

REFLECTIVE PATTERNS OF CLUJ-NAPOCA LAW SCHOOL
MAGNO ANIMO DE REBUS JUDICATUM EST (SENECA, EPISTOLAE, 50, 7)

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ABSTRACT: *The Cluj School of Law was formed and developed under the aegis of both the Faculty of Law at “Babeş-Bolyai” University and the Cluj-Napoca branch of the Romanian Academy, which encouraged and coordinated the local scientific research in the field of law. Regarding the Cluj-Napoca juridical doctrine of the XXth century, it is necessary to make the distinction between the three periods: the Inter-Wars period, Post-War and the Post-Revolutionary. The first one was characterised by a dashing development of the Cluj juridical doctrine in many branches of law (Criminal, Civil, Administrative and Constitutional) as well as in the field of the Philosophy of Law. In the Inter-Wars period, two tendencies are observed, two options: the European current and the traditionalist one. Society goes through a process of modernization in the Inter-Wars period, of integrating the values of the European civilization. Doctrine’s orientation is powerfully influenced in the branch of Civil Law by French juridical doctrine and in the Criminal Law by the Italian juridical doctrine. For the Transylvanian juridical doctrine, the Austrian one has constituted a model to be followed, fact that can be explained because the Austrian Civil Code continued to be applied here until 1943. The Romanian juridical doctrine maintained the contact with the Western juridical doctrine, especially with the French, Italian, German and Anglo-American ones which it started to use as a source of inspiration and at the same time as a paradigm.*

KEYWORDS: *Law, doctrine, jurisprudence, legal realities, legal institution, branch of law, juridical currents, Cluj Law, Cluj Law School, History of Law.*

JEL CODE: *K 10*

In the national meritocratic ontological system, the legal elite is part of the public culture, summarizes the essence and complexity of relationships within the legal reality, analyses the real or eidetic casuistry, theorizes aspects of the osmotic relationship between individual and society, establishes the nature of human values and phenomena that confer identity to the theory and practice of law. Active and passive foundation of knowledge and the legal norms gained scientific legitimacy in Cluj-Napoca legal environment, especially in the academic work of important teachers and specialists acknowledged as authorities due to their professionalism and prestige in the legal field.

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The evolution and development of Cluj-Napoca Law School included holistic approaches of the legal and vernacular phenomenon and took important steps into the research, investigation, reflection and interpolation of the results and progress made in the twentieth century international law.

Freelancers and publishers, professors, legal advisors, famous judges and reputable lawyers with solid legal concerns in the science of law formed an important corpus of ideas, concepts, theories, solutions and works at Cluj-Napoca, which has given meaning and integrative unity to our local law doctrine. Aware of their role, the law experts approached with scientific objectivity the principles that dominate the legal system, highlighted the flaws and contradictions of the law, and offered various solutions to problems in jurisprudence. The thinking and the works of Cluj-Napoca lawyers were characterized by a certain subtlety, feature one can find in almost all the legal writings whose authors intended to render the idea of a balanced system.

The beginnings of the legal education in Cluj-Napoca date back to the late sixteenth century. (Dragoescu, 1999, pp. 1078). For more than three centuries, it was conducted in Latin, German and Hungarian.

The Faculty of Law and State Sciences began its courses in 1872, when The University of Cluj-Napoca was founded; among the graduates were important Romanian personalities involved in legal education and public life. After 1900, Cluj-Napoca Faculty of Law started to become a serious competitor for the University in Budapest, by comparison, in 1905, 837 students graduated from Cluj-Napoca and only 281 graduated from Budapest. (Năstasă, 2006, pp. 274). The Transylvanian elite came into being in the late nineteenth century and was formed under the impulsive emancipation of the Romanians who lived in the former Austro-Hungarian Empire. (Sigmirean C., in *Elites Mobility in Romania in the twentieth century*, Volume coordinated by Gheorghiu M.D., and Lupu, M., 2008, pp. 109). The National Union from 1918 facilitated the creation and operation of Romanian legal education in Cluj-Napoca. The unification of laws imposed by the Romanian government determined the experts to focus their work on the creation of a unified national legal system. First and foremost, the legal advisors had the mission to translate *de jure, de facto* all the rights of property of the Romanian people that were so heroically won.

Amongst the first academics of the Faculty of Law at Dacia Superior University, there were personalities with a good reputation in the field of law, such as: Professor Victor Onișor, author of the first comprehensive coursebook of administrative law in the country, Professor Traian Pop, specialist in criminology and penology, with extensive activity in the two areas of the public law, Professor Romulus Boilă, specialist in constitutional law, Professor Ioan Cătuneanu, expert in Roman law, Professor Vasile Dumitriu, expert in commercial law, the first dean of the Faculty of Law and the first elected rector of Cluj-Napoca University, Professor Camil Negrea, expert in civil law and the first dean of the faculty.

The legal doctrine, chronologically analyzed, has assimilated the achievements of the law theorists who worked and taught at Cluj-Napoca University; the results of this research are not only logical and rational but also specific to the different stages and transformations known to the Romanian society.

Logistic center of judicial thinking and elite institution, refined and with tradition, Cluj-Napoca Law School was among the most solid support columns of higher legal education in Romania and an important nucleus of creation, analysis, systematization and innovation, with a pragmatic role in "schooling clerks", as George Barițiu used to say (1889, pp. 218). Like most intellectuals of the time, the professors at Cluj-Napoca University had an active part in the local and national politics, this aspect of their work being a constant presence in the local organization of large national parties, as representatives of the city in the Parliament or as highly government officials contributing to the shaping, structuring and perfection of the economic and legal Romanian system. In some cases, the drafting of writs initiated by lawyers came against ridiculous political choices, interests and partisanship that slowed down the legal process and the passing of efficient legislation.

