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PROSPECTS FOR DEVELOPING THE ROMANIAN MOUNTAIN AREA IN THE EUROPEAN CONTEXT

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Abstract

Mountain areas with specific characteristics represent a distinct environment which requires a complex approach. The existence of some specific natural resources, ecological fragility, agricultural activities' constraints, implicitly adjacent high costs generate the need for a complex support for the sustainable and inclusive development of mountain areas.

According to the Common Agricultural Policy, mountain areas are regarded as disadvantaged, generating a direct action upon rural agriculture and economy. Starting from that belief, the European Union has developed specific instruments supporting the montaneous areas, especially the rural ones, through specific development policies. Therefore, activities with a view to supporting the active farmer, maintaining natural scenery and biodiversity, mitigating climate change consequences, food safety and ensuring higher quality food are conducted.

Key Words: *ecological fragility, sustainable and inclusive development, specific instruments*

JEL Classification: Q01

1. Introduction

Conceptually, a mountain area has several meanings. According to the United Nation Organization, a mountain area is defined as a physical, environmental, socio-economic and cultural region where the disadvantages arising from altitude and other natural factors must be taken into consideration in conjunction with socio-economic constraints, spatial and environmental imbalance.

According to FAO, various elements are taken into account in order to define mountains and identify their contours, that is, their natural characteristics (altitude, topography, climate, vegetation) and human factors (food safety, opportunities and obstacles related to land use, interactions between mountains and plains), of which altitude is the most significant criterion, because living conditions at high altitudes are becoming more and more difficult.

In 2008, the European Commission presented the "Green Paper on Territorial Cohesion" defining a mountain area as the degree cell corresponding to a mountain region in which there is a population. The typology was modified with the fifth report on cohesion, so that a mountain area is also the area that has its space inhabited in a non-mountainous area associated with an uninhabited mountain area.

According to the Eurostat/GISCO-JRC, the basic administrative units existing in a mountain area are defined as regions that have a surface of over 50% overlapping the mountain area, or have a population of more than 50% in a mountain area.

The notion of mountain area appeared in France or the first time, with the European Commission applying a compensation programme for natural disabilities in those areas.

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In 1994, the Council of Europe organized in Chamonix for the first time the "European Conference of Mountain Regions", launching the *Carpathians Project* and promoting the European Charter of Mountain Regions.

In this context, taking account of the diversity of mountain regions at European level, of the economic, social and natural importance, a number of areas have been identified:

- mountain areas that had problems with steep slopes and high altitudes;
- areas threatened by depopulation and low income (high areas in southern Germany, sandy lands in northern European Plain, high areas in Wales, Scotland and northern England);
- areas where it is necessary to maintain rural specificity for tourist activities or other types of activities.

The delimitation of mountain areas in the European Union has been performed both according to the natural conditions (relief, altitude, slope, climate, pedo-ecological issues), but also to the social ones (population density, income level, share of the population employed in agriculture).

According to EC Regulation 1257/1999, "mountain areas are areas characterized by a considerable limitation of the possibilities of land use and by an appreciable increase of the costs of their operation, due to:

- the altitude-based existence of very difficult climate conditions which have the effect of substantially reducing the vegetation period;
- the presence at low altitude, on most of the respective area, of slopes too steep for the use of machinery or which require the use of very expensive special equipment;
- a combination of the two factors above, where the difficulty resulting from either factor taken separately is less serious, but by combining them there is an equivalent difficulty.

In relation to the subsidiarity principle, regional and/or national authorities have had to define their levels and develop a system of mountain area classification. The most common criteria have been:

- very difficult climate conditions at altitudes above 600-800 m;
- steep slopes (with an average gradient of 1-5/km^2) that require the use of special equipment.

In Romania, there were 3 stages of mountain area delimitation. During the first stage in 2002, mountain areas were thought to be the areas: "which are characterized by the considerable limitation of the possibilities of land use and by the appreciable increase of the costs of their operation", due to:

a. the existence of particularly difficult climate conditions, determined by altitudes of over 600 m, the effect of which is the substantial shortening of the vegetation season;

b. the presence at lower altitude, on most of the agricultural land, of slopes over 20º, too steep for the use of agricultural machinery or which require the use of expensive equipment; or

c. the combination of the factors mentioned in letters a) and b), where the disadvantage resulting from either factor taken separately is less acute, but their combination results in an equivalent disadvantage."

Thus, the mountain area includes 28 counties, 826 TAU's of which 627 entirely, 21 municipalities, of which 14 entirely, 73 cities of which 53 entirely, 732 municipalities, of which 560 entirely.

Romania's joining the European Union on 1 January 2007 produced a number of changes regarding the delimitation of a mountain area, taking into account both EU Regulation no.1257/1999 regarding the aid granted by the European Agricultural Guidance and Guarantee Fund (EAGGF) for rural development, and also by the provisions of Articles 17 and 18 of EU Regulation 1698/2005, with reference to support for rural development, granted through the European Agricultural Fund for Rural Development (EAFRD).

In this context, disadvantaged mountain areas are the areas, delimited at the level of TAU, which are characterized by the considerable limitation of the possibilities of land use and by the appreciable increase of the costs of their operation, due to:

- average altitudes of over 600 meters with particularly difficult climate conditions, whose effect is the substantial shortening of the vegetation season;
- average altitudes between 400 - 600 meters which cause difficult climate conditions, average slopes of over 15%, which make mechanization impossible or require the use of specific expensive equipment.

According to such delimitation, there are no longer 206 TAU's included (of which 84 entirely and 122 partially), namely 6 municipalities, 13 cities and 187 villages, but 37 new TAU's have been included, of which 2 municipalities, 2 cities and 33 villages.

In the last stage, considering the territorial diversity and some isolated issues, the following criteria for delimiting a mountain area have been suggested:

a. *general criteria (physical criteria)*:

- average altitude higher than or equal to 500 m;
- average altitude between 350 and 500 m and average slope higher than or equal to 15%;
- altitude below 350 m and average slope higher than or equal to 20%.

b. *criterion of belonging to the Carpathian Convention*, which has included the TAU's that are by at least 50% within the territory comprised by the Carpathian Convention.

c. *combined score criterion*, taking into account the specific situation of a mountain area, based on the following algorithm:

- altitude score (average altitude/500 m) - 30% share;
- slope score (average slope/15%) - share 30%;
- meadow score (pastures + hayfields/agricultural total) - 25% share;
- forest score (forest area/total TAU area) - 15% share.

The TAU's that have obtained a combined score of at least 7 (out of 10 possible) as a result of such operations have also been proposed for inclusion in the mountain area, except for those that do not meet an elimination criterion related to geology (if the share of the quaternary formations is higher than 50% of TAU;)

d. *criterion of inclusion in the delimitation of a mountain area within Romania's Territorial Development Strategy (SDTR);*

e. *continuity criterion*. Considering that following the application of the above criteria, the result is that the TAU's that do not meet the criteria but are surrounded by mountain TAU's, resulting in so-called "non-mountain islands", by exception, for continuity, it has also been proposed to include them in the mountain area.

Thus, according to MADR / MADRP Joint Order 97/1332/2019, Romania's mountain area comprises 948 TAU's, as follows:

Table 1. ***Delimitation of Romania's Mountain Area***

No.	Indicators	Specification
1.	Total surface(ha)	9.128.102
2.	Population	4.795.020
3.	Number of TAU's included	948, of which the following according to: - physical criteria - 785; - criterion of belonging to the Carpathian Convention -71; - combined score criterion – 47; - criterion of inclusion in the SDTR- 35; - continuity criterion - 10

Source: Processed by the authors based on data provided by ANZM

In conclusion, Romania's mountain area is representative: 38.3% of the country's surface, 25.88% of the agricultural area and 29.8% of the total TAU's.

2. Mountain Area Investment Programmes

The mountain area in Romania is well represented, but it faces a number of problems generated by:

- low development level;
- small number of jobs;
- renouncing traditional mountain rural activities;
- exodus of young people to other more attractive areas;
- reduced access to training and information;
- poorly developed infrastructure, implicitly a relatively high degree of isolation for certain communities;
- weak exploitation of the specific natural and cultural potential.

In order to support the disadvantaged mountain area, Mountain Law no.197/2018 was adopted, which regulates "*the ways of protection and sustainable inclusive development of the mountain area by enhancing the natural and human resources, increasing the living standard, population stabilization, maintaining the cultural identity, increasing the economic power at local and national levels while maintaining the ecological balance and protecting the natural environment*".

The law contains a programme to encourage activities in the mountain area, aiming at:

- protection of natural resources;
- balanced population density in the mountain area;
- creation and preservation of jobs;
- creation and protection of access infrastructure;
- preparation of policies and regulations to encourage activities specific to the mountain area.

The main activities that can be developed in the mountain area are agriculture, processing industry and tourism. With regard to agriculture, the specific climate and biophysical conditions require sustained support which will contribute in the increase of the living standard in the mountain area and implicitly in stabilizing the young population. The poor endowment and technical equipment of farms, their small size, the continuous decrease of livestock due to the lack of markets for certain products, low prices for some agricultural products, they all require a new approach.

The future objective of sustainable development in the rural mountain environment is the organization of producers in cooperative associations which will have their own processing facilities and implicitly trading. Small farms in the mountain area should be supported in organizing producer groups for collecting, processing and selling products.

The main investment programmes to be carried out in the mountain area are:

- setting up milk collection and/or processing centres;
- setting up low capacity units for animal slaughtering and/or meat processing;
- setting up centres for primary collection and processing of forest fruit, mushrooms and/or medicinal and aromatic plants of the spontaneous flora and/or culture in the mountain area;
- setting up mountain sheepfolds.

The beneficiaries of such investment programmes will be:

- authorized natural persons, sole proprietorships and family businesses set up according to Government Emergency Ordinance no. 44/2008 regarding the conduct of economic activities by authorized natural persons, sole proprietorships and family businesses, approved with amendments and completions by Law no. 182/2016;

- producer groups set up according to Government Ordinance no. 37/2005 regarding the recognition and functioning of producer groups and organizations, for the trading of agricultural and forestry products, approved with amendments and completions by Law no. 338/2005, as subsequently amended and supplemented, and Order of the Minister of Agriculture and Rural Development and of the Minister of Environment, Water and Forestry no.358/763/2016 for the approval of Methodological Norms for the application of Government Ordinance no. 37/2005 regarding the recognition and functioning of producer groups and organizations, for the trading of agricultural and forestry products;
- legal entities set up in accordance with the provisions of Law on agricultural cooperation 566/2004, as subsequently amended and supplemented;
- legal entities set up in accordance with the provisions of Law no. 1/2005 regarding the organization and functioning of cooperation, republished, with the subsequent amendments, and the legal entities set up according to the provisions of Companies Law no.31/1990, republished, with subsequent amendments and completions, which carry out activities in agriculture and/or food industry

Implementing the Investment Encouragement Programme in the mountain area will have as main results:

- creation of new jobs;
- stabilization of young population;
- increasing well-being;
- development of mountain tourism, agro-tourism, ecotourism, rural tourism.

3. ”Mountain Product”- Optional Quality Mention

The high quality of products from the mountain area is unanimously recognized. Under such circumstances, the European Commission has decided to label the food from the mountain area differently. Thus, the concept of ”mountain product” has emerged, an optional quality mention, a product intended exclusively for human consumption.

Manufacturers wishing to acquire the right to use the ”mountain product” quality mention for the goods made must comply with the 5 principles of the charter for mountain products:

- raw materials and also feed for farm animals mainly come from the mountain area;
- processing takes place in the mountain area;
- production must integrate local sustainable development concerns;
- production must favour the maintenance of biodiversity and heritage in the mountain area;
- production must ensure information transparency for the consumers.

Thus, plant origin products that will bear the ”mountain product” optional quality mention must be grown in the mountain area. Animal origin products must come from animals bred at least in the last two-thirds of life in the mountain areas and be processed in the mountain areas (by derogation, the processing can take place at a maximum of 30 km from the mountain area). It is also possible to obtain the right to use the ”mountain product” optional quality mention for products that are obtained from animals bred at least a quarter of life in transhumance and on pastures in the mountain area, too. As to bee products, the right to use the ”mountain product” optional quality mention is obtained only if it is proven that the bees have collected the nectar and pollen from the mountain area.

4. Conclusions

According to the Joint Agricultural Policy, mountain areas are regarded as disadvantaged areas, generating direct action on agriculture and rural economy.

Romania's mountain area is individualized by a specific potential which is human, natural and cultural, which requires sustainable valorisation. The huge mountain potential requires strategic thinking based on the balance between production and consumption implicitly, on the one hand, and also on protection and preservation on the other.

The Romanian rural mountain environment requires specific management in which the results will occur as time passes and it aims at the overall socio-economic well-being, while maintaining attractiveness. The preservation and transmission of traditional crafts, of activities seen only in the "*village in the middle of mountains*" should be a priority in the future strategic orientations.

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IMPACT OF THE PACKAGING FEE IN ROMANIA ON THE QUALITY OF THE ENVIRONMENT

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Abstract

In the context of improving the protection, conservation and increase of the quality of the environment, as well as of the health and safety of the population, but also for fulfilling the commitments regarding the environmental protection assumed, starting with the year 2000 in Romania the packaging fee was regulated. This is intended to hold producers of packaging waste accountable for reducing the quantities generated and increasing recycling or other types of recovery, such as energy generation from waste. Over the years this fee has undergone numerous changes, the last one being the one of 2019, aiming at increasing the effectiveness of the instrument and eliminating the erroneous interpretation of the legal provisions. The present research aims to analyze the effects determined by these legislative changes and to observe whether or not they have determined an improvement of the quality of the environment.

Keywords: *environmental protection, packaging fee, quality of the environment, packaging waste, legislative changes.*

JEL Classification: *H23, Q53.*

Introduction

The quality of the environment is essential both for the health and well-being of the people and for the economy. The European Union and Romania have implicitly developed and applied over time some of the highest environmental standards in the world. Thus, the promoted environmental policy has helped the EU economy to become greener, to protect natural resources, as well as the health and well-being of people.

Europe's long-term strategic vision for a modern, competitive, prosperous and climate-neutral economy confirms Europe's commitment to paving the way for global climate change and to deliver a vision that will leads to the goal of zero greenhouse gas emissions, by 2050.

European Union environmental legislation and policies aim to protect natural habitats, maintain clean air and water, ensure proper disposal of waste, improve knowledge of toxic chemicals, and guide private entities towards a sustainable economy.

The transition to a circular economy represents an opportunity to transform the economy and make it more sustainable, so that resources, materials and products are maintained and used for a longer time. The proper prevention and management of waste contributes to the prevention and reduction of the negative impact of waste on health and the environment, while directing them towards efficient uses.

Proper waste management is considered the foundation of the circular economy. For a rapid transition to such a circular economy, immediate implementation of European Union legislation in the field of waste is necessary.

1. European waste policy

The European Union is constantly seeking to improve and transform waste management into sustainable material management to conserve, protect and improve the quality of the environment, to ensure the efficient, prudent and rational use of natural resources, to protect human health, to protect accelerate the use of energy from renewable sources, to promote the principles of the circular economy, to increase energy efficiency, to create new economic opportunities and to reduce dependence on imported resources, as well as to stimulate long-term competitiveness.

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In order to transform the economy into a circular one, it is necessary to modify the production and consumption in a way that conserves the resources. More efficient resource consumption will also lead to substantial savings at the level of consumers, entities and public authorities, while simultaneously reducing greenhouse gas emissions.

Increasing efficiency in resource consumption and waste recovery will result in reduced imports of raw materials and will contribute to a more sustainable management of materials and the transition to a circular economy model. This transition will also contribute to achieving the goals of sustainable, smart and inclusive growth set out in the Europe 2020 Strategy.

Since the early 1970s, the European Union has considered that economic prosperity and environmental protection are interdependent. The European Union's environmental action programs have set the framework for environmental policy. The seventh environmental action program entitled „A good life, within the limits of our planet" refers to the period from 2014 - 2020 and aims to achieve a vision on sustainability for 2050 through actions focused on three areas:

1. improvement, conservation and protection of natural capital;
2. the transition to a circular economy with low carbon dioxide emissions; and
3. protecting people from environmental risks that threaten their health and well-being.

Since 2014, major efforts have been made in several areas, including waste management, such as setting new targets for recycling, restricting the use of plastic bags for shopping and plastics, as well as actions to combat marine waste.

2. Environmental policy in Romania

2 .1. Key moments

1990 - establishment of the Ministry of Environment
1992 - elaboration of the first National Strategy for Environmental Protection
1996 and 2002 - revision of the National Environmental Protection Strategy
1999 - adoption of the National Program for EU Accession
2002 - National Strategy for Waste Management
2003 - Preparation of the Report on the state of the environment in Romania
2013 - approval of the National Strategy for Waste Management
2017 - National Plan for Waste Management
2017 - Environmental Report for the National Waste Management Plan and the National Waste Prevention Plan

2.2. Packaging waste

For sustainable growth it is necessary to reduce waste, including packaging. In accordance with the European strategy for waste management, the management of packaging and packaging waste must mainly include the prevention of packaging waste.

In Romania The European directive on packaging and packaging waste was transposed by Law no. 249/2015 regarding the management of packaging and packaging waste, with subsequent modifications and completions. The European provisions in this area aim, as a matter of priority, to prevent the production of packaging waste and, as fundamental principles, establish the reuse of packaging, recycling, and other forms of recovery of packaging waste and, consequently, the reduction of the final disposal of such of waste.

The national vision on waste management subscribes to the European one in the field, with a special emphasis on the principle of preventive action. Regarding the prevention of waste generation, their hierarchy has been established, giving importance to reuse, recycling, other forms of recovery (for example, energy recovery) and, as a last resort, disposal.

Packaging is important for the protection of products, in order to maintain integrity and quality, during transport, handling, storage and disposal, as well as for facilitating these operations. However, the packaging determines the formation of significant quantities of waste.

In order to recover, in many countries, packaging waste is separated from the rest of the waste, thus reducing the negative impact of these on the environment and achieving significant savings in materials and energy.

In the European Union, in recent years the amount of packaging waste has increased slowly. In 2015, the total volume of packaging waste was 85 million tones, which represents about 3.4% of the total quantity of waste generated.

The European Packaging Directive sets out the objectives to be achieved by the end of 2008, with some extensions of deadlines for some Member States by 2015. These general objectives set the recovery and recycling rate at 60% and 55%, respectively, in addition to the specific recycling targets for materials, which set the following targets:

- 60% for paper and cardboard;
- 60% for glass;
- 50% for metal;
- 22.5% for plastic and
- 15% for wood.

