

THE RIGHT TO EDUCATION - A SINE QUA NON CONDITION IN THE TRAINING OF RESPECT FOR THE LAW

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ABSTRACT

The reform of the Romanian education system introduced a number of educational policies and practices oriented toward the concern of human rights and of fundamental freedoms, achieving a concordance between the principles of a democratic society: pluralism, the rule of law and the separation of powers in the state and the representativeness.

The evolution of the society based on values such as freedom, justice, equality, responsibility and tolerance can not be maintained only by the affirmation of the right to education perceived as solid foundation, consciously assumed by each and every individual.

The right to education must be promoted and respected by correlating with the evolution of the legislative, economic, and social-political system, through put control to the relationship between the students, the judicial regulation and the labor market. Such an education provides equality of chances for a continuous, varied and of good quality learning, with an emphasis on the skills, the attitudes and the civic behavior reported to the community's requirements.

The purpose of education in the third millennium advocates the need for the transmission of the right to education by a culture in the spirit of the law, in which the judicial regulation is the epitome of the organization, the functioning of the rule of law, and also the guarantor of respect for fundamental human rights and freedoms.

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JEL classification K/K3/ K39

The evolution of national and international regulations of the right to education constitutes a field of cooperation between Governments and non-governmental organizations (NGOs), acting for the formation of a culture of human rights among young people. The impact of education on the social development, shows us that it is essential, as the idea of man's training to draw out a philosophy of human rights, in preparation for a full life in relation to the requirements of modern living and legal economical, social and political interferences.

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Starting from the fundamental respect for the human being, for recognizing the human dignity, these are matters of priority in maintaining and promoting world peace, O.U.N. pays particular attention to the problems of social-cultural-economic humanitarian issues which are also mentioned in the form of universal rights and freedoms. All these have been materialized through a holistic approach on the one hand supported by the science and human rights, ensuring the means of implementation, as well as education in the spirit of respect towards domestic and international standards. In this sense, education becomes the process of humanization, underlining the idea that the man „cannot become human unless he is educated”.

In other words, O.U.N. responsibility is to act on the basis of legal instruments as the Universal Declaration of Human Rights, the International Covenant concerning rights of economic, social and cultural natures, International Covenant on Civil and political rights, different optional additional protocols, representing today the core of the international law of human rights, „hereinafter referred to as generic Charter of human rights”¹.

It is commonly acknowledged that in order to guarantee and to effectively exercise a right laid down in the mentioned above legal instruments it is needed, the consecration of the right to education as a fundamental human right”².

Regarded as a complex process accomplished through an endlessly chain of actions with a view to transforming the individual into an active and creative personality appropriate to economic and present and future legal administrative conditions, the education is a prerequisite to sustainable development of our contemporary democratic society.

In this respect, the right to education occupies a central place in the human rights system as „mixed law, considered the most important of cultural rights and duties pertaining to the second generation, giving reasons therefor on the philosophy that cannot be guaranteed other than through positive action by the State and which are linked by their nature of economic rights.”³

Public policies of the State offer an institutional framework of education as an act freely consented to realize other rights and freedoms, in which they develop their own platforms the ideal manifestations: education shall be directed to the full development of human personality and strengthen respect for human rights and fundamental freedoms⁴. In this respect we support that the right to education is in a mutual interdependence with other freedoms recognized by international

¹ Dr.I. Cloșcă, jurist M. Mihăilă, *The human rights in the UN system*, vol. I, Ed. Moduș, 1997, p. 8.

² Dr. A. V. Nedelcu Ienei, *The right to education, a fundamental human right*, Ed. IRDO, 2007, p. 35.

³ Prof. Univ. Dr. I. Moroianu Zlatescu, *The right to education, a fundamental human right*, Ed. IRDO, 2007, p. 13.