Researching the archives of the twentieth century reveals both a Romanian legislative effervescence and a lack of integrating legal summaries so needed for a clear understanding of the theory and practice of law, especially after the integration of some mimetic paradigms of the European legal field. In the confrontation with the politicians, the legal representatives failed to impose their projects, concepts and visions regardless of all the steps taken in that direction.

In the legal system dynamics and succession, the Cluj-Napoca contemporary law experienced three distinct periods: the capitalist period, between 1919-1948, during the communist period, between 1948 and 1989 and the return to democratic rights, after 1990. As far as the historical steps taken by Cluj-Napoca Law School are concerned, the systemic approach to various aspects of the legal reality integrated the analysis of social conditions as material sources in developing legal concepts defining for the continuity and discontinuity of historical types of law.

Belonging to the great national idealism, the first generation of professors, lawyers and theorists of justice, true *conditores iures*, founders of synoptic perception and legal consistency we can count Romul Boilă, Camil Negrea, Victor Onișor, Iorgu Radu, (Giurescu C. C., (coordinator), 1971, pp. 328) Ioan Cătuneanu, Vasile Dumitriu, Emil Hațieganu, Traian Pop, Artur Balogh, Eugeniu Speranția and others.

The legal thinking of Cluj-Napoca Law School interfered constructively with large current and legal paradigms of the West which focus on theorizing and formalizing ways of manifestation in society, concepts and theories that insist upon the existence of a positive law, created by people, resulting in laws and other regulations, and a natural, "unwritten" right superior to the former, which is not voluntary but has an eternal, immutable characteristic and is above the positive law (Malaurie P., 1997, pp.7-11). The studies of Cluj-Napoca lawyers were based organically, preserving and developing meaningful theories and ideas about rules, branches and legal institutions of law dating back to the late nineteenth century. The first dimension in the study of the legal phenomenon, pursued by lawyers, was focused on the comparative investigation on how the rule became law, perspective promoted in Bucharest by Mircea Djuvara, (1995, p 101) who believed that "History of law comes to life when our own legal concepts enlighten and guide us."

The contemporary cognitive process of law was influenced by the natural law, the German historical school of law, positivism, Marxism, sociological theory, structuralism, kelsian normative system, legal existentialism, the theory of the rule of law but also by the

cultural relativism and the legislative inflation, of constant concerns for lawyers. These concerns were focused on studying the essence, content and form of the law and on the research of the multiple axiological, praxeological, teleological meanings around which the normative-legal space operates. From this perspective, Cluj-Napoca theorists and practitioners have brought an original and innovative contribution to the foundation and renewal of the Romanian scientific heritage and practice of law.

The paradigm of natural law was sensed, by the Cluj-Napoca theorists, as a distinction between the natural law (as a higher law that invalidates all incompatible rules of positive law), and the ideal natural law to which the rules of positive law apply without having their validity affected. The foundations on which the idea of natural law governs the universal order of people's lives and the inalienable rights of the individual have been integrated especially in the constitutional law, civil law, public and private international law. The natural law was a constant concern for personalities such as: Victor Onișor, Camil Negrea, Tudor Drăganu Marțian Niciu and Ion Deleanu, who helped create the law as a result of adaptation, transposition and reflection of human interests and society values.

The principles and the rule of law doctrine established under the influence of the natural law inspired a renewal and a permanent adaptation of the public law foundations. Professor Ion Deleanu was one of the first specialists who emphasized the strong relationship between rule of law and natural law, saying that the idea of a rule of law is not specifically German, but with ancient origins in the natural law (Deleanu, 1996, p 67-70). The sociological theory developed by Leon Duguit, Eugen Ehrlich and Rudolf von Jhering sparked interest and arouse intellectual curiosity in addressing the contemporary law. The above mentioned believe that the law is born in the struggle between different social interests and is the fundamental instrument of social life. The influence of this theory has been pointed out in the books about criminal law written by, Traian Pop, Constantin Stegăroiu (1958) and Ludovic Biro & Matei Basarab (1963).

The positive thinking trend also influenced the reflection of the law theorists from Cluj-Napoca, especially under the impact of a set of normative rules imposed by Hans Kelsen, author of the pure law theory stating that the science of law appears as a hierarchy of normative relations and not as a sequence of causes and effects, as in the case of natural sciences. The impact of this theory manifested mainly in the clarification and systematization of the legal system in a state. Ioan Albu, Gratian Porumb, Ioan Ceterchi, Dumitru Firoiu, Gheorghe Boboș mention in their writings the relationships established between legal rules which are validated by a superior legal norm.

Influences of the neo-kant doctrine reflecting the nature of legal knowledge had an impact on the practicability of the structure, dynamics and purpose of the positive law. The idea of justice based on facts and the objective truth was valued in the rational law by means of a comparative analysis between social, legal and moral realities. Important authors such as: Maurice Haoriou, Raymond Carré de Malberg, Marcel Planiol, Francois Geny, Georges Ripert, Jean Carbonnier issued judgments which have attracted interest among representatives of Cluj-Napoca Law School, connected to the guidelines and the European legal thinking. In turn, law theorists from Cluj-Napoca came up with solid arguments which theorize private property, freedom of contract, association and

dissociation, personal responsibility and therefore being against falsity and evil associated with the dogmatic relativism, moral irresponsibility and corruption.