Since 2005, the average rate of packaging recycling in the European Union has steadily increased, and between 2013 and 2015, the volume of packaging waste generated increased by about 6%, indicating that more measures are needed. to prevent the generation of waste.

The revised EU Packaging Directive has increased the overall targets for packaging waste recycling, namely 65% in 2025 and 70% in 2030, and has introduced more ambitious specific targets for materials, for example plastics 55% in 2030.

Achieving the revised objectives implies intensifying the efforts made to organize the selective collection systems in a more efficient way, in order to increase the quantity of the recyclable materials.

2.3. Packaging fee

It is known for some time the negative influence that the economic development has on the environment. Under these conditions, the authorities are constantly looking for new ways to limit the pollution of the environment, under conditions of economic growth.

Environmental fees can cause changes in the behavior of private and public entities, as well as final consumers in reducing the negative impact on the environment. Such a fee is the one charged on the packaging. This fee aims to reduce the consumption of packaging, to increase the degree of recycling and awareness of the negative impact of packaging waste on the environment. The fee on packaging is more than a pollution taxation instrument, being considered an economic leverage.

In several countries, the fees applied to all the entities that put packaging on the market are quite high, which causes the increase of the prices of the goods, but also stimulates the increase of the performances in the matter of innovation. Thus, companies are forced to discover new types of packaging, more resistant that can be reused and even repaired. Another benefit, in the case of re-use, would be the fact that environmental fees are only applied once on the market. Also, the packaging fee determined the companies to optimize the way they package the products, as well as the consumption of raw materials and materials needed to manufacture the packaging.

A major concern and priority for the European Union is plastics, given the increasing production of plastic products. For example, in the European Union, at the level of 2016, around 60 million tones of plastic were produced, and at the level of 2017 64.4 million tones,

and globally 335 million tones in 2016, and 348 in 2017. Of the total quantity, about 40% is represented by plastic packaging (Plastics Europe, pp. 18).

Across the European Union, the recycling rate for plastic packaging increased to around 41% in 2016, but the production of plastic packaging increased (Plastics Europe, pp. 48). Both at European Union level and at national level, there is a tendency to adopt the concept of circular economy in the field of packaging, which places a special emphasis on their recycling and reuse, to the detriment of disposal. This trend is also justified by the fact that all plastic packaging must be reused or recycled by 2030.

Also within the Romanian private entities, there is a growing interest in the solutions offered by the circular economy, for example the adoption of return policies that allow customers to get rid of old products, when buying new ones. Thus, the materials contained in the old product can be recycled and reused.

The adoption by the European Union of the Directive on disposable plastic products will lead to the prohibition, starting with 2021, of disposable plastic products, which will cause the replacement of plastic materials used with other materials such as starch. Thus, disposable plastic cutlery, plates, ear sticks, straws for drinks and others will be prohibited.

It is known that the transition to a more sustainable production model implies, in the short term, certain costs and a lower profitability, but in the long term, sustainability will result in a more efficient production, which entails lower costs. In addition, the transition to these new solutions is also accompanied by the benefits of reducing pollution, the amount of waste generated, as well as a positive impact on the environment and human health. In Romania, the Environmental Fund is established in accordance with the European principles „polluter pays" and „producer responsibility".

From January 1, 2019, the general and specific objectives for each type of material have been increased - for the recovery/recycling of packaging waste. Also, the way of achieving these objectives has been modified, as follows:

• *individually - for managing their own packaging placed on the national market, or*

• *through an organization to implement extended producer responsibility.*

Also, the obligation of the economic operators managing packaging and packaging waste to be registered with the Environmental Fund Administration has been regulated by filing a declaration.

Specific provisions regarding the regime of reusable packaging in Romania

In Romania, reusable packaging will be circulated either on the basis of an exchange system or through the payment of a money guarantee by the beneficiaries in exchange for the received packages. Starting with March 2019, the amount of the money guarantee will be 0.5 lei / package, for reusable packaging.

Until 2021, the Romanian authorities, based on an analysis, have the obligation to establish a guarantee - return system for non-reusable plastic, glass, or metal packaging, with volumes between 0.1 l and 3 l.

Also, additional obligations have been provided for the private entities that place products on the market in reusable packaging, as follows:

- the obligation to retrieve the reusable packaging so as to reach, starting with 2019, a percentage of their return of at least 90%, and

- the obligation to mark on the packaging of the product the phrase „reusable packaging".

At the same time, all the private entities that place packaged goods on the market are obliged, starting with 2020, to achieve an annual average percentage of reusable packaging of at least 5% of the total packaging placed on the market, a percentage that must be increased annually by 5%, until 2025.

Additional obligations have also been laid down for entities that retail products packaged in reusable packaging, in particular with regard to informing customers about the value of the money guarantee, as well as the return of reusable packaging.

To a small difference, Romania missed the achievement of the recycling objectives of the packaging established for 2013 and 2014. Regarding the recycling of glass packaging, no data were reported for 2015, but in 2014 Romania was below the required level.

In the coming years, Romania should make significant efforts to increase recycling and reduce packaging waste, as well as invest in recycling to achieve the general and specific objectives set for 2020.

Conclusions

The implementation of European Union legislation and policies in the field of environmental protection is important for a healthy environment.

European Union and national legislation on packaging waste is aimed at considerably improving waste management. When designing the legislation on packaging and packaging waste, the limited character of the resources was taken into account, as well as the importance of capitalizing on the economic and environmental benefits of the circular economy.

Policies regarding fees with environmental impact are one of the most efficient tools by which the authorities can influence the development and use of resources. The environmental fees determine the increase of the price of the resources, but at the same time, it is also a way by which the financial resources necessary for the management of projects that aim to reduce and combat the negative effects of the economic activities on the environment can be collected. Thus, achieving sustainable development goals and targets cannot be achieved without effective environmental protection policies, which in turn depend on the existence of correct environmental fees.

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EFFICIENCY OF MATERIAL ASSETS- THE ROLE AND IMPORTANCE IN PERFORMANCE INCREASING OF AGRICULTURE

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Abstract

Romania is one of the European Union countries with important resources for agriculture, occupying the 6th place in the EU in terms of utilised agricultural area but the agrarian structure is not adapted to the EU developed countries. Unlike other fields of activity, in agriculture a number of specific factors arise, which determine certain particularities of the use of the material assets, of the means of production and of the labor force. In the technological process in agriculture there is a combination of three important factors: natural factors (the land), the human factors and material factors. In order to achieve a superior economic performance, it is necessary for the farms to effectively manage these factors.

The general objective of the research consists in analyzing the efficiency of the material assets in agriculture based on the financial accounting information and identifying the factors that influence the performance in agriculture in order to use the resources effectively.

In this article it is developed a synthetic theoretical framework regarding the essential features of the Romanian agriculture, the land and fixed assets efficiency, a large case study regarding the indicators of evaluation and measurement of the efficiency of the material assets in agriculture.

Key words*: agriculture, fixed assets, efficiency,production, profit.*

JEL Code*: Q01, M21*

Introduction

In Romania, agriculture is one of the most important branches of the national economy, being one of the main sources of income for the rural population and in the same time is generating effects on the whole national economy because it ensures food security and contributes to the sustainable development of rural areas.

The importance of agriculture in the national economy is due to the existing potential in terms of natural resources and the labor force involved.

The rural territory enjoys a great growth potential, with a favorable endowment in terms of natural resources and human resources. The rural areas represent 87.1% of the country's territory and 47.2% of the population. With all the existing resources, they have had a relatively limited influence on the restructuring and development of agriculture. Romania represents 7% of the utilized agricultural area of the European Union, occupying the 6th place, and 4% of its population.

Romania has a significant agricultural potential but insufficiently exploited and not adapted to the current economic requirements, although it has benefited from consistent funds destined to align with European requirements and market conditions. Although 62% of the agricultural area of the country is represented by agricultural lands, there are a number of imbalances in the Romanian rural economy, due to the large number of small farms and the low degree of technology.

The implementation of the Common Agricultural Policy (CAP) has opened new horizons of development based on competitiveness, market orientation, productivity growth, food security, etc. The CAP after 2020 aims to the transition to a sustainable, smart,

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competitive agricultural sector and the development of dynamic rural areas that will provide high quality and safe food for the population.

In the 21st century, agriculture is still a basic instrument in the fight against poverty and sustainable development. The main role of agriculture consists of economic activities, environmental services, and livelihood *(Lazíková, Lazíková, Takác, Rumanovská, Bandlerová, 2019, p.1-17)*.

The analysis of main factors of agriculture's assets and capital efficiency is strongly related to the factors of technical development. Technical development of agriculture is based on four pillars: biological, chemical, technical and human factors *(Takács, 2008, p.1)*.

The efficiency is a complex category, its precise definition depends on the context in which it is measured and often is identified with effectiveness, efficacy, performance and productivity *(Zabolotnyy, Felczak and Wasilewski, 2018, p.41-60)*.

The efficiency in agriculture is influenced by a number of internal and external factors, but must be stresed the importance of the following factors *(Bórawski, Grzybowska-Brzezińska, William Dunn, 2015, p.175-183)*: land prices, inflation, investment in agriculture and hunting, the balance of trade and GDP.

1. Efficiency of the land

The land is the basis of agricultural production, the economic activity in agriculture being directly and indirectly linked to the land. The production capacity of the land varies according to the territories and areas, which influence the production results, and implicitly the performance and the profitability of the agricultural holdings.

Professor Constantin Cojocaru stresses the need for rational use of land for modern agriculture: "The fact that the land is a great national wealth and at the same time a fundamental factor in agricultural and even non-agricultural production - but limited in extent-its integral, intensive, efficient use and as rational as possible from the point of view of environmental protection becomes a first-rate objective in modern agriculture and obviously with decisive implications on the entire economic-financial activity of agricultural holdings "*(Cojocaru, 1997, p.428)*.

Compared to the other means of production, the land presents a series of characteristics that give it a specific role in agricultural production *(Iancu, 2007, pp. 76-80)*:

- The land has unlimited production potential but can participate in obtaining goods only together with other means (mechanical, biological, chemical) that act on it through the labor force;
- The land is limited in extent and as agricultural use;
- The land is not subject to depreciation, participating in an unlimited number of production cycles;
- For agriculture the land is a production factor that cannot be replaced, therefore it is irreplaceable;
- The land is characterized by spatial immobility and uneven distribution;
- From the point of view of the natural production potential, the land is varied, so that through the improvements brought to it it contributes to the value creation.

It is known that Romania has a significant area of agricultural and non-agricultural land but nevertheless the share of agriculture in the national economy is low. The causes of this situation are multiple, among which: the very large number of subsistence farms, the low degree of technology, difficult access to bank loans for agriculture, etc. In this context, it is necessary to carry out an *analysis of the quality of agricultural land*.

The quality of agricultural land represents a set of operations to quantify the natural capacity of the lands, it expresses their quality according to the existing pedoclimatic and economic conditions of production (*Otiman, Mateoc-Sirb and Manescu, 2013, p.60*).

Normally the land quality is determined for each plant but an average of the land quality can be calculated.

The methodology for determining quality of agricultural land implies the grouping of the factors that participate in the production, in two categories *(Otiman, Mateoc-Sirb and Manescu, 2013, p.71)*:

- natural factors: relief, climate, soil, hydrology
- technical-economic factors: fertilization, terracing, irrigation, drying, pollution combating.

For the efficient use of material resources in agriculture, it is necessary to carry out an economic analysis of the land structure, the growth factors of the average production per hectare, the use of agricultural land, the efficiency of land use, etc.

In accordance with Law 18/1991, as amended and supplemented, article 2, the main categories of land use are:

- agricultural land, comprising: arable land; natural pastures; meadow; vineyards and nurseries; orchards, nurseries, fruit trees.
- non-agricultural land, comprising: forests; water; other land.

In the current context of the market economy, it is important to carry out an analysis of the land use in accordance with the market demands and the natural conditions of the agricultural holdings, thus identifying the reserves for increasing the agricultural areas. It can be identified two ways of analyzing the land at an agricultural farm, one of them refers to the analysis of the profit integration in the projected structure of the area, and the second refers to the dynamic analysis of the weight of the different categories of use in the total area.

The analysis of the land use is made on the *spring productive area* that represents the land occupied by the crops at the end of the sowing campaign and from which will be obtained the production in that year. The spring productive area can be calculated according to the formula below *(Hinescu et al, 2005, p. 109):*

$$Sw = St - Sc + Sp + Sa \quad (1)$$

Sw- the spring productive area

St- the area sown in the previous year autumn

Sc- the area of the crops compromised in autumn and winter

Sp- the area sown in spring

Sa- the area occupied by old perennial crops, cultivated meadows, greenhouses, solariums.

By comparing the spring productive area to the arable area, it is obtained the coefficient of use of arable land (K), which expresses the degree of use of arable land, *(Hinescu et al, 2005, p. 110).*

$$K = \frac{Sw}{Sar} \quad (2)$$

$$Sar = Sw + Sr \quad (3)$$

Sar - the arable area in use

Sr- the area of the pasture and the area remaining without seed.

If we refer to the *spring productive agricultural area*, it is determined according to the relation:

$$Sagr = Sw + Sr + Spr + Spn + Sfn + Sv + Sp \quad (4)$$

Sagr- the spring productive agricultural area

Spr – the area of natural pastures

Sfn- the area of natural grass

Sv- the area of vineyards, nurseries

Sp- the area of the orchards and nurseries orchards, fruiting shrubs.

In agriculture, an important factor is the soil fertility, which is expressed through the average production per hectare. The main ways of increasing the soil fertility are *(Todea et al, 2005, p.95):*

- the proper fertilization of the land;
- applying amendments;
- use of pesticides;
- increase of irrigated areas;
- respecting the production technologies;
- mechanization of agriculture;
- seeding with quality seeds.

Regarding the land efficiency, it can be measured using certain indicators *(Burja, 2009, p.191-192)*:

- turnover per hectare $Ef = \frac{CA}{S}$ (5)
- value added per hectare $Ef = \frac{VA}{S}$ (6)
- profit per hectar $Ef = \frac{\text{Pr}}{S}$ (7)

Ef- land efficiency
CA- turnover
VA- value added
S- area
Pr- profit.

The indicators mentioned above can be analyzed on the whole area of the farm or on the certain crop.

We present below (table no. 1) the analysis of the land efficiency for wheat cultivation, which occupies the most significant weight within the agricultural holding.

Table no.1: **Indicators regarding the cultivated area**

Denumire	**Symbol**	**2015**	**2016**	**2017**	**2018**
Area (ha)	S	390	390	395	395
Obtained production (t)	Q	2550	2652	2765	2844
Average production, kg/ha	q	6538	6800	7000	7200
Delivered production (t)	Ql	2100	2200	2500	2600
Share of production delivered	ql	82	83	90	91
Sale price (lei/ton)	p	450	460	465	468
Turnover (lei)	CA	945.000	1.012.000	1.162.500	1.216.800
Total expenses (lei)	Ch	585.800	685.000	780.000	805.000
Profit (lei)	Pr	359.200	327.000	382.500	411.800
Cost per unit (lei/ton)	c	279	311	312	310
Profit rate, (%)	pr	38.01	32.31	32.90	33.84
Profit per hectare, lei/ha	Pr/S	921	838	968	1043
Turnover per hectare, lei/ha	CA/S	2423	2595	2943	3081

Source: author's view according to the data provided by the agricultural holding

The efficiency of land using calculated on the profit obtained per hectare had a fluctuating evolution, decreased by 83 lei in 2016 compared to 2015 (respectively by 9%), increased by 75 lei in 2018 compared to 2017 (respectively by 8 %). Although the turnover

has a continuous growth during the analyzed period, its growth rate is lower compared to the growth rate of the total expenses, resulting in the fluctuation of the profit per hectare.

The change in profit per hectare is explained by the following factors *(Burja, 2009, p.193-194)*:

- turnover per hectar change $\Delta\frac{\text{Pr}}{S}\left(\frac{CA}{S}\right)=\left(\frac{CA_1}{S_1}-\frac{CA_0}{S_0}\right)xpr_0$ (8)

$$\Delta\frac{\text{Pr}}{S}\left(\frac{CA}{S}\right)_{2015-2016}=66lei$$

$$\Delta\frac{\text{Pr}}{S}\left(\frac{CA}{S}\right)_{2017-2018}=55lei$$

1. change in average production per hectare $\Delta\frac{\text{Pr}}{S}\left(\bar{q}\right)=\left(\bar{q}_1-\bar{q}_0\right)x\,gl_0\,x\,p_0\,x\,pr_0$ (9)

$$\Delta\frac{\text{Pr}}{S}\left(\bar{q}\right)_{2015-2016}=37\ lei$$

$$\Delta\frac{\text{Pr}}{S}\left(\bar{q}\right)_{2017-2018}=28\ lei$$

2. change of the delivered production $\Delta\frac{\text{Pr}}{S}(gl)=q_1(gl_1-gl_0)x\,p_0xpr_0$ (10)

$$\Delta\frac{\text{Pr}}{S}(gl)_{2015-2016}=7\ lei$$

$$\Delta\frac{\text{Pr}}{S}(gl)_{2017-2018}=11\ lei$$

3. change of unit price $\Delta\frac{\text{Pr}}{S}=q_1xgl_1(p_1-p_0)xpr_0$ (11)

$$\Delta\frac{\text{Pr}}{S}_{2015-2016}=21lei$$

$$\Delta\frac{\text{Pr}}{S}_{2017-2018}=6lei$$

- change of the profit rate (profit at 1 leu turnover)

$$\Delta\frac{\text{Pr}}{S}(pr)=(pr_1-pr_0)x\frac{CA_1}{S_1}\quad(12)$$

$$\Delta\frac{\text{Pr}}{S}(pr)_{2015-2016}=-148lei$$

$$\Delta\frac{\text{Pr}}{S}(pr)_{2017-2018}=28\ lei$$

1. Change of unit price $\Delta\frac{\text{Pr}}{S}(p)=\frac{CA_1}{S_1}\left[\left(1-\frac{c_0}{p_1}\right)-\left(1-\frac{c_0}{p_0}\right)\right]$ (13)

$$\Delta\frac{\text{Pr}}{S}(p)_{2015-2016}=388\ lei$$

$$\Delta\frac{\text{Pr}}{S}(p)_{2016-2017}=338lei$$

2. Change of unit cost $\Delta\frac{\text{Pr}}{S}(c)=\frac{CA_1}{S_1}\left[\left(1-\frac{c_1}{p_1}\right)-\left(1-\frac{c_0}{p_1}\right)\right]$ (14)

$$\Delta\frac{\text{Pr}}{S}(c)_{2015-2016}=330lei$$

$$\Delta\frac{\text{Pr}}{S}(c)_{2016-2017}=348lei$$

Analyzing the above data, it turns out that the profit obtained per hectare is influenced in different proportions, both by the turnover changing and by the profit rate changing. Regarding the turnover, it registered a gradual growth in the period 2015-2016 (it increases by 7% in 2016 compared to 2015 and by 5% in 2018 compared to 2017), its dynamics being influenced by the production sold and by the selling price, both components are increasing.