⁴ The Universal Declaration of Human Rights, art. 26, alin. (2).

instruments, as well as „the size of their theoretical practical application, should be regarded as a priority of educational policies”.⁵

Notice the trend that freedom of education is achieved through the existence of an inclusive education system without discrimination on the basis of an efficient training of young students. Recognition of the right to education and the right to education as the foundation of the formation of a pluralistic society includes functions which should settle the entire educational process:

- the educational-formative function consists of the transmission of

information for the intellectual and attitudinal training, in accordance with the regulations established by the educational authorities, saying that: „nobody can deny the right to education. The State, in the exercise of its functions in the field of education and teaching, will respect the right of parents to ensure such education and teaching in accordance with their religious and philosophical convictions”⁶, where education is manifested through the exercise of the right to instruct the others.

The right to training encapsulates the performance of young learners in a chosen occupation, a requirement generated by all the factors of the State and beyond, arguing that the right to education is treated in close correlation with the right to work, the judiciary relationships concerning vocational training and the right to work.⁷

- the social function is aimed at achieving the educational ideal and its finality, preparing the man for social roles ranging from the status of „consumer of social resources” to the status of „producer” of social resources in the formation and maintenance of a human community based on respect for the individual, national and universal values, in a spirit of tolerance, understanding and peace: „education (...) should promote understanding, tolerance, friendship among all nations and all racial and religious groups ...”.⁸

- the axiological moral function ensures the legal foundation principles of life and

conduct which regulates the relationship between the person and the authorities, causing the value of desirable criteria for achieving the social distinction between right and wrong, moral and immoral, legally and illegally.

Transmission of moral and legal foundations takes us without enclosure towards all the branches of law: constitutional, international, public, administrative, criminal, civil, presented in the science of human rights. „Even in

⁵ Rezolution 56/9 March 1993 acknowledged by OUN Committee.

⁶ Additional Protocol of the European Convention on Human Rights, adopted in Paris, March 20-th, 1952, art. 2.

⁷ Conf. Dr. M.I. Carcea, *Introduction to Pedagogy*, cap. I, Ed. Ghe Asachi, Iași, 2001, p. 113.

⁸ *Idem* 4.

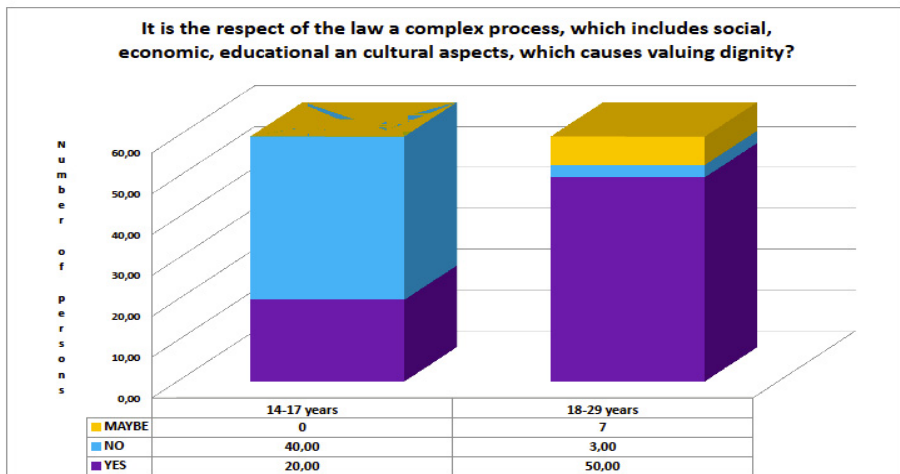
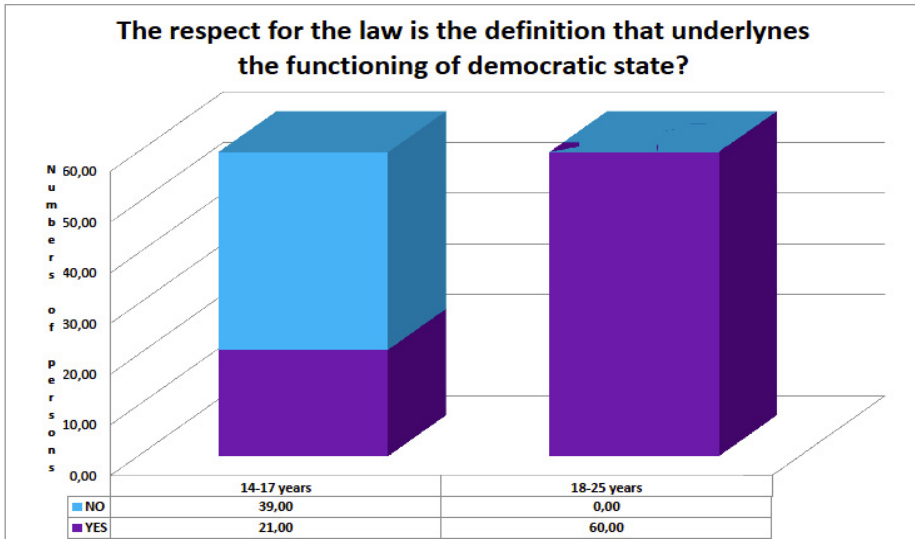
language, that fundamental rights and freedoms are expressed in the legal manner, they are above all notions of constitutional law and international law, responding to each with their own characteristics to the requirements of the protection of the human being".⁹