The legal elite from Cluj-Napoca experienced, in the mid 50s of the last century, the shock of Stalinization brought by the socialist ideology and communist dogmatism. The conditions of selecting traditional elite was disrupted by the overthrowing of the entire Romanian system of values which became submissive to the political power and the degradation of bodies, minds and souls of their intellectual representatives. The ideological conformity, the egalitarian spirit and the totalitarian character of communism had repercussions on the legal elite which was increasingly replaced and purged, forced into extreme actions, exile, resistance or repression while false values were imposed by the communist regime (Gheorghiu, 2008, pp. 21-36). These aspiring, unworthy lawyers wanted to find the place they thought they deserved in the new society. The legal elite took position against the ideological oppression and that led to their damnation. The principles of the legal sciences and the social sciences have undergone profound ideological and dialectical changes so that to comply with the Marxist doctrine. During the first part of the communist era, there was a time marked by total discrepancy between the theory and practice of law, time "favorable" to committing a lot of abuses. The quality of the legal system deteriorated sharply which led to the abandonment of impartiality and the failure to impose the immutable principles of justice. The compromise and concessions with the communist ideology were, however, a way to survive and the law theorists continued to work at the university in Cluj-Napoca by doing so. The entire legal system has undergone changes and was reorganized according to the changes in the nature of ownership which became socialist property. The private law relations continued to exist in a modified form and partly independent, providing a certain precarious refuge for practitioners and academics in the field of private law. Both old school and new school lawyers from Cluj-Napoca tried to maintain the spirit of legalism in Transylvania, but the new arrangement of the world did not need exceptional lawyers, so many legal professionals have been marginalized by the communist regime. The decline of the "monarchical" communism which diminished the idea of superior consciousness in the justice department, involved, after 1990, the return to a reborn democratic legal system and the conversion from communism to post-communism. The legal foundation of democracy was imperative to the first theoretical and legislative approaches of the legal experts educated in the last decades.

Cluj-Napoca legal doctrine of the twentieth century has undergone significant changes during the interwar period, the postwar period and the post-revolutionary period. Cluj-Napoca legal elite have evolved through four generations and would fall into a law school the category without following a paideic pattern. A certain doctrinal eclecticism conveyed unity beyond consensus and contestation of its subjects or division of different phases and periods of offensive elitism. Cluj-Napoca Law School had not only top specialists who gained international prestige and were unjustly marginalized but also opportunistic people and social climbers.

Among the Romanian lawyers who became popular during the interwar period, at Cluj-Napoca University, there was a formative-professional precedent, in the Austro-Hungarian Empire, where the Romanians began to study law, since the 1870's and the 1880's; having personal and political interests, and even if they did not have immediate success, they had the chance to study at a good law school.

The legal and administrative activities that the Romanians in Transylvania performed throughout the past two or three decades of the old Austro-Hungarian monarchy represented a good source of practice for this group of lawyers. Some of the graduates worked as barristers who, without theoretical discipline, managed to build a good reputation in litigation and solved quite confusing cases, from which they earned a fortune and the respect of their colleagues, without being heroes. Practicing law was a highly rated job at the time, a flexible profession which provided good income and social status. Being, as our ancestors used to say, a law school graduate meant something.

The pre-war lawyers, well-trained in Austrian and Hungarian universities around 1880 and 1890, represented a fairly large social group of people from which professionals were recruited. Lawyers were not usually fanatical patriots, therefore they adapted and they found it easier to teach or write, even under a pseudonym, than those working in other fields. In 1878, the Cluj-Napoca Bar counted 50 lawyers, including five with the title of Juris Doctor (JD), and in 1906, there were 71, most of whom (50) with the title of JD. Famous and renowned lawyers were part of Cluj-Napoca Bar such as: Vasile Almășan, Aurel Isac, Ioan Petran, Iuliu Coroianu, Amos Frâncu, Petre Poruțiu, Teodor Mihali, Emil Hațeganu, Ioan Giurgiu, Romul Boilă.

After 1918, the Romanian Government and the Dirigent Council (Gheorghe, 2006, pp. 9-17) addressed many law school graduates, especially those who have had some political activity and a certain relationship with the Romanian political circles such as Hațeganu's family, which was a prestigious family with many connections, and graduates from prestigious European universities (Geneva, Berlin etc.) who were hired as professors. In law school faculties, there were also hired specialists who had been barristers.

For the lawyers who started working under the new Transylvanian administration and justice, there was a real challenge to cut the "Gordian knots" in litigation and legal matters inherited from the old Austro-Hungarian regime. Many legal issues could be solved only by those who had training and experience in the Austro-Hungarian law system as the Romanian lawyers were of French upbringing. The Romanian lawyers from Cluj-Napoca had good training, social status and wealth and they dominated the public and political life in Transylvania in the last decades of the nineteenth century and the first decades of the twentieth century. The Grand National Assembly elected Petre Poruțiu as a member of the Grand National Council and the Dirigent Council of Transylvania appointed him prefect of Cluj-Napoca in December 29, 1918 and January 11, 1919. Many lawyers from Cluj-Napoca, including Amos Frâncu, Ioan Giurgiu, Emil Hațeganu, Romul Boilă were elected as members of the Parliament. In July 5, 1919, the first Bar from Transylvania was constituted at Cluj-Napoca, under the authority of its president, JD. Laurențiu Nestor, sent as Commissioner by the Dirigent Council of Sibiu, whose president was JD. Amos Frâncu, JD. Parthenie Barbu, Vice President and JD. Dionisie Pop, Secretary. The first dean of Cluj-Napoca Bar was Amos Frâncu, followed by Aurel Isac and Alexandru Dragomir. The Romanian Parliament voted the Law for a Unified Activity of the Panel of Lawyers, in 10 June and 15 July 1921. By that time, the law XXXIV from 1874 had been enforced in Transylvania, amended by Decree no. XV of the Dirigent Council. The Law for a Unified Activity of the Panel of Lawyers was published in the Official Gazette no. 251 from 19 to 21 February 1923 (Decree no. 610) and stipulated a county Bar associations of lawyers. Hence, Cluj-Napoca Bar became Cluj County Bar (Ionescu &

Miron , 2012, p.14-35). The Law for a Unified Activity of the Panel of Lawyers was modified and amended in 1932, 1934, 1936, 1938, 1939 and reissued on March 30, 1939, being passed on 28 December 1931 (Decree no. 4221) and provided a more detailed regulatory framework and a more precise way of operating the law system.