It is noted that the cultivated area is constant in the period 2015-2016 and 2017-2018, seeing a slight increase of 1.23% in the period 2017-2018 compared to 2015-2016. If we analyze the production obtained compared to the delivered production, it is observed that in the period 2015-2016 both increase by about 4% while in the period 2017-2018, the obtained production increases by 3% while the delivered production increases by 4%, thus increasing the quantity of sold production sold.

A significant influence on the profit is carry aut by the total expenses, so that their growth rate is higher compared to the growth rate of the turnover (in the period 2015-2016), which underlines an inefficient management of costs and leads implicitly to the decrease of the obtained profit. The share of the obtained profit in the turnover is between 32% -38%, which means that for the total turnover about 65% represents expenses.

As a general conclusion, the analyzed indicators highlight an efficient use of the land and a positive evolution of the result indicators compared to the utilised agricultural area and the related expenses.

2. Efficiency of fixed assets

In the agricultural holdings, the existence of an adequate technical-material base is an important objective because the intensification of the production depends on the existing fixed capital. The fixed capital, as a whole, has certain peculiarities, it is used in several production cycles, being subjected to the physical and moral depreciation. It is necessary to mention that, in agriculture, in the category of fixed assets are included, besides, machines, installations, land etc. the labor and reproduction animals, the plantations of fruit trees and vines.

The technical-material basis in agriculture represents the determining factor for the efficient development in this branch. The components of the technical-material basis can be expressed in material units (such as the means of production, the factors of production) and in value expression such as the production funds that are elements of the agricultural capital *(Popescu, 2001, p. 160).*

There are significant gaps between Romania and the EU, so that the endowment with equipmentes of the Romanian farms compared to EU 15 is about 25 times lower (350 euros in Romania, 9000 euros in the EU (*Cadrul Național Startegic pentru dezvoltarea durabilă a sectorului agroalimentar și a spatiului rural în perioada 2014-2020-2030, p. 20*). In this context, and considering the contribution of agriculture within the national economy, we consider that the extension of the mechanization of agriculture in Romania is a fundamental necessity. On the other hand, the mechanization requires significant funds, an opportunity in this regard being the National Rural Development Program 2014-2020. It is important to mention that during 2007-2013, Romania had at its disposal significant amounts through the

National Rural Development Program for endowment with equipmentes, extending the production capacity, but nevertheless the degree of technology is reduced compared to the member countries of the European Union.

The level and dynamics of fixed assets are characterized by two indicators *(Hinescu et al, 2005, pp 140-141)*:

- *the value of fixed assets at the end of the year*. During the year, a series of changes in the volume of fixed assets can occur, due to inputs and outputs, so that the value of the fixed assets can be determined according to the relationship:

$$Ff = Fi + I - E \quad (15)$$

Ff - the value of fixed assets at the end of the year
Fi- the value of fixed assets at the beginning of the year
I-the value of the fixed assets entered during the year
E- the value of fixed assets issued during the year

- given that the fixed assets may enter and exit at different times of the year, it is necessary to calculate the *average annual value of fixed assets (*Fa).

$$Fa = Fi + \frac{IxTf}{12} - \frac{ExTs}{12} \quad (16)$$

Tf- the number of months of operation until the end of the year of the fixed assets purchased

Ts – the number of months of non-functioning of the fixed assets who went out.

The analysis of the *efficiency of the use of the tractors and agricultural machinery* requires greater attention due to the initial investments and the maintenance costs incurred.

The economic efficiency of using fixed assets reflects the ratio between the economic effects obtained (for example: turnover, profit, agricultural production, etc.) and the efforts employed, respectively the value of the fixed used to generate the effects.

The efficiency of the fixed capital using is determined by the following indicators *(Voicu, Dobre, 2003, p.338)*:

- operating income (V) at 1000 lei fixed capital (CF) $\frac{V}{CF} x1000$ (17)
- turnover (CA) at 1000 lei fixed capital $\frac{CA}{CF} x1000$ (18)
- value added (VA) at 1000 lei fixed capital $\frac{VA}{CF} x1000$ (19)
- profit (P) at 1000 lei fixed capital $\frac{P}{CF} x1000$ (20)

Table no. 2: The efficiency of using fixed assets

Indicators	2015	2016	2017	2018
Agricultural production at 1000 lei fixed assets	520	580	410	401
Turnover at 1000 lei fixed assets	485	590	360	389
Value added at 1000 lei fixed assets	120	115	89	80
Profit at 1000 lei fixed assets	18	17	9	8

Source: author's view according to the data provided by the agricultural holding

The indicators of the fixed assets efficiency presented in the table no. 2 shows an accentuated tendency of diminishing of all four indicators, except for the first two that register

an increase in the period 2015-2016 (because there is a slight decrease of the fixed assets in 2016 compared to 2015). This situation is explained by the fact that the growth rate of fixed assets is higher than the growth rate of agricultural production, turnover, value added, profit. The profit obtained at 1000 lei fixed assets is reduced and decreases significantly from year to year, decreasing by 56% in 2018 compared to 2015, which highlights an inappropriate use of fixed assets in generating effects, respectively profit.

The indicators values for table no. 2 reflects an inadequate management of fixed assets mainly due to the fact that while the fixed assets increase, the effects generated by their use decrease.

The efficiency of the fixed capital use can also be determined through the *break-even point* that refers to the area (hectares) worked during a year as well as the number of operating hours, below which the fixed asset does not generate profit.

Thus, in assessing the efficiency of tractors and agricultural machinery, a number of their characteristics must be taken into account:

- increased depreciation and therefore a shorter operating period;
- the variation of the production capacity of the working machines according to the natural conditions in which the operation takes place;
- the efficiency of the use of the machines in relation to the technical-economic parameters of the machine as well as according to the satisfaction of the requirements of plants and animals under different climatic conditions depending on the area.

The increase of the economic efficiency in agriculture depends significantly on the *mechanization degree*. A high level of mechanization contributes to: reducing expenses; increasing productivity; reducing the works execution time.

The factors that determine the increase of the economic efficiency of the mechanization are *(Popescu, 2001, p.163)*:

- optimization of registration with mechanized means;
- quality of tractors and agricultural machinery;
- the price of mechanized means;
- increasing the use of mechanized means;
- the classification of the mechanized means within the optimum operating limits.

Conclusions

Due to the special nature of the agricultural entreprises (especialiy the seasonality of agricultural), those must pay attention to the managemnet of assets with the strongest circulation in the company.

Efficiency of farm assets is a very important factor of competitive production, it is in correlation with profitability. One of the most important factor of the farm assets is the fixed assets, especially machinery.

From our point of view the main measures to be taken in order to increase the land efficiency are:

- improving soil fertility which leads to a higher quantity and quality production;
- diversifying the retail market and selling the production at a higher price, which is justified considering the increase of the production quality;
- the efficient use of the available resources which can lead, on the one hand, to the reduction of expenses, and on the other hand to the increase of the profit;
- increasing the value of the obtained production, respectively the decreases as far as possible of the production remained unsold;
- reducing the period between the moment of obtaining the production and the sale in order to avoid financial bottlenecks, etc.

We consider that the increase of the fixed assets efficiency can be achieved by an equilibrium between the fixed assets, the degree of their use as well as the agricultural area served by the fixed assets.

In order to be efficient the fixed assets for agriculture must meet the following requirements: to ensure the increase of labor productivity and the reduction of expenses; to ensure the improvement of working conditions; to reduce the environmental pollution; to contribute to improving the quality of work and reducing the periods for carrying out work.

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CONSIDERATIONS REGARDING THE INFLUENCE OF EU-US TRADE RELATIONS ON EU ECONOMIC DEVELOPMENT

Dăianu Dana Codruța[1]

Abstract:

In the last decade, EU-US cooperation has intensified at a very fast pace, being oriented towards the creation of a transatlantic market with a high degree of openness and integration. European and American multinational companies now invest and produce in the other part of the Atlantic more than they export from within their own national borders. Although transatlantic economic exchanges dominate the world's economy (over 40% of trade in goods and over 60% of the world's investment flows take place between the two major powers), they also generate the strongest sources of conflict, many of them advanced. the WTO. Despite the strengthening of cooperation between the European Union and the United States, the struggle for supremacy over the world's most important markets and protecting their spheres of influence continues to govern transatlantic economic relations. Each of the two powers has, as a fundamental objective, the maintenance of dominant positions on the continents to which they belong, as well as the extension of their own area of influence.

The paper represents a blueprint of the EU-US bilateral economic relations, paying special attention to the influence that trade relations have on the economic development of Europe

Key words: *economic growth, European Union, United States, development, competitiveness*

JEL Classification : O40, O52, O51

1. Introduction. The objectifs of US-EU bilateral free trade agreement

The European Union remains the leader in the use of safeguard and anti-dumping measures and countervailing duties. The aim of the European Union is to reach the most competitive and dynamic economy of the world, based on knowledge. In order to achieve this, the European Union must reform its internal policies and analyze the implications of the enlargement process (USTR, 2019b).

Currently being the largest economic power, the US is trying to retain its right to influence the other major allied powers, namely the European Union, as a bloc, but also the United Kingdom after Brexit, Japan, Australia, South Korea, etc. to reach their commercial and geostrategic interests in competition with their main competitor, China

On the other hand, the European Union has a key role, as a supporter of World Trade Organization policies and a major contributor to the WTO fund, aimed at developing technical cooperation between states. At the bilateral level the European Union has an impressive number of actions initiated against different economic partners, being the most ardent user of the WTO mechanism.

Specific objectives regarding the EU-US negotiations are :

A) Trade in goods:

- Reducing the trade deficit;
- Increased transparency of import / export licensing procedures;
- Discipline the monopolies to prevent distortions in bilateral trade.

A.1.) Industrial goods:

- Comprehensive liberalization of trade in industrial goods and reduction of non-tariff barriers that limit the access of US exporters;
- Increased exports of refurbished products and ensuring that they are not assimilated to used products that are restricted or prohibited;
- Increased exports of American textile and clothing products taking into account the sensitivities regarding imports of such goods in the USA;

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- Increasing the compatibility of trade regulations and reducing obstacles generated by differences in approach through cooperation in order to harmonize them where possible.

A.2.) Agricultural products:

- Reduction or elimination of customs duties on US imports;
- Providing reasonable adjustment periods for US imports of sensitive agricultural products and engaging in close consultations with the US Congress on such products before initiating negotiations to reduce customs duties;
- Elimination of non-tariff barriers that discriminate against US agricultural products and restrictive regulations in tariff quota administration;
- Promote a harmonization / compatibility of the trade regulatory framework with such goods, including cooperation on this issue where possible;
- Establishing specific commitments regarding trade in products developed through agricultural biotechnologies, including transparency, cooperation, management of problems related to the presence of a low level of these products in agricultural goods and the mechanism for exchanging information and increasing cooperation in agricultural biotechnologies.

B) Sanitary and phytosanitary measures (SPS):

- Imposing solid and enforceable obligations based on the rights and obligations provided by the WTO, including on science-based measures, good regulatory practices, import control, equivalence, regionalization, certification, risk analysis. Emphasis is placed on the fact that each party may impose for itself the level of protection it deems appropriate for ensuring food safety, plant and animal health in a manner consistent with the international commitments undertaken by that party;
- Establishing mechanisms to eliminate unjustified barriers blocking exports of American agricultural products for open, reciprocal and equitable access to the market of the other party;
- Establish regulations that encourage the adoption of international standards and impose science-based SPS measures if the measures imposed by the other party are more restrictive than the applicable international standards;
- Establishing new enforcement regulations that eliminate commercial restrictions or commercial conditions that are not justified (including unjustifiable labeling) and affect new technologies;
- Adoption of enforceable regulations to ensure that science-based SPS measures are developed and implemented in a transparent, predictable and non-discriminatory manner;
- Inclusion of provisions regarding transparency and public consultation, the other party having to publish the draft regulations and allow interested parties from other countries to make various comments on these projects, and the authorities to provide answers / to solve the problems mentioned in these comments and to explains how the final measures will lead to the satisfaction of the negotiated interests;
- Commitment that the EU does not impede US export opportunities to third countries by imposing restrictions or conditions that are not science-based or by adopting SPS measures that are not based on an easily identifiable risk analysis;
- Improve communication, consultations and cooperation between governments on information exchange and joint work to resolve SPS issues in a transparent manner, including on new technologies;

- Establishment of a SPS chapter committee to discuss bilaterally, but also with third countries issues related to trade in agricultural products, regulating cooperation and implementing good regulatory practices.

C) Customs aspects and facilitating trade:

- Establishing high standards for the implementation of WTO agreements on trade facilitation and customs value;
- Increased transparency through the publication of customs laws, regulations and procedures on the Internet and the creation of information points for traders;
- The goods will be released as soon as their compliance with the applicable laws and regulations is determined, as well as automation, clear delivery times and the use of guarantees.

The Trump administration has stepped up pressure on the European Union on April 8, 2019 to put an end to the "harmful subsidies" benefiting the aircraft manufacturer Airbus. It has published a list of European goods worth $ 11 billion to which punitive tariffs could be applied in this long-standing dispute, creating a negative spiral that would jeopardize a possible bilateral agreement between the European Union and the US on reductions reciprocal tariffs. On April 15, 2019, the Council reached a "principled agreement" on the Negotiating Directives that will authorize the Commission to begin tariff negotiations with the US (Rodriguez S., 2019).

2. The evolution of the economic cooperation relations between the European Union and the USA

Together, the economies of the European Union and the US still account for about 50% of global gross domestic product (GDP) and one third of world trade. In 2017, the European Union continued to be the most important trading partner of the US in terms of trade in goods - ahead of China and Canada, the US partner in the North American Free Trade Agreement (NAFTA).

In 2018, the US absorbed 20.8% of total exports of European Union goods as the most important destination for European Union exports (while exports to China represented only 10.7%).

In terms of imports, the USA ranked second among the European Union partners, thus supplying 13.5% of the goods imported into the European Union. In this regard, China, which provided 19.9% of total imports from the European Union, being first, followed by the US, but was ahead of Russia and Switzerland, which provided 8.5% , respectively 5.5%.

Between 2015 and 2017, exports and imports of EU services to the US increased. In 2016, a decline in European Union service exports led to a US trade surplus of EUR 2.8 billion in trade in services with the European Union, while in 2017, a decline in US service exports led , for the European Union, to a trade surplus of EUR 12.5 billion in trade in services with the USA.

Table no.1: EU-US trade in services between 2015-2017 (EUR billion)

Year	Services imported by the EU from the USA	Services exported by the EU to the USA	EU balance (services)
2015	215,1	227,7	+ 12,6
2016	229,1	226,3	- 2,8
2017	223,7	236,2	+ 12,5

Source: WTO (2018), *World Trade Statistical Review 2018*, https://www.wto.org/english/res_e/statis_e/wts2018_e/wts2018_e.pdf

There were some disadvantages in 2016 and 2017, although the European Union is the largest investor in the United States and vice versa. During these two years, US investment inflows into the European Union were negative, with a corresponding decline in US investment stocks in the European Union, while external flows from the European Union to the US increased in 2017, after a slight decrease in 2016. This has led to a further consolidation of the positive balance of European Union investments, which amounted to 385.3 billion EUR in 2017. It could be said that the driving force of transatlantic trade relations of direct bilateral investments is by their nature a long-term commitment. This is reinforced by the fact that trade between parent companies and subsidiaries in the European Union and the US accounts for over one third of total transatlantic trade. Companies in the European Union and the US operating in the other partner's territory provide jobs for over 14 million people.

***Table no.2*:** EU-US bilateral investment stocks (EUR billion)

Year	FDI stocks of US in EU	FDI stocks of EU in US	Balance
2017	2 183,9	2 569,2	+ 385,3

Source: WTO (2018), *World Trade Statistical Review 2018*, https://www.wto.org/english/res_e/statis_e/wts2018_e/wts2018_e.pdf

The statistical data show that, as a result of the increased world labor division and first of all the industrial labor division, there was a much higher growth rate of trade in manufactured (physical-value) products compared to trade in commodities.

In February 2019, the European Commission launched a study on the impact of customs duty liberalization on industrial goods traded between the US and the EU (European Commission, 2019a).

According to the model used by the authors of the study, under the elimination of tariff barriers to industrial goods, at the horizon of year 2033, EU exports of industrial goods to the US would amount to 354.13 billion euros, an increase of about 27 billion euros and, respectively, an increase of 8% over the reference value (Table no.3).

The biggest increase would be recorded by clothing (110%), with EU exports rising to 4.5 billion euros. Significant increases will also be made of leather products exports (69%), as well as processed fish. Exports of non-ferrous metals (14%), minerals (13%), metals (12%) and petrochemicals, coke and natural gas (11%) will also increase. Cele mai reduse modificări se vor evidenția în cazul exporturilor sectorului de hârtie (1%), fier și oțel (1%), al echipamentelor de transport (2%) și al produselor pescărești (2%). The smallest changes will be noted in the case of exports of the paper sector (1%), iron and steel (1%), transport equipment (2%) and fishery products (2%). Exports of forest products will not be affected by the reduction of customs duties, which will remain in 2033 year at the reference value level.

Table no.3: Projections on industrial goods exported by EU-27 to the USA, on the horizon of 2033 (in millions of euros)

	Value of reference	*Simulation, in millions of euro*	*Change in%*
Fishery products	63	65	28
Forest products	56	56	0
Processed fish	1267	2007	40
Textile products	1953	2836	46
Clothing articles	2126	4454	109

	Value of reference	*Simulation, in millions of euro*	*Change in%*
Leather products	2346	3975	30
Paper	3666	3694	0
Wood products	1058	1150	5
Chemicals and pharmaceuticals	99679	107069	15
Petrochemicals / coke / natural gas	20851	23139	1
Minerals	4995	5621	7
Car engines	57069	60673	46
Transport equipment	28155	28611	9
Electronic products	16885	17753	7
Metals	7202	8084	19
Non-ferrous metal products	5343	6084	18
Equipment	49566	52828	10
Iron and steel	8339	8444	3
Other products of the processing industry	16860	17592	2
Total industrial goods	***282838***	***309059***	***9***

Source: European Commission (2019b), *Liberalization of tariffs on industrial goods between the United States of America and the European Union: An economic analysis,* http://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157704.pdf (accesed in 15.10.2019)

In terms of value, exports of chemicals and pharmaceuticals (7.3 billion euros), motor vehicles (3.6 billion euros) and equipment (3.2 billion euros) will increase the most. At the opposite side will be exports of fishery products (1 million euros), those related to the paper sector (28 million euros) and those of wood products (92 million euros).

