

# LAW OF DIVORCE IN 1965-1989

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**Abstract:** *This article offers a wide debate area concerning the political and decisional path of the Law 779/1966 by which the divorce was approved in the time of Nicolae Ceausescu only in extreme situations. Just to realize a deep understanding and analyze of this subject there is underlined the legislation concerning the divorce before the year 1996, they go on with the analysis of the samples of the Executive Political Committee for Meetings from 2 August 1966, 27 September 1966 and the one from 4 October 1966. Also, the research will hold the analysis of the Decree's text as well as the previous changes against divorce actions legislation. The last section of the article is guiding upon the presentation of the consequences of the limitation of the access to the divorce in the time 1966 – 1989. The purpose of this action is the unitary and detailed study of the changes concerning the divorce during the whole communist period from Romania.*

**Keywords:** *against divorce legislation, the Law 779/1966, the demographical policy, the Executive Political Committee.*

## 1. Introduction

The coming to power of Nicolae Ceausescu in 1965 marked the beginning of a comprehensive demographic policy based primarily on banning abortions Decree (770) and by limiting divorce (Decree 779).

In this context, in this tractate I propose to analyze the political and decisional route of Decree 779/1966, which approved the divorce only in exceptional circumstances.

The central concept of Ceausescu's communist ideology is the "new man". This means the importance of training citizens to become worthy to live in a communist

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society and the importance of forming families, which should be based on the ideology and morality of Communist Party.

Those people, who did not respect these rules, went through a rehabilitation process after which they reached to accept the rules imposed by the regime. Sometimes, the institutional affiliation to state bodies was not a way to dodge the law. An example is the case of Andronache Vespasian, who was excluded from the party in 1973, because of some extramarital relations<sup>1</sup>.

## ***2. The issue of divorce before 1966***

After 1948, when the communists took power, the legislation on divorce was adjusted, according to the political interests of the new regime. Thus, the first action was the elimination from the Civil Code of articles 254-276, in which were cited consensual reasons for divorce. Law 18 /1948 indicate that the divorce, as a social act, is related to justice.<sup>2</sup>

In 1954, Decree 32 of January 30 implemented the Family Code. Article 45 stated that the dissolution of marriage without seeking reconciliation was possible only when: it was the case of chronic mental debility or serious contagious diseases of one of the partners, if one of them was sentenced to jail for at least three years or was legally declared missing.<sup>3</sup>

After Nicolae Ceausescu became president, the divorce was approved only in exceptional cases.

## ***3. The political and decisional path of Decree 779/1966***

In 1965 in Romania the birth rate dropped dramatically. According to the census of 15 March 1966, Romania had a population of 19,105,056 inhabitants.<sup>4</sup> The births didn't provide even the simple reproduction of the population, i.e. each woman giving birth to a female child, during her period of fertility 15-49 years.

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<sup>1</sup> ANIC, *Party Central Committee Fund, Letter A (1945-1989), File A/652, p. 2*

<sup>2</sup> Gail Kligman, *Politica duplicității. Controlul reproducerii în România lui Ceaușescu, Ed. Humanitas, Bucharest, 2000, p. 61.*

<sup>3</sup> Decree no. 32 from 30 Januar1954, *Official Bulletin, No. 32 from 01/31/1954, <http://www.monitoruljuridic.ro/act/decret-nr-32-din-30-ianuarie-1954-pentru-punerea-in-aplicare-a-codului-familiei-si-a-decretului-privitor-la-persoanele-fizice-si-persoanele-juridice-emitent-83.html>.*

<sup>4</sup> C. Dobos, Lucian (coord.), M .Jinga, Florin S. Soare, *Politica pronatalistă a regimului Ceaușescu. O perspectivă comparativă, The Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile, Ed. Polirom, 2010, Bucharest, p. 115.*

Considering the sharp drop in birth rates, the communist government decided to adopt a series of coercive measures to stop this decline.

At the National Conference of Women from 23 to 25 June 1966, Nicolae Ceausescu made the first public mention of these problems: "It is necessary to vigorously fight against the retrograde attitudes, stiff attitudes to family which led to increasing the number of divorces, dissolution of homes, neglected children's education and training for life.<sup>1</sup> (...) It must be said that the legislation from our country has some conductive loopholes to decrease birth rate; undemanding courts that adjudicate cases of divorce and some legal provisions prove lenient in cases of disdain attitudes towards family and children's education."<sup>2</sup>

#### *Ministry of Health and the Demographic Policy*

The problem of the increasingly decline of birth rate during 1955-1966 and the consequences of this phenomenon have been reported by the Ministry of Health since 1965, by drawing up a demographic study entitled: "Some problems of dynamics of natural increase of population in the Socialist Republic of Romania".<sup>3</sup>