The law specialists faced some other difficulties, being torn between their traditional education and training and the new, more unexpected laws, concerning the social and political issues of a unified Romania. Defenders of the interests of lawyers from Transylvania, Cluj County Bar lawyers sought to impose their vision on the profession during the discussions about the legislative unification and harmonization of legal traditions in Transylvania with the old ones from Romania.

Another choice for many lawyers was the big industrial factories expropriated by the Romanian government. The businesses in the former Austro-Hungarian Empire needed a new legal team for which they preferred to hire Romanian lawyers paid substantial amounts to represent their interests in various courts, the Court of Appeal in Cluj-Napoca, the Supreme Court of Bucharest, etc. Many Romanian elite lawyers were elected in the board of counselors of firms in Transylvania. And so, in Cluj-Napoca, Turda, Oradea, Timisoara etc, lawyers who did not find their place in the new system, made it quite well through this transitional period.

In the inter-wars period, a distinction emerges between the old generation, reminiscent of the traditions of the former Austro-Hungarian Empire, gradually eclipsed not by its intellectual deficiencies but because it was anchored in the old law system, and the new category of lawyers, and this reality was characteristic not only in the field of law. Between 1930 and 1940 there was a great burst of intellectual creativity throughout Transylvania, once the new generation of modern spirit emerged. The 1930-1940, but for the disastrous Vienna Dictate, the decade would have been a period of great creative progress for the legal elite in Cluj-Napoca.

The totalitarian communist regime removed the undesirable representatives, unlawful from an ideological point of view, such as Emil Hațieganu. The intellectuals in Cluj-Napoca put up some fight, but they were not too vocal in their struggle for independence.

Cluj-Napoca elitist law school experienced periods of boom and stagnation, moderate divergence and flexible convergence, finding a balance between conservatism and modernity. The selection and influence in the legal field in Cluj-Napoca did not evolve exclusively on a certain direction, (family, corporate or cultural), lawyers perpetuating eclectic careers in several ways. The foundation of the law school is built on the careers and scientific writings of the most important representatives of Cluj-Napoca law elite of the twentieth century, which, apart from their variations in terms of scope or share value, brought an important cognitive and epistemic contribution to the science and practice of Romanian law.

Lawyer, politician, *juris doctor* and *juris science* (1930), Romul Boilă (1881-1946) graduated from the University of Berlin, where he studied criminal law and political economy. He was a tenured professor of constitutional law at the Faculty of Law (about Introductory Courses in Law and State Sciences and seminar papers coordinated by Romul Boilă in *Yearbook of Cluj-Napoca University, school years 1925-1926 and 1926-1927*, Institute of Graphic Arts "Ardealul", Cluj-Napoca, 1928, p 18 – 20) University of Cluj-Napoca (1919-1945). Romul Boilă took part in the Great Union of 1918, was engaged in politics as a leading member of the NPP (National Peasant Party) and in the

Board of Counselors for reviewing the legislation in the Iuliu Maniu government. He worked as a member of the Dirigent Council of Transylvania, he was Head of Communications and Nutrition (1918-1920) and served as a deputy, senator and vice president of the Senate between 1928-1929. In the academic life, he was appointed vice dean, dean and member in the Senate of Dacia Superior University and Ferdinand I. The most significant volumes he published debating administrative and constitutional issues were: *The Voter's Choice* (1905); *The Municipal Voter's Choice* (1909); *Romanian Constitutional Law* (1920); *The Democracy* (1921); *Preliminary Draft on Local Administration Organization* (in collaboration with C. Stere and Gh. Alexianu, 1921); *Preliminary Constitution Draft for the Reunified Romanian State* (1921); *Division of Justice in private and public law* (1923); *Organization of State* (1927); *Annotated Administrative Code* (in collaboration with Paul Negulescu and Gh. Alexianu, 1930); *Study on Reorganizing the Reunified Romanian State* (1931), and *The State*, vol. I (1939). Opinionated opponent of bureaucratic centralism, Romul Boilă published, in 1931, *A Study on the Reorganization of the Romanian Reunified State*, a comprehensive investigative research on Romanian society, which he completed with a *Preliminary Constitution Draft*. The federal-minded lawyer identifies in decentralization the only effective remedy for overcoming political and economic instability in the '30s. Hence, he promoted a solution based on the introduction of a "state mechanism to serve mentality, general education, legal, social and economic development of various "fractions of the nation", leading to "a solid state organization based on constitutional rights which in time will guarantee the greatest spiritual unity of the people." (Boilă, 1931).