According to projections, in 2033 US exports to the EU will increase by 9% compared to the reference value, amounting to 309 billion euros (*Table no.3*). As in the case of the EU, the largest increase will be recorded by exports of clothing (109%), followed by exports of textile products and motor vehicles, both with 46% increases, and fishery products (28%). Significant increases will also be recorded in exports of metals (19%), non-ferrous metal products (18%), chemicals and pharmaceuticals (15%) and equipment (10%). At least exports of petrochemicals, coke and natural gas (1%) will increase, followed by iron and steel (3%), wood (5%) and electronic products (7%).

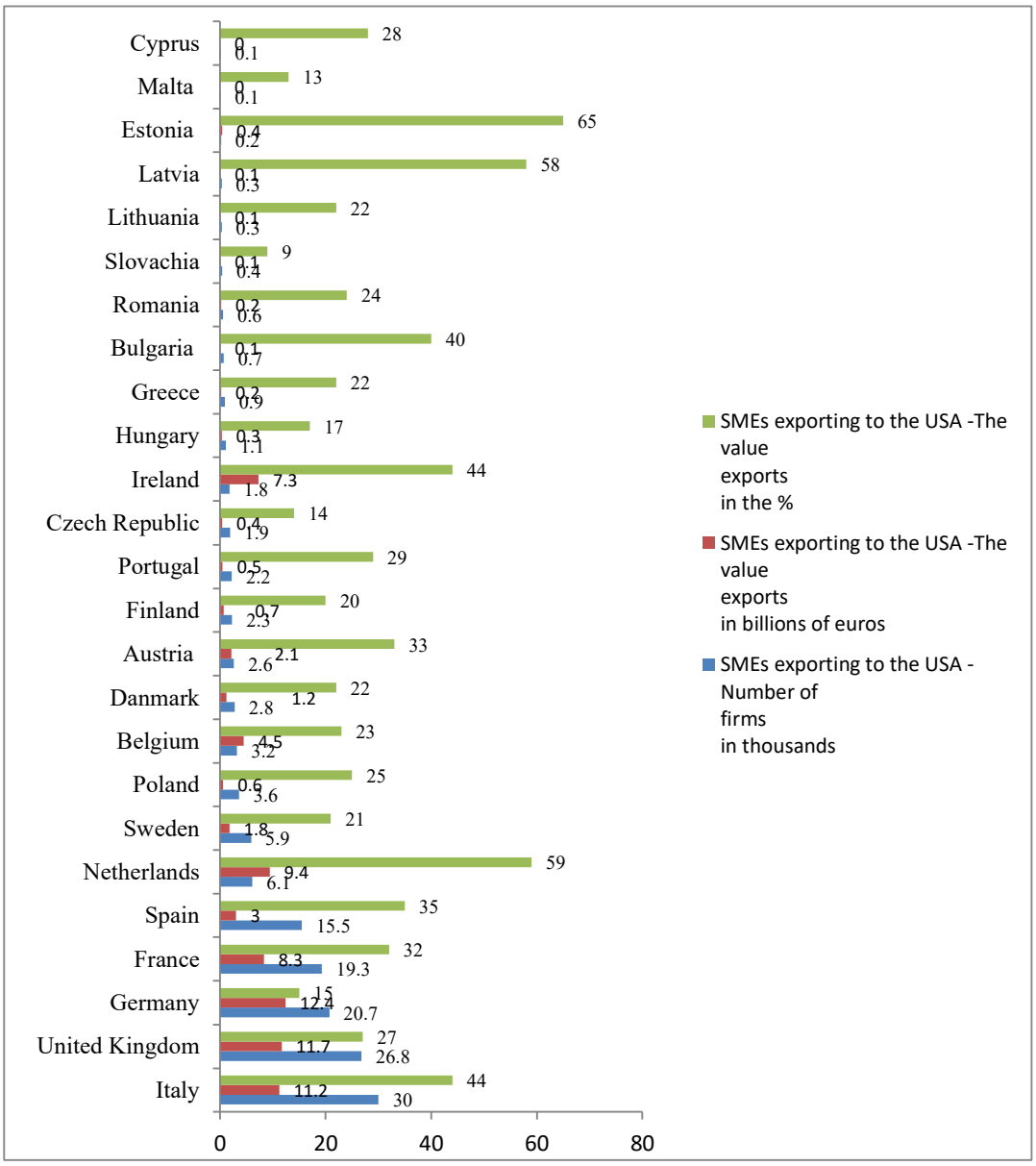

Figure no.1. *The importance of SMEs in EU-US trade relations*
Source: European Commission (2019b), *Liberalization of tariffs on industrial goods between the United States of America and the European Union: An economic analysis,* http://trade.ec.europa.eu/doclib/docs/2019/february/tradoc_157704.pdf (accesed in 15.10.2019)

In terms of value, the highest growth will be recorded by the exports of petrochemicals, coke and natural gas (8.6 billion euros), followed by those of car engines (5.8 billion euros) and those of equipment (2.5 billion euros). Overall, both partners have to win, the difference between the EU and US in terms of benefits being only 444 million euros in favor of Europeans.

The above-mentioned study also analyzes the role of SMEs (companies with less than 249 employees) in the EU-US trade relations (European Commission, 2019). The statistical data used in the analysis show that the value of European SME exports to the USA represents 28%, respectively 77 billion dollars of the total value of the EU exports to the United States

and constitutes 88% of the total of the companies of the Union that have commercial relations with America.

Regarding the weight of SMEs in the total of the companies that trade with the USA, the first position is occupied by Italy (96%), the second place ranking the Netherlands (94%) and the third Spain (93%). Greece (59%), Romania (61%) and the Czech Republic (63%) are on the last three positions.

By weighting the value of the exports of SMEs in the total volume of exports of companies having commercial relations with the USA, Estonia (65%), the Netherlands (59%) and Latvia (58%) are the only countries where small businesses and midsize are of major importance for transatlantic exports (over 50%). The rest of the analyzed countries recorded weights under 44%. At the opposite pole of the ranking are Slovakia (9%), Malta (13%) and Czech Republic (14%). Romania ranks 15th (24%), below Poland (25%), but over Belgium (23%).

With regard to US trade, small and medium-sized enterprises in the EU, lacking the financial power of large multinational companies, nor specialists in international trade, are facing with tariff problems, but also with problems regarding the conformity assessment of exported products in terms of requirements (Dumitrescu, G.,C., 2019),. American techniques (considered as non-tariff barriers). Thus, the finalization of the agreement between the US and the EU on the elimination of customs duties on industrial goods, which exclude agricultural products, as well as the agreement on the assessment of conformity, would constitute an oxygen bubble for the analyzed economic agents, leading to an increase in their contribution to US trade.

Conclusions

Despite the economic crisis of recent years, the European Union and the Member States have managed to maintain their level of competitiveness in terms of knowledge. However, the European Union has strong international competition for technological research and production. Because of this, a greater effort is needed for new ideas to be realized and thus to be materialized through successful new products and technologies. With the help of the collaboration, many policies and financing programs can be implemented, in addition to the own policies of the Member States.

Gordon Sondland, US ambassador to the EU, said that every day the EU does not negotiate with the US is at the EU's advantage and US disadvantage, as trade imbalances between the two parties (ie the US trade deficit with the EU) are not sustainable on long-term (Rios, 2019). The US ambassador to the EU compared the long-standing ties between the United States and the European Union with a marriage in which the partners have doubts about one another, but which will ultimately not separate.

A year ago, the US president imposed tariffs on steel and aluminum from the EU, and Brussels reacted accordingly. As a result, President Trump has mentioned the possibility of imposing tariffs on cars of European origin or on certain products, such as French wine. In the middle of last year, the head of the European Commission, Jean-Claude Junker and Donald Trump, reached an agreement to avoid imposing new tariffs, but without signing an agreement in this regard. Gordon Sondland pointed out that while the essence of misunderstandings in trade relations "remained the same", as President Trump's imposition of tariffs on European cars did not change, what "probably changed" is the degree of trust among negotiators. At the same time, the US withdrawal from the Paris Agreement on climate change is another impediment to negotiating a more comprehensive trade agreement between the EU and the US.

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CONSIDERATIONS ON THE IMPORTANCE OF INTELLIGENT SPECIALIZATION FOR ATTRACTION OF EUROPEAN POST 2020 FUNDS IN ROMANIA

Dăianu Dana Codruța[1]

Abstract:

In the future post-2020 EU financial framework, European funding for regional development will focus on the areas identified as the most competitive in each region and country, that is the areas of smart specialization. Specializarea Inteligentă a adus o îmbunătățire reală în modul în care regiunile Europene își elaborează strategiile inovative, creând sau consolidând cooperarea la toate nivelurile, în special cu sferele de afaceri locale. Intelligent specialization has brought a real improvement in the way in which European regions develop their innovative strategies, creating or strengthening cooperation at all levels, especially with local business spheres.

At the heart of the new policy for the European Regional Development Fund will be smart specialization, and regions will have to develop investment plans for the sectors that are most competitive. Theoretically, nuclei of technological and scientific excellence have already been created, the challenge of post-2020 now being their transposition into innovation modalities in enterprises, in order to generate jobs and economic growth.

In this context, the purpose of the paper is to present and analyze the basic fields for the intelligent specialization in Romania. Romania now has two national strategies that mention five basic areas for smart specialization, but in addition, each of the 8 development regions has its own strategy with its own list of identified areas. All of this needs to be analyzed and combined to achieve consistent directions.

Key words: *economic growth, financial framework European Union post 2020, inteligent specialization, innovation, competitiveness*

JEL Classification : O40, O52, O51

1. The role of smart specialization in Europe - EU Post 2020 Financial Framework

Intelligent specialization has brought real improvement in the way in which European regions develop their innovative strategies, creating or strengthening cooperation at all levels, especially with local business spheres.

Smart specialization is the standard of European industrial policy. Reduced to essence, smart specialization aims to concentrate financial resources and other support mechanisms in a limited number of priority areas where regions can successfully compete on international markets.

At the basis of the intelligent specialization process is the "entrepreneurial discovery" - a process based on evidence (evidence-based), participatory and iterative (repeated periodically) identifying, at regional level, the key areas of competitiveness. They are to be financially supported in particular through innovation support schemes. At the European level, the funding for smart specializations for the 2014-2020 cycle was about 120 billion euros, making this policy the largest industrial policy experiment in history

Entrepreneurial discovery has, besides the results of the public policy plan, important process benefits: local innovative actors are stimulated to explore strategic options and collaborative solutions. Too often, smart specialization is understood as being primarily or even exclusively associated with a list of priorities in public funding through structural funds.

In the next EU long-term budget for 2021-2027, the Commission proposes to modernize cohesion policy, the EU's main investment policy. Investments in regional development will focus mainly on objectives 1 and 2. These priorities will be allocated 65% - 85% of ERDF and Cohesion Fund resources, depending on the relative prosperity of the Member States.

- A smarter Europe, through innovation, digitization, economic transformation and supporting small and medium-sized enterprises

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- A greener Europe with no carbon emissions, implementation of the Paris Agreement and investments in energy transition, energy from renewable sources and combating climate change
- A connected Europe, with strategic transport and digital networks
- A more social Europe, in order to achieve the European pillar of social rights and to support the quality of jobs, education, skills, social inclusion and equal access to the health system.
- An Europe closer to its citizens, by supporting locally driven development strategies and sustainable urban development in the EU.

Cohesion policy continues investments in all regions, based on 3 categories (less developed, in transition, more developed). The method of allocating funds is still largely based on GDP per capita. New criteria are introduced (youth unemployment, low level of education, climate change and the reception and integration of migrants), to better reflect the reality on the ground. Cohesion policy continues to support locally led development strategies and to empower local authorities to manage funds. The urban dimension of cohesion policy also increases, by allocating 6% of the ERDF to sustainable urban development and through a new network collaboration and capacity building program dedicated to urban authorities, under the name European Urban Initiative.

According to the European Commission, for businesses and entrepreneurs benefiting from EU support, the new framework offers less bureaucracy and simpler ways to request payments, using simplified cost options. To facilitate synergies, a single regulatory framework currently covers 7 EU funds implemented in partnership with Member States ("shared management"). The Commission also proposes more relaxed controls on programs with a good track record, greater confidence in national systems and the extension of the "single audit" principle, in order to avoid duplication of checks.

The new framework brings together the stability necessary for investment planning with the appropriate level of budgetary flexibility, to cope with unforeseen events. A mid-term evaluation will determine whether there is a need to modify the programs for the last two years of the funding period, based on emerging priorities, the execution of the programs and the latest country-specific recommendations.

Within certain limits, transfers of resources will be allowed within the programs without the official approval of the Commission. A specific provision facilitates the mobilization of EU funds from day one, in the event of a natural disaster.

A closer connection with the European Semester and the economic governance of the Union

Cohesion policy supports reforms to create an investment-friendly environment where businesses can thrive. Full complementarity and coordination with the Reform Support Program will be ensured, in its new and consolidated form.

During the budgetary period, the country-specific recommendations (RTDs) made in the context of the European semester will be considered twice: first, for designing programs under cohesion policy, and then in the mid-term evaluation. In order to establish the conditions conducive to economic growth and job creation, the new favorable conditions will contribute to removing the obstacles to investment. Their implementation will be monitored throughout the financial period

The single regulatory framework covering cohesion policy funds and the Asylum and Migration Fund will facilitate the creation of strategies for integrating migrants at local level supported by EU resources used in synergy. The Asylum and Migration Fund will focus on the short-term needs of migrants upon arrival, while cohesion policy will support their social and professional integration. In addition to the single regulatory framework, synergies will be

facilitated with other EU instruments, such as the common agricultural policy, Horizon Europe, LIFE or Erasmus +.

Interreg: eliminating cross-border barriers and supporting interregional innovation projects

Interregional and cross-border cooperation will be facilitated by the new possibility for a region to use parts of its own allocation to finance projects in other parts of Europe, together with other regions.

The new generation of interregional and cross-border cooperation programs ('Interreg') will help Member States overcome cross-border obstacles and develop common services. The Commission proposes a new instrument for border regions and countries keen to harmonize their legal frameworks, called the European Cross-Border Mechanism.

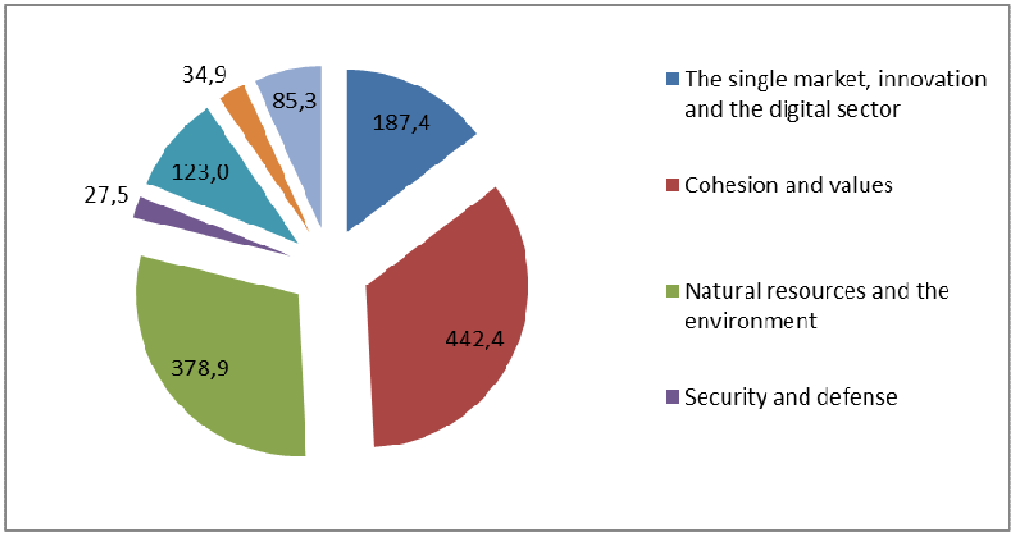

Fig. no.1. The New Multiannual Financial Framework 2021-2027
(EUR billion - current prices)

Starting from the success of the pilot action from 2014-2020, the Commission proposes to create interregional investments for innovation. Regions with appropriate "smart specialization" assets will be further supported to build pan-European clusters in priority sectors such as big data, circular economy, advanced manufacturing systems or cyber security.

All programs will maintain their performance framework with quantifiable goals (number of jobs created or additional access to broadband networks). The new framework establishes an annual performance balance, in the form of a political dialogue between the program authorities and the Commission. The performance of the programs will be evaluated also during the mid-term evaluation. For the sake of transparency and for citizens to be able to track progress, Member States will have to report all implementation data every two months, and the open cohesion data platform will be updated automatically.

According to the European Commission, grants can be effectively supplemented by financial instruments, which have a potentiating effect and are closer to the market. Voluntarily, Member States will be able to transfer some of their cohesion policy resources to the new centrally-managed InvestEU fund to access the guarantee provided by the EU budget. It will be easier to combine grants and financial instruments. The new framework also includes special provisions to attract more private capital.

2. The evolution of the economic development in Romania and the proposals for the future operational programs for 2021-2027 period

In the European Commission's proposal for the budget 2021-2027, Romania has allocated 30.6 billion euros through cohesion policy, which means 8% more than the current period.

The proposals of the Ministry of European Funds for the following financial year were:

- Operational Program for Sustainable Development (PODD)
- Transport Operational Program (POT)
- Intelligent Growth and Digitization Operational Program (POCID)
- National Health Program (multifund) (PNS)
- Human Capital Operational Program (POCU)
- Operational Program Helping Disadvantaged People (POAD)
- Operational Program for Integrated Territorial Development (multifund) (PODTI)
- Regional Operational Programs - implemented at the regional level (8 ROPs)
- Technical Assistance Operational Program (Multifund) (POAT))

The current Big Infrastructure Operational Program (which has the largest financial allocation in 2014-2020) will return to the structure from 2007 - 2013, the interventions in the Environment field to be taken over by the Operational Program Sustainable Development, and those in the Transport field to be passed under a Management Authority within the Ministry of Transport.