In the study were exposed three categories of reasons for the decline of Romania's birth rate: socio-economic, socio-cultural and demographic. Among demographic reasons, the increase of divorce is in the second place after deducting marriage.<sup>4</sup>

To combat this situation, the study recommended to establishing a committee composed of delegates of the State Planning Committee, of the Ministry of Finance, of the Ministry of Health and Social Welfare, of the Ministry of Education, of the Culture and Arts Committee, of the Ministry of Justice, of the State Committee of Labor and Social Problems, of the Central Bureau of Statistics, of the Central Council of Trade Unions and of the National Women's Committee, to make an action plan for the improvement of natural growth of population.<sup>5</sup>

Finally, the Commission is established in February 1966 and at the end of June are finalized first two studies "Health care of population of the Socialist Republic of Romania and the improvement measures" and "Study of birth rate in the Socialist Republic of Romania and proposals for measures to redress the natality of our country", discussed later in the meeting of the Political Executive Committee in 2 August 1966.

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<sup>1</sup> ANIC, CC of PCR, Organizational Department, File 44/1966, p. 13.

<sup>2</sup> *Ibidem*, p. 14.

<sup>3</sup> C. Dobos, Lucian (coord.), M. Jinga, Florin S. Soare, *op. cit.*, p. 116.

<sup>4</sup> *Ibidem*, p. 116.

<sup>5</sup> *Ibidem*, p. 117.

In the study of health services for the population, was identified a series of important factors underlying the population decline: social economic factort (young people moving from villages to cities, women's participation in the production process, the small number of nurseries, material resources), demographic factors (marriage and divorce), abortions, educational-cultural factors (high level of education and training the population, no advocacy of birth) and legislative factors(the Decree 453/1957 that legalized abortion, no protection of marriage a permissive legislation on divorce, state allowances for children).

Among demographic factors, divorce ranks second, after marriage, which was decreasing due to population migration or young people from villages to urban areas. Despite this decline, in Romania the nuptiality was still among the highest from Europe.<sup>1</sup> The conclusion was that its growth could not influence the birth rate.

Regarding the dissolution of marriages, in Romania was registerd the largest index of divorces from Europe; in 1965 the number of divorces was increased almost by almost three times than in 1938. It should be also mentioned that in 1964 one of five marriages ended with divorce.<sup>2</sup>

In the study is pointed the fact that most divorces occurred for men at the age of 25-29 years and for women 20-24 years, in the most fertile period, which contributes to lower birth rate.<sup>3</sup>

Also, the study authors report that one of three divorces occured in the first two years of marriage, and a half of them occured in the first four years. It was observed that 70% of divorces are in the families without minor children, which led to the proposal of the Communist leader to ban the abortions.

Among the legislative factors are also alalyzed the rules on divorce. "The procedure of divore is quite simple, the partners apply for divorce, and some courts resolve these cases opperational, without analyzing the causes that makes the cohabitation of the suposes impossible."<sup>4</sup>

Finally, at the end of the study are suggestions for increasing the birth rates from Romania.

Thus, after the recommendations to change the amendments of Decree 453/1957, at point B. are proposed to rectify the Code of Civile Procedure and the Family Code in point of divorce procedure.

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<sup>1</sup> ANIC, *Fund CC of PCR, Department Chancellery, File 101/1966, p. 109.*

<sup>2</sup> *Ibidem, p. 109.*

<sup>3</sup> *Ibidem, p. 109.*

<sup>4</sup> *Ibidem, p. 111.*

On this line, for the Code of Civil Procedure were reported the following: the conciliation of partners to exempt from stamp duty, to be held in two different stages in the Council Chamber of the People's Court; the pronouncement of divorce can be postponed until three months; the appeal to be within 30 days since decision; the dissolution of marriage took effect only if one of the partners called within two months the People's Council to transcribe the decision.

It was also proposed the change of the Decree 199/1955 on stamp duty. The fee for divorce would be doubled (from 500 lei to 1000 lei), the only way to reduce was determined by the income of the partners. This fee could be refunded only if the partners' would reconcile.

Another idea proposed was referring to a tax on celibacy, the main argument being that it covers the expenses for the construction of nurseries.

The first change of the Family Code proposed, in addition, a new incentive to increase the number of marriages: to allow the marriage between 4<sup>th</sup> cousins.

