisant pleinement l'héritage spirituel de la transdisciplinarité et les idées innovatrices du penseur Basarab Nicolescu, celui qui, avec sagesse et finesse intellectuelle, a orienté nos essais. Les notions les plus interpellantes crées dans l'expérience de la *descente à la Source du Vivant en montée intérieure sur l'échelle herméneutique* sont coagulées dans la dynamique des ternaires : *le Ternaire de la circoncision, le Ternaire de la porte, le Ternaire échelle, le Ternaire de l'incarnation, le Ternaire du Vivant, le Ternaire icône et le Ternaire messager.* Toutes ces intuitions au niveau théorique sont contextualisées dans l'analyse des *loggias* de l'*Évangile de Thomas,* qui permettent de valider l'applicabilité des notions qu'on propose dans la description axiale de l'herméneutique transdisciplinaire. L'exemple parlant de la résonance transgressive dans le miroir, c'est même notre proposition de définir le concept-clé de la recherche :

La herméneutique transdisciplinaire vise la compréhension et l'interprétation du sens qui oriente d'une manière cohérente la circulation d'information spirituelle par les niveaux de Réalité et perception.

Une herméneutique transdisciplinaire de l'*Évangile de Thomas* vise la compréhension et l'interprétation de l'information spirituelle comme foudre traversant simultanément le poétique, l'imaginatif et le silence d'entre eux, encapsulés dans les *114 loggias* de Jésus et leur résonance avec le corps, l'esprit et le cœur du chercheur de sens.

L'information spirituelle, circulant simultanément dans la zone de non-résistance *entre* les niveaux de Réalité de l'Objet, *entre* les niveaux de Réalité du Sujet et, aussi, *entre* l'Objet et le Sujet.

Jésus capte et discourt dans l'*Évangile de Thomas* le mouvement de traversée de l'information spirituelle *entre* le sens raisonnable, le sens trans-ascendant et trans-descendant et trans-significatif.

La dimension de l'ouverture trans-religieuse de l'*Évangile de Thomas* délimite l'objectif de l'investigation du Tiers Caché comme Source de l'expérience spirituelle. *L'actualité* de l'Évangile de Thomas en tant que conclusions régale le souffle de l'attitude et de la vision transdisciplinaire

sous-jacente à notre démarche : le projet d'un nouvel humanisme basé sur rigueur, tolérance, dialogue et ouverture qui rende possible que l'homme devienne le *Fils de l'Homme.* La reconsidération du concept de vide plein comme signe de la présence absence du Vide re-amène dans l'univers de la recherche scientifique la nécessité impérieuse de la mise en acte de la pensée et de l'esprit transdisciplinaire. Les lignes de force qui dirigent les énergies créatrices de l'être dans la construction des valeurs durables sont un écho à travers l'espace-temps de la Carte de la transdisciplinarité fondée autour d'une clé de voûte – la postulation d'une rationalité ouverte du monde. D'une manière concentrée ces pulsions d'espoir, auxquelles Jésus nous invite de méditer et de mettre en acte sont destinées à accentuer l'actualité interpellante de l'*Évangile de Thomas,* compatible dans sa complexité avec la vision transdisciplinaire.

Cette radiographie succincte de cet etude n'accomplit pas sa finalité sans mentionner quelques résultats originaux obtenus, qui ouvrent la voie de la valorisation constructive des réalisations de la recherche effectuée, dans le contexte de l'approfondissement de la complexité du concept d'*information spirituelle* dans la communauté internationale des chercheurs intéressés au dialogue entre science et spiritualité :

Le concept d'information spirituelle est centré autour de l'idée de *circuit* ou boucle de cohérence de l'unicité ouverte de la connaissance et du monde. Le circuit d'information spirituelle se réfère aux *niveaux de traversée* (transmission et trans-mission) et au *Sens de la traversée* (trans-ascendant et trans-descendant) orienté par les ternaires épistémologiques, ontologiques et transgressifs.

Le *vitrail des ternaires* permet la circulation orientée de l'information spirituelle en toute contextualisation possible de la trans-réalité.

Le Sens textuel- discursif (correspondant au niveau poétique), *le Sens Vivant* (généré par l'interaction des multiples niveaux de Réalité) et le *trans-significatif* ou le *Sens transgressif* (correspondant à la zone du Tiers Caché et représentant le contenu du Mot Révélé), constituent tout autant des *niveaux de Sens,* configurant la complexité herméneutique transdisciplinaire, par la postulation des multiples niveaux de Réalité.

L'émergence des trois *niveaux de Sens* configure un *événement herméneutique* dans la connaissance transdisciplinaire.

Le concept d'information spirituelle est un autre type de langage de l'expérience spirituelle, ayant comme particularité la possibilité de traverser et ainsi d'informer tous les autres langages possibles de la recherche intérieure du herméneute.

L'information spirituelle l'est et ne l'est pas un langage de l'expérience spirituelle.

La herméneutique transdisciplinaire vise la compréhension et l'interprétation d'un Sens non résistant qui oriente la traversée de l'information spirituelle, mais aussi d'un Sens résistant qui rend possible la rationalisation textuelle discursive du sacré.

La herméneutique transdisciplinaire a comme objet de recherche un Sens qui est résistant et non résistant en même temps.

Les contenus de l'information spirituelle se coagulent dans la zone de résistance des niveaux de Réalité, mais leur exploration peut se réaliser uniquement dans la zone de résistance, donc dans la Réalité ouverte par „entre".

Les contenus de l'information spirituelle sont et ne sont pas coagulées, la liberté et la spontanéité des actualisations de l'information spirituelle étant générées par l'interaction unique des niveaux d'être avec les niveaux de Réalité.

Tous ces aspects sont subsumés au but principal du travail, qu'on reprend ici, en achevant : *la dynamique contradictoire de l'institution des niveaux de Sens dans la recherche spirituelle, de la perspective d'une herméneutique transdisciplinaire.*

L'IDÉE DE JUSTICE CHEZ KANT

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Abstract:

This work deals with the emphasis of two main aspects, that are being less underlined in the specialized literature, but thei are extremely important for Kant's practical philosophy. It is about, on one side, the common origin of ethics and law, and on the other side, it is about the similitudes that exist between the principles that rule these two domains. This idea, about the common origin of morality and low is deduced from the common end of these two areas or domains: achieving freedom. Either morality or the law have as a purpose to fullfil the proper conditions in order to achieve freedom. As all Kant's statements regarding rationality, the universal principle of law will have a fundamental role, because it is considered a basic principle, not a complementary one. This principle represents the grounds of any positive normativity, that was later adopted. It is emphasized through it's ideal characteristic, being a rational rule necessary to achieve the law. The main benefit of this kind of principle is the fullfilness of rational idea of justice.

L'analyse philosophique du droit représente, dans le contexte de tout l'édifice kantien, l'une des dernières préoccupations théoriques, auxquelles l'auteur des trois critiques a donné cours. La philosophie pratique occupe,

dans le système kantien, une place de marque, et bon nombre de commentateurs ont considéré que la philosophie théorique ne représente qu'une propédeutique des ouvrages moraux. Mais, si la philosophie pratique, dans son ensemble, avait besoin d'identifier ses fondements rationaux, comme d'ailleurs de légitimer aussi sa méthode – ce qui arrive dans *La Fondation de la métaphysique des mœurs* et dans *La Critique de la raison pratique* – c'est toujours elle qui avait besoin de son parachèvement par le truchement de règles pratiques concrètes à même de réglementer les manifestations sociales des individus. Ce parachèvement de la philosophie pratique est réalisé, en grande partie, dans *La Métaphysique des mœurs*, où Kant propose une *Théorie du droit* aussi bien qu'une *Théorie de la vertu*. Les deux théories sont destinées à fournir les règles pratiques concrètes nécessaires pour réglementer la vie sociale.

Selon Immanuel Kant, la réalisation concrète des idéaux moraux ne peut être possible que dans un système juridique approprié, et, d'autre part, un système juridique légitime ne peut être que celui qui concorde avec les principes de la moralité. Il y a certaines différences entre la morale et le droit, mais elles seront considérées insignifiantes, par rapport aux similitudes existantes entre *les principes* qui gouvernent les deux domaines. Par ailleurs, l'idée du tronc commun, d'où dériveraient les principes de la morale et les principes du droit, sera longtemps invoquée, dans leurs œuvres, par les adeptes de la philosophie néo - kantienne. C'est aussi le cas de Mircea Djuvara, qui va édifier tout son système de philosophie juridique à partir de cette idée. Le dessous moral du droit représente, dans la conception de Djuvara, l'élément définitoire de celui-ci. Malgré les différences fonctionnelles existantes entre ces deux disciplines, le philosophe roumain va soutenir, dans l'esprit de la philosophie kantienne, l'idée d'une „unité intime de la structure rationnelle du droit et de la morale"[1].

L'idée de l'origine commune de la morale et du droit est déduite de l'idée de la finalité commune de ces deux domaines : la réalisation de *la liberté*. La morale, aussi bien que le droit, ont pour but l'identification des conditions par le biais desquelles la liberté peut être réalisée. Les deux domaines sont réductibles, chacun à son tour, à des systèmes de «lois de la liberté»[2]. Dans la mesure où ces lois se rapportent à de *simples* actions extérieures et à leur légalité elles s'appellent *juridiques* et «lorsqu'elles (les lois) revendiquent le fait qu'elles devraient être le fondement déterminant même des actions, elle sont *éthiques*»[3] .

Le droit et la morale aussi sont, dans le cadre de la philosophie critique, les domaines où la réalisation de la liberté est possible[4]. Pourtant,

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[1] Mircea Djuvara , *Eseuri de filosofie a dreptului*, Bucureşti, Trei, 1997, p.66.
[2] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 52.
[3] *Ibidem*, p. 52.
[4] Le passage à l'analyse du domaine de la moralité suppose l'investigation de la conduite humaine, selon Kant. Cette analyse a, comme but principal, l'identification de ces principes rationnels, à même de contribuer à la réalisation de la liberté.

ce concept est, dans la philosophie kantienne un concept problématique, car on ne peut pas s'y rapporter dans le sens où l'on se rapporte aux autres concepts de l'intellect. L'idée de liberté (car, au fond, dans la conception de Kant, elle signifie une *idée rationnelle*) ne peut être *démontrée*, mais elle doit être acceptée inconditionnellement. Elle est la condition transcendantale de possibilité des principes moraux et des principes juridiques : «Le concept de liberté est un concept pur de la raison et, c'est pourquoi, pour la philosophie théorique il est transcendant, c'est-à-dire un concept auquel on ne peut donner aucun exemple adéquat dans aucune expérience possible, auquel on ne peut trouver aucun objet en vue d'une connaissance théorique possible et qui n'a pas de valeur de principe constitutif, seulement une de principe régulateur et négatif de la raison spéculative, alors que son usage pratique prouve sa réalité par le biais des principes pratiques, en tant que loi d'une causalité de la raison pure, indépendante de toutes conditions empiriques (du sensible en général), en déterminant le libre arbitre et en démontrant l'existence d'une volonté pure en nous, d'où puisent les concepts et les lois moraux»[5].