For the first time, the European Social Fund will no longer finance a Program dedicated to increasing administrative capacity, this intervention being found according to the Ministry among the directions of the future Human Capital Operational Program.

A National Health Program will be created that would finance the infrastructure for 3 regional hospitals (phase 2), the construction and endowment of the National Institute of Hematology, construction and endowment for a National Reference Laboratory, as well as other interventions in the medical field.

MADR will continue to manage the financing through the Common Agricultural Policy and the Fisheries Policy. The Ministry of Internal Affairs will manage the funds related to the field of internal affairs (the Asylum, Migration and Integration Fund, the Internal Security Fund, the Border Management and Visa Instrument).

The Ministry of European Funds has priorities like:

- Development of an entrepreneurial ecosystem that favors the emergence and maturation of innovative start-up / spin-off
- Facilitating investments in new technologies - regional interventions
- Support for internationalization - regional interventions
- Supporting the adoption of IT&C technologies by SMEs - regional interventions
- Supporting clusters in order to integrate them into European value chains - regional interventions
- Supporting the implementation of the mechanisms of the circular economy within the Romanian enterprises - regional interventions
- Promoting the entrepreneurial spirit, supporting the entrepreneurial initiatives and the social economy

For companies, they will be able to access grants / financial instruments over the next financial period through several programs:

- Regional operational programs will focus on "smart specialization", technology transfer, innovation, SME support and digitization
- The Smart Growth and Digitization Operational Program will provide financial instruments

- The Operational Program for Integrated Territorial Development will finance interventions in the field of tourism, culture and cultural heritage.

These proposals were made in the context in which the economic growth has slowed, but remains solid. Real GDP increased by 4.1% in 2018, down from the peak value of 7% recorded in 2017 (*Table no. 1*). The slowdown was mainly due to the decrease in private consumption, as a result of high inflation, fueled by energy prices, as well as by the diminishing effects of public policies aimed at increasing disposable income. However, private consumption continued to be the main driver of growth. Investments remained broadly stable, and net exports registered a higher negative value, as exports continued to decline faster than imports, being affected by rising prices and slowing foreign demand.

It is estimated that, in the medium term, growth will remain generally stable. Real GDP is expected to be 5.5% in 2019 and 2020. Private consumption will continue to be the main driver of economic activity, although slower wage increases and tightening lending conditions may limit its evolution. According to estimates, the contribution of the foreign sector to economic growth will remain negative, but will improve as exports growth remains broadly stable, while import growth will decrease as a result of reduced consumption. Estimates show that investments will grow slightly more than in 2018.

Tabel no.1: The Gross Domestic Product (percentage changes from the previous year)

Region	***2017***	***2018***	***2019***	***2020***
North East Region	7.6	4.3	6.0	6.1
South East Region	7.2	4.4	5.4	5.6
South Muntenia Region	6.8	6.8	5.2	5.8
South-West Oltenia	8.4	5.8	5.5	5.8
West Region	7.1	2.8	5.3	5.7
North-West Region	7.1	4.3	5.6	5.9
Center Region	7.5	4.9	5.8	6.0
Bucharest Ilfov	6.1	3.0	5.2	5.2
Total economy	7.0	4.1	5.5	5.7

Source: National Commission for Strategy and Forecast (2019), Projection of the main economic-social indicators in territorial profile until 2022/ Comisia Națională de Strategie și Prognoză (2019), *Proiecția principalilor indicatori economico-sociali in profil teritorial pana in 2022/ Projection of the main economic-social indicators in territorial profile until 2022*, http://www.cnp.ro/ro/prognoze

Despite the convergence to the EU average, the disparities between the regions of the country are still significant. In Romania, GDP per capita increased from just over 40% at the time of EU accession in 2007 to over 60% of the EU average in 2017. The differences between the regions are substantial. In 2016, the Bucharest-Ilfov Region recorded a GDP per capita, measured according to the purchasing power standard (SPC), of 40,400 EUR, 1.4 times higher than the EU average and almost 4 times higher than the Northeast region, the poorest region of the country. With the exception of the capital region, GDP per capita is half the EU average. Also, in Bucharest-Ilfov investments as a percentage of GDP are two times higher than the EU average and 1.5 times higher than the national average. When all EU regions are taken into account, the regions of Romania with initially lower levels of GDP per capita have experienced comparatively higher growth rates after accession to the European Union.

The differences are also felt in the labor market. In 2016, differences between regions in terms of labor productivity were among the highest in the EU. The Bucharest-Ilfov region has the highest productivity (22% above the EU average), while in the North-East region the

productivity is only one third of the EU average. Average productivity for all regions, except the capital, represents only half of the EU average.

The unemployment rate at the regional level has changed significantly in 2018, from 1.8% in the West Region to 5.9% in South-West Oltenia, despite of the reduction of the gap between regions, from 6.9% in 2016 at 5.9% in 2017. The regional socio-economic indicators show that there is a major gap between the growing capital, which mainly attracts skilled labor in the higher value-added sectors, and the rest of the country, where employment is concentrated in the lower value-added sectors. , in the context of emigration.

Tabel no.2 Evolution of unemployment rate (%)

Region	***2017***	***2018***	***2019***	***2020***
North East Region	5.6	4.8	4.7	4.4
South East Region	5.6	4.6	4.4	4.2
South Muntenia Region	5.0	4.0	3.8	3.6
South-West Oltenia	7.3	5.9	5.7	5.4
West Region	2.2	1.8	1.7	1.6
North-West Region	2.8	2.3	2.2	2.0
Center Region	3.5	2.9	2.7	2.5
Bucharest Ilfov	1.4	1.2	1.1	1.1
Total economy	4.0	3.3	3.2	3.0

Source: National Commission for Strategy and Forecast (2019), Projection of the main economic-social indicators in territorial profile until 2022/ Comisia Națională de Strategie și Prognoză (2019), *Proiecția principalilor indicatori economico-sociali in profil teritorial pana in 2022/ Projection of the main economic-social indicators in territorial profile until 2022*, http://www.cnp.ro/ro/prognoze

Romania is still among the EU countries with the highest investment rates. In 2017, total investments represented 22.6% of GDP, exceeding the average of the EU and neighboring countries, by 20.1% and 20.2%, respectively. It is estimated that private investments, which reached 20% of GDP in 2017, have increased to some extent, despite concerns about instability and fiscal-budgetary and legislative unpredictability. In contrast, public investment remains modest, partly as a result of the slow recourse to projects within the EU funding period. In 2017, public investments fell to 2.6% of GDP, the lowest level since the EU accession period, being slightly above the EU average, but lower than in the neighboring countries.

3. Conclusions and perspectives

The socio-economic analysis made in the perspective of the elaboration of the programming documents for the period 2021-2027 highlighted significant differences at the level of regions, the relevant statistical indicators in areas such as the labor market, macroeconomic indicators.

The gaps between regions are influenced by the characteristics of each one: population, location, number of component counties, business environment, etc. The socio-economic disparities can be mitigated by appropriate measures and investments in the economy, infrastructure, research-development and innovation, education, competitiveness, the business environment business support structures, accessibility, telecommunications.

One of the recommendations can be aimed at strengthening the dynamics and growth of investments in the regions, in particular by supporting SMEs. In this sense, the directions of action could be:

- Developing SMEs and increasing the attractiveness of the region for investors

- Improvement of the conditions for the implementation of the intelligent specialization strategy
- Intelligent qualification of the labor force in fields demanded by the labor market and adaptation of the training programs to the demands of the market, as well as to the innovative fields
- Programs to support SMEs by local and regional public authorities

The regional development should be a sustainable and integrated one, having as main objective to reduce the disparities between the counties of the region, between the urban and rural environment, to increase the attractiveness of the region for both residents and investors. From this perspective, for the programming period 2021-2027 the following objectives could be considered:

- Accelerating the absorption of European funds at the level of the regions, but also of the counties with a low degree of development
- Orientation of the granting financing towards competitiveness targets, which will lead to the qualitative improvement of the economic growth, in the medium and long term.
- Encouraging research and development projects, so that new jobs are created, attracting researchers in the region, vocational training of young people in the field and development of the R&D infrastructure, innovation.
- Attracting foreign investments in the region. The manufacturing industry, tourism, agriculture are areas with potential for attracting foreign investments. Also, supporting the areas that include a high level of technology: the auto industry, IT services, medical, smart fields, creative industries, can lead to an increase of added

Another recommendation could be to boost the clusters, both of those created, as well as to encourage the establishment of new ones, so as to make a contribution to the economy of the region, materialized in jobs, turnover, active enterprises, exports, added value, infrastructure, equipment and investments, and last but not least, attracting financing in the region. Stimulating the creation of clusters of SMEs encourages the attraction of investments based on technological transfer and high added value.

The next recommendation could be to promote and support the adoption of a pro-active attitude of the regional institutions and actors, of the public-private partnership, so that the regions become attractive for both local and foreign investors.

The Industrial Policy Document of Romania focuses on smart and sustainable economic growth through innovation in the industry. In this sense, innovation should be oriented, as a key element of competitiveness, through measures to encourage cooperation between the scientific and business environment, in order to remove obstacles and barriers to market research results and to put in place specific incentives, including for marketing the innovation. One of the recommendations of the framework document is the adoption of digital technologies and the development of clusters in services for the modernization of the Romanian industry and the development of new emerging industries.

The European Union envisages a highly digitized post-2020 area, as an objective for increasing the competitiveness of the European economy through solutions such as: artificial intelligence, cyber security, high performance computing, digital technology, etc.

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ECONOMIC ENTITIES AND HISTORY OF ECONOMIC THINKING

Dalina Andrei[1]

Abstract

This below paper focuses on the economic entity concept. Difficult to find that (part of) economic literature not dealing with economic entities and aferrent issues. But there won't be the definition the paper's starting point – this, assumable as followed by a whole description then inclining to a rather didactic text attitude --, but, on the contrary, there will be what is supposed to come out previously of all definitions. Or, this will be the history of economic thinking and here that part of history ,giving birth' to micro- and marcro-economics. And this will more precisely be about the JM Keynes' capital paper of 1936' focus that is what was called the ,Macro-Model'.

Keywords: *economic entity, micro- economics macro-economics, firms, banks & banking system, State & Government, rest of the world, flows & stocks*

JEL Classification: B12, B17, C00, D00, E00, H00

Let us repeat it: difficult to find that part of economic literature not dealing with economic entities and/or aferrent issues [7]. Besides, an unwritten rule here is that all economic thinking context implying a name like that of john maynard keynes ought to be presumed, even worned as(at least) ,not simple' or, all the less, simplist. Let us just limit to this master's capital paper2 and there will be found out that the current literature, including manuals of economics, rather stays ,stacked' around its coordinates when regarding the economic entities [1].

1. History of economic thinking: the ,birth' of *micro-* and *macro-economics*

Even a ,macro-model'[3] limits to what a mathematical model is claimed to be – in its restricted sense, this last simplyfies the reality and that, presumably, on all its components and facets. This will be obvious immediately below, but despite this the Keynes' Macromodel stays and survives in the currently update reality.

Another aspect in context is that ,the master' himself openly rejects all parentship upon macroeconomics, plus he indicates the two basic theories that had been his paper's references. These last were dating since at least one and a half centuries earlier. Never too easy for Keynes recognising that his classic adversaries at that time had once in the past been the true parents of macroeconomics and in his capital paper he fully took the opportunity to harshly combat their position(s) as much as his ,new' attitude[4] was coming to be backed by the Great Depression's aftermath environment. We can assert that such a Keynes' ,revenge'[5] might be punctually starting by rejecting his contribution's references in papers of Adam Smith, William Petty, David Ricardo, Robert Th. Mathus or even of the later Alfred Marshall[6], in favour of the one of an old (the 18th century end) French economist like Jean Baptiste Say, with his ,supply making its own demand'[7], the same with the ,firms-individuals' or ,closed economy' model – i.e. otherwise only good to be criticized in 1936.

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[2] Keynes, J.M., *Théorie de l'Emploi, du Credit et de la Monnaie,* Paris, Dunod, 1936

[3] i.e. the Keynes' one.

[4] Not to be here omitted the also truth that Keynes had shared the classics' view before 1936.

[5] As much as such a low word could ever be attributed to a great scholar like JM Keynes.

[6] To whom JM Keynes owed at least some of the beginning of his career.

[7] As usually sometimes, there are voices claiming that 'supply creating its own demand' was different than the Say's real view and that such expression would entirely belong to JM Keynes himself.

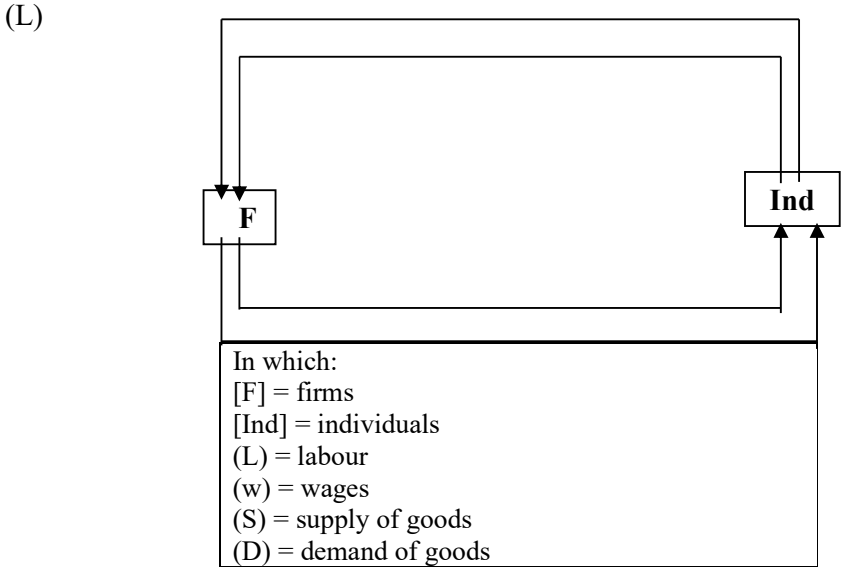
Moreover, Keynes goes even further into the historical past to one generation previous to JB Say and keeping on the French authors' affiliation – i.e. his other author reference was found in the person of François Quesnay: an Adam Smith's contemporary, not even a classic, but part of the older Physiocrats' thinking camp and the author of *"Tableau économique"* , published in 1758, as a kind of ascendent of the nowadays ‚Input-Output' model of W. Leontiev.

Shortly, Keynes couldn't deny the Quesnay-Say's ideas agreement on macroeconomics: the economic entities were the *firms* and *individuals* for both. The plea for macroeconomics as a self-developed system – i.e. against all ideas of artificial economic restrictions or dirigisme -- is the one that reeks of Keynes – i.e. that is for the classics all over and so Keynes proves more sensitive to the Quesnay's view side. All the more, the last contains, besides the two groups of economic entities, the *flows,* inevitably linking them to one-another and part of their whole activity. Let us have the simple[1] Quesnay's view in Diagram 1.

And then Keynes takes over the Quesnay's view and replies to, first by unifying diverse (physical) flows into *national income(Y)* flowing from firms to households and *consumption(C)* flowing back from households to firms – i.e. the automatic Y=C equality yet belonging to François Quesnay(Diagram 2), then not being taken over by Keynes. And that was due to such a model – i.e. of flows --reasoning with the JB Say's markets' – i.e. of goods and of labour – equilibrium.

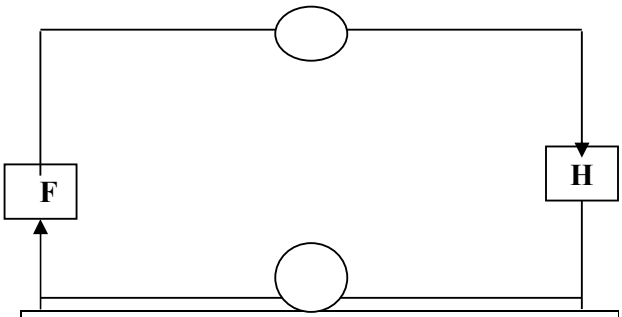
Back to Quesnay again, his merits equally remain on the aspect regarding *economic entities* – i.e. the author does here suggest the last's behavioural specificity and so diversity that extends from entities to aferrent *flows* within the large macroeconomic picture(Andrei 2019a, pp.272-276).

Diagram 1



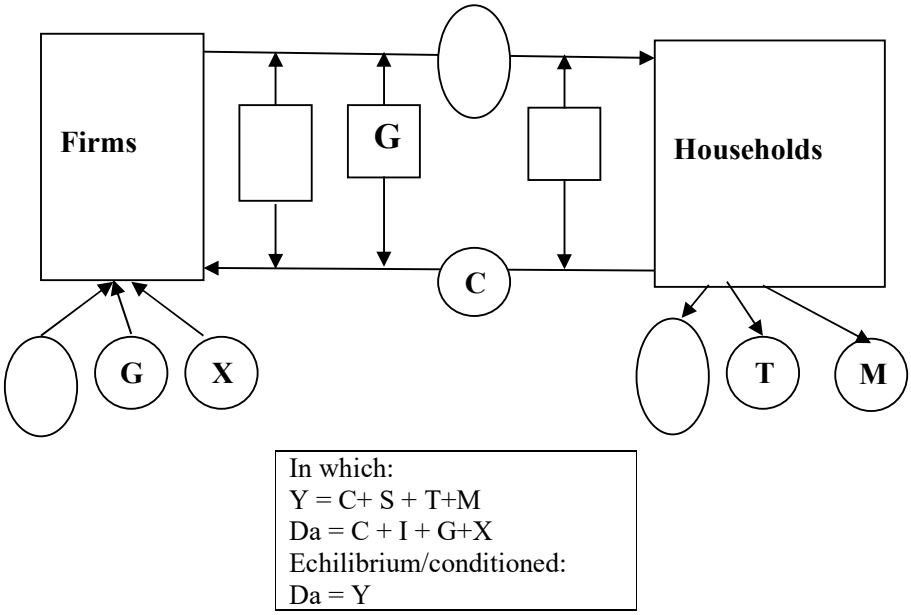
[1] Actually, simplified.

Diagram 2



Shortly, Keynes goes on the *Macromodel's* analysis, concomitantly rejecting the Quesnay-Say basic equilibrium presumed and so the (good) result here coming then was the model's essential view transformation, actually here adding newly identified economic entities and flows between – i.e. to the existing firms [F] and households [H](Andrei 2019b), on the one hand, and national income(Y) and consumption (C), on the other. These new (groups of) economic entities are: the banks [B], State-Government [G] and rest f the world [W], each of them with a pair of additional flows (Diagram 3).