Thus, "the marriage between relatives on the sideline of the fourth degree (cousins) without the consent of People's Council Executive Committee was considered valid if the couple had a child, or after the Executive Committee corrected the marriage." <sup>1</sup> Also in this section was proposed to allow parents to legally recognize the child even if they weren't married. <sup>2</sup>

The Commission that drafted the study, made a summary of additional income derived from tax increases: for additional tax from employees (830 mln Lei), additional tax for CAP members (30 mln Lei), fee increase of abortions (75 mil Lei) and the increase of divorce fee (15 mil Lei). The sum of these funds was 950 million Lei. <sup>3</sup>

*The meeting of the Political Executive Committee in the date of 2 August 1966*

The PCR Executive Committee Meeting in the date of August 2, 1966, is the first step in opening the debate on decreasing the birth rate from Romania and the enact of some measures to limit de access to divorce and abortions.

Thus, during the meeting, Alexandru Draghici, Foreign Minister during 1952-1965, said: "We must finish this sin Decree (refers to the Decree that allowed the liberalization of abortion since 1957)<sup>4</sup>. In general, Alexandru Draghici criticized the initiatives that required additional expenditures from the state budget, he considered

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<sup>1</sup> *Ibidem*, p. 117.

<sup>2</sup> *Ibidem*, p. 117.

<sup>3</sup> *Ibidem*, p. 120.

<sup>4</sup> A.N.I.C., *Fund CC al PCR – Department Chancellery, File 102/1966*, p. 14.

that the recovery of the birth rate can be done strictly through amendments of existing legislation, both related to abortions and dissolution of marriage.<sup>1</sup>

Virgil Trofin, secretary of the Communist Party Central Committee<sup>2</sup>, focused on the education of young people, but also on the problem of abortion and divorce. "In this direction we should help the Organizations of Youth and Women, to seriously approach the family issues. We must be careful on what kind of movies we run, because many of them do not make us services in this regard."<sup>3</sup>

Gheorghe Maurer, a former president of the Presidium of the Grand National Assembly, and Premier<sup>4</sup> until his retirement, suggests a carefully analyze of the reasons of divorce. "The Ministry of Justice should make a study on the reasons of divorces and on courts that approve the divorce, because, my opinion is that the problem is not the legislation."<sup>5</sup> Moreover, he proposes to realize a realistic action plan for a long period of time.<sup>6</sup>

A different view on divorce has Iosif Banc, he considered that the law is too permissive with marriage dissolutions. "We must take agitator measures on unifying families, because we have young people who easily get married 3-4 times in 2-3 years. This is because we have facilitated the dissolution of marriages."<sup>7</sup>

Leonte Răutu, member of the Executive Committee responsible for the Department of Agitation and Propaganda<sup>8</sup>, believed that the high number of divorces is due to poor practice and short legislation. "50 percent of the total number of divorces happens in the first four years of marriage, and 30% in the first two years of marriage."<sup>9</sup> The remedy the situation, he suggests amending the text of the Decree, "creating a moral atmosphere" by way of an "extremely rigid system". "We are very indulgent with this problem. I would say that we should pay attention on the moral aspect and we should promote those who contribute to the strengthening of the family. We must create a public opinion in the Party Organizations and in the Mass Organizations."<sup>10</sup>

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<sup>1</sup> Dobos, C. Lucian (coord), Jinga M., Soare Florin S., op.cit, p. 126.

<sup>2</sup> Florica Dobre (coord), *CC Members of PCR : 1945-1989*, Ed. Enciclopedică, Bucharest, 2004, p. 583.

<sup>3</sup> A.N.I.C., *Fund CC al PCR – Department Chancellery, File 102/1966*, p. 15.

<sup>4</sup> *Final Report, Presidential Commission for the analysis of communist Dictatorship*, Bucharest, 2006, p. 653.

<sup>5</sup> A.N.I.C., *Fund CC al PCR – Department Chancellery, File 102/1966*, p. 17.

<sup>6</sup> *Ibidem*, p. 17.

<sup>7</sup> *Ibidem*, p. 18.

<sup>8</sup> Florica Dobre (coord.), op. cit., p.508

<sup>9</sup> A.N.I.C., *Fund CC of PCR – Department Chancellery, File 102/196*, p. 20.

<sup>10</sup>*Ibidem*, p. 20.