La réalisation du bien moral et de la justice sont les deux buts de la raison pratique, qui dépendent simultanément de l'autonomie (*la pureté*) de notre volonté, ce qui suppose la postulation de *la liberté*. L'autonomie de la volonté représente, dans la philosophie pratique de Kant, l'une des conditions fondamentales de la moralité[6]. Selon la *Critique de la raison pratique*, il y a des principes a priori de la moralité, que la volonté s'impose elle-même. Un tel principe est l'impératif catégorique. C'est un énoncé *synthétique a priori* qui établit le lien entre la volonté et la raison, et le fondement d'une telle union ne peut être que *la liberté*.

Kant part de la constatation de l'impératif catégorique et il est obligé par la suite de postuler la possibilité de la liberté, en tant que condition rationnelle de celui-ci[7]. La liberté est un postulat de la raison pure pratique, qui, avec le postulat de l'immortalité et celui de l'existence de Dieu, ne sont pas des dogmes théoriques, «mais des suppositions nécessaires de point de vue pratique ; elles n'élargissent donc pas la connaissance spéculative, mais elles procurent aux Idées de la raison spéculative en général (avec l'aide de leur rapport à ce qui est pratique) une réalité objective et les justifient en tant que concepts, dont la liberté n'oserait même affirmer leur possibilité»[8].

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[5] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 59.
[6] Joseph Vialatoux, *La morale de Kant*, Paris, P.U.F., 1968.
[7] Le philosophe de Kōnigsberg a pour fondement en éthique la même démarche régressive, qu'il utilise aussi dans la philosophie théorique où, à partir de la constatation des connaissances nécessaires et universelles, il se propose d'en identifier les conditions a priori de possibilité.
[8] Immanuel Kant, *Critica raţiunii practice. Întemeierea metafizicii moravurilor*, Bucureşti, IRI, 1999, p. 159.

Les principes moraux, comme d'ailleurs les principes du droit aussi, vont donc impliquer l'acceptation de la supposition de la liberté. Selon Nicolae Bagdasar, l'idée de liberté «est même beaucoup plus qu'une Idée, c'est un postulat de la raison pratique, c'est-à-dire un jugement qui n'est pas évident par lui-même et qui ne peut être démontré non plus, mais que nous devons admettre, parce que nous ne pouvons pas démontrer autrement d'autres jugements»[9]. On peut dire, de la sorte, que, si dans les sciences exactes toutes les explications sont *des explications causales*[10], en éthique e en droit on utilisera, en général, *les explications par liberté*.

Même si le droit réglemente les relations extérieures entre individus, la réalisation de ses objectifs est également conditionnée par le respect envers la morale. En agissant sur les relations extérieures, le droit est aussi impliqué dans l'évaluation du *for intérieur* de chaque personne, car toute activité suppose intentions, buts, idéaux. Même s'il vise seulement un ordre extérieur à la coexistence, le droit dépend de la morale, car ce n'est qu'ensemble que les deux disciplines puissent contribuer à la réalisation totale de la liberté. Il serait absurde, d'ailleurs, de nous imaginer que certaines dispositions juridiques seraient en contradiction avec les principes de la moralité. Une telle situation serait contraire aux exigences rationnelles induites par l'idée de justice.

Ces affirmations sont explicitement soutenues par Kant dans l'un des chapitres de *La Métaphysique des mœurs* (*Sur la division d'une métaphysique des mœurs*). Kant définit le domaine de l'éthique comme celui où d'une certaine action on fait un devoir, et du devoir une impulsion. En éthique «l'idée de devoir issue de la loi est en même temps l'impulsion à l'action»[11]. Le caractère moral d'une certaine action dépend, d'une manière décisive, des *convictions solides* de celui qui agit. S'il agit, uniquement, par devoir envers la norme morale, alors son action a une valeur morale. En droit, on juge, de préférence, les manifestations extérieures, sans toutefois tenir compte de l'impulsion intérieure. Mais, pourtant, dans les rapports juridiques, qu'on établit dans la société, une série de devoirs envers nos semblables sont impliqués – même si, pour la plupart des cas, seulement de manière tacite. Le droit doit être, de la sorte, en accord avec les exigences de l'éthique, car, selon Kant, «tous les devoirs, du fait qu'ils sont devoirs appartiennent à l'éthique»[12]. Ou, en d'autres termes, «il y a ainsi davantage de devoirs directement – éthiques, mais le système de lois internes considère, aussi, tous les autres devoirs comme indirectement – éthiques»[13].

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[9] Nicolae Bagdasar, *Studiu introductiv* în Kant I.*, Critica raţiunii practice. Întemeierea metafizicii moravurilor*, Bucureşti, IRI, 1999, p. 24.
[10] Teodor Dima, *Explicaţie şi înţelegere* (vol. 1), Bucureşti, Editura Ştiinţifică şi Enciclopedică, 1980, p. 27.
[11] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 57.
[12] *Ibidem*, p. 57.
[13] *Ibidem*, p. 57.

Il n'y a pas de différences essentielles entre la morale et le droit, quant aux types de devoirs qu'ils invoquent, mais surtout quant au type de système de lois qu'on applique à chaque domaine : un système de lois internes correspond à l'éthique tandis que le droit en a un de lois externes.

Tous les devoirs – qu'ils appartiennent exclusivement à l'éthique ou qu'ils soient juridiques – auront un caractère moral. L'éthique nous apprend, par exemple, que nous avons le devoir de respecter les engagements assumés par un contrat même au moment où l'autre part contractante ne pourrait pas nous y contraindre. C'est le devoir éthique qui doit primer en tant qu'importance le devoir juridique. Autrement dit, cela signifie qu'on ne peut pas concevoir une théorie du droit qui soit contradictoire aux principes moraux. L'éthique doit fournir des bases solides aux droits, la réalisation de l'idée de justice impliquant donc, obligatoirement, la réalisation du bien moral.

D'autre part, ces affirmations sont aussi une conséquence de la manière bipartite dont Kant conçoit le droit. Le philosophe allemand est l'adepte de la célèbre distinction entre le droit rationnel et le droit positif[14]. Cette distinction a amené certains commentateurs à considérer – à tort, pourtant – que Immanuel Kant a proposé un retour à la théorie du droit naturel. Mais le droit rationnel kantien ne peut pas être confondu avec le droit naturel du jus - naturalisme, car les deux types de droit opèrent avec des critères de rationalité distincte : le droit naturel est fondé sur des principes transcendants, alors que le droit rationnel a un fondement transcendantal. Même si, parfois, ce *droit rationnel* est appelé, par Kant, *droit naturel*, il n'a rien en commun avec la manière classique de conception de celui-ci.

En parlant de la distinction entre le droit rationnel et le droit positif, Kant affirme qu'elle repose sur le type d'obligation qui caractérise chacun de ces deux droits. Le droit rationnel comprend «les lois dont l'obligation peut être connue, en dehors d'un système de lois extérieures», tandis que le droit positif comprend les lois «qui n'obligent pas du tout en dehors d'un système de lois extérieures réelles (sans celle-ci il n'y aurait pas de lois)»[15]. Ou, encore plus simplement, le droit rationnel est celui qui „est basé sur des principes a priori purs", tandis que le droit positif «provient de la volonté du législateur»[16].

Dans la relation droit rationnel – droit positif, le droit rationnel est prioritaire, ayant la qualité *d'élément fondateur* du droit positif. Ayant comme base des principes a priori purs, le droit rationnel a la même origine que la morale : la raison pure pratique. Les principes purs du droit, aussi bien que ceux de la morale, sont des lois morales pures, sont les lois pratiques d'une

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[14] Une première tentative de reconstruction conceptuelle du droit, en base des principes rationnels, peut être identifiées même dans les ouvrages d'Hugo Grotius, mais celui-ci aussi bien que ses précurseurs immédiats, restent fidèles à la doctrine du jus - naturalisme. La mise en évidence des valences exclusivement rationnelles du droit sera, par excellence, la contribution d'Immanuel Kant.

[15] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 75.

[16] *Ibidem*, p. 75.

et même volonté. C'est la volonté pure qui se donne à elle-même des lois morales pures, tout comme des lois juridiques pures. Le droit juridique et l'éthique revendiqueront, de la sorte, la même source pour les principes propres à chaque domaine, ce qui raffermit la supposition que le droit ne peut pas être absolument neutre envers la morale[17]. Plus encore, comme on l'a déjà dit, il paraît absurde de nous imaginer qu'une contradiction entre ces deux domaines peut être jamais considérée légitime.

On a vu, donc, que le droit rationnel (le droit composé de règles *a priori*) se trouve dans le voisinage immédiat de l'éthique. Ce droit doit représenter *le guide* de tout droit positif, qu'on adoptera par la suite. Si bien élaboré qu'il soit, le droit positif a toujours besoin, pour son bon fonctionnement et usage, de certains principes rationnels[18]. C'est seulement dans ce sens qu'on peut comprendre l'affirmation suivante de Kant: «Par conséquent, on peut penser une légitimité extérieure, qui contienne exclusivement des lois positives, mais on devrait, toutefois, supposer une loi naturelle (c'est-à-dire l'autorisation qui oblige les autres seulement par son libre arbitre), qui fonde l'autorité du législateur»[19].

Une telle loi naturelle, d'où l'on puisse déduire par la suite toutes les autres règles rationnelles de droit, c'est le *principe universel du droit*, que Kant formule de la sorte: «*Droite* est l'action conformément à laquelle ou conformément à sa maxime, la liberté du libre arbitre d'un homme peut coexister avec la liberté de tous, selon une loi universelle»[20]. La validité d'un tel principe juridique dérive des exigences logiques de la raison. C'est un postulat de la raison, «insusceptible d'aucune preuve ultérieure»[21].