Diagram 3



Basically, Keynes accepts that firms[F] pay wages to the households' members[H] and provide their goods produced to market – i.e. and this is *national income(Y).* Individuals/ households[H] receive the last, first for their *consumption (C)* – i.e. the same as in the Quesnay's view --, but then to consumption Keynes adds some alternatives – i.e.

individuals/households *save (S)* something of their income, pay *taxes(T)* and do access some *imports(M)* for the same consumption, here from a different market than the domestic one:

$$Y = C + S + T + M$$

On the firms[F] side – i.e. the left hand side of the above picture – they provide national income to households[H], but only basing on both market demand received from – i.e. the same as *consumption(C),* not viewed as the classic goods' destruction, but on the contrary, feeding the new(next short time-term) *national income(Y)*– and labour – i.e. here, more or less offset by *investnents(I)* and *government spending(G)* --, *exports(X)* here added for the same above alternative market to the home one, as the new open economy expression:

$$C + I + G + X = AD$$

And here to be noticed the *aggregate demand(AD),* as the Keynesian alternative to *national income(Y)* in new circumstances of macro equilibrium – i.e. conditioned, as Y = AD only when concomitantly I=S, G=T and X=M on the same short term. This is the way of the Keynesian type transforming the ancient Quesnay's view of macroeconomics.

Actually, macroeconomics (thinking) entering the Great Depression's aftermath here met a new and large debate between the classics' presumable *self regulating* capacity and the Keynes' expressed *need for dirigisme* – i.e. the origin of (macro)*economic policies* everysince -- of the (macroeconomic) system. Or, this debate stays the same today.

2. Primary conclusions

First of all, there is a kind of economic thinking pattern lying between *microeconomics* – i.e. the economic entity description – and *macroeconomics* – i.e. the same for national economy –, as there was in the case of tandem between the domestic and international markets – i.e. the same scale criterion. Since David Ricardo – i.e. the early 19th century – the international market had no definition in the absence of the similarly clear definition and understanding on the domestic market side; and conversely. Both nation and international entities do benefit of the same ‚starting point', at least on the economics side.

Or, it is similar for *micro-macro*-economics: microeconomics do find the structural economic entities' behavioural diversity, while it is macroeconomics finding this last as singular factor of making entities work and even of keeping their sense of existence – i.e. as individually. Any individual firm/bank/insurance organization does exist only when macrosystem, with its all entities and flows between, is and remains in place; never without. From the other stand point, it is all economic entities shaping the (macro)economic system very together.

Second, economic entities are defined by their linkages with specific *flows* made either. Flows are as diverse as entities, e.g.: flows of capital, of money, of productions and production factors, of labour etc. – i.e. all kinds of matters and values. On the other hand, flows, as their whole, form the *economic circuit* – that is basing and shaping the macro-system [6] (*Seminar „Agenţii Economici". Capitolul 3*, pp. 2-4). Then, judging on the common above Quesnay-Keynes model principle this circuit easy finds the equilibrium, where firms-households relink and on the contrary – i.e. here, for the equilibrium -- when/where more economic entity types get here involved.

Back to the above entities' and flows' diversity, there is to debate both about several understandings of this and even about ‚several flow diversities'. Let us go back to the above Diagrams 2 and 3 and easily imagine the money flow as contrary to given arrows sense. Or this money flow so here reveals the other arrow sense flow as non-monetary, so material and that will be identified with a physical multiplicity of materials in movement. One of such diversity ideas might be found further on... back even towards the Quesnay view; another one imagining production, as individual flows – i.e. those flows cumulating individually as a diversity of other flows, those of the factors of production.

The next conclusion sees the economic entity in another perspective than the one above regarding its interaction with specific environment – i.e. the economic entity might be (why not?) a system, and economic system in itself. This is a whole, a self-contained one. This is a distinct factor of the economy. This identifies itself with an economic activity that is itself clearly defined and described. Plus, economic entity and its activity both stay out of all subordination – e.g. to other entities or to authorities of all kind.

Or this is a truth clearing the way for an ideology of systems – i.e. the whole economy is a system as much as all economic entities in. Besides, in a rather pragmatical view it doesn't belong to economic entities the one who does subordinate to other commands. On the contrary, the economic entity is that basic concept missed by that ‚political economy' claimed by totalitarian pro-Marxian ideologies – i.e. the economic entity is always for that (free) economy overall basing on free initiative. And this is not ideology.

Last, but not least, the economic entity as that factor of economy choses its activity of a long list as such eloquent for the nowadays economic diversity[1].

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[1] There seems to be a problem of economics with separating what is from what are not economic activities. It is true, on the one hand, that the capacity of a topic equally deals with the extent of the object considered as its own. But on the other hand, the problem comes up when seeing the limits of the same object become less precise.

ETIC INDICATORS OF ECONOMIC GROWTH RESULTS IN THE CONTEXT OF ECONOMIC POLICIES

Doina Drăgoi[1]

Abstract

The central objective of the article is to present the synthetic indicators of economic growth results in the context of economic policies. The research will be carried out by reviewing the specialized economic literature using the method of scientific observation. Economic growth is a concept that cannot be easily defined and represents a major objective of all states, being achieved both in the short and long term with positive effects on several segments of the economy and on the standard of living of the population. Economic policies influence economic growth and synthetic indicators of economic growth outcomes with reflections on economic development.

Keywords: *growth, economic policy, economic development.*

Jel Classification: O4, E6, O1

1. INTRODUCTION

Economic growth is difficult to define because of its complexity. This practically reflects a "production of goods and services" over a growing period of time, given the elimination of the effects of inflation. The economic growth determines the profit for the companies, which implies the increase of the value of the shares, thus offering the possibility of the companies to invest the capital and to employ more workers. Thus, more jobs are created and their incomes increase, they can buy additional products and services. These acquisitions lead to higher economic growth, which is why all countries want to record positive economic growth, being one of the most sought after economic indicators and reflecting a healthy economy.

The growth that a country is achieving in the long term has a positive effect and impact on the national income and employment level, which implies a better standard of living. The growth of a country's GDP leads to an increase in the labor force, which increases the wealth of the country and ensures better conditions for its population. The increase of the GDP implies a quantitative progress of the labor force, which assures better conditions of life for population and a high national wealth. Also, additional income from taxes will be made that will be used for government spending. The government can use them to develop the economy or to reduce the budget deficit. The growth of a country's population also requires economic growth to maintain a standard of living and conserve wealth.. Economic growth also contributes to improving living standards and reducing poverty, but these improvements cannot take place without economic development. Economic growth cannot eradicate poverty alone. Factors that determine progress or economic downturn have been identified.

Economic development and economic growth are under the influence of factors such as, human resources, physical capital, natural resources and technology. The governments of the high development countries pay particular attention to these areas. Countries with rich, but less developed, natural resources cannot make progress unless they promote technology research and improve the education system that prepares the workforce-education. Preparing the human resource in the education system is very important for any economy. Qualifying the workforce and preparing it carefully produce high quality production, adding value to the economy. The shortage of skilled labor force can be considered as a factor to slow down

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economic growth. Also, an unskilled labor force can be an obstacle to the economy of a country and the result can be a high unemployment rate.

Investments and improvements in infrastructure, in means of production, factories and technology, reduce costs implies a growth of the production. The refurbishment of manufacturing lines, the provision of modern production equipment lead to increased productivity and implicitly to increased production. Improving labor productivity leads to the growth of the economy. The availability of natural resources and their quantity influence has an effect on the economic growth rate. New natural resources, such as oil deposits, minerals, will be an impetus for the economy of a country, increasing the production capacity. It is important that the exploitation of natural resources is done with skilled labor and advanced technology, thus contributing to the stimulation of economic growth. Another important factor of economic growth is the improvement of technology. Business managers need to find solutions and ways to integrate into companies, new and more sophisticated production techniques, innovations made by the scientific community. Applying a new, high-performance technology means that the same amount of workforce will be more productive and economic growth will be lower.

Countries that are aware of the 4 factors, their importance and how they influence economic growth, will achieve economic growth and a better standard of living for their population. The technological innovation and the formation of a specialized and skilled workforce will contribute to the improvement of the economic production, which will determine a higher living environment for all. Increasing labor productivity is made much easier when investing in better, more efficient equipment that involves less physical labor from the labor force.

The economic policies practiced by each state support the achievement of an economic growth evidenced by the results indicators, by achieving a high level of coherence, coordination and integration of the fiscal and monetary measures, , in order to achieve the set goals and achieving the well-being of the population. Countries may face social and economic problems such as inflation, poverty or a low rate of economic growth. The economic policies practiced by each state are different depending on the region where they are, the characteristics of the territory in which they are applied. Thus, identical results cannot be obtained in two different countries, due to the intervention of the social, geographical or ideological factors that make each country unique. However, depending on the existing ideologies and economic approaches, different positions may be found regarding the level of intervention that a government must adopt in the economic life of its country.

2. MAIN RESULTS INDICATORS ON ECONOMIC GROWTH

Next I will present the main relevant indicators of the national economy. Gross global product (PGB) is the total value of goods or services of goods or non-goods, obtained within the subsystems of the national economy, in a period of time, usually one year. In real production, goods and services go through different processing phases, and it is important to prevent repeated recording of intermediate consumption and accumulation in PGB. Therefore, the calculation mode of PGB as a consequence of the macroeconomic results, is realized in three ways:

a) the intermediate consumption + the value of the final production (the production that is in the last stage of the economic circuit and whose final consumption is destined (the production method);

b) intermediate consumption + expressed value factors + fixed capital amortization + indirect taxes (value added method);

c) the intermediate consumption + the value of the final consumption (expenses incurred by the economic agents for the final consumption and for the formation of the gross capital (the method of final use).

A generalized formula of PGB can be reproduced by: PGB = Cf + Ci where, Cf = final consumption, Ci - intermediate consumption. (Turcu V., 2006).

Before the emergence of GDP, until the Bretton Woods conference in 1944, the standard instrument for measuring the performance of a country was GNP or the Gross National Product. Unlike GDP - the gross domestic product that it measures the output made by the people living in it, GNP measures the output made not only by the citizens living in the country, but also by those living abroad. The decision makers met at Bretton Woods, in New Hampshire, USA and concluded that GDP is the best indicator of measuring a country's economic performance, a decision supported and regulated by the World Bank, the International Monetary Fund. It has become the most widely known instrument of measurement and used by all economies around the world, being regarded as a solution after the crisis and the II World War. Due to the serious effects of the Second World War and the crisis, better valuation of goods and services in monetary expression..

Although GDP is most commonly used to measure the size of an economy today, Simon Kuznets, the economist who created this instrument, warned against using it as a welfare measure. He created a system to monitor US productivity and proposed GDP. This measure only concerns the economic output obtained by individuals, companies and government, united in a single measure, which in good times will increase and in bad times it will decrease.

In recent years, especially after the financial crisis of 2007-2008, economists and policy makers have found that GDP has more and more limitations. For example, GDP does not capture the sustainability issues of a country, as claimed by US economist Joseph Stiglitz, who won the Nobel Prize for economics in 2001. Thus, fast-growing countries, such as China, are experiencing GDP growth. , year after year, but these values do not reflect the sacrifices made that lead to degradation of the environment, for example. The GDP does not provide information about the standard of living, the well-being of the population, the distribution of the wealth of a country and about the free time left to the population after participating in the economic production.

Gross domestic product - GDP, measures the overall dimension of a country's economy, being one of the "main indicators of the European system of national and regional accounts"accounts (SEC / ESA 2010). As an aggregate measure of output, GDP amounts to "the gross added value of all resident institutional units engaged in production, plus any taxes on products, minus subsidies on products". The gross value added is obtained by the difference between production and intermediate consumption. From a theoretical point of view, GDP summarizes the end uses of goods and services except for intermediate consumption, measured in purchase prices, from which “the value of imports of goods and services” decreases. GDP measures the output of a country, not exchange. Confusions are created regarding the interpretation of economic statistics, confusions that can be avoided by economists and policymakers if they consider this simple. The proposals to reduce taxes are aimed at increasing consumer spending, which is supposed to lead to an increase in GDP, but in fact they represent a use of GDP, not of production. Increasing consumer demand could have the effect of eliminating investments, not increasing GDP. Usually, GDP data is presented in a form that emphasizes exchange - use of GDP rather than production - source of GDP. It can be said that GDP sums up consumer spending, housing and investment spending, net exports and government procurement.

Over time, questions have arisen regarding what drives GDP growth: Are retail sales growth a force in the economy or an increase in the labor force? Do government spending increase GDP or reduce marginal tax rates? Is exports a positive or negative aspect? To

answer these questions, Keynesians usually emphasize the first choice, while supply unions place more weight on the second. In the short term, in business cycles, Keynesian focus falls on demand that is considered relevant. But there is a dependency on "demand management" policies that can influence market prices, generate major inefficiencies and destroy production incentives. India and Peru in the eighth decade of the twentieth century are classic examples of the destruction caused by demand management. Other less developed countries, such as South Korea, Mexico and Argentina, have shifted their focus from government spending and demand management, to market liberalization, asset privatization, and generally increased incentives for work and investment, with a record rapid growth of GDP. The GDP deflator is an economic indicator that accounts for inflation by converting the measured output at current prices into constant GDP.

The gross national product (GNP) represents the total valuation of the final products and services obtained during a certain period, using the means of production existing in the respective country. In the GNP calculation, the sum of consumer expenditures - personnel costs, private domestic investment expenses, government spending, net exports and any income obtained by residents from investments made abroad from which the income obtained in the national economy by foreign residents is deducted. Net exports are "the difference between exports and imports of goods and services of a country". GNP has a close connection with the gross domestic product (GDP) which is based on the productions made in the country, regardless of the owner of the means of production. GNP starts with GDP, adds investment income of residents from overseas investments and decreases the investment income of foreign residents earned in a country. PNB calculation formula: PNB = GDP - VABS + VABNS or PNB = GDP + SVAB, where: VABS - the gross added value obtained on the national territory by foreign companies

VABNS - the gross added value obtained by the national companies in the territory of other states

GNP may be lower or higher than GDP, depending on the positive or negative balance, of gross value added (SVAB): SVAB = VABNS - VABS. Production made by foreign residents in the respective country respective country should be excluded from the GNP calculation, and the output obtained by residents outside the borders should be taken into account. GNP does not include intermediate “goods and services to avoid double accounting, because they are already incorporated in the value of final goods and services”. (Turcu V., 2006).

Until 1991, the US used GNP as the main indicator for measuring economic activity. After this period, it started to use GDP for two main reasons: first, GDP is much closer to the situation in the U.S. due to the interest for the political decision makers, for the employment and industrial production which, like the GDP, measures the activity in the USA and ignores the nationalities; the second reason is the transition to the GDP of most countries, which will facilitate comparisons between countries.

Deflator of gross national product (GNP) is one of the economic indicators that operate the effects of inflation over a certain period of time relating the nominal national product to the real national product. The deflator of the gross national product of the products offers an alternative to the consumer price index (CPI) which is based on the “basket of goods and services, while the PNB deflator incorporates all the final goods produced by an economy”. This allows GNP to better capture the effects of inflation, because all goods are taken into account. The gross deflator of the national product also helps to determine the real GNP, as opposed to the nominal figure. It is expressed by an equation in which the GNP deflator is equal to the nominal GNP, relative to the real GNP, expressed as a percentage. Its reduction is indicated. A major difference between GNP and GDP is that GDP takes into account only the money obtained in the country, while the GNP also accounts for international revenues and

expenditures. While GDP is targeting a particular region, GNP shows how the country has overall economic performance by using nationality as a factor in determining income. The GNP deflator is often confused with the GDP deflator. This economic metric uses the same equation, but switches GDP for GNP into the equation.

The net domestic product (PIN) is represented by the size of the net added value of the economic goods destined for final consumption, which were obtained inside a country, by domestic and foreign companies, over a period of time. The calculation of this indicator is as follows: PIN = GDP - A, where A - fixed capital consumed (depreciation). Why is the net domestic product used? Although the net domestic product is often quoted when evaluating the health status of a country's economy, it shows the rate at which the means of production are degraded and require replacement. The frequency and scope of these replacements may vary depending on the type of equity. Old and new equipment may work for a period of time in parallel, until complete replacement. The acquisition of new means of production and the replacement of those used physically or morally, is reflected in the depreciation of the net domestic product. For example, if new means of production are purchased for a new factory that is built due to the need to expand the scope of operations, this represents a gain for the net domestic product. The construction of new homes on land that has not been built before, can be a gain for the internal product. If the old houses are demolished and other new homes will be built, we can say that it is depreciation and replacement, which will make a positive contribution to the gross domestic product. (Turcu V., 2006).

Net national product (PNN) is the value expression of the “goods and services” produced by the citizens of one country and those purchased from other countries, over a certain period of time, ie the gross national product (GNP) minus part of the investment (ie depreciation). PNN is analyzed annually, being a way to measure national success in maintaining minimum production standards. PNN is is declared in the currency of the nation it represents and is obtained by the difference between GNP and fixed capital amortization. The relationship between GNP and GNP is similar to the relationship between its GDP and net domestic product (PIN). (Turcu V., 2006).

3. ECONOMIC POLICIES, WAYS OF INFLUENCING ECONOMIC GROWTH

This section deals with the concept of economic policy, its objectives, the means used by the state governments to implement them and what are the modalities used.

Economic policies are intervention tools used by states in the economy in order to achieve the objectives, which are reflected in economic growth, price stability and full employment. Thus, the purpose of governments is to promote the economy's progress through variables such as P.I.B., I.P.C, employment, employment rate and unemployment. Consequently, the interventions that take place in the public sector of the economy are called economic policies.

As we mentioned earlier, the most common objectives of economic policies concern various aspects related to achieving sustainable economic growth over time, which means intervention in the economy so as to achieve an “increase in the production” of sustainable goods and services for the purpose

to “increase the well-being” of the population. As we discussed in the previous section, the most important economic indicators are gross domestic product (GDP) and gross national product (GNP).

Another objective of economic policies is price stability. The public sector tries to control inflation, that is, to control the prices of goods and services, so that they do not increase disproportionately. If this situation arises, the inflationary spiral would reduce the purchasing power of consumers and the consumption of ballast, with all that it implies for a

country. The consumer price index (CPI) is the indicator that expresses the average “prices of a basket of goods and services” purchased by a group of families.