Ilie Verdeț considers that the reasons of the decrease of the rate birth are the abortion and the marriage dissolution. “One thing caught my attention: the drop of birth rate happens especially in the rural areas, where it fell from 37% to 15%. Here were the major effects of our problem, the Decree that allowed abortions and the juridical practice in connection with the dissolution of marriages.”<sup>1</sup>

Nicolae Ceausescu is critical to the Decree of 1957: “In my opinion, through the Decree that legalized the abortion, we legalized the prostitution, and now we are too permissive to divorce.”<sup>2</sup> He considered that the decrease of birth rate is the problem of Party and State Apparatus, and the members must have an exemplary behaviour. “We must end this kind of negligence and those people who in the private life show lack of communist moral, should not occupy leadership position.”<sup>3</sup> At the same time he opens the subject of divorce. “Perhaps the law is good, but in any case, the practice is bad. And since 1959 until now, the number of divorces has increased three times and that speaks for itself. This means that the legislation is bad. We should make a legislation to sanction those who violate it.” Nicolae Ceausescu ended the discussion suggesting: “Let’s agree on these problems, and in two weeks to present a bill that will approve divorce only in exceptional cases.”<sup>4</sup>

According to the Protocol no. 26 of the Political Executive Committee Meeting from August 2, 1966 it was decided to renew the “Study on birth rates situation in Romania” taking into account the views of the communist leaders presented in the discussion, followed by a new discussion in the Plenum of Central Committee on the subject of abortion and marriage dissolution.

The new study should focus on “a complex and realistic solution to increase the birth rate in our country”<sup>5</sup> and the measures should address to four categories: organizational (establishment of nurseries both in villages and cities), economical, educational (cinema, radio, television and school) and legislative (the issue of abortion and marriage dissolution).

It was recommended to analyze the law of divorce and improve it. “The new legislation should provide measures to punish those who depart from the proper implementation of it.”<sup>6</sup>

After the removal of Voinea Marinescu as Health Minister (position taken by Aurel Moga), was held a Meeting with Health Professionals, on 20 September 1966.

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<sup>1</sup> *Ibidem*, p. 21.

<sup>2</sup> *Ibidem*, p. 24.

<sup>3</sup> *Ibidem*, p. 24.

<sup>4</sup> *Ibidem*, p. 24.

<sup>5</sup> *Ibidem*, p. 2.

<sup>6</sup> *Ibidem*, p. 3.

At this meeting, Nicolae Ceaușescu revealed his reason for the change of the Health Minister, Voinea Marinescu: "I want to end this meeting with a criticism on the former leadership of the Ministry of Health. He dealt with this Decree more than a year (...). Now we observe a resistance from the ministry that decided these measures. He did not shown discernment and a critical attitude against the existing status of the situation, instead he tried to minimize a Although the main topic of this discussion was the abortion, Suzana Gâdea expresses an interesting point that shows a correlation of the abortion with divorce actions. "Let us not forget that a child unifies the family, consolidates the ties between spouses, therefore we will avoid those countless divorces. Divorces that happen at young age have different reasons, but the reason of divorces at older age is having no children." <sup>1</sup>

*The Meeting of the Political Executive Committee on September 27, 1966*

At the Meeting of the Political Executive Committee on 27 September 1966, was debated the legislation against divorce. According to the agenda of the meeting, they discussed "the draft Decree of the State Council, to regularize abortion and to amend law against divorce."<sup>2</sup> The material included the indication of Nicolae Ceaușescu in the the Meeting of the Political Executive Committee on August 2, 1966.

After analyzing the issues of abortion, Nicolae Ceaușescu proposes to introduce a celibacy tax for people over 25 years old, to recover costs for the incentives for families with many children.

"The sum will be about 900 million Lei. In fact, the standard of living of employees is going to be the same, because it is actually redistribution. Since the age of 25 is introduced this tax on celibacy".<sup>3</sup>

Regarding the change of the laws on divorce, Alexandru Bârlădeanu propose postponing discussion, because in the text of Decree was not mention the increase of the stamp duty, fact that is noted also by John Philip: "It was proposed to increase the stamp duty from 500 to 1,500 Lei, but this is not mentioned in the text of the Decree, but in a decision of the Council of Minister, which amends the 1955 decision regarding the fees of divorce."<sup>4</sup>

Dissatisfied with the text of the Decree, Nicolae Ceaușescu concluded the discussion by suggesting improving the material by introducing more stringent measures.

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<sup>1</sup> *Ibidem*, p. 32.

<sup>2</sup> ANIC, *Fund CC of PCR, Department Chancellery, File 127/1966*, p. 6.

<sup>3</sup> *Ibidem*, p. 24.

<sup>4</sup> *Ibidem*, p. 25.

However, after this meeting the communist leader approves the abortion law and decided "to publish the Decree on abortion in the press".<sup>1</sup>

*The Meeting of the Political Executive Committee on October 4, 1966*

On September 30, 1966 the Ministry of Justice forwarded to the Romanian Communist Party Central Committee the draft Decree to amend legal provisions relating to divorce, also with the statement of the reasons that were discussed at the meeting of the Executive Political Committee on 4 October.