Comme tous les postulats de la raison, le principe universel du droit aura un rôle régulateur, car il est un principe *fondateur*, et pas du tout constitutif. Ce principe représente le fondement de toute normativité positive, ultérieurement adoptée. Il est mis en évidence par son caractère idéal, constituant une *condition a priori* nécessaire à toute application juridique.

Beaucoup plus, il faut dire que l'idée kantienne de justice est déduite, de manière rationnelle, de ce principe universel du droit. L'idée de justice va donc, représenter l'idéal juridique suprême, jamais réalisable entièrement, idéal autour duquel tout l'édifice juridique positif se constituera. La multitude de systèmes juridiques concrètes est seulement une conséquence de la multitude des formes d'organisation sociale, mais tous ces systèmes

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[17] Comme on verra par la suite, il y a une similitude structurelle et même de fond entre l'impératif catégorique et le principe universel du droit.

[18] Même si nous pouvons nous imaginer un système de normes positives, qui soit presque parfait, son application dans les cas concrètes a pourtant besoin d'utiliser des modèles rationnel d'application, qui incluent une série de principes que la raison se prescrit tout seule. Le procédé respectif n'est pas un circulaire, mais, comme Mircea Djuvara l'appelle, il est dialectique (Mircea Djuvara, *Eseuri de filosofie a dreptului*, Bucureşti, Trei, 1997, p.313).

[19] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 62.

[20] *Ibidem*, p. 68.

[21] *Ibidem*, p. 69.

contiennent, comme une directive rationnelle à eux, ce principe universel du droit, principe d'où dérive l'idée formelle de justice.

Mircea Djuvara insiste sur la similitude existant entre l'idée kantienne de justice – idée directive de toute la vie juridique – et l'idée cosmologique d'univers, qui, en sa qualité *d'idée régulatrice* de la connaissance théorique, implique la postulation de la possibilité d'une vérité intégrale sur l'existence. Toutes ces deux idées – celle de *la justice* et celle de *la totalité des phénomènes du monde* – vont avoir un rôle régulateur, en tant qu'instances suprêmes auxquelles se rapporte l'activité de chaque domaine pris à part; la connaissance juridique, la connaissance théorique respectivement. Elles sont aussi les éléments conformément auxquels on assure le caractère unitaire de la connaissance.

Les idées de la raison sont des fonctions de synthèse, par le biais desquelles tous les phénomènes qui se constituent en objets de la connaissance sont réunis. Même si nous ne pouvons pas élargir nos prétentions de connaissance au-delà des limites de l'expérience possible, la raison va essayer, en permanence, à nous pousser vers la transcendance de ces limites. Par leur tendance vers l'inconditionné, les idées transcendantales expriment une certaine destination de la raison, et notamment celle «d'être un principe de l'unité systématique dans l'usage de l'intellect»[22]. Une telle tendance ne peut pas être considérée illégitime, aussi longtemps que certaines exigences méthodologiques sont respectées. Les limites de l'usage des idées de la raison sont précisées par Kant de la façon suivante: «Mais si cette unité de la manière de connaître est considérée comme si elle était propre à l'objet de la connaissance, et qu'elle soit considérée comme *constitutive* alors qu'en fait, elle n'est que *régulatrice* même quand nous nous laissons convaincus que par l'entremise de ces idées notre connaissance pourrait être élargie bien au-delà de toute expérience possible, de manière transcendantale donc, alors qu'en fait cette unité de la connaissance sert seulement à approcher si possible l'expérience en elle-même de la complétude, c'est-à-dire de n' entraver l'avance de la connaissance par aucun élément qui ne puisse appartenir à l'expérience, alors ce n'est qu'une erreur d'appréciation de la destination au sens propre de notre raison et de ses principes et une dialectique qui trouble en partie l'usage de la raison dans l'expérience et qui met en partie la raison en conflit avec elle-même»[23].

La raison tend, en permanence, à l'inconditionné, à l'irréel, mais cette tendance est légitime, car par son biais on trace une *directive rationnelle* de toute la connaissance. Cette tendance de la raison est naturelle, son but est «l'idéal de vérité totale et objective que nous poursuivons nécessairement dans toute connaissance sans jamais le réaliser»[24]. Les idées de la raison transgressent l'expérience et visent *une totalité* dont l'expérience elle-même

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[22] Immanuel Kant, *Prolegomene la orice metafizică viitoare care se va putea înfăţişa drept ştiinţă,* Bucureşti, ALL, 1998, p. 154.
[23] *Ibidem*, p. 154.
[24] Mircea Djuvara, *Eseuri de filosofie a dreptului*, Bucureşti, Trei, 1997, p. 287.

n'est qu'une partie, mais elles ne réalisent cela que pour l'unification formelle des règles de l'intellect. La fonction finale de la raison est une *fonction de synthèse* de toute notre connaissance. Cette fonction a pour but «de trouver pour la connaissance conditionnée de l'intellect, l'inconditionnel par lequel son unité se complète»[25].

Les idées de la raison sont les éléments qui guident toute notre activité cognitive. Même si, pratiquement, on n'aboutit jamais à connaître ou à réaliser le contenu concret de telles idées, elles continueront à réunir la diversité des concepts, tout en proposant une *unité collective*, en tant que but pour les actes de la compréhension.

Même si nous ne connaissons jamais, convenablement, le schéma général de l'univers physique (postulée par l'idée cosmologique de la raison), notre raison va l'invoquer toujours, car ce schéma représente une certaine *finalité* de notre connaissance: «L'unité formelle suprême des concepts rationnels est l'unité *finale* des choses»[26]. D'ailleurs, selon Ion Petrovici aussi: «c'est une illusion l'aspiration de notre raison d'aboutir un beau jour à une synthèse suprême, à une unification entière, mais c'est pourtant une illusion utile»[27].

On a vu, donc, que la raison théorique est dirigée, dans ses actes, par certaines idées, qui lui confèrent une certaine unité et un certain but. Il devrait en être de même pour la raison pratique, car, finalement, il n'y a qu'une seule raison et ce sont seulement ses usages qui la rendent parfois théorique, parfois pratique. La raison pratique devra avoir donc ses propres idées régulatrices qui la dirigent dans la recherche.

La raison pratique agit, dans les domaines moral et juridique, dans la direction de l'accomplissement de la liberté. Celui-ci est donc possible par l'accomplissement des idées de bien moral, de justice respectivement. Ce sont les idées formelles de la raison pratique, dérivée, la première de *l'impératif catégorique*, et la deuxième du *principe universel du droit*.

L'idée de justice, car c'est à elle qu'on va se rapporter notamment, représente l'élément rationnel, autour duquel toutes les activités juridiques seront ordonnées, comme dans un tout systématique. Comme on l'a déjà affirmé, l'idée de justice implique une distribution sans équivoque de la justice sur tous les faits sociaux.

Tout comme l'idée de vérité intégrale, qui coordonne l'activité de la raison théorique, l'idée de justice représente, dans l'opinion de Kant, un idéal absolu, dont les détails ne peuvent jamais être réalisés de manière exhaustive. C'est précisément pourquoi, l'idée kantienne de justice sera seulement une *condition formelle* de toute appréciation juridique. Elle sera l'élément coordinateur du droit, la finalité vers laquelle tout droit positif doit tendre, de manière rationnelle. De cette idée de justice doivent dériver toutes les autres normes du droit

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[25] Immanuel Kant, *Critica raţiunii pure*, Bucureşti, Editura Ştiinţifică, 1969, p. 288.

[26] *Ibidem*, p. 289.

[27] Ion Petrovici, *Douăsprezece prelegeri universitare despre Immanuel Kant*, Iaşi, Agora, 1994, p. 166.

rationnel, qui, ensemble, vont constituer un *tout virtuel systématique*. L'idée formelle de justice confère, dans le sens de ce qui a été dit, rationalité et objectivité à tous les jugements juridiques où elle est impliquée.

La rationalité que l'idée de justice (impliquée dans le principe universel du droit) confère aux jugements juridiques est une conséquence de sa propre rationalité. A ce que l'on sache, le caractère rationnel de l'idée de justice est déterminé par le caractère a priori du principe universel du droit, énoncé de la sorte: «*Droite* est l'action conformément à laquelle ou conformément à sa maxime, la liberté du libre arbitre d'un homme peut coexister avec la liberté de tous, selon une loi universelle»[28].

Selon Kant, pour avoir légitimité, le droit positif doit être en concordance avec les exigences des normes du droit rationnel. Les philosophes néo-kantiens vont soutenir, par la suite, que tout droit positif sera d'autant plus efficient qu'il contribuera davantage à la réalisation de la valeur de la justice[29]. Nous réitérons, pourtant, qu'il n'y a pas question d'une valeur concrète de justice, formée dans un cadre social bien déterminé, mais de l'idée formelle de justice. La raison fournit seulement l'élément formel de l'idée de justice et non pas des idéaux concrets de justice. Les normes juridiques se forment, ensuite, par l'application de cette idée formelle de justice à une certaine réalité sociale. Selon Petre Andrei, dans la philosophie pratique de Kant, «généralement valable est seule la catégorie du *juste*, et non pas ses applications»[30].

L'idée formelle de justice représente, donc, «l'élément universel qui ne peut pas s'absenter d'aucune pensée juridique»[31]. Du fait que c'est la valeur conformément à laquelle toute norme juridique positive doit être élaborée, l'idée de justice doit subsister, aussi, dans toutes les appréciations juridiques, mais aussi dans l'interprétation et l'application des normes de droit positif: «Le juge qui, au nom du droit positif, se limite à une logique inique tirée uniquement de textes et fait abstraction de leur raison suprême d'être, c'est-à-dire de justice, commet une erreur qui signifie un crime contre le droit même»[32]. Pour être objectives donc, tous les jugements juridiques doivent représenter des appréciations conformes à l'idée de justice.

L'établissement de la vérité juridique suppose le respect de deux étapes dans la connaissance juridique :

l'identification et l'analyse des faits comportant une certaine conséquence juridique ;

l'évaluation du caractère juste ou injuste des faits en question.

[28] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 68.
[29] Rudolf Stammler, *Theorie der Rechtswissenschaft*, Halle, 1911, pp. 117 – 118.
[30] Petre Andrei, *Filosofia valorii*, Iaşi, Polirom, 1997, p. 130.
[31] Mircea Djuvara, *Eseuri de filosofie a dreptului*, Bucureşti, Trei, 1997, p. 92.
[32] *Ibidem*, p. 96.