Romul Boilă criticized the Administrative Unification Law from 1925 and considered that a decentralized pattern could empower both the state and the citizens. The *Preliminary Constitution Draft* stipulated that Romania, constitutional kingdom, is an inalienable and indivisible state with territorial rights "with roots in the Romanian nation". The constitutional regime suggested by Romul Boilă stipulated the decentralization by delimiting the three provinces of the state and establishing the responsibilities of the central and provincial, guaranteeing all citizens constitutional rights and freedoms. The reputation of Professor Romul Boilă was vitiated by his involvement in the "Skoda" deal and his draft for the constitution remained unnoticed. He was five times Dean of the Faculty of Law and State Sciences in Cluj-Napoca. In his career as a lawyer, Romul Boilă was the defendant in the famous lawsuit of the peasants in Moftinul Mic village, unjustly accused of rebellion against the Roman Catholic representatives of Hajdudorogh which made an attempt to influence the Romanian villages in northern Transylvania. In Professor Romul Boilă's biography, one can find out that he is among the first Romanian lawyers who argued, based on Roman law, that there is a complete separation between public and private law, that beyond their dichotomous autonomy the two major divisions of law overlap, and this concept was gradually developed in the West and was more recently shared by Professor Ion Deleanu.

Lawyer and politician, Emil Hațieganu (1878-1959) graduated from the Faculty of Law, University of Cluj-Napoca in 1901. He was a judge in several courts, being promoted in Cluj-Napoca Court of Justice, in 1911, where he presided during World War I. Emil Hațieganu was the head of encodings in the Dirigent Council and author of numerous laws. In 1919, he was appointed professor in the Department of Civil

Proceedings at The Faculty of Law, headmaster of the Civil Proceedings Seminar and substitute teacher of Roman Commercial Law (Boilă, 1928, pp.21– 22). On several occasions he was deputy, Vice President of the Assembly of Deputies, sub-secretary of state at the department of Justice and Minister of Labor. In the academic field he held the positions of: Dean of the Faculty of Law (1921-1922 and 1927-1928), rector (1928-1929), and pro-rector of the university (1929-1930). When the university members sought refuge in Sibiu, Professor Emil Hațieganu stayed in Cluj-Napoca, and fought for the rights of the oppressed Romanians in Northern Transylvania. During this period, he published the only gazette in Romanian, "Transylvania Gazette".

In the first organization chart of the Faculty of Law, the name of Professor Dimitrie B. Ionescu, J.D. in economics, political and financial studies at University of Berlin is also mentioned. He was the first Romanian professor of political economy in Transylvania and held the position of pro-dean of the Faculty of Law (1947-1948). The most important books which he published are: *Course of Political Economy* (1928, 1943), and *History of Economic Doctrines* (1941-1947). George N. Leon, J.D. in Political Economy at Jena University was a professor at the Finance and Statistics department of the Faculty of Law and he published several specialized studies and a valuable treaty of Finance in two volumes.

Cassiu Maniu (1867-1943), Iuliu Maniu's brother, licensed in Budapest and with doctoral studies in Cluj-Napoca, held a permanent teaching position as professor of politics and philosophy of law. Under his guidance the following books were issued: *Principles of Political Philosophy* (1906), *Culture of Consciousness* (1914) *About Authority* (1922) *The Importance of National Cohesion in World Politics* (1927) *Culture of our Nature* (1928) *National Idealism* (1928) *Handbook of Political Studies* (1928), *Handbook of Philosophy of Law* (1929) and numerous articles in Transylvanian press. He entered the Bar in 1897, working as a defender or legal advisor in the great and difficult trials before the superior courts in Vienna and Budapest. He did not earn too much from being a lawyer, because in 1918 he represented all Romanian journalists for free, in the lawsuits framed by the Austro-Hungarian regime. (Aciu, 1937, p.3.). Also, he argued all the charges of treason and abuse in which Romanians were involved, clearing a lot of them from abridgements and jail. Cassiu Maniu is one of the forerunners in the Political Sciences field, his articles showing the necessity of building a Romanian Political Science "on the solid basis of Universal Political Science, underlining a set of principles of guidance based on the subordination of the political element relating to the global society" (Maniu, 1907, p.165). Cassiu Maniu remained in the public conscience since he struggled for the national cause for more than four decades, and he endured the oppression and punishment of the authorities time and again.

Another forerunner of Cluj-Napoca Law School was Camil Negrea (1882-1956), J.D. and professor of Civil Law at Cluj-Napoca University (1919-1948), lawyer and director of the Seminary of Civil Law, pro-dean (1919-1920 and 1926-1927), dean (1920-1921), rector (1924-1925) and pro-rector (1925-1926). The problems of Civil Law were debated in his teaching and scientific activity and in the books published in Romanian, Hungarian, French and German: *Civil Law of Transylvania and Hungary compared with Romanian Civil Law* (1920) *General Civil Code of Austria* (1922) *Civil Law in effect in Transylvania, Banat, Crișana and Maramureș*, *Property Law* (1930) *Civil Law of Transylvania and Hungary compared with Romanian Civil Law, vol. I-III* (1933), *The*

New Operating Rules for Land Registry (Law for all Land Registries, 27 April 1938), *Course of Civil Law* (1933) *Real Rights. The Property* (1937), *The New Operating Rules for Land Registry* - lectures (1940) *Grounds in modifying Land Registry Entries* (1941), *The Evolution of Law in Transylvania since 1918 until today* (1943) *The Problem of Reintroducing the Romanian Laws in Northern Transylvania* (1944) *Domestic Civil Laws still in effect after modifying the Civil Legislation* (1946). Analyzing the attributes and the ability of individuals, the Civil Law specialist wrote: "Every man is susceptible to any Private Law or in other words each man possesses the full (Civil) capacity of use" (Negrea, 1920, pp.138). His juridical works show the erudition and profound knowledge of the Austrian and Hungarian Inheritance Law and Romanian Civil Law. Camil Negrea pioneered a comparative direction of research regarding real rights, successions, obligations, family juridical rapports and the Regime of Land Registries, being considered the best Civil Law specialist of the Transylvanian Inter-Wars period.