In the first part of the material, Explanatory Memorandum, were presented the factors that were the basis of the text of Decree. Thus, the issue of family stability is attributed to the eternal communist state and is considered that the legislation of divorce contributed to the behavior of couple in the family. In the Socialist Republic of Romania, the strengthening and consolidation of family is a very important issue. Our state care to family is reflected not only in the constitutional provisions, but also in different law that protect marriage, mother and child's interests."<sup>2</sup>

The first issue highlighted is the increasing number of divorces in Romania."In 1950 were dissolved by court decision 23,941 marriages, in 1955 their number was 31,148, in 1960 were 36,947 divorces and in 1965 were 36,925 divorces."<sup>3</sup> This situation requires action to stop the dissolution of marriages.

A second issue is due to incomplete legislation, which could not ensure the stability of families, and is also in non-compliance with society economically and socially development.

In the material is also mentioned that "the divorce is harmful to the interest of society and it violates the rules of social life, and because of this, the dissolution of marriage can be allowed only in cases when is not possible to maintain the couple."<sup>4</sup> According to Protocol no.33, was approved the draft Decree that amends legal provisions of divorce, with the observations made during the session.

Thus, the debate from October 4, 1966 start at 6 PM with the subject: "Changes of legal provisions relating to divorce".<sup>5</sup>

After a long debate about the text of Decree and the fees for a divorce, Nicolae Ceaușescu has commanded to write the law immediatly. "Tomorrow work out the law

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<sup>1</sup>*Ibidem*, p. 25.

<sup>2</sup> ANIC, *Fund CC of PCR, Department Chancellery, File 131/1966*, p. 126.

<sup>3</sup> *Ibidem*, p. 126.

<sup>4</sup> *Ibidem*, p. 127.

<sup>5</sup> *Ibidem*, p. 1.

with comrade Leonte Răutu, and present it to us, in this way we can take action after tomorrow.”<sup>1</sup>

After the analysis discussed in the meeting from 4 October, can conclude that this is a particularly important as it is the moment of the final decision, when the Decree 779 was adopted and published on 8 October 1966, in the Official Gazette of Romania no. 64.

#### *Decree text analysis*

Shortly after the adoption of the anti-abortion legislation, the strengthening measures of demographic policy were doubled by the adoption of Decree 779/1966.

Direct purpose of this Decree was to keep family together with any cost and at the highest level of reproduction, assuming that in the family, sexual relations were not restricted.<sup>2</sup>

In the four articles of the Decree five fundamental issues are approached: conditions of termination of marriage, the law exceptions, the way how the court is judging the divorce application, taxes for the divorce procedure and the Decree implementations.

The first part includes the amendment of articles 1, 37, 38, 39 and 41 of the Family Code. Thus, in the first article of the Family Code is mentioned: “In The Socialist Republic of Romania the marriage and family are protected by the state; it supports with economic and social measures, development a family strengthening.”<sup>3</sup> Paternalistic attitude of the state obvious in the second paragraph of the article, in which the role of the state is highlighted in the protection of mother and child but also it help in rising and education of the next generation which is extremely important for the new regime who believe that “is more easier to modelate the young generation raised and educated in the communist spiritual values.”<sup>4</sup>

The family follow to be based on freely consented marriage being recognized the equal rights in the private life. As regards the freedom of the individuals in the private

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<sup>1</sup> *Ibidem*, p. 31.

<sup>2</sup> Diana Covaci, *Propaganda pronatalista in paginile Almanahului Femeia (1979-1990)*, in *Om si societate. Studii de istoria populatiei Romaniei (sec.XVII-XIX)*, coord. Sorina Paula Bolovan, Ioan Bolovan, Corneliu Padureanu, Ed.Presa Universitara Clujeana, Cluj-Napoca, 2007, p. 528

<sup>3</sup> *Monitorul Oficial, Decret 779/1966*, <http://www.monitoruljuridic.ro/act/decret-nr-779-din-8-octombrie-1966-pentru-modificarea-unor-dispozitii-legale-privitoare-la-divort-emitent-consiliul-de-stat-publicat-20281.html>

<sup>4</sup> Scripcaru, Gheorghe, *Bioetica, științele vieții și drepturile omului*, Ed. Polirom, Iași, 1998 p.109

space, these metions of the decree were purely formal; people are subordinates, in reality, to the communist regime, which eventually will be able to blur the boundaries between private and public life of the citizens.

Article 37 contains provisions on termination of marige. Therefore, divorce was allowed only in case of death of one partner (1<sup>st</sup> paragraph) and in situations that were presented enough valid reasons. "Mariage is dissolved by exceptional circumstances, by divorce."<sup>1</sup>

By the ambiguity and general expresion of the article, these exceptional cases were left to the discretion of judges, thus making the divorce proceedings and delivery difficult.