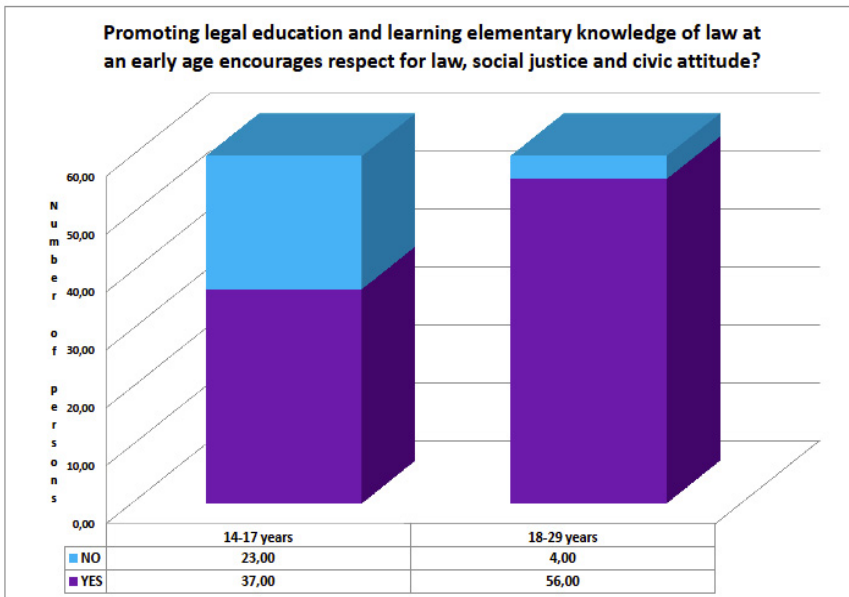
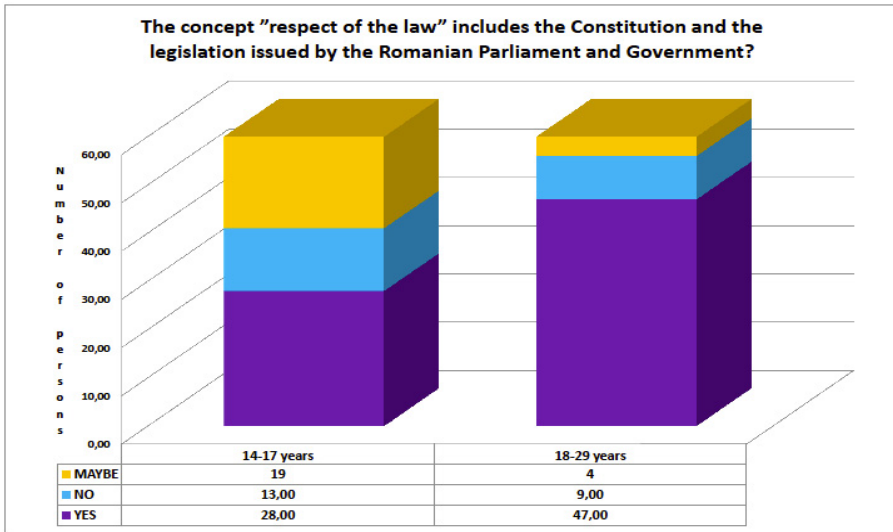
Thus, one can specify the intervention of the State in guaranteeing and protecting the constitutional laws on human rights, rights to subscribe to the relationship between a person and the State, and the creation of a legal framework, promoted and implemented by law, a necessary social cohabitation between individuals.