The promotion of employment is another objective of economic policies. The ultimate goal of this goal is to get a full job. But it is quite difficult for the governments of the states to provide full jobs to the entire working population of a country, even under the low unemployment rate. The indicators that deal with measuring the degree of employment are the rates of activity, employment and unemployment.

The natural question arises, who ensures that these objectives are met? In order to achieve the objectives just presented above, the states use a number of intermediary organizations or institutions. These means may be direct or indirect. Within the direct ones we talk about all the public sector institutions of which the autonomous communities, local and regional councils, mayorships, other governing bodies, etc. belong. Meanwhile, the media Referring to the indirect means, we mention the so-called tactical powers banking, multinational, business associations, unions, etc. benefiting from broad economic and social support. The objective is that all these intermediary organizations and institutions, together, will work together in the same direction in order to make economic policies more efficient and to achieve the proposed objectives.

The economic policies most commonly used by states to achieve their economic goals are:

Monetary policy which includes a set of measures that will be taken by the monetary authority of each country in order to achieve price stability by the variation of the money in circulation. In the euro area countries, the European Central Bank (ECB) has responsibilities related to monetary policy.

The fiscal policy include a set of measures and instruments that are used by the states to collect the revenues that are used to perform the functions of the public sector. The purpose of fiscal policy is to obtain an increase or not of economic activity, but to ensure the collection of taxes, taxes and the application of public expenses. Therefore, the two key variables of fiscal policy, which can be both expansive and restrictive, are public revenues and public spending.

Foreign policy refers to the intervention made by governments to regulate transactions between countries. Establishing the foreign exchange rate of the currencies of other countries, promoting exports or imposing restrictions on imports are just a few examples of economic policy. Within the European Union, most foreign policy decisions are made in Brussels in accordance with its member countries.

The income policy aims to obtain stable prices through a control of inflation, which leads to the prevention of rising prices. In this respect, states can also regulate the salaries of civil servants and private companies if they consider that they can keep the prices of the economy as a whole.

4. CONCLUSIONS

GNP and GDP - The difference

The GNP and GDP concepts are very closely linked, but with differences stemming from the fact that there are companies owned by foreign investors, who produce goods in the country and local investors who produce goods for other countries, which implies the recovery of the income obtained by the local investors. local. For example, foreign investors who obtain goods and services in a country, transfer the income obtained to foreign residents. Also, many corporations that produce goods and services outside the country's borders, make profit for the country. If the incomes obtained by the national firms from outside the state exceed the incomes obtained in the national framework by the foreign companies, the GNP is higher than the GDP which is the most representative indicator that measures the economic

activity of a country. It is necessary for the GNP to be analyzed, because obtaining a big difference between the GNP and the GDP can indicate that, the country is becoming increasingly engaged in international trade, production or financial operations. Therefore, the greater the difference between a country's GNP and GDP, the more the incomes and investments in that country involve transnational activities - foreign direct investments.

The economic policies by their form and the modalities of implementation according to the characteristics, with the regions of implementation and taking into account the existing economic ideologies and approaches, the social factors, the fiscal and monetary measures and policies applied, they contribute significantly to obtaining large indicators of economic results, which will contribute to "the well-being of the population and a high standard of living".

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NEW TENDENCIES FOR THE TRANSNATIONAL COMPANIES

Alina,Voiculeţ[1]

Abstract

Transnational companies are among the most innovative companies, being responsible for the majority of private expenses for research and development. In the 21st century, competitive advantages no longer consist of products and technologies, but also depend on the speed with which innovation is produced and with which new products can be created and distributed. This acceleration of global competition has been enhanced by the evolution of information.

As national and local economic spaces open up to global economy, it becomes more clear that large corporations rather than nationcal economies are the coordinating units of economic relations. It has become possible and advantageous for a transnational company to profit from the differences that exist between regions regarding pay, market potential, standards and employment, taxes, ecological regulations, human resource, etc.

Their priority in production, trade, investments and transfer of technology all over the world is unique. Transnational companies have developed from national companies into global concerns that use foreign investments to exploit their own competitive advantages.

Key words: *transnational corporation, foreign assets, foreign capital investment, competition.*

JEL Classification: *F60*

1. Introduction

The apparition of trasnational companies has created specific forms of confrontation in global economy. Wanting to maximize their profits, these companies get into increasingly strong confrontations, managing to capture large segments of the global market.

The 21st century represents a new and real challenge for transnational companies. It is becoming increasingly harder to stay on top. Although there are regional differences, most profitabile transnational companies, either European, Asian or American, are engaged in a process of transforming them, as well as the structures of world capitalism, to further strengthen their power.

2. Transnational society – agent of globalization

The transnational society is a real agent of globalization. Thus, as the local and national economic spaces open up to global economies, it is increasingly obvious that these companies are becoming the coordinating entities of international economic relations.

In the contemporary world economy, the value of goods and services resulting from foreign investments exceeds the value of the actual exports of goods that are worldwide. This means that foreign investments are the main instrument of international economic investments development. From here on, the special role that transnational corporations take in these relations - the result of foreign investments – is of great importance.

Through their investments, STN have encouraged international transfer of technology, created jobs, contributed to raising the qualification of some socio professional categories and the better use of local production capacities. Moreover, these investments have allowed the demand for external loans to be reduced.

The main advantages of these companies are:

- *Transnational corporations provide a flow of capital to developing countries.*

The majority of multinational corporations are based in developed countries. They rely on resources from mature markets to maintain their incomes. Transnational companies represent a major source of capital inflows towards developing countries, building factoris,

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investing in staff training centers and supporting educational systems with the intention of improving their productive capacities.

- *Transnational corporations contribute to technology transfer.*

Since most corporations come from developed countries, and the technical progress also started there, it is obvious that placing branches outside the borders of their own countries will determine an export of technology and know how.

Developing nations have searched to improve their position in global economy through different modernization strategies, also by utilizing foreign direct investments to help them catch up with their concurence, respectively advanced technology countries.

- *Transnational corporations reduce dependencies on goverment aid from the developing world.*

Since 2000, dependence on foreign help throughout the whole african continent is considered to be responsible for the general weakness of local economies. Some nations depend on foreign aid for over 40% of their annual budget. The level of trade in Europe reaches 60%, 40% in North America, while countries from Southeast Asia reach level of trade of 30%. However, the current level of trade for African countries is only about 12%. Transnational corporations could increase this percentage in developing countries by up to 50%.

- *Transnational corporations contribute to creating new jobs and raising the qualification of some socio professional categories.*

In most developing countries, a big part of the active population is employed in the primary sector, mainly in agriculture (70% in the most underdeveloped countries), while in the developed countries only 5% of the population is employed in this area. Through the investments these companies make, they offer employees the opportunity to change their work field or to improve their professional performance.

- *Transnational corporations contribute to the development of local infrastructure.*

Transport networks, communications, access to technology are three of the main barriers removed when the transnationals become active in a developing country.

- *Transnational companies contribute to the diversification of the offer.*

Through these companies coming in the field, consumers have access to certain categories of products, which they would not normally find in their country. Even if a McDonald's in India servers different products than the one in the U.S, the company's base values are the same. The interior design is similar, orders are placed the same, there is a set of best practices that are respected in both locations. One of the priorities of these corporations is the dissemination of its standardized procedures and culture. Consumers trust these businesses because they understand the value system of such companies.

- *Transnational companies encourage innovation.*

The average multinational company spends between 5% and 10% of its annual budget on research and innovation. For example, Amazon qualifies as a highly efficient innovator today, investing $ 28.8 billion in research and development, in 2018. In 2018, top global companies have invested over $ 350 billion in research and development, representing over a third of research and development financed by companies worldwide, according to UNCTAD.

- *Transnational companies increase cultural awareness.*

When companies extend abroad, they are exposed to new cultural realities. These companies are incredibly diverse, which gives them a boost of strength. They have to know the local specifity, the particularities of these countries in which they invest before they can produce goods and services for the people of the respective state. These companies offer a positive influence on communication between cultures.

However, we must not idealize the role of transnational societies. In numerous countries and regions, in which transnational societies have reached, progress especially in terms of living standards, life quality for the majority of the population is poor or even non-existent.

The contribution of STN to social assistance in host developing countries is poor, although there are financial possibilites.

Some of the disadvantages of establishing STN branches in developing countries are:

- *Pressure on the environment.*

A major advantage that multinational companies see in opening businesses in the developing world is the lack of solid legislations in environmental protection field. STN aims to reduce product prices, but with a major consequence, damage to nature.

- *Repatriation of profits.*

Once the initial investments are made and businesses start to contribute to profit maximization, benefits obtained by the company tend to be repatriated for use in other areas. If it were to be analyzed, the net flow of capital and not the gross one, it will be observed that the real benefit offered by multinationals is a small one (and sometimes even negative). Every host country has to lose when profits are not reinvested in local economy.

- *Transnational corporations import skilled labor.*

The period of time required to adapt the business to local conditions, that can lead to high levels of productivity is measured in years, not months or weeks. Transnationals invest in local workers to develop their abilities, but they must also make their business more efficient, and they have to do that quick. Most of the companies will import the skilled labor required, from other economies for the better functioning and start of the activity. This means that the best jobs, especially in the developing world, are given to people that don't even live in the local economy.

- *Transnational corporations encourage political corruption.*

The developing countries are struggling with income generation, with many workers earning less than $ 2 a day. When the transnationals arrive in a region, promissing that they will pay for the access to raw materials and other resources, including human resources, policy responsables often hinder these investments. Usually, the money received by politicians and officials, which creates a massive disruption on a local level, with minor compensations, if any, from the government that works with the corporation.

- *Transnational societies exploit the resources of raw materials.*

There are exceptions from this disadvantage. Some chinese companies, for example, build transport routes to help them access raw materials in Central Africa more easily, creating infrastructure benefits that should last for years, if not decades. Many transnationals, however, go into a new country, looking to exploit raw materials, searching for huge profits, without investing in the infrastructure.

- *Transnational corporations support unskilled labor and low wage levels.*

Low piad work is usually seen as a disadvantage towards local economies. Even though some experts suggest that any job and any income is better than nothing, work conditions and specializations of workers allow transnationals to lower wages in order to maximize their profits. Even when minimum wages are regulated by governments, what workers in developing countries make is very little.

According to ConvergEx Group, Sierra Leone has the lowest minimum wage in the world, at only $ 0.03 / hour. China has a minimum of $ 0.80 / hour. Even countries considered to be more advanced, such as Brazil, offer an hourly wage of less than $ 2. Who earns the most then: the worker of the transnational corporation?

- *Transnational corporations build legal monopolies.*

Even if the assets controlled by transnational corporations are managed by a centralized structure, governments treat each location as its own entity. This offers companies more freedom in the way that they manage their activities. Although there is no absolute monopoly on the global scene, there are some companies that are getting close. Currently, Google holds 63% of search engine traffic, for example, compared to 24% for Bing and 11% for Oath.

Even though , in many countries there are antitrust laws, many of these companies manage to go around them. Competition contributes to reducing unwanted behavior, and national antitrust policies can lessen a series of questionable activities.

- *Transnational corporations are involved in criminal activity with the use of fraud, tax evasion and the withdrawing from international sanctions.*

For example, Apple has paid a tax for just $ 40 million after they have made a $ 6 billion profit.

Critics of these corporations see in them the source of a more refined neocolonialism, which, in the name of globalization, for now, has not actually contributed to the significant reduction of international gaps, but has even deepened them by promoting a collaboration full of dependencies.

Brand companies are making the law in the consumer industry. They dictate fasion trends, and their incomes dominate economic power of many states.

„*Transnational companies have control. They control politicians, the media, the consumption model, entertainment, thinking. They distroy the planet!*" – Jerry Brown, former US governor.

But should we accuse these giant companies that they promote a fight for global supremacy? We have to accept that there are winners and losers. "Transnationality" is an attribute of modern, dynamic and profitable companies, thus carrying economic progress.

3. The strength of transnational corporations

The distribution of the 100 most powerful companies worldwide, by foreign assets, in 2018 by country, was as follows:

Table no. 1. Distribution by country of the 100 strongest transnational companies

Country of origin	Number of companies
U.S.A	19
Great Britain	14
France	13
Germany	11
Japan	10

Source: Based on data from UNCTAD, World Investment Report 2019. Special Economic Zones, [accessed on 5 November 2019]

The rest of the corporations were based in China (6), Switzerland (6), Italy (3), Spain (3), Ireland (3), two in Canada and one in Belgium, Israel, Holland, Luxemburg, Norway, India, Australia, Taiwan, South Korea and Hong Kong (China). It is noted that countries inside the European Union, numerically dominate this ranking.

U.S companies are still in the top, although, compared to previous years, we see a decrease in the number of STNs in this country.

The competition between transnational corporations is becoming more intense. However, there are companies that have made it through on a long term, showing strong competitive force: Royal Dutch-Shell, Exxon Mobil Corporation, General Electric; other new companies knock on the door of consecration. In the last few years there has been a spectacular growth of the transnationals that are coming from the developing countries, especially companies with headquarters in the new industrialized states of Asia. It seems that the relations of world forces between transnational corporations are in a continous dynamism.

The largest 500 companies in the world have generated revenues of $ 32.7 trillion and profits of $ 2.15 billion in 2018. Together, the Fortune Global 500 companies from 2018 have employed 69.3 million people from all over the world and are represented by 34 countries.

Table no. 2. Top 10 of the Fortune Global (revenues – $Mil.)

Rank	Company	Country	Revenues ($ Mil.)	Revenues % Change	Profits ($ Mil.)
1	Walmart	U.S.	514,405	2.8	6,670
2	Sinopec Group	China	414,649	26.8	5,845
3	Royal Dutch Shell	Netherlands	396,556	27.2	23,352
4	China National Petroleum	China	392,976	20.5	2,271
5	State Grid	China	387,056	10.9	8,175
6	Saudi Aramco	Saudi Arabia	355,905	35.3	110,975
7	BP	United Kingdom	303,738	24.2	9,383
8	Exxon Mobil	U.S.	290,212	18.8	20,840
9	Volkswagen	Germany	278,342	7.0	14,323
10	Toyota Motor	Japan	272,162	2.8	16,982
**Fiscal year ended on or before March 31, 2019.*					

Source:https://www.gfmag.com/global-data/economic-data/largest-companies
[accessed on 6 November 2019]

With what do we measure the power of a company? Value of assets? Sales value?

Assets are the „tangible" part of a company's wealth. To a certain extent, the more assets a corporation has, the bigger and richer it is.

Top 10 companies in the world, ranked by foreign assets in 2018, according to UNCTAD, are presented in table number 3.

Table no. 3. The world's top 10 non-financial MNEs (foreign assets - $Mil.) – 2018

Foreign assets	Corporation	Home economy	Industry	Foreign	Total
1	Royal Dutch Shell plc	United Kingdom	Mining, quarrying and petroleum	343 713	400 563
2	Toyota Motor Corporation	Japan	Motor Vehicles	300 384	468 872
3	BP plc	United Kingdom	Petroleum Refining and Related Industries	254 533	283 144
4	Softbank Group Corp	Japan	Telecommunications	240 305	325 869
5	Total SA	France	Petroleum Refining and Related Industries	233 692	256 327
6	Volkswagen Group	Germany	Motor Vehicles	224 191	524 566
7	British American Tobacco PLC	United Kingdom	Tobacco	185 974	187 330
8	Chevron Corporation	United States	Petroleum Refining and Related Industries	181 006	253 863
9	Daimler AG	Germany	Motor Vehicles	169 115	322 440
10	Exxon Mobil Corporation	United States	Petroleum Refining and Related Industries	168 053	346 196

Source: UNCTAD, World Investment Report 2019. Special Economic Zones,
[accessed on 8 November 2019]

The most powerful corporations worldwide are those in the oil industry, companies with huge assets: Royal Dutch Shell, British Petroleum Company, Exxon Mobil.

As competition has gone through an accentuated globalization process, corporations from some areas, such as the oil one, have intensified their research towards finding new methods to reduce costs, risks and environmental uncertainty.

„*Half of the world's wealth can be found in only a few hundred corporations*". Biggest of them have sales that overcome the GDP of some small developed countries. For example, if Walmart would be an economy, it would have an extremly high GDP value, being on the 25th place in the world, putting it even over Belgium. Other examples are Microsoft, Exon Mobile, BP etc.

4. Conclusions

The extent and complexity of the "big challenges" with which international economy is facing, such as climate change, poverty, inequality, food insecurity, health crises and migration, make transnationals rethink their position in the current fight to win new markets.

Transnationals and the competition between them have no beneficial effect towards economies in developing countries. Their role is context specific, varying according to the industry and technology and the level of economic development of the receiving country. Thus, governments have to intervene in order to maximize the positive impact on their economies and to protect against potential negative impact. Moreover, in order to strengthen their ability to attract and benefit from direct foreign investments, countries continue to adopt measures with the purpose of improving their investment climate.

Transnational corporations have shown that they have the ability to "cross" national borders, with the ultimate goal of becoming global companies, producing global goods.

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SECTION: FINANCIAL AND ACCOUNTING POLICIES AND CORPORATE GOVERNANCE IN THE GLOBAL CONTEXT

THE REDUCE OF FISCAL PRESSURE USING THE OFFSHORE COMPANIES

Ion Gr. Ionescu[1]

ABSTRACT

Always, there have been controversies, regarding the interpretation of the activity of the companies of shorre, if their activity is a legal one, if it is at its limit or simply, these are some organizations that hide and do everything, to evade from the duty to pay the debts to the state. However, the tax havens have not disappeared, they still have clients, of the most reducible and most potentate, in economic and financial aspect and despite the sharp comments, each sees his activity, without giving account, except rarely. , that is when international scandals occur. In our opinion, it is observed that offshore companies are highly rated in the business world and highly sought after. So, we need them. They will be part of the economic-financial landscape, with or without our will.

Key words: Tax heaven, Fiscal pressure, Evasion, Fraud

JEL Codes – G23, G32

1 Introduction

The sensitive aspect of the tax system is represented by excessive taxation. Taxation has been at the center of the economies of the early despotic and feudal as well as colonialist regimes, whose histories are full of revolts against taxes.

The unprecedented development of the world economy, the accentuation of economic and political interdependencies between different regions of the world, the emergence and remarkable evolution of transnational corporations, as well as the excessive taxation practiced by some states have made it necessary to worry about the fiscal planning of the businesses - from the economic agents and adopting legal measures to stimulate the development of international economic relations - from the participating states in the world economy.