These exceptional cases of divorce are also presented in an ambiguous form in the article 38. "The court can dissoluble the marriage by divorce only when, there are good reasons, the relations between parteners are so seriously and irreparably injured that continuation of marriage is clearly impossible for the one who require its dissolution."<sup>2</sup>

Judicial bodies are advises to carefully consider the reasons of the application for the divorce, the marriage life and the interests of the minor childrens.

Divorce occurs only when the divorce mention is made final. "This statement will be made within two months since the divorce final decision, only to the husband demand who obtained the divorce and will present to the Civil Service a copy of the final divorce decision."<sup>3</sup> If this mention is not respected, the divorce decision will be null.

To submit another application, the husband had to rely on new causes and on those in the previous complaint too. The purpose of this panoply of mesures was to discouraje citiezen to divorce and make it as difficult to rule by the court.

Article 41, last amended from the Family Code, display the obligations of the couple to declare the dissolution of marriage. So, if the divorced husband is unable to work occurred before marriage, during it or even a year after the end (only in the circumstances related to marriage) has entitled to maintenance that can be up to one third of the net income that would have to pay. In addition to alimony husband, who was unable to work, need to be paid and child support, they could exceed half of the monthly net income. This right to maintenance ceases upon remarriage or is just for a year if the divorce was the fault of either of spouses.

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<sup>1</sup> *Monitorul Oficial, Decret 779/1966, <http://www.monitoruljuridic.ro/act/decret-nr-779-din-8-octombrie-1966-pentru-modificarea-unor-dispozitii-legale-privitoare-la-divort-emitent-consiliul-de-stat-publicat-20281.html>.*

<sup>2</sup> *Ibidem.*

<sup>3</sup> *Ibidem.*

In the second part of the Decree, are adjustments of the Code of Civil Procedure (article 612) and introducing a new article 616.1.

Thus, the article 612 second paragraph contains procedures which can make an application for divorce, but this must be displayed by the complainant.

The Court President was required initially, after receiving the request for divorce, to reconcile the conflict between spouses and then to set a dead line for the hearing. To complicate the divorce procedure, the article 613 states "If the applicant does not appear to the court, the process is suspended.<sup>1</sup> Moreover, if the claimed husband did not appear "the president will give a cooling-off period of 6 months, and if there are minor children, one<sup>2</sup>." It was considered that by extending the terms and proceedings of the divorce there is a possibility of reconciliation of the spouses. To make this period longer, after this extension, the president, considering the circumstances, may fix a new period of six months. The divorce application followed to be tried in open court only in certain circumstances, for better data analysis, this could be heard in the Council Chamber. Also, the divorce decision was pronounced in the Open Session.

According to article 616, the request being rejected if at the hearing is only the defendant.

If the respondent spouse is not present nor to the timeframe for reconciliation, neither at the hearing, the court must make sure "that the defendant is domiciled at the indicated place in the application, and if doesn't live there, he will be quote at home or at work."<sup>3</sup>(Article 616.1)

The divorce may cease at any stage of the process if the spouse come to terms. The deadline for appeal if the application for divorce was rejected was 30 days.

The third part of the decree, mentions the costs for the divorce. Thus, the stamp duty for divorce proceedings started from 3000 to 6000 lei, being fixed by the tribunal chairman and is proportional with the net monthly income of the applicant.

If the spouses get along during the process, withdraw the request for divorce or if the spouse who obtain the divorce does not require dissolution of marriage in accordance with article 39 of the Family Code, the person who paid stamp duty shall be reimbursed half the amount.

The spouse declared guilty, for dissolution of marriage will be obligated, "out in the stamp duty, to reimburse expenses incurred by the other spouse because of the divorce proceeding<sup>4</sup>".

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<sup>1</sup> *Ibidem.*

<sup>2</sup> *Ibidem.*

<sup>3</sup> *Ibidem.*

<sup>4</sup> *Ibidem.*

Decree shall also apply to pending divorce requests.

Following the adoption of the Decree 779/1966 there has been a significant decrease in the rate of divorce. Thus, in 1967 there were 48 divorces nationwide<sup>1</sup>, this situation is consistent with the expectations of the communist. Also in 1970 dynamic rate of the divorce was 5.4 to 100 marriages, comparing to 18.4 in 1960.<sup>2</sup> Depending on environment, the high percentage of divorces was registered in rural areas (from 1967 to 1974 the divorces index per 1000 inhabitants was 0.83 in the villages and 0.36 in the cities)<sup>3</sup>. Since 1972, divorce index began to rise steadily from 11.254 to 36.008 in 1989<sup>4</sup>.

#### *Subsequent changes in legislation against divorce*

Although in first years of the adoption of the Decree 779/1966, the divorce rate has declined, the population has demonstrated that it is able to adapt, many couples prefer to live separately, without asking a divorce process.