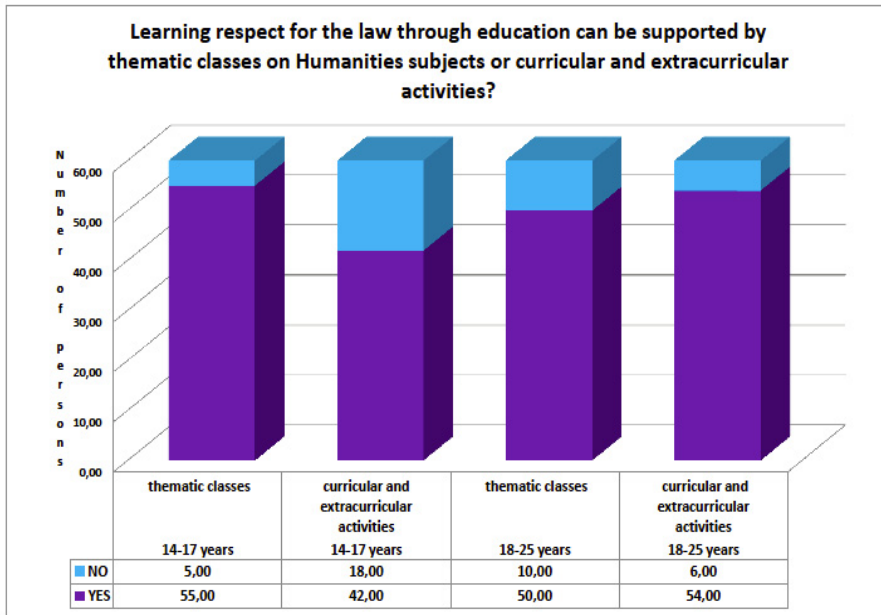
The right to education manifested through the act of learning demands for the formation of habits of proper use of moral and legal norms in the contexts in which the individual operates, thereby promoting the respect for law.

The provisions of article 32 of the Constitution of Romania, the right to education is guaranteed through compulsory general education, upper secondary education and through professional education, through higher education, and other forms of training and retraining ", and article 5, paragraph 1. (1) of the Education Act No. 84/1995, republished pursuant to article 1 of law No. 151/1999 approving the Government's urgent Ordinance No. 36/1997 modifying and completing the law on education no. 84/1995, published in the Official Gazette of Romania, part I, no. 370 of 3 august 1999 recognizes and guarantees the right to education, as a law enshrining human rights and arise from the intervention of public authorities, national public policies in the field of education, keeps attention towards information campaigns in schools on topics connected with justice, come to inform and complement the image and the importance of justice in society to submit the measures to reform the judicial system and transparency of justice. At the same time the respect of legal norms shall be transmitted to and through the study of human subjects and socio-economic with legal and administrative traits belonging to the pre-higher educational system, what is clear from the following study:

⁹ Prof. Univ. Dr. I. Moroianu Zlătescu, *Human Rights a dynamic and evolving process*, Ed. IRDO, 2007, p. 22-23.







At the level of educational institutions to configure the report required between the citizens and the future of the institution of justice through networking with representatives of the judicial system and understanding the system in which it functions, where the efficiency of an independent judiciary system must be a major concern of every democratic State.

The rule of law must be put at the service of democracy and human rights, and increase the effectiveness of law respect through education should be consistently pursued. The citizen becomes the main vector of modernisation and improvement in the act of justice.

By knowing and valuing law among young students an access route to the present and future prepares the citizen for taking the relevant decisions concerning the protection of the rights and fundamental human freedoms, the legal rules imposed by the national and European legal system.

The need to promote the respect for the law through education produces positive effects in the development and formation of future citizens of the rule of law.

As the law is the foundation of the establishment of any human community, to maintain the socio-political balance, the right to education is the *sine qua non* in the formation and transmission of respect for law.