A ce qu'on voit, dans la deuxième étape intervient une certaine valorisation des faits concernés[33]. Mais, pareil à toute valorisation, on est d'abord tentés à considérer qu'elle est une création arbitraire de notre subjectivité. On ne peut, pourtant, soutenir cela que dans la mesure où les normes positives, conformément auxquelles on fait l'appréciation, auraient un caractère arbitraire. Car, l'appréciation du caractère d'un fait juridique se réalise, dans une société donnée, sur la base des normes positives qui fonctionnent effectivement dans la susdite société. L'objectivité de l'appréciation juridique dépend donc, premièrement, du caractère juste des règles de droit positif. Le caractère juste de ces règles positives sera déterminé, à son tour, par la manière où elles concordent avec l'idéal social de justice.

Il devient clair à ce moment, comment, dans l'esprit de toute la philosophie kantienne, le droit dispose lui aussi de sa propre « idée ». L'idée formelle de justice est l'idée régulatrice de toute la pensée juridique, et en même temps l'élément qui fournit unité à la connaissance juridique. Car, en somme, le droit ne contient pas d'éléments disparates, mais il est un système ordonné et cohérent, où la validité des normes s'appuie hiérarchiquement, au plus haut niveau se trouvant la norme la plus générale et la plus abstraite à la fois[34].

La légitimité des normes positives de droit est une conséquence de leur conformation à l'idéal rationnel de justice[35]. Bien plus, la référence permanente à un tel idéal est, selon Villey, une condition de la réalisation du progrès dans le domaine juridique[36]. L'idée formelle de justice représente donc le principe coordinateur de tout le droit, dans le sens où «un principe représente un énoncé véridique qui, bien qu'il ne soit pas produit de manière induite de l'expérience, il n'en est pas contredit par celle-ci, pourtant il n'est pas directement, mais par n'importe laquelle de ses conséquences»[37].

On a vu donc, de ce qu'on a dit plus haut, quelle est, dans le système philosophique kantien, l'importance de l'élément rationnel dans le domaine du droit. Cette tendance, à vrai dire excessive parfois, à mettre en évidence les éléments rationnels (logiques), impliqués aussi bien en éthique que dans le droit, a attiré après soi l'établissement chez certains critiques de l'idée que la morale kantienne et le droit kantien sont deux constructions par trop formalistes, sans aucun rapport avec les nécessités sociales concrètes[38].

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[33] Cette deuxième étape, où se réalise l'évaluation des faits, est essentielle dans le droit. D'ailleurs, selon un auteur contemporain, c'est exactement la susdite valorisation qui est l'élément attribuant du rehaussement juridique à certains faits sociaux investigués (Michel Virally, *La pensée juridique*, Paris, Libraire Generale du Droit et Jurisprudence, 1960).

[34] Hans Kelsen, *Théorie pure du droit*, Paris, Dalloz, 1962.

[35] Paul Roubier, *Théorie générale du Droit*, Paris, Sirey, 1946, p. 184.

[36] Michel Villey, *Philosophie du Droit*, Paris, Dalloz, 1982, p. 337.

[37] Gheorghe C. Mihai, *Despre principii în drept*, în *Studii de drept românesc*, nr. 3-4 / 1998, Bucureşti, Editura Academiei Române, 1998, p. 278.

[38] L'analyse formelle est présente, à vrai dire, dans tout le processus d'identification des fondements rationnels de la moralité, mais cela ne signifie pas du tout la

On a observé, aussi, que, dans le cadre de la philosophie critique, la morale et le droit constituent un système unitaire, les deux systèmes collaborent à la réalisation des conditions nécessaires à l'accomplissement de la liberté. Selon Mircea Djuvara «c'est dans la conformité de nos intentions avec la loi de l'impératif catégorique que réside vraiment, d'après Kant, la moralité ; et c'est dans la conformité de nos faits avec la loi de l'impératif catégorique que réside la légalité. Et, de la sorte, la distinction entre droit et morale apparaît en soi, en tant que croissance naturelle de deux branches du même tronc solide»[39]. La morale tout comme le droit sont élevés, par Kant, sur des fondements rationnels, conférant unité, grandeur et objectivité à la fois à toute la philosophie pratique. Ces deux domaines sont fondés sur la réalité rationnelle de la personnalité humaine et supposent, en permanence, une série de conditions formelles, purement idéales.

En tant qu'élément socio normatif, le droit doit réglementer la vie sociale d'une certaine communauté. C'est bien pourquoi, il doit s'actualiser, de manière concrète, sous la forme d'une législation positive. Cette positivité du droit ne peut en être arbitraire, mais elle doit être faite seulement en conformité avec les principes rationnels de la justice.

L'implémentation de toute normativité positive, dans un certain cadre social, est légitime, dans l'opinion de Kant, seulement dans certaines conditions. L'identification des conditions qui rendent opportun et légitime un certain nombre de normes juridiques positives n'est pas réalisée par Kant dans l'esprit du même rigorisme analytique, qui le caractérise. Etant l'adepte des méthodes transcendantales de fondation, Kant tombe, parfois dans l'erreur de l'arbitraire et du sentimentalisme, surtout lorsqu'il essaie d'identifier les conditions politiques concrètes (l'Etat républicain, par exemple), qui sont nécessaires à la réalisation des exigences rationnelles de la justice. Dans ce sens justement, nous rappelons l'affirmation de Ion Petrovici qui considère que «l'élaboration de la philosophie juridique kantienne est très compliquée et par endroits non concluante, sans plus parler du fait que les contradictions non plus ne lui manquent»[40].

En partant de l'idée que les normes juridiques positives ont le rôle d'établir un état social d'équilibre entre la liberté de tous et chacun, Kant considère qu'elles ne peuvent agir au nom de la justice qu'à l'intérieur d'un Etat. Toutes les situations juridiques concrètes sont le résultat de relations civiles mutuelles, et elles sont réglementées à l'aide des lois qui composent le

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promotion d'un modèle éthique   formaliste. On doit faire la distinction entre l'identification, par voie formelle, des conditions rationnelles de la vie pratique – ce que réalise, en fait, Kant – et la promotion possible d'un modèle éthique purement formaliste.

[39] Mircea Djuvara, *Teoria generală a dreptului. Drept raţional, izvoare şi drept pozitiv*, Bucureşti, ALL BECK, 1999, p. 461.

[40] Ion Petrovici, *Douăsprezece prelegeri universitare despre Immanuel Kant*, Agora, 1994, pp. 218 – 219. Iaşi,

droit public. Un tel droit public ne peut être efficient qu'à l'intérieur d'un Etat, celui-ci représentant «l'union d'une foule de gens sous des lois juridiques»[41].

L'Etat est donc, dans la conception juridique de Kant, la condition matérielle de la réalisation de la justice. Plus encore, le projet kantien de réalisation de la paix éternelle, de la justice globale, implique «l'idée d'un *droit d'Etat international* (ius gentium) ou d'un *droit cosmopolite* (ius cosmopoliticum)»[42]. La réalisation de l'idée de justice ne peut être entière, si on se résume à sa réalisation seulement sur le territoire d'un Etat, mais elle implique aussi la prise en considération du type de relations que l'Etat respectif a avec les autres Etats. La réalisation de l'idée de justice implique ainsi, chez Kant, une certaine globalisation des procédures rationnelles de réalisation du juste.

Les relations juridiques doivent être réglementées par trois types de droit, qui tous ensemble doivent travailler pour réaliser l'idée rationnelle de justice. Les trois types de droit sont : le droit civique des gens dans un peuple (ius civitatis), le *droit international* des Etats en relation mutuelle (ius gentium), le *droit cosmopolite* par lequel les gens et les Etats sont en relation extérieures d'influence réciproque (ius cosmopoliticum)[43]. Même si la distinction droit international – droit cosmopolite semble artificielle, car ils sont plutôt une et seule chose, il faut apprécier pourtant l'intention théorique de Kant. Les exigences rationnelles, qu'il suppose être nécessaires pour la réalisation de l'idée de justice, l'obligent à postuler la nécessité d'un droit cosmopolite. Car, l'idée de justice ne peut être réalisée que dans le cadre restreint d'un «ici et maintenant», circonscrit par les frontières d'un simple Etat, mais elle implique une réalisation globale, son universalisation. Cela est nécessaire «car les gens et les Etats, qui sont en relations extérieures d'influence réciproque, doivent être considérés comme citoyens d'un Etat humain universel (ius cosmopoliticum)»[44].

Comme on l'a déjà affirmé, la réalisation de la justice suppose donc, l'élaboration d'un droit public, qui puisse être en accord avec la volonté générale des membres d'un Etat républicain. Bien plus, cette volonté doit concorder avec les autres volontés, appartenant aux autres Etats, en nous menant ainsi à l'idée d'un droit rationnel cosmopolite. Les principes d'un tel droit cosmopolite auront pour objectif la réalisation de la *paix éternelle*[45]. La paix éternelle signifie justement la réalisation concrète, au niveau global, de l'idée formelle de justice (idée déduite du principe universel du droit). La réalisation de cette paix éternelle peut être considérée la *finalité matérielle* de

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[41] Immanuel Kant, *Metafizica moravurilor*, Bucureşti, Antaios, 1999, p. 146.
[42] *Ibidem*, p. 144.
[43] Immanuel Kant, *Spre pacea eternă* (fragmente), în volumul *Filosofia practică a lui Kant* (coordonatori Mircea Flonta şi Hans-Klaus Keul), Iaşi, Polirom, 2000, p. 102.
[44] *Ibidem*, p. 102.
[45] *Ibidem*, p. 102.

l'idée formelle de justice, son *but concret*[46]. Un tel but doit constituer l'intention de toute volonté politique, volonté qui, pour être légitimée du point de vue rationnel, doit subordonner le principe matériel de l'idée de justice au principe formel de la justice. Le principe formel de la justice doit l'emporter, «car il a, comme principe de droit, une nécessité non conditionnée, alors que le premier est contraignant seulement par la supposition des conditions empiriques du but proposé, notamment de sa réalisation, et même si ce but était un devoir (la paix éternelle, par exemple), et alors celui – ci devrait être déduit du principe formel des maximes qui concernent les actions extérieures»[47].

Kant subordonne l'activité politique réelle aux exigences juridiques de la raison pure pratique, tout en considérant absolument nécessaire le respect du commandement suivant: «Aspirez, tout d'abord, au règne de la raison pratique pure et à sa justice, et de la sorte votre but aussi (la bienfaisance de la paix éternelle) va vous revenir de soi»[48]. Les règles positives, qui réglementent toute la vie politique et sociale, doivent donc être conformes à la moralité, respecter les exigences de la raison pure pratique.