In 1969, divorce legislation has undergone the first change, with the approval of the Decree 680.

The reason was due to the unique regulation that before the application for divorce are fixed legal terms for reconciliation of spouses, which can not be applied on serious cases.

Thus, these terms were eliminated if the divorce was asked because "if one partner suffering of: chronic mental illness, is legally declared missing, abandon his family, was convicted of attempted murder against the partner or instigation, incest or homosexual relations, was sentenced to imprisonment for minimum 3 years or has suffered more penalties sentences totaling 3 years, for crimes against state security or against the world peace, murder, infanticide, prostitution, theft, robbery, fraud, embezzlement, crimes of forgery."<sup>5</sup>

In regard to the original form of the Decree 779/1966, there is a clearer formulation of the situations in which the divorce could be pronounced, this making easier the courts work.

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<sup>1</sup> Anuarul statistic al României, <http://www.insse.ro/cms/files/pdf/ro/cap2.pdf>, p. 18.

<sup>2</sup> Georgeta Ghebrea, *Regim social-politic și viața privată (familia și politica familial în România)* <http://ebooks.unibuc.ro/StiintePOL/ralu/1-2-3.htm>.

<sup>3</sup> *Ibidem*.

<sup>4</sup> Anuarul statistic al României, <http://www.insse.ro/cms/files/pdf/ro/cap2.pdf>, p. 18

<sup>5</sup> Decret 680 din 7 octombrie 1969, Monitorul Oficial, nr 106, <http://www.monitoruljuridic.ro/act/decret-nr-680-din-7-octombrie-1969-pentru-modificarea-unor-dispozitii-din-codul-de-procedura-civila-si-din-decretul-nr-779-1966-pentru-modificarea-unor-dispozitii-legale-privitoare-27351.html>.

It was also decided that the stamp duty for these situations to be 200 lei. The Decree 680/1969, will be also valid for the divorce application being under trial at first instance. But, stamp duty paid before entry into force of the Decree shall not be refunded to spouses.

Despite these improvements, the divorce rate after 1970 was again in a constant process of growth. From these reason in 1974 applied another series of changes to the Code of Civil Procedure and Family Code articles.

Thus, in the Executive Committee meeting approved the Decree 174/1974, published in the Official Gazette on 1 August.

The first part of the Decree wich amend the Article 613 of the Code of Civil Procedure the court emphasized that the time for reconciliation of the spouses were fixed between 3 and 6 months and if there are depended children, the reconciliation is between 6 months and one year. If the applicant spouse is not present at any of term, the divorce proceedings were suspended. If the "defendant spouse suffers of chronic derangement or is chronic hebephrenic, is declared missing by the court or is out of the country for at least two years, leaving the spouse" <sup>1</sup> the court directly fixed the hearing of the divorce application.

But the communist leadership immens desire to preserve family unity is illustrated by the following provisions of the article. If the marriage dissolution was requested because the defendant spouse was convicted for attempt, complicity or incitement to murder against spouse, serious corporal injury, was convicted of sexual offenses or for more intentional offenses, other than thos from the letter "a", was imprisonment for at least three years and the demand was introduced during the penalty or if spouses live apart for at least five years and this is proof by documents and official court<sup>2</sup> shall appoint a chairman reconciliation within the Council Chamber and if the applicant spouse was not present set the trial date file.

In the second part of Decree 174/1974 is amended the article 39 from the Family Code. "Marriage is dissolved on the day when the decision ruled when the divorce was final. Compared to the third, property consequences of marriage shall cease from the moment when the decision was made mention of divorce on the marriage certificate or from the moment the have know the divorce in another way"<sup>3</sup>

The provisions of the Articles 613, 613.1., 613.2 of the Code of Civil Procedure and the Article 39 of the Family Code could be applied in the pending divorce applications from the entry into force of the Decree.

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<sup>1</sup> ANIC, Fond CC al PCR, Secția Cancelarie, Dosar 79/1974, p. 52.

<sup>2</sup> *Ibidem*, p. 52.

<sup>3</sup> *Ibidem*, p. 52.

Despite all these changes of the Decree, the population has shown flexibility, like in the case of anti-divorce decree, and in 1980 the divorce rate reached the same rate as before the adoption of anti-divorce legislation in 1966.

#### ***4. The consequences of anti-divorce legislation***

The main target of Ceaușescu's demographic policy was to cancel the border between private and public area. Consequently, many state policies of the time turned their attention on the privacy of citizens. The demographic policy aimed the population growth; the creation of a new type of citizen and new social norms, its main action was the prohibition of abortion and the limitation of divorces. A major consequence of these policies is to stigmatize those who disobeyed the new rules.