With university studies in Budapest, Juris Doctor (1899) of Budapest University, Victor Onișor (1874-1932), the lawyer with a solid intellectual formation completes the gallery of the forerunners of Cluj-Napoca juridical patterns. He published his first law articles such as: "*Right association*" or "*About the Community. Voters list*" has been published since 1897, in the "*People's Newspaper*" in Sibiu. In 1900, his first volume, "*Legion of our Country*", appears in Bistrița, with the subtitle "*Knowledge of Constitutional Right*", seen as a guide for the political life by the Romanians from Transylvania, at the time. In 1905, he published all the juridical acts in effect regarding Border Rights, an expression of his interest in the preservation of his native Năsăud land. After 1918, his academic efforts were focused on teaching Administrative and Financial Law at Dacia Superior University, but also as dean and pro-dean of the Faculty of Law. The fundamental work that establishes professor Victor Onișor's place in the science of Romanian Administrative Law is *Treaty of Administrative Law*, which appeared in 1923, the first complete treaty of this kind printed in Romania. He was also preoccupied, as a thinker of juridical problems, regarding the research of past sources of Romanian Law. He published, in two editions, his study *The History of Romanian Law* (1921, 1925). It represents a first synthesis of the Romanian juridical literature that presents the evolution of the juridical regulations in effect at that particular time, within all the territories inhabited by Romanians. (*History of Romania, Transylvania*, 1999, p 1086)

Known as a lawyer, Traian Pop (1885-1960), with a PhD granted in Cluj-Napoca and Vienna, appointed tenured professor in 1923, rose to a bright career in Criminal Law, at the chair of Criminal Proceedings. Dean at the Faculty of Law of Cluj University between 1925-1926 and 1931-1932 and pro-dean between 1926-1927, Traian Pop was a member of the Paris International Law Association and occupied the position of Deputy on behalf of the National-Peasant Party in 1928 and senator in 1932 and also that of Minister responsible for the inventory of public goods in 1939. He was one of the three members that edited the Penal Code project in 1933. His publishing activity can be found in volumes like *Romanian-Hungarian and Hungarian-Romanian Legal Dictionary* (1921) *Comparative Criminal Law*, 3 volumes (1921-1924) *Course of Criminology* (1928) *Charles II Penal Code*, annotated, Vol I-III (1937), *Criminal Procedural Law*, Volume I-IV (1946-1948) and also in the pages of various magazines. The Penal Code specialist Traian Pop has thoroughly analysed the juridical sources of the Criminal Procedural Law,

has deepened the multiple issues that appear in the solutions of the criminal procedural juridical rapport and has introduced a series of considerations and conceptual delimitations in the specialised literature, like those regarding the participants to the Penal Lawsuit. In his vision, the notion of participants in the Penal Process includes all the persons that have a role in a procedural activity (Pop, 1948, p 45) among them being the judiciary organs, the parties, the defender and other persons. In this sense, he put together a classification of the parties of the Penal process, according to which the accused is the only one considered to be a main party of the penal process and the injured party, the civil one and the civil responsible party are secondary parties. On the other hand, the accused and the injured party are constant ones and the civil and civil responsible ones are eventual parties. In the case of the participation of successors in the penal process, Traian Pop admitted the existence of two hypothesis: one according to which the successors exercise the civil action “jure proprio” and one “jure hereditatis” (Pop, 1948, p.70) and regarding the procedural substitutes which benefit from the liberty of assessment of the intervention to realize the procedural rights, he has shown that procedural substitution is a right and not an obligation, as is the case of representation. “The passion and interest in the science of criminal material law, wrote Traian Pop in 1946, could not determine me to forget about its sister: Penal Proceedings. More so, the study of criminal material law helped and stimulated me in the study of Penal Proceedings. Of course, these two branches of Criminal Law have a very wide domain, for the command of which intensified efforts are needed. Although, these are made easier by the structural relation and common finality of these two branches of Law”(Pop 2011, p.4). The work of professor Traian Pop has consolidated the scientific fundament of the Criminal Procedural Law, enjoying a large receptivity in the Romanian legal theory.

In Roman Law, the name of professor Ioan C. Cătuneanu (1883-1937) comes immediately to mind; lawyer with a PhD granted in 1912 in Berlin, with a thesis on Civil Law, entitled “*Die Rechtslage des aufgegebenen Grundstücks*”. Teacher since 1919, then professor at the department of Roman Law at Cluj-Napoca University, I. Cătuneanu published the volumes: *The Evolution of External Affairs of the German Empire* (1915); *Hereditas jacens* (1915); *Basic Course in Roman Law* (1922, 1924, 1927) and *Sources of Roman Law* (1923). The reputable Inter-Wars specialist has synthesized the definitive values of Roman Law for the general juridical progress, underlining two of the constants in Positive Law: the principle of individual property and the distinction between *jus publicum* și *jus privatum* (Cătuneanu 1924, p 13). In his works, juridical institutions and important concepts are analysed, like property in Roman Law and the juridical means to defend every form of property, both procedural – actions and exceptions as well as administrative – interdictions. An interesting approach is dedicated to violence as a juridical institution of Roman Law, which, before being known as a vice of consent was considered, underlines professor Cătuneanu, as a delictual act, a proof of this being the measure taken in 74 B.C. by praetor Octavianus, who used the term „*actio metus*”, considered to be an „*actio in rem scripta*” (Cătuneanu 1924, p 390) but also the corresponding adjustment of „*restitutio in integrum propter metum*”, through which the praetor, nullifying the perfected act, put the victim in the anterior juridical situation, thus being able to sue all the actions that were available against the opponent.