L'activité d'élaboration des règles qui seront à la base de la vie publique ne doit pas être une activité orientée exclusivement par des intérêts personnels et égoïstes, car cela serait non conforme à l'idée rationnelle de justice. Le droit public doit être adopté seulement dans les conditions du respect du cadre rationnel imposé par les règles qui rationalisent le débat public. La légitimité du droit de l'Etat, et celle du droit international, est garantie, dans l'acception de Kant, seulement dans la mesure où elles sont en concordance avec la *formule transcendantale* du droit public, formulée de la sorte: «Toutes les actions qui se rapportent au droit des autres gens, dont la maxime n'est pas compatible avec le débat public, sont injustes»[49].

Le débat public représente, donc, une autre condition matérielle qui assure le lien naturel entre la législation positive et l'idée formelle de justice. Le caractère rational du débat public garantit la rationalité des normes positives, qui peuvent se conformer de la sorte aux exigences logiques de la raison pratique.

Le *droit public* est composé de la totalité des *lois extérieures* qui rendent possible l'accord entre les libertés des individus. Un tel accord est une exigence de la raison pure pratique, qui légifère a priori, sans tenir compte des buts empiriques de chaque personne. C'est justement pourquoi, la coexistence de toutes les libertés individuelles est garantie de facto par la

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[46] Concrètement, l'idée de la paix éternelle est un principe matériel de l'idée de justice, dans le sens qu'elle vise un ordre universel de coexistence, réalisable dans un cadre concret, bien déterminé. Du point de vue transcendantal, pourtant, l'idée en discussion représente toujours une exigence rationnelle (un postulat de la raison), dont la réalisation ne peut être réalisée que par la méthode transcendantale.

[47] Immanuel Kant, *Spre pacea eternă* (fragmente), în volumul *Filosofia practică a lui Kant* (coordonatori Mircea Flonta şi Hans-Klaus Keul), Iaşi, Polirom, 2000, p. 108.

[48] *Ibidem*, p. 108.

[49] *Ibidem*, p. 109.

procédure de la contrainte (de la coercition), en base de laquelle les buts empiriques particuliers sont subordonnés, concrètement, à l'idée formelle de justice[50]. Voilà donc que, dans la conception de Kant, même la nécessité de l'existence de la contrainte juridique est un principe rational, constitutif du concept de droit.

La réalisation concrète de la justice nécessite, dans l'acception de Kant, l'existence d'un régime politique, qui doit être fondé – a priori – sur les principes suivants :

La liberté de chaque membre de la société, en tant qu'homme ;

L'égalité de chaque membre avec n'importe qui, en tant que sujet ;

L'indépendance de chaque membre d'une communauté, en tant que citoyen.

La liberté, l'égalité et l'indépendance sont les principes rationnels de l'idée de justice. En tant que principes rationnels, ils sont postulés (des fondements *a priori*) de la raison pure pratique

Pourtant, dans leur qualité d'éléments constitutifs de l'idéal social de justice, ces principes sont les *conditions concrètes* de cet idéal. La réalisation d'un ordre social juste exige de transposer ces principes, du domaine de l'intelligible (où ils sont les *conditions a priori* de l'idée formelle de justice), dans le domaine du concret (où ils sont les *conditions concrètes* de l'idéal social de justice). Par le truchement de cette transposition on réalise une certaine *concrétisation* des principes de la raison pratique. Si, au début, ces principes sont déduits, exclusivement de manière formelle, par la méthode transcendantale, ultérieurement, ils sont engagés, par concrétisation, à agir concrètement pour réaliser un ordre social juste.

Quand il parle de l'impératif catégorique kantien, Valentin Muresan considère qu'il y a plusieurs hypostases de celui-ci, celles-là étant «le résultat de la distinction entre le plan transcendantal ou intelligible et le plan empirique ou sensible de l'analyse»[51]. A partir de cette distinction, on peut continuer en affirmant que, par la procédure de la concrétisation, on passe du principe universel du droit à certains énoncés empiriques de celui-ci. De tels énoncés empiriques sont, si l'on doit conserver la dénomination donnée par l'auteur roumain, des impératifs catégoriques sensibles (ICS), qui ont la structure logique suivante: «Tout être partiellement rationnel doit faire X»[52]. En revenant aux dires du paragraphe antérieur, on peut dire que la réalisation concrète de l'idée de justice suppose le respect des impératifs catégoriques sensibles suivants :

Tout être partiellement rationnel doit être *libre*;

Tout être partiellement rationnel doit être *égal* avec ses semblables;

Tout être partiellement rationnel doit être *indépendant*.

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[50] *Ibidem*, p. 113.

[51] Valentin Mureşan, *Ipostazele imperativului categoric la Kant*, în volumul *Filosofia practică a lui Kant* (coordonatori Mircea Flonta şi Hans-Klaus Keul), Iaşi, Polirom, 2000, p. 157.

[52] *Ibidem*, p. 157.

Toutes les trois formules représentent des hypostases sensibles du principe universel du droit. En tant qu'hypostases sensibles, elles sont les conditions matérielles de la réalisation de l'idée formelle de justice. Il faut mettre quand même en évidence que, par le conditionnement matériel qu'elles réalisent, leur caractère rationnel et a priori n'est nullement affecté, car elles sont des conditions matérielles seulement du point de vue fonctionnel, tandis que leur fondement rationnel sera toujours de type transcendantal.

Le *procédé de concrétisation* de l'idée formelle de justice, tout comme celui du principe universel du droit, engendre donc, certains principes juridiques empiriques, qui vont bénéficier, pourtant, grâce à leur caractère rationnel, de nécessité et d'universalité. De tels principes, comme celui de l'égalité, de l'indépendance, de la liberté ou de l'équité, assurent le cadre social concret nécessaire à la réalisation de la justice. Bien qu'ils agissent au niveau du concret, ces principes sont fondés, a priori, par la raison pratique.

Employés, souvent, dans la littérature juridique, sous le nom de catégories, les principes mentionnés ci-dessus représentent les conséquences logiques de l'idée de justice, et en même temps les conditions a priori nécessaires à l'application concrète du principe universel du droit. Ces catégories juridiques, en tant que corrélatives/impliquées à l'idée formelle de justice, contribuent à la consolidation du caractère rationnel de cette idée. Plus encore, par la concrétisation, ces principes confèrent un caractère rationnel à l'idéal concret de justice d'une certaine société.

En guise de conclusion, on peut dire que Immanuel Kant met en évidence, par ses écrits moraux et juridiques, les solutions possibles, par le truchement desquelles on peut assurer le fondement objectif de toute la connaissance pratique. Les accusations conformément auxquelles il fournirait une conception par trop formaliste nous paraissent sans fond, car elles éludent une certaine distinction opérée par Kant dans le domaine de la philosophie pratique: celle entre le plan transcendantal de la fondation et le plan concret (immanent) de la vie pratique[53]. L'attitude soi disante formaliste sera présente seulement dans le plan transcendantal de la fondation, où Kant poursuivra à fournir une certaine rigueur épistémologique, nécessaire à la fondation de la connaissance pratique. Dans le plan transcendantal de l'analyse, l'exigence logique devient primordiale, les aspects

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[53] L'un des critiques les plus constants de Kant, sous cet aspect, a été le penseur néo kantien Friederich Paulsen qui, en parlant de la conception éthico juridique de celui-ci considère: «une forme de l'éthique insuffisante de point de vue scientifique; elle appartient, tout comme le droit naturel, qui forme sa paire, à la manière de penser individualiste rationaliste du XVIII-ième siècle, dont Kant ne s'est jamais écarté. (…) L'éthique actuelle se différencie, par deux traits caractéristiques, de l'ancienne conception dogmatico-théologique et de la philosophie dogmatico-rationaliste à la fois des XVII et XVIII-ième siècles et elle l'emporte: tandis que celle-là était non historique et individualiste, elle est devenue historico-génétique et socio-téléologique» (Fr. Paulsen, *Etică*, în volumul *Filosofie neokantiană în texte* (coordonator Octavian Nistor), Editura Ştiinţifică, Bucureşti, 1993, p. 146).

épistémologiques étant prioritaires par rapport à la détermination des règles pratiques concrètes. Le passage au plan concret (sensible), de la vie pratique, est réalisé par la concrétisation des principes pratiques transcendantaux, et, dans le cadre de cette application, l'attitude formaliste est abandonnée en faveur d'une démarche on ne peut empirique. On peut dire qu'une telle concrétisation est présente dans toute la conception juridique de Kant.

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THE CRITERION OF DEMARCATION
BETWEEN REALISM AND NOMINALISM

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1. **Argument**

What exactly is the Problem of Universals? What is supposed to be explained by a solution to the Problem? What kind of explanation do we pursue? And how can we understand the differences between opposite solutions to the Problem? There are, it seems, some very relevant preliminary questions to which every theory concerning this subject, explicitly or not, must answer. Questions about, to be more precise: (i) what are the explananda of a solution to the Problem of Universals (the facts to be explained)?, (ii) what sort of explanation would we give to this explananda (in terms of ontological commitment, truthmakers or conceptual analysis)?, and (iii) what is the criterion of delimitating between various explanations or solutions to the problem?[1] My claim is that these general questions are ontologically significant, because only by clarifying them can we be sure of talking about the same thing; namely, about the same Problem of Universals.

I will not discuss in this paper the first two questions raised here, although they reveal some very interesting issues. I am taking as granted that the main explanandum of the problem of Universals is the qualitative resemblance between different particulars. Furthermore, I am confining

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[1] The first two points above are extensively discussed in Oliver (1996) and Rodriguez-Pereyra (2000).

myself only to scrutinize the Criterion of Demarcation[2] (CD, as I will call it from now on) as it is stated in the first pages of D.M. Armstrong (1989). I believe that, at the beginning of his work, Armstrong makes a methodological error that, although not very important in the rest of the book, is nonetheless misleading.

2. **The Problem of Universals**

The Problem of Universals, traditionally, is considered to be the problem of showing how numerically different particulars can nonetheless share the same property.[3] This problem is based on the Moorean fact of qualitative resemblance between things. Indeed, how can we explain that two red objects resemble each other from the standpoint of their color? In virtue of what are they both red? Is it because they share a common property? But what exactly is a property? And what exactly does it mean to share something? What is commonality? The Problem of Universals, thus, should have been named, maybe more properly, 'The Problem of Properties'[4] or, even better, "The Problem of Qualitative Resemblance".