The state interference with family life ultimately manifested in the freedom of people to choose their partners. Moreover, not only because of long periods provided for the reconciliation of spouses, but also the exceptional situation when a divorce was approved, was encouraged a form of double life, in which people tried to adapt their needs to the requirements of state. Many couples preferred to live separate, without applying for divorce, so this encouraged extramarital relations of partners. It should be noted, that in the context of unequal relation between men and women, in the end, women experienced the strongest negative impact of the policy of divorce – children were mainly the responsibility of mothers, the double standards on sexuality harm, especially women, the abuse within the family was less penalized just for saving appearances, etc.

In this context, the divorce became a social stigma that needed to be avoided. Therefore the status of divorce person had negative consequences in people's lives, families that suffered a divorce, even in the past, were marginalized.

In addition, in the public sphere, divorced persons were discriminated and were socially excluded, manifested both by the possibility of losing their job and by exclusion from the Party or other related bodies.

Negative social labeling was correlated not only with the divorced persons, but also with the children of divorced couples, considering that they have an "unhealthy" social origin. Instead, were encouraged marriages of people that comply with the rules or that were part of the system.

Post-communist Romanian society has made some significant changes in the family: increasing age at first marriage, high divorce rate, lower average duration of marriages etc. Currently, the average length of marriage to divorce, at European level, is 12 years and 10.5 years in Romania (Popescu, Raluca, 2010, p. 7). The main reasons behind a divorce in the Romanian society today are: violence, alcoholism, infidelity and love end (Nicolaescu, V., 2010, p. 5). However the family demonstrates a strong influence on the lives of Romanians (Croitoru, A., 2011, p. 4).

Moral traditionalism by preserving the family unit is transmitted by the Decree 779/1966, and continue in today's society, especially in rural areas where the divorce continues to be a social imbalance. Therefore, I consider relevant and necessary a analysis of the attitudes and the perspective on divorce, both of citizens and social institutions, that constinue to perpetuate a traditional family pattern.

## ***Bibliography***

### **I. Arhives:**

National Arhives of Central History

1. CC Fund of PCR

Department Chancellery

Files: 131/1966; 79/1974; 88/1974; 91/1976; 101/1966; 121/1976; 127/1966;

Administrative-Political Department

Files: 10/1966;.11/1970; 1/1977; 2/1977

2. PCR Central Committee

Central Party Board

File: A/652;

3. Organizational Department

Dosare: 44/1966

### **II. Collections of documents:**

“Colecție de Legi, Decrete, Hotărâri și alte acte normative”, Ed. Științifică, Ministry of Justice, Bucharest, 1967

### **III. Professional Literature**

1.Kligman G. (2000), *Politica duplicității. Controlul reproducerii în România lui Ceaușescu*, Ed. Humanitas, Bucharest

2.Ceaușescu N. (1980), *Creșterea rolului femeii în viața economică și social-politică a României Socialiste*, Ed. Politică, Bucharest, 1980.

3.C.P.A.D.C.R (2006), *Final Report*, Romanian Presidency, Bucharest

4.Scripcaru G. (1998), *Bioetica, științele vieții și drepturile omului*, Ed. Polirom, Iași

5.Doboș C. (coord.) (2010), Lucian M. Jinga, Florin S. Soare, *Politica pronatalistă a regimului Ceaușescu. O perspectivă comparativă*, The Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile, Ed. Polirom, Bucharest, 2010.

6. Dobre F. (coord.) (2004), *Membrii CC ai PCR: 1945-1989*, Ed. Enciclopedică, București, 2004.
7. Bolovan S.P. (coord.) (2007), Ioan Bolovan, Corneliu Pădureanu, *Om și societate. Studii de istoria populației României (sec. XVII-XIX)*, Ed. Presa Universitară Clujeană, Cluj-Napoca, 2007.
8. Cioroianu A., *Pe umerii lui Marx*, Ed. Curtea Veche, București, 2006.
9. Popescu R. (2010), Profile of Romanian Contemporary Family, in *Quality of Life Journal*, Bucharest, No. 1-2/2010
10. Nicolaescu V. (2010), *Youth Family between tradition and modernity*, Expert Publisher, Bucharest
11. Croitoru A. (2011), Review "Lifestyles in post-communist Romania. Why adopt behaviour patterns and why", author Marian Vasile in *Quality of Life Journal*, Bucharest, No. 2/2011

#### IV. Links:

<http://www.monitoruljuridic.ro>

<http://ebooks.unibuc.ro/StiintePOL/ralu/1-2-3.htm>

<http://www.insse.ro/cms/files/pdf/ro/cap2.pdf>