In the period of the beginnings of the Romanian juridical educational system, Professor Vasile Dimitriu (1859-1928), from Iași, taught for a while as a professor of

Law, being author of studies concerning *Current Account Contracts* (1906) and *Commercial Law*, collaborating with other authors, and publishing in Berlin. Nicolae Ghiulea also originating from Iași, specialized in Gottingen and Paris, and was a professor in Cluj at the Faculty of Law and in 1926 he was appointed tenured professor of Social Politics. Between 1920 and 1926 he taught at the Academy of Commercial and Industrial Studies in Cluj-Napoca. He wrote studies and volumes on social, cooperation and insurance subjects: *Middle Class Protection. The Partnership Issue* (1926); *The Organization of the State. Means and Methods* (1935) etc. (Negru. 1990, p 46-49).

In 1934, the Faculty of Law in Oradea merged with the Faculty of Law in Cluj-Napoca. The Royal Decree No. 2424 of the 20th of August 1934 stipulated the transfer of the 14 teaching staff to Cluj-Napoca, their distribution being on years of study, the eventual modifications and reorganization of courses being made by the whole Board of the Faculty (National Archives, Cluj County Fund: *Faculty of Law, Oradea (1919-1934)*, dos. 147, f 4). After the fusion, the community of professors of the Faculty was formed by the following professors: Dumitru Mototolescu, Aurelian Ionașcu, Tiberiu Moșoiu, Alexandru Angelescu, Liviu Lazăr, Victor Cădere, Eugeniu Sperantia, Gheorghe Sofronie, George Strat, Andrei Sigmond, Bogdan Ionescu, Iacob Lazăr, Constantin Petrescu-Ercea and Iuliu Hovany. From the new teaching staff, professor Aurelian Ionașcu, distinguished himself as a prolific author in the domain of Civil Law, professor Eugeniu Sperantia, author of some works of reference in The History of Juridical Philosophy, Sociology and Judicial Logic, professor Gheorghe Sofronie, author of some important works in International Public Law. Licensed jurist and doctor in Law in Iași, Victor Cădere (1891-1987) taught Civil Proceedings in Cluj-Napoca, from 1934 to 1949 and had a rich political and diplomatic career. He published the following books: *The Authority of the Trial* (1918); *The Theory and Practice of Insurance* (1923); *The National Idealism* (1927); *Treaty of Civil Proceedings* (1928); *Romanian Diplomatic and Legal Issues* (1936). Arrested by the communist authorities in the 50's, Victor Cădere, after his release from jail, was expatriated to Paris, where he worked as an associated professor at different faculties of law. Canonical Law was taught by lawyer Valer Moldovan (1875-1954), who, after being the dean of the Seminary of Church Law for four years, returned to the department of Administrative Law as a professor, in 1934. He published a series of studies and courses and also the following books: *Local Romanian Administration. The County and the Township* (1936), *Administrative Law for Theses* (1939).

Petre Poruțiu, with a PhD in Juridical and Political Sciences at Budapest University, was appointed, on the 1st of October 1919, as professor of Commercial Law, being, like Emil Hațieganu, among the first professors named by the Dirigent Council for the Faculty of Law in Cluj-Napoca, who had taken part in the commission for the organization of the Romanian University in Cluj. Between 1923-1924 and 1931-1932 he was pro-dean and between 1924-1925 and 1930-1931 dean of the faculty. He was a member in the commission of legislative unification and in the council of administration of the Autonomous House of the Monopolies of the Romanian State and the author of the preliminary draft of the decree-law regarding the "Land Reform in Transylvania, Banat and the Hungarian parts", assigned by the chief of the Agriculture Resort, Victor Bontescu. Furthermore, in a retrospective synthesis in the "Transylvania" magazine, he published an ample comment regarding the principles of expropriation in the land reform,

concluding that “in the new configuration of the agricultural propriety, the number and extent of the middle range properties could even rise, without altering the social conception of the lawmaker. Thus, the balance of rural propriety and the possibilities of systematic and guiding agricultural cultures were thoroughly assured” (Poruțiu 1944, p 631). The results of his didactic and scientific activities are reflected, from a publishing standpoint, in books such as: *Stabilization and Balance* (1929) *The Romanian Banking System. Notes on legal preliminary draft to regulate bank business, submitted by the Romanian Banks Association* (1928) *Commercial Law. A Comparison between the Law in Romania, Transylvania and Bukovina* (1938), *Principles of Economics in the Romanian Bank System* (1939) *Treaty of Commercial Law* (1940) *The Commerce Fund in the New Commercial Code* (1940) *Transylvania and the Consequences of the Vienna Dictate in August* (1940), *The Expropriation Principles of the Land Reform* (1944). His juridical studies tackle problems regarding the history of Commercial Law, commerce deeds, merchants, auxiliaries of commerce, commerce fund, terms of reference and representation in Commercial Law. His treaty of Commercial Law continues to be a work of reference in the field. Alongside V. Bologa, D.V. Ionescu and Lucian Blaga, (Neagoe, 1980) Petre Poruțiu was a member of the Cluj-Napoca Institute of Moral and Political Sciences and vice-president of the association “Friends of Cluj-Napoca University” and was in the board of the “Centre of Transylvanian Studies” which, in the years that followed the Vienna Dictate and the displacement of “King Ferdinand the 1st University” from Cluj-Napoca to Sibiu, has fought intensely for the “rights of Romanians on the whole Romanian space” (Neagoe, 1980). Professors Petre Poruțiu and C. Petrescu-Ercea were the first Romanian Commercial Law specialists from Cluj-Napoca, after the reunification of the country (Iancu, 1969, page 329), that contributed to the elaboration of the preliminary draft as well as to the other projects of the Unified Commercial Code. Petre Poruțiu took part, as a counselor, in the Romanian delegation to the Paris Peace Conference (1920).