Let's turn now to the CD. As I have said, the main issue is to explain how different objects share the same property. In Peirce's terms: how different tokens are of the same type? Now, Armstrong considers that here we can distinguish two senses of the term "same", or "sameness".[5] And based on this distinction, we can differentiate between the proponents of Realism and those of Nominalism (in all of their various forms).

Indeed, it seems that, intuitively at least, when we say that two things are the same, what we are asserting is that they are identical. And thus the first sense of sameness is strictly identity. But we are speaking about sameness in still another way. Suppose you are at the zoo. And you are watching an elephant in a cage, from behind. Another visitor sees the same elephant, but from the front. Are you both seeing the same thing? Yes of course. But still, what you are actually seeing are different parts of the same thing. So here it seems that we are speaking about a new sense of identity, as Butler called it, a loose and popular one (lp henceforth). So, talk of seeing the same object amounts to talk of seeing different parts of the same object. The distinction occurred to Butler when he tried to explain the identity of persons and objects over time. The problem is this: is person x of today the same as person x of yesterday? In a strict sense, no. Strict identity is governed by Leibniz's principle of the Indiscernability of Identicals: if a is strictly identical with b, then a and b have exactly the same properties. But person x of today doesn't have exactly the same properties as person x of

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[2] In this paper the Criterion of Demarcation will be understood as a primary distinction, that offers a criterion on which to distinguish different explanations; i.e. a classifying criterion.

[3] Armstrong (1978, p. 41).

[4] Rodriguez-Pereyra (2000, p. 256).

[5] See Armstrong (1989, pp. 2-5). This distinction is firstly drawn, as Armstrong admits, by Bishop Butler ([1736], 2006, p. 306).

yesterday. So, the person x of today isn't the same (in a strictly identical way) as person x of yesterday. But how else can we explain the identity of persons over time? Here we can use the second meaning of sameness, the lp one. We are speaking of the person x of today as being the same as person x of yesterday by considering them as two temporal parts of the same four-dimensional object, let's say person x. So, just as in the example with the elephant, talk of seeing the very same person in different days amounts to talk of seeing different temporal parts of the same person (strictly identical with itself).

Let's return now to the Problem of Universals. The issue in question is to explain how two different things can be nonetheless similar. How could they have the same property? One possibility is to consider the first sense of sameness and thus to admit that two numerically different objects have in common the same, strictly identical, property. This property is a universal, namely – as opposed to a particular – it can be in multiple places in the same time and nevertheless be one. This is what Realism in general will claim. But there is still another possibility. If we consider sameness as being identity rather in a lp sense, then, when we say that two similar objects have the same property, what we actually affirm is that those two objects, or their particular similar properties, are parts of the same whole or unity.[6] We thus say that the two objects (or their particular properties) are members of the same natural class,[7] are different parts of the same resemblance structure,[8] or both fall under the same predicate or concept.[9] And so we can distinguish between the two main rivals in the dispute over the existence of universals.

Of course, this distinction is only preliminary, a rather metaphorical way of expressing the differences between possible explanations of qualitative resemblance. Actually, Armstrong himself draws in the next chapter of his book a clearer CD, formulating the Problem of Universals in the following way: "What distinguishes the classes of tokens that mark a type from those classes that do not?"[10] Nevertheless, my opinion is that, even if this first Criterion is more likely figurative, it should be scrutinized. Armstrong's notion of lp sameness leads to some important misunderstandings, thus failing to provide an adequate CD.

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[6] Here we need to draw a distinction. There are various kinds of nominalists. Some assert that properties in general don't exist, and objects fall under the same type because they are members of the same natural class or of the same resemblance structure and so on, while others believe that properties do indeed exist, but they are particulars, not universals. These particular properties are usually called tropes.

[7] Natural Class Nominalism – see Quinton (1957); or, if we admit particular properties, Natural Class Trope Nominalism – see Stout ([1921], 1973).

[8] Resemblance Nominalism – see Price (1953) or Rodriguez-Pereyra (2002); or Resemblance Trope Nominalism - see Williams (1966) or Campbell (1989).

[9] Predicate Nominalism or Concept Nominalism (also called Conceptualism).

[10] Armstrong (1989, p. 13).

3. **A critique**

We say that two objects, a and b, are identical in a lp way, according to Armstrong, when they are both parts of the same whole or wider unity.[11] How can we understand this definition? From my point of view, it means that the notion of identity in a lp way should be grounded on one, at least, of the following principles:

P1: If a is identical with b in a lp sense, then a and b are parts of the same whole.

P2: if a and b are parts of the same whole, then a is identical with b in a lp way.

But can lp identity be grounded on these principles?

Take P1.

Premise1: If a is identical with b in a lp sense, then a and b are parts of the same whole.

Premise2: a and b are parts of the same whole

Conclusion: a is identical with b in a lp way.

Well, this argument is invalid. It falls under the affirming of the consequent fallacy

Take, secondly, P2.

Premise1*: if a and b are parts of the same whole, then a is identical with b in a lp way.

Premise2: a and b are parts of the same whole, therefore

Conclusion: a is identical with b in a lp way

This is a valid argument, but unsound. Premise1* above is false if we find an example of two objects that are indeed parts of the same entity, but yet very dissimilar (namely, we cannot say, under any circumstances, that they are identical even in a loose and popular way). Take as an example my left hand and my right ear. They are both parts of my body, yet they are totally different. Thus, lp identity cannot be grounded on P2, either.

This leads us to conclude that sameness conceived as identity in a lp way is just wrong. Furthermore, as we will see: (i) this kind of identity is quite suitable for one specific form of Nominalism, called Mereological Nominalism, (ii) that just cannot represent all the other forms of Nominalism; the critiques raised above don't apply to these other theories. Thereby, (iii) Armstrong's attempt to provide a CD, based on lp identity, fails.

(i) Mereological Nominalism says that two things are of the same type – say, they are both white – because they are parts of an aggregate – say, the aggregate of all the white things. Now, this is exactly what Armstrong says about his second notion of sameness. The problem is that, although it is a necessary condition, for a being similar with b, that the two things be parts of a whole/aggregate/unity, it still isn't a sufficient one. Why not? Armstrong

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[11] "I am inclined to think that when 'the same' or 'the very same' is used in a loose and popular sense, it always involves applying 'the same' to different *parts* of the same thing, where that last phrase 'the same thing' has the sense of *strict* identity" (1989, p. 4).

(1978, p. 34): it is possible that two parts of an aggregate of things having one kilogram could not have, each, one kilogram.

(ii) Totalities, or aggregates, are a very special kind of things. They aren't like classes, for example. Suppose you have the totality of all the things that have 1 kg. You can find a part of it – say, half of an apple of 1 kg – that indeed doesn't have 1 kg, but instead has 0.5 kg. Nevertheless, you cannot find a member of the class of all apples that isn't an apple. Actually, Natural Class Nominalism eludes entirely the objection raised above. Premise1* could be replaced with Premise1**: if a and b are members of a natural class, a and b are similar; which is absolutely true. You cannot find two members of a natural class that are not similar. Why? Because they are members of that class precisely because they are similar.

By virtue of these facts, thus, you cannot conceive Mereological Nominalism as being representative for all the other kinds of Nominalism.[12]

(iii) But this is exactly what Armstrong did. Identity in a lp sense as conceived by Armstrong – or shall we call it part-whole relation – is a type of relation applicable only to Mereological Nominalism. But there are still other kinds of relations that escape the problem revealed above: membership, resemblance, predication etc. Thus, Armstrong's purpose, to find a representative for all Nominalist theories – and thereby a CD – cannot be achieved by his notion of sameness in a lp sense.

4. Concluding remark

The CD, as I have conceived it here, is an important criterion by which we can classify the main solutions to the Problem of Universals. My impression is that this Criterion is quite useful for a better understanding of the Problem and, if we want to pursue metaphysics in a rigorous and analytical way, we should pay much attention to it. Armstrong, in my opinion, failed to provide, in his rather metaphorical distinction at the beginning of (1989), an adequate CD.

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[12] Since there is at least one form of Nominalism that escapes Mereological Nominalism's problem.

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SECTION II:

COMMUNICATION SCIENCES

BUSINESS INTERESTS VS. MEDIA PLURALISM:

UK' S INTERPRETATION OF THE EU POLICY ON RADIO LICENSING

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Introduction

A recent article from The Guardian (Williams 2006) noticed how ironic it is that "the business-friendly media regulator Ofcom" published its review of media ownership rules concluding, "no changes need to be made at this stage", in the same week in which Rupert Murdoch's media empire took hold of an additional portion of the British market with BSkyB's purchase of a 17.9% stake from ITV.

The equilibrium that needs to be maintained by Ofcom between, on the one hand, EU principles of ensuring media diversity and pluralism, and on the other, letting companies pursue their business interests, represents a controversial process.

This paper will look at whether Ofcom manages to strike this balance between EU values and economic pressures in the field of local radio licensing. My research will start from the EU policy in the media sector, than move towards Ofcom's policy in granting radio licenses and the way it is implemented in four particular cases.

Radio licensing: the European policy perspective

A few key-concepts are at the basis of the conceptual framework on which EU media policy is based on. They start with freedom of expression, including the freedom to hold opinions and to receive and impart information. This is seen as directly connected with the pluralism of the media according to the European Charter of Fundamental Human Rights (Chapter 11) and to Article 10 from the European Convention on Human Rights. Promoted as a fundamental policy in the EU, media pluralism is also the subject of a Green Paper issued by the EC in 1992, who distinguishes between internal pluralism (diversity of opinions) and external pluralism (medium diversity). The promotion of media pluralism is also the subject of a CE Recommendation (CE 1999) establishing that a particular focus on the promotion of media pluralism should be taken into account in the process of granting licenses for commercial radio broadcasters (Appendix 1, I, par.3).

While the European Charter, the ECHR, the Green Paper or CE's Recommendation are significant in defining the main values in European media policy, none of them is binding (EP 2006) in any way for the member states. However, their inherent significance is to be found in a few other binding instruments provided by the EU legislation under the form of decisions or directives. In this respect, Recital 3 of the Radio Spectrum Decision states the need of the EC policy to contribute to freedom of expression and "freedom and plurality of the media" (EP&EC 2002a). According to the Authorization Directive (EP&EC 2002b), the whole process of distributing radio frequencies should be managed by a national regulatory authority (NRA), following a set of "objective, transparent, non-discriminatory and proportionate rights, conditions and procedures" (Recital 4).

The goal of this paper is to link the EU media policy provisions with the activity of Ofcom – UK's NRA – in the area of radio licensing. My goal is to examine whether the EU values concerning media pluralism and diversity are reflected in Ofcom's policy and whether they constitute a prevailing factor of evaluation in the of comparative hearing organized for granting local analogue independent radio licenses.

Radio licensing: Ofcom's policy

To enter the process of comparative hearings organized by Ofcom for analogue commercial radio licenses applicants need to provide a financial assessment of their business (consisting of data regarding operational costs, funding, audience share, revenues, staffing and cash flow), as well as an application file that will be judged according to a scoring system. The evaluation is done by the Radio License Committee (RLC), made up of eight permanent members who are appointed by the Board of Ofcom, and it is based on a set of criteria provided by Section 105 from the Broadcasting Act

of 1990. The four paragraphs of this section deal with the applicants' ability to:

(a) maintain the license for the specified period (prove financial sustainability)

(b) provide services that suit the tastes and interests of the local audience

(c) broaden the range of programs available in the local area and fill in an identified market gap

(d) benefit of the local audience's support

Although the existence of a specific scoring system to be used in the evaluation of applications should serve as a precise framework, Ofcom's website contradicts the assumption of a rigid procedure, stating that the application which achieves the highest score will not necessarily be the winner of the comparative hearing process. Moreover, RLC is likely to put more weight on one or more of the specified criteria and consider it "particularly important in view of the characteristics of the license to be awarded" (Ofcom ND).

Another set of criteria used by RLC in the evaluation of applications for local commercial radio licenses is based on the provisions of Article 314 from the Communications Act of 2003. According to it, Ofcom has the obligation of fostering the production of local materials and locally made programs meant to address the local communities covered by the radio.

Starting from the above mentioned legislation, all of Ofcom's reports on granting licenses for local commercial radios are divided into one part evaluating the "localness" of a specific evaluation and another one assessing the "specific local license award criteria" (Ofcom ND): ability to maintain service, catering for tastes and interests, broadening of choice, evidence of demand/support.

The purpose of my research will be to examine the factors that are usually regarded by RLC as prevailing in the evaluation of radio license applications. For this aim I will look at four cases of awarded licenses published on the Ofcom website (www.ofcom.org.uk) and assess the general principles that dominate their outcome. I will particularly focus on how RLC weighs each particular application and whether its prevailing principles are in accordance with the EU media policy framework presented in the Chapter 1.

Ofcom's implementation of the policy in practice

To study Ofcom's practical interpretation of the legal framework in managing radio licenses, I consulted a number of case reports from 2005 and 2006, illustrating RLC's decisions in granting local commercial radio licenses (Ofcom 2004-2006). The cases that I selected for this paper are based on the principle of market-size and relevance. Therefore, I divide my presentation into two parts according to the size or the market and choose

two relevant cases (i.e. whose outcome coincides with the result of other cases in the given market-size) for each one.

Small markets (half a million adult listeners or less)

A comprehensive evidence of the applicant's ability to "maintain the service" (Broadcasting Act 1990) is the first factor RLC highlights in the case reports dealing with small-size markets. What the RLC members concretely look at is whether the radio station would get enough funding, whether its staff would have enough experience and knowledge in the field and whether the overall business plan and audience estimations are realistic and appropriate.

In the case of the local license advertised by Ofcom for the area of **Oxford and Oxfordshire** (roughly 500 thousand adult listeners), five applicants sent their files to the RLC in June 2006. One of the FoxGold, owned by Gcap Media – one of the strongest radio groups in UK, and holding the license for another important Oxford commercial radio: Fox FM (Ofcom 2006a). Another was Castle FM, with a majority of shares owned by Laser Broadcasting Ltd. – a network including a few other local radio stations in Yorkshire, Hereford, Worcester and Ludlow (Ofcom 2006b). The competition was also entered by Inspire 106, owned by The Local Radio Company plc (holding a few other licenses from Ofcom in Portsmouth, Sunderland, Salisbury, etc (Ofcom 2006c)), More FM, whose owner is South Central Media, jointly held by Town and Country Broadcsting Ltd and CN Group, both having a number of other local radio licenses in UK, and Jack FM, owned by Absolute Radio International, who also operates another radio station in Oxford – Passion 107.9 – targeting mainly young people between 15 and 24.

All of the five applicants competed for less than half of the radio market, as the largest portion of it is occupied by the BBC's six radio stations, with Radio 4 as market leader [Ofcom 2006d].

Judging from the perspective of an Ofcom policy which is reflected in a number of other small-market cases (e.g. Durham, Banbury or Warwick), the two favored contestants in the process of comparative hearings were Fox Gold and Jack FM. Both familiar with the local Oxford market and showing willingness in sharing resources and advertising opportunities with other radio stations held by their owners, they presented significant advantages in the eyes of RLC. Also, they both targeted a population over 35 and based their programs on a mixture of music and local news programs.

However, while Fox Gold focused on providing "a classic pop hit music led service" (Ofcom 2006a), Jack FM decided to focus on two genres that research showed were under-represented on the local radio scene: classic-rock and pop-rock.

In its license award decision published on October 2006 (Ofcom 2006e), RLC chose Jack FM as the winner of the comparative hearing process. The report showed the decision had been greatly influenced first by

the radio station's ability to maintain its service and then by its decision to cover genres that were not already offered by other commercial radio stations.

In the case of the local licenses for the area of **Exeter** (around 200 thousand adult listeners, including the nearby Torbay area)**,** four applicants sent their files for comparative hearing. They were Exeter FM, with a majority of shares owned by London Media Company Ltd (LMC), part of the Sunrise Group – operating a number of radio stations in more districts of London, and one in neighboring Exeter: Palm FM in Torbay (Ofcom 2006f), Silver FM, owned by Radio UK Holdings, which is also owned by the international Macquarie Bank, a multinational holder of media outlets [Ofcom 2006g], Sunshine Radio, owned by Laser Broadcasting (Ofcom 2006h), and Exeter Live, owned by Your Radio Ltd.

In evaluating the applications, RLC announced that it would put particular emphasis on the provisions of Section (a) from the Broadcasting Act of 1990, i.e. on the applicant's ability to "maintain the service". RLC also announced that it will favor speech content to be more important than the proposals focusing on music.

In a report published in September 2006 [Ofcom 2006i], RLC announced Exeter FM as a winner, mainly based on its strong business plan, whose basis relies on the ability to share resources with Palm FM in Torbay and the support of parent company Sunrise Group.

Large markets (over half a million listeners)

When it comes to larger markets that already provide a sizeable offer of radio services, RLC turns to a greater emphasis on content-based judging.

In the case of a market that is already crowded, such as the one of the **Manchester area** radios (Ofcom 2005), roughly counting 1.3 million adult listeners, Ofcom announced its intention to place specific importance on Section (c) of the Broadcasting Act, regarding the applicants' ability to broaden the range of programs already available. Consequently, a greater weight was also put on the research identifying a market gap (provided by Section (d) of the Act), as well as on the content-based solution meant to fill in this gap. Twenty applicants sent their files after the Manchester license was advertised in February 2005. They came from the part of some of the UK's biggest radio groups, including Sunrise Radio, Virgin Classic Rock and Time FM, as well as a few license owners already controlling other radio stations in Manchester, such as The Arrow Ltd., Manchester Citybeat Ltd., Emmis Atalntic Radio etc.

The RLC's final decision published in June 2005 ruled in favor of X FM, property of Capital Radio plc, which is part of Gcap Media. The main reason behind this decision was the "clearly-defined and innovative proposition with a distinctive Manchester flavour" (Ofcom 2005) presented by X FM, as well as its role in significantly broadening the program offer already offered by other commercial radios in the area. In other words, X FM managed to

identify a gap in the market of 15 to 34 year olds and proposed to fill it with an alternative music format.

A similar policy was applied by RLC in the case of a **Liverpool area** local radio license advertised in August 2006, covering an audience of 1.5 million adults. Ten applicants participated in the comparative hearing process, most of which came from the part of established owners of a number of Ofcom licenses in various parts of the UK, such as Chrysalis, CanWest and Gcap Media (Ofcom 2006j).

The award was granted to the Radio City/Emap owned station City Talk. The factors prevailing in RLC's decision were both the possibility of sharing resources and cross-promotion with other Radio City stations, as well as City Talk's commitment an all-speech program that would contribute to the broadening of the available radio services.

Conclusions

An analysis of Ofcom's decisions in the process of comparative hearings for granting local radio licenses reveals considerable differences according to the size of the radio market under discussion.

As revealed in the case reports of Oxford & Oxfordshire (2006e) and Exeter (2006i), Ofcom puts a higher emphasis on the licensee's ability to guarantee financial sustainability, granting less prominence to media pluralism and media diversity concerns. Therefore, in Ofcom's view the economic power in these small-market cases overthrows EU values and norms based on plurality and diversity.

Larger-market cases, such as Manchester (Ofcom 2005) and Liverpool (Ofcom 2006j), reveal Ofcom's turn toward the content-based principles of ensuring diversity and a plurality of media sources for the local audience. In such strongly urbanized cases, already providing a rich offer of radio services, Ofcom shows its tendency to put more weight on the licensee's ability to broaden the content of already available programs, and less weight on its financial sustainability.

This research provides a two-fold conclusion. On the one hand, UK shows its compliance with the EU provisions in the field of media policy (EP & EC 2002a, EP & EC 2002b) by providing two laws according to their principles (Broadcasting Act 1990, Communications Act 2003). On the other hand, this legislation provides but a general framework, leaving a lot of room for Ofcom to decide on a case-by-case principle which factors will be granted significant importance and which will be (partially or entirely) ignored.

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DISCRIMINATION, PREJUDICES AND STEREOTYPES –

INTERCULTURAL COMMUNICATION BARRIERS

IN THE EUROPEAN CONTEXT

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> "*Yes, we are wrinkled by stereotypes*
> *and we live on a rented mentality*"[1]

We live in a society that wants to be democratic and communicative. It is a democratic society, because her citizens have rights and obligations and not at least, have the freedom to express these rights as long as their rights do not restrain the freedom of the others. Communicational society status is given by the fact that it began to be aware of the importance and power that information offers. Information has become an important element of the society which it is used to manipulate, to influence the perceptions and not least to express its own identity or to repel the identity created by the societies which interacts with.