Iorgu Radu, Juris Doctor in Juridical Sciences in Berlin, appointed substitute professor in 1919 and tenured professor in 1923, made the first juridical research in the field of International Law in Cluj-Napoca, materialized in the publication of *Treaty of Science and Technique of Private International Law*. Alexandru C. Angelescu (1902-1947), Juris doctor in Law in Paris, lecturer since 1931, was a tenured professor for over a decade and held courses of Romanian Civil Law in Cluj-Napoca. In his studies, he tackled aspects regarding the patrimonial and non-patrimonial rights and juridical means through which their infringement is abolished and juridical issues related to Family Law. In the “The Romanian Legal Digest” he published a pertinent study (Popescu & Prelipceanu, 2006, p 32) on the right of a name, as an extra patrimonial personal subjective law, accentuating its specific juridical characteristics. Liviu Lazăr, with a PhD granted in Cluj-Napoca (1921) and one in Paris (1925) took the course of Land and Industrial Legislation. He published the following volumes: *The Implementation of Land Reform in Romania* (1924); *Agriculture and Consumption* (1934); *Dumping and antidumping* (1934); *Industrial Legislation Course* (1937); *Finance Course* (1948); *New Taxes in the Romanian Tax Law* (1949). Lawyer, with a PhD granted in Paris (1922), George Z. Strat (1894-1961) was a tenured professor at the department of Political Economy of the Faculty of Law. His volumes: *The Consumer’s Role in the Modern Economy* (1922); *Trade Union Freedom in Romania* (1927); *Considerations about the Proletariat* (1930);

The Economic Situation of Social Classes in Romania (1930); *The Intervention of the State in the National Economy* (1932); *Politics and Consumption* (1932); *About the Need for a New National Idealism* (1933); *The American Economy* (1934) debate themes concerning the character of the Romanian economy, the link between the natural resources and the development programs, the role and importance of the state in the economic life, the interdependency between the main economic branches, the relations between society, economy and politics, the efficiency and functioning of democracy regarding the economic life, economic legislation and American capitalist economy.

Dumitru Mototolescu (1884-1970) was a professor at the department of History of Romanian Law. In his studies, he investigated the old Romanian Law, norms of law from unwritten ones to “*hrisovs*”, “*pravils*” and written law, the process of forming and the evolution of the Romanian system of law, writing on: *The Formation and Evolution of the Romanian Legal System, from the ancient peoples mentioned in the land of Romania to the early sixteenth century* (1910), *Jus valachicum in Poland* (1916); *Gifts before the Wedding in the Old Romanian Law compared to the Roman-Byzantine and Slavic Law* (1921) *The Oath used in the old Romanian Law by the Land Register Clerks* (1922).

The lawyer Tiberiu Moşoiu (1898-1953), with a PhD in law granted at Bruxelles University, had a successful career at the department of Roman Law. Without benefiting of a sufficiently rigorous systematization in his courses, he exposed issues regarding the persons, status libertatis, civitatis, falimiae, marriage and dowry, paternal powers, tutelage and guardianship, goods, propriety, real rights, contracts, obligations and succession. He published articles and studies in the Annals of Cluj-Napoca Faculty of Law (*Yearbook of King Ferdinand I*, 1939, p 101) such as: *Borrowers and Lenders in Republican Rome* (1934). Tiberiu Moşoiu was intensely involved in the public life as a mayor, governor and politician, and had to face the rivalries of some colleagues like Dumitru Mototolescu who contested his scientific training, even in court, more precisely the authenticity of his PhD thesis (National Archives - Cluj County Accountancy, King Ferdinand I University Fund - Academy of Law, Oradea, file 110/1930-1931, f 11).

As the Faculty of Law entered the axiological academic circuit, it attracted important foreign academic personalities, lawyers and theorists of law, who held conferences in Cluj-Napoca: L. Duguit in 1925, P. Collinet in 1927, H. Capitant in 1929, L. Josserand in 1931.

In the juridical literature of the time, magazines were published monthly, and in these publications doctrines, laws and jurisprudence articles were signed by professors, professionals from among the judges, prosecutors and lawyers. Emil Haţieganu edited “Legal Courier” between 1912 and 1918 and in 1920 “Ardealul juridic”(Transylvania Law Brochure) appeared in Cluj-Napoca, publication issued and edited by the magistrate Vasile M. Dimitriu. Emil Haţieganu was the one who stayed in Cluj-Napoca during the Hortist occupation of Northern Transylvania, and fought for the rights of oppressed Romanians and for the support and proliferation of the Romanian culture, editing the publications “Our Gazette” and the only newspaper in Romanian, “Transylvania Gazette”, between 1940 and 1944.

In the Inter-wars period, other remarkable personalities became professors of Cluj-Napoca University, and they published books and articles in France, Germany, Italy and other European countries, being known and appreciated in the International academic

environment. At that time, professor Tudor Drăganu began his activity at the department of Constitutional and Administrative Law, and became a prestigious specialist in this field, after the war being elected president, respectively vice-president of many international law organizations.

In the summer of 1940, following the Vienna Dictate, the Faculty of Law, together with other faculties from Cluj-Napoca, moved its headquarters to Sibiu. After the reunification of Northern Transylvania with Romania, the courses of the faculty were once again held in Cluj-Napoca, beginning with the academic year 1945-1946. For a period of time, both faculties of law functioned in Cluj-Napoca within the two universities: "Victor Babeş", teaching in Romanian and "Janos Bolyai", teaching in Hungarian. The two universities, respectively the two faculties of law merged in 1959.

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