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[1] Ruxandra Cesereanu (coord.), (2006), *T(z)ara noastră stereotipii şi prejudecăţi,* Bucureşti, Institutul Cultural Român, p. 84.

There have existed throughout history moments in which people had no access to information and in this context we can talk about a misinformed society or a society whose access to information is limited. This lack of information is the main cause of the labeling process. A good example of this is illustrated by the Mexican society whose image is associated with drugs and corruption. This association is based on the idea that in Mexico you can find drugs traffickers and they are the ones who have power and control over the country. Mexico "*is viewed by many as a narcotic-democracy*"[2], it is a statement which is associated with all the Latin countries. Journalist, Enrique Krauze, states in his article "Violence: Legend and Reality":

"*Mexico seems designed to confirm all the old stereotypes: after all, is a land where (…) handlebar mustache and wide-brimmed sombrero men wind the guns at the slightest challenge, turning it into an endless spectacle of human sacrifice.*"[3]

The negative image of Mexico has been determinate by the way of how men and women of Latin origin are portrayed. Woll describes them such as: "*Americans (…) perceive an image of a society populated by bandidos Latin killers and obedient, but with beautiful and attractive women*[4]".

England is considered to be a stylish and conservative country where "*nothing has ever changed, where each knows his place and where very civilized life and full of love scene can be modeled*"[5]. African natives during the British imperialism were described by Henty in his own work "By conduct and courage" as:

"*Africans are like children […] they are smart just to a point and then they are only wrapped by the darkness of ignorance […] without originality and a little bit of creative force. Living among white people, their imitative abilities allow them to reach an important level of civilization. If they are left alone, they regress to a level that is not too far from their native wilderness*".[6]

We must consider that as Mexicans, Africans and the British, all individuals belong to several groups that are not clearly separated from other groups, so that any meeting between two people involves a higher or a lower intercultural degree which depends on: "*conception about the world which corresponds to all beliefs about the nature and purpose of life and relationship with the universe; associated beliefs and public behavior rules define what a «good» person is in a specific context. They respond to any questions about what we should or shall do and what we should not and*

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[2] Simona-Mirela Miculescu, (2006) *Relaţii publice din perspectivă internaţională*, Iaşi, Polirom.
[3] E. Krauze, (1994), „Violence: Legend and Reality", Time International, nr. 41, 10 octombrie.
[4] A.L. Woll, (1980), *The Latin Image in American Film*, Los Angeles, UCLA Latin American Center Publications.
[5] Simona-Mirela Miculescu, *op.cit.*
[6] G.A. Henty, (1905), *By Conduct and Courage: A Story of the Days of Nelson"*, Londra, Blackie & Son.

shall not do; the codes correspond to all the verbal and nonverbal communication systems adopted by a group; relationships and perceived intentions are defined, at a particular meeting level, like the power relations between participants and purpose, shared or not, of interaction"[7].

In other words, each of us is part of a group, is part of some culture who "*reflects the general human ability to encode and communicate experiences in a symbolic way, to convey symbols in a way validated by the community*"[8]. The problem arises when we start judging a person through the culture to which it belongs and not judging the person who is in front of us taking in consideration its personality and individuality. This creates communication barriers that give rise to misunderstandings caused by behavioral and perceptual differences which activate stereotypes, discrimination and prejudices.

Discrimination is defined as a "*differential treatment on grounds of sex, religion, ethnic origin*"[9] and usually concern national minority in a country. In Romania, for instance, there are references concerning discrimination in the Constitution, in 6th article, 1st and 2nd paragraph, showing that the state provides and acknowledges the national minorities by giving them the right to maintain and express their ethnic, cultural, linguistic and religious identity. The issue of discrimination is a topical issue which should be resolved because "*represents a potential source of tensions and discontents*" [10] who appears in a society blocking the communication. As a feature of social life, discrimination was practiced in the nineteenth century, only then there was not this concept and it was seen as a normal thing without being made too many questions, but the negative impact of discrimination is difficult to be measured.

"*Often, those who discriminate are not aware of this fact. They assume long time that certain types of people are less suitable than others in certain positions. It can be difficult to determine whether a person has been mistreated on the basis of gender or race, but those statistics which cover a precise delimited area by the decisions show that there is the tendency to discriminate*"[11]. If we take in consideration the broad sense of defining discrimination we can say that any form of selection at a given moment becomes a way of discrimination and to combat it we need to be empathy.

Many times we heard saying that Romanians are hospitable, hardworking, intelligent, know how to manage in any situation, that they are thieves, cowards and opportunists that Germans are harsh and strict, that the Scots are cheap, and all these statements are nothing but stereotypes

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[7] R.Y.Bourhis, J.P. Leyens (coord.), (2007), *Stereotipuri, discriminare şi relaţii intergrupuri,* Iaşi, Polirom, pp. 193-194.
[8] Andra Şerbănescu, (2007), *Cum gândesc şi cum vorbesc ceilalţi. Prin labirintul culturilor,* Iaşi, Polirom, p. 108.
[9] Michael Banton, (1998), *Discriminarea,* Bucureşti, DU Style, p. 10.
[10] *Ibidem*, p. 16.
[11] *Ibidem*, p. 64.

that exist in relation to every nation. Over time there have been several attempts to define stereotypes, and Jean Louis Dufays considers them "*the most resistant part, whereas, of our cultural construction, one that helps us to understand with each other and (…) allows us to read*"[12].

Walter Lippman, from a study on public opinion identifies that "*social stereotypes are treated like <<emotional presuppositions>>, developed by different groups (if they are homogeneous) about their collective identity, where individuals shall <<load>> the most powerful emotions from a social level projections about themselves and the community they belong to*"[13].

Our stereotypes show their influence on us most of the time and this thing is happening without us realizing it, which limits any attempt to prevent and redress ourselves. They depend on the mental heritage we have, are at everyone's fingertips, it can perpetuate, have a great impact on our perceptions and relations, explain the nature of relations between groups and involves an emotional tone, and these are a few of the characteristics of stereotypes. There have been found some ways to try to change the stereotypes because the negative impact of stereotypes on society is influencing the nature of relations between its members. These are the ways of changing stereotypes: accounting model whereby individuals are changing their stereotypes as they discover new information that contradicts them; conversion model, in which the individuals suddenly and radically change themselves; subtypes model which involves the use of dissonant information with stereotype[14].

Sexism, racism and anti sexism are some of the most common forms of prejudices which involve the rejection of the other considering that is a member of the group against which there are manifesting feelings based on false and rigid generalizations. The prejudice manifests itself in a subtle and harmful way, and the main issue is the social competition which becomes a threat to the social identity of an individual. Ideal would be that these prejudices to disappear, but unfortunately they can only be mitigated to some extent by contacts between groups, with common goals and cooperation, not least through socio cognitive approaches (cognitive competence approach to the phenomenon under conditions in which cognitive processes are those that contribute to their occurrence)[15].

Most of the times, the prejudices are developed by those individuals when "*faced with the unknown are trying to incorporate them into prior*

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[12] Jean Louis Dufays, (1994), *Stéréotype et lecture,* Bruxelles, Mardaga, p. 226.
[13] Ruxandra Cesereanu (coord), (2006), *T(z)ara noastră stereotipii şi prejudecăţi,* Bucureşti, Institutul Cultural Român, p.137.
[14] Bourhis, R.Y., Leyens J. P., (coord.), (2007), *Stereotipuri, discriminare şi relaţii intergrupuri*, Iaşi, Polirom.
[15] *Ibidem*.

formed categories by extending the generalized attributes of each group member"[16].

Discrimination, prejudices and stereotypes spread on all societies from all over the world and that is happening because a person thinks about another that is in a certain manner and thus is treated differently and that's because of his alleged membership in a particular category. This occurs in the current European context which becomes a barrier to intercultural communication. Something must be done to overcome these barriers, so that "*campaigns for greater equality of opportunity are a constant struggle, and that is a positive sign, since the fight helps maintaining the attachment to a greater equality. This act is especially important since the state actions are limited*"[17]. It was found that if an individual belongs to a certain category rather than another one can easily become the target of prejudice and discrimination. All of this could be countered with intercultural communication that would provide individuals the possibility to a better understanding of others, to establish a relationship with them[18]. Even though overall, they all have a negative impact on intercultural communication, yet they are necessary for the complex society in which we live to be meaningful and that each of its members are believed to be unique. We use them as a reference point to guide our behaviors and to determine our own attitudes when trying to communicate with different cultures in the European context[19].

Intercultural communication in the European context has been developed as a result of globalization in this region, economic, political, sociological, cultural and religious integration of population on the European continent. We should try to blur the differences between cultures and to emphasize the similarities between them, for so we could communicate more easily and especially we can leave behind us our stereotypes, prejudices and not least even our discriminations (they arise as a consequence of the unknown, new and incomprehensible world).

Prejudices, discrimination and stereotypes block the intercultural communication and that because through culture there are conveyed signs and symbols that are difficult to decipher without a map of social and personal meanings.

"*Communicative behaviors of individuals are the result of complex interactions between cultural factors, contextual factors, cognition and emotion. How we communicate is culturally rooted, shaped by attitudes, values, practices, expectations of a specific ethnic group, in turn created and spread in the communication process (…). Any change of the cultural factor*

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[16] Andra Şerbănescu, (2007), *Cum gândesc şi cum vorbesc ceilalţi. Prin labirintul culturilor,* Iaşi, Polirom, p. 171.
[17] Michael Banton, (1998), *Discriminarea*, Bucureşti, DU Style, p. 111.
[18] Adia Mihaela Chermeleu, (2007), *Communication interculturelle*, Timişoara, Eurostampa
[19] *Ibidem*.

has an effect on communication between individuals"[20] is the reason why the stereotypes, prejudices and discrimination, which in the contemporary world are more related to each other value system, rather than ethnic or racial nature.

Summary:

Stereotypes, prejudices and discriminations are actually some judgments of others. These judgments are marked by the ideological terrain in which the interaction takes place by identical stakes of individuals. First of all they have a negative impact on intercultural communication hindering its realization. Secondly they are a necessary starting point in trying to understand the different cultures in the European context.

The purpose of this project is to highlight the fact that stereotypes, prejudices and discrimination are something normal in everyday life and that we will never give them up. Through intercultural communication different cultures approaches each other, but because of the stereotypes, prejudices and discrimination is created a barrier that makes communication difficult between the cultures of Europe.

Keywords: prejudice, stereotypes, discrimination, intercultural communication, European context, barriers.

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