Traders, bankers and shipping companies were the first to benefit from the benefits of international trade in a world where information on investment opportunities abroad had to be collected practically from the spot. The information had to be encoded or stored in sensitive political situations. The possession of the information materials, even of the books, was limited to the classes only, but in most cases the information gathered and stored with care was not current even before being used.

Undoubtedly, the first multinational companies gathered the most honest wealth in the world; using the power of information and exchange, they have grown so much that they have come to compete with national economies.

These findings converge to a single conclusion: in the situation of the availability of resources, it is more advantageous to be an international investor, than one acting at national level.

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2 Tools for reducing fiscal pressure

In 1947, Learned Hand, a distinguished federal judge, said: "No one has a public duty to pay more than required by law. Taxes are mandatory, not voluntary." In the current world economy situation, with the introduction of new taxes onshore, tightening of offshore operating restrictions, competitiveness focused on lowering costs, multinational films and not only, they raise the question of new financial strategies that should be followed by the company or individuals in view tax reduction; The current practice demonstrates the use of four working tools in particular:

a) International financial centers "are represented by important cities, characterized by impressive portfolios of financial services and operators benefiting from these services". (Voicu and Boroi, 2006) They are represented by: London, New York, Cayman Islands, Zurich, Hong Kong, Tokyo, etc. Within these cities / countries transfers of both offshore funds and flows generated by international trade take place. Even if some cities are in tightly controlled countries, governments rarely get involved in these transfers, as interventions could lead to disastrous effects for all, especially foreign trade.

b) States with favorable tax agreements are represented by countries such as Switzerland and the Netherlands, which have a large number of treaties to avoid double taxation concluded with other countries, using their provisions offering a number of tax advantages to companies registered in these states. In some cases, these countries may have low internal taxes for certain types of investments, being as useful as the tax pads.

There are still many possibilities for avoiding tax burdens. There are "countries with low taxes, for certain types of income, and evasion gates can be found in any tax law if someone is silent: a low tax is applicable to a certain type of income in one of the countries that have concluded conventions. taxation with the country of residence and the tax collector and then the source of income is modified to produce that type of income in that country". (Voicu and Boroi, 2006) With the source of income has been concealed by the tax convention, it can be directed anywhere in the world.

c) Tax havens are states such as the Bahamas, the Channel, the Cayman Islands and Bermuda, which have harsh laws on securing banking secrecy and tax foreign transactions that take place in their territory. Lacking natural resources, "they have very little to offer, apart from the lightness and the secret of operations. Many tax havens have attracted companies that offer a whole range of financial services to standards existing in major cities of the world" (Văcărel, 2008).

In addition to the classic strategies that are applied in the offshore area, which I will explain in more detail during this paper, the complementary advantages offered by these special jurisdictions are the following: (Birșa, 2005)

- the possibility to hold and operate bank accounts in complete confidentiality;
- the possibility to run business without being charged or with minimal taxation;
- the possibility of insuring (protecting) the heirs (through the use of trusts);
- the secret of financial operations and properties;
- increased adaptability to the requirements of individuals or investor groups;
- absence or reduced character of governmental control.

Tax havens take many forms. Some have appeared in the post-war period, others have been born in the last two decades. They all have advantages and disadvantages. Some adhered to ethical standards of the highest caliber, and others harbored blatant deceptions. The legal structures of tax havens are constantly changing, like those of ordinary states.

"The most successful investors are those who carefully prepare for business opportunities". (Bocănete, 2010) Tax burden reduction strategies are an important part of the essence of offshore financial operations. Many of the players in international financial operations are located offshore due to excessive taxes and onshore restrictions.

d) International tax planning - in principle, international tax planning is very simple, the details being those that complicate the problem. The international planning of the fiscal obligations is based on the fact that the laws of any state, regarding the taxation are limited, only to its internal economy. Tax authorities frequently encounter difficulties in crossing the borders, however, companies / rich people and their money make it very easy.

Fiscal planning has two components:

- national fiscal planning that refers to the tax legislation existing in the taxpayer's state of residence;
- International tax planning, which is based essentially on the following two elements:
- use of tax havens;
- the use of treaties to avoid double taxation.

One of the biggest dangers in international financial and fiscal planning is the conduct of inadequate research, the lack of knowledge about the relationships between different jurisdictions, national and international laws. What is legal in one area, can be considered totally illegal in another jurisdiction, not talking about the pitfalls where you can fall from lack of information.

However, offshore business is business based on reputation. Most financial institutions and brokers in the offshore world “sell as a result of their reputation of correct institutions and always available to the client. Experienced investors and consultants know reliable offshore operators, knowing the scammers who trick investors or other institutions. For this reason, one of the first lessons of the offshore operation history is the appreciation of the experience and the letters of recommendation of the potential business partners”. (Birșa, 2005)

It is no longer a secret for anyone, the situation of the world economy: it wants to go through an inevitable period of globalization and capital mobility. The next phase of economic evolution has already begun. The most sophisticated transnationals are now being competed by financial experts with global expertise, who are fully exploiting the government's struggle to attract transnational wealth. Although the players of the international financial market (and not only) have the information and expertise of the highest class, the techniques used by the players in the international money game are very simple, but the best players raise the basic principles to the art rank. .

3 Legal tax evasion vs tax fraud

"The exodus across the borders, of the tax payers, in order to minimize taxes presents two ways of approaching". (Bârle, 2006) One of them characterizes a taxpayer who "intends to violate the tax provisions of the country of residence, using the discretion offered by the tax havens and the logistical difficulties encountered by the border investigators. These offshore transactions are taxable items by the Treasury, but taxpayers hope inspectors will never find out the truth. This is called tax fraud". (Mănăila, 1999) Another approach concerns a taxpayer who cleverly uses all the inadvertencies and breaches in the national tax system to legally reduce its tax obligations, which is called legal tax evasion.

Often, it is very difficult for anyone to detect if a transaction is for the purpose of tax avoidance or is simply tax fraud. The terms are not well defined at all, and the law regulating new types of transactions is often vague and variable. Then “when the Treasury detects new types of transactions, it tries to judge them based on the existing laws, the problem is that they were created in a previous context and are considering other aspects. This is where the confusion results, what was last year legal becomes illegal this year. At the same time, there are still a number of gray areas which, in particular, in developing countries, are used for the material benefit of tax inspectors and "consultants" in the area of civil servants" (Mănăilă, 1999).

From this point of view, we present below a classification of the transactions that take place in the offshore areas:

a) Transactions without fiscal impact are transactions that have no impact on the tax paid in the state of residence. For example, a bank could open a branch in a tax haven to avoid the demands of the national bank regarding the establishment of legal reserves. Another company might use a subsidiary registered in a tax haven to avoid currency control or other regulations imposed by the country in which it does business. A tax haven can be used to reduce the risks of expropriation that accompany business in most third world countries. A public person may use a tax haven or an account opened on behalf of another person to defend his assets from his political enemies, etc.

b) Tax impact assessments, but in accordance with the letter and the support of the law - some examples of such transactions are: (Mănăilă, 1999).

- the use of compliance pavilions in order to obtain fiscal benefits (minimizing / avoiding direct and indirect taxes on international shipping activities);
- intra-group lending operations (which defer tax on interest arising from loans granted to group entities);
- transactions between subsidiaries of different companies (which are created to avoid VAT and to carry out certain transactions that benefit from the gates of the legislative framework).

c) Aggressive fiscal planning operations - these are "transactions for reducing tax burdens by forcing vulnerable sections of the legislative framework, for example setting up captive insurance companies, investment companies, construction and service providers, which are managed through through representatives from offshore jurisdictions" (Birșa, 2005).

Another example could be setting up a service company in a tax haven to provide services to another subsidiary of the same company located in a third country. One method widely used by multinational companies is the use of transfer prices, which consist of the distorted evaluation of international transactions for the purpose of total / partial transfer in a tax haven of the profits obtained in the areas with high taxation.

Often, the parties are aware that major adjustments may be made to a thorough verification of the transaction, but they are based on the difficulties involved in collecting specific data, international information exchange and on the complex nature of transactions.

d) Tax frauds - these "are represented by the actions by which the taxpayer tries, through fraudulent procedures to avoid legal obligations. This could be generated by simply omitting to declare the income obtained or by trying to create excess tax deductions.

Tax fraud can, in turn, be divided into two subcategories: (Bârle, 2006)

- the evasion of the tax on the income obtained by legal means;
- evasion of income tax from illegal activities (eg drug trafficking).

An example of illegal tax evasion would be "setting up a sales company that does business with companies that apparently have no connection with the sales company, but in reality they are controlled entities, hiding the fact that a person owns a corporation in the company. a fiscal paradise" (Bârle, 2006). Sometimes, offshore companies are also used to hide money from illicit corporation / firm.

However, considering fiscal paradise as a means of producing tax fraud is a bit exaggerated. This statement is based on the fact that "tax fraud is sanctioned financially and criminally, while taxpayers who use the advantages offered by these territorial entities are not sanctioned" (Naylor, 1987). Therefore, it is fairer to argue that the tax haven is a means, an instrument for international tax evasion by taxpayers seeking more favorable tax treatment.

IMF Statistics "estimates the financial sources in offshore jurisdictions, at about $ 5.8 trillion. The competition between the approximately 7,000 offshore service providers will be

so tight that companies that have not had time to build a solid and lasting reputation will have to abandon the fight (about 2,000 have given up until 2010 and this aspect is in progress, according to expert estimates (Diamond and Diamond, 2003).

4 Conclusions

Entrepreneurs who turn their attention to offshore are basically pursuing two things:

- tax exemption, reduction or deferral;
- ensuring the protection of wealth and confidentiality.

Both goals are somewhat independent of one another. Some offshore companies effectively pursue tax reduction purposes, others serve as shields for a certain portion of their owners' assets. But more often, both goals coincide and complement each other.

An offshore company is a very flexible corporate entity. As such it can be integrated into a wide range of business arrangements. Low tax and increased privacy are just two of the main benefits that can be gained through proper offshore company application. However, it would be wrong to believe that an offshore company registered in a tax-free jurisdiction is above all the complicated tax regulations in force in high-tax jurisdictions. Contrary to popular opinion, having an offshore company itself does not absolve its owner of all personal tax obligations in his country of origin. Smart use of an offshore company, however, can completely reduce, defer or eliminate some taxes that would otherwise have been payable for its business.

Offshore companies can be used to reduce the profit of parent companies located in high tax areas and to transfer these profits to offshore companies. For example, the parent company sells certain offshore goods at a minimum price, and the offshore company finalizes contracts for the sale of these goods at a higher price. The parent company, due to the minimum price, will have a lower profit and as a result, the income tax will decrease considerably. Through these transactions the offshore company will make a serious profit.

The use of offshore investment companies provides more options in choosing investment objectives, which allows the investor to focus on the most advantageous projects or to select the areas that offer high potential returns. Moreover, it guarantees the confidentiality of the completed transactions between the company and its customers. By investing in favorable conditions for an offshore company, it is possible to transfer the available foreign currency resources without violating the laws of monetary and fiscal circulation.

Being the owner of an offshore credit company, it offers the opportunity to carry out an advantageous credit policy, minimizing the taxes on the loans granted and the borrowed funds and improving the financial and credit services offered to the clients. In addition, through an offshore company, high interest loans can be granted to a company located in an area with higher taxes, thus allowing the transfer of foreign currency resources to a third country, without violating the fiscal and monetary circulation laws, and the reduction or even the exemption from the payment of the tax on the profit obtained in a country with high taxation.

Offshore companies can be used to minimize joint venture taxes. In this case, the same citizen is the owner and manager of both companies (offshore), one local and one abroad, which jointly set up the joint venture. This creates the possibility to transfer, in a third country, the profit of the foreign company in the form of non-taxable dividends. Later, the money can be returned to the country where the joint venture is registered (in the form of investments and privileged loans).

The practical implementation of an offshore strategy will almost always be confronted with some anti-evasion laws that may be in force in the country where the beneficiary owner lives or operates. In the case of offshore companies, the laws in the offshore jurisdiction will

generally have to be taken into account with the laws and regulations of other countries, especially the countries where the offshore company will have sales, contracts and goods.

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FINANCIAL EFFECTS DUE TO PERCEPTION RISK ON THE JOURNEY INTENTIONS DURING CRISIS IN ROMANIA

Ion Gr. Ionescu[1]

Abstract

This study was conducted in November 2008 and it examined the relationship, between perceived risk and travel intentions, among young residents in the Constantza city area during the period of crisis. The study found that intentions to take a pleasure trip in the next 12 months (at the time of the survey) were related to safety concerns, perceived social risk, travel experience and money income. Data for this study were obtained through a survey of households in the Constantza city area. Travel intention, the dependent variable, was measured by asking respondents if they intended to take a pleasure trip in the next 12 months. A set of risks, like financial risk, health risk, physical risk, crime risk, terrorism risk, social risk, psychological risk and risk of natural disasters, was introduced as independent variable. Examining risk perceptions, risk factors and variables, travel experience emerged as the most significant predictor of travel intentions and suggests that past experience might override one's perception of risk. Results from the study hold potential for better understanding risk perceptions and their impact on travel behavior and on the marketing of travel services, during periods of uncertainty as during crisis.

Keywords: social risk, travel experience, marketing, travel services, risk perception

JEL Codes – G40

1 Introduction

Travel and tourism are the world's largest industries and also represent the top three industries in many countries. International tourism is concentrated in Europe 50%, 20% America, East Asia 15% Africa 3%, Middle East 2% and South Asia less than 1%. The main countries issuing travel are Germany, USA, France, Canada, Holland, Belgium, Luxembourg, Italy, Japan, and Switzerland. As countries receiving tourists one could name: France, Spain, USA, Italy, China, Hungary, Mexico, Poland and Austria.

"Arrivals in the establishments of tourists' reception in June 2018 amounted to 1.208 million people, of which 75.7% were Romanian tourists and 24.3% foreigners - 74.1% of the latter being Europeans.

The overnight stays in the tourist accommodation facilities in June 2018 amounted to 2.7 million, of which 79.3% were Romanians and 20.7% were foreigners - 71.8% of the latter were Europeans.

The average length of stay, in June 2018, was 2.3 days for Romanian tourists and 1.9 days for foreign tourists.

Moreover, in June 2018, arrivals of foreign visitors to Romania totaled 1.132 million, 3.1% more than in June 2017. Of this total, 43.8% came from the European Union, from countries such as Bulgaria, Hungary, Germany, Great Britain or France.

And the departures of Romanian visitors abroad were in June 2018, higher than in the same period last year, with 4.6%, totaling 1.894 million.

Between January 1 and June 30, 2018, arrivals in tourist accommodation establishments were 4.1 percent higher than in the same period last year, amounting to 5.264 million. And the overnight rate increased by 2.5%, totaled 10,360 million. The average length of stay during this time period was 2 days for Romanian tourists and 1,9 days for foreign tourists" (Ionescu, 2018).

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2 Options of our time

The ability to tolerate (or perhaps even enjoy) risk varies between individuals. The same set of circumstances produce excitement in one individual but fear in another. The perception of the likelihood of a risk being realized, and assessment of its consequences, also varies between individuals.

The extremely personal nature of risk perception affects an individual's perception of what constitutes an adventurous experience.

Specialty literature has focused on risk factors for tourism. These risk factors are: „war and political instability, health, social factors, crime, terrorism and natural disasters".(Myron F. and all, 2003)

Out of these risks, terrorist attacks and political instability have the most influence on travel intentions (Sömez and Graefe, 1998). Sömez suggests that even experienced travelers when faced with the risks of terrorism tend to generalize the problem to other countries in that region and choose safer alternatives.

In the last couple of years, the influence of natural disasters on travel intentions was carefully studied (Faulkner, 2001; Mazzocchi and Montini, 2001).

The first studies conducted to identify risks associated with travel intentions were based on consumer behavior models. Un american author, analyzed these „types of risks: financial, physical, psychological, social and factors related to satisfaction, time and security" (Brooker 1983)

3 Data and methods

Data for this study were obtained through a survey regarding risk perception and the effects of risks on travel intentions for the following 12 months. The survey was conducted in December 2018, on 175 Constanta residents, with ages between 20 and 50.

4 Measures

Intent to travel in the next 12 months from the time of the survey, was measured considering risk perception tied to travel intentions, but also, the number of trips estimated, both in the country and abroad.

The answers were marked 0 for NO and 1 for YES.

As independent variables, 4 sets of questions were used, each for the following factors: the risk of the trip itself to the destination, the risks at the destination, personal safety and the preference for international or local travel. Each question had 4 possible answers: never, rarely, often and always.

To measure their perceptions of risk associated with travel, the people that took part in the survey were asked to consider 8 types of risks: financial, health, physical, crime, and terrorism, social, psychological and natural disasters.

5 Findings

The people who took the survey were 32% male and 68% female.

Table no. 1

Number of trips in relation to income (€)

Monthly Income [€]	**<300**	**300-400**	**300-400**
Number	80	68	27
Percent	45,7	38,8	15,5
Estimated number of local trips	120	136	14
Estimated number of international trips	33	45	15

Table no. 2

Number of trips in relation to age

Age	20-25	25-30	30-40	40-45
Number	40	55	47	33
Percent	22,8	31,5	26,7	18,8
Estimated number of local trips	40	55	125	26
Estimated number of international trips	8	66	54	8

Analysing Table nr. 1 we find that domestic travel is preferred on a ratio of 3:1 with international travel. Analysing Table nr. 2 we find that people with ages raging from 30 to 40 travel the most and that those with ages between 25 and 30 prefer international travel.

6 Risk Perceptions

The analysis of the factors used to measure risk is shown in Table 3.

Statements reflecting feelings of comfort and anxiety about travel were labeled *travel risk* and constituted factor 1.

Factor 2 contained statements indicating *destination risk.*

Factor 3 appeared to reflect concerns about *safety concerns* as an attribute of travel decision making.

Factor 4 consists of an item seemed to tap risk in international versus domestic travel.

To analyse and quantify risk perception we suggest using a set of analytic variables:

$$I1 = \frac{TR - TR_{accepted}}{TR_{accepted}};$$

$$I2 = \frac{DR - DR_{accepted}}{DR_{accepted}};$$

$$I3 = \frac{SC - SC_{accepted}}{SC_{accepted}}$$

and a synthetic variable:

$$I_{RP} = \sum I_i \cdot pi$$

where: TR – is an average of the respondents' answer to factor 1

$TR_{accepted}$ – is an average of the answers of the respondents who chose the „rarely" option;

I_{PR} - is the synthetic variable of risk perception and „p" is the probability of that event actually occurri

Tabel no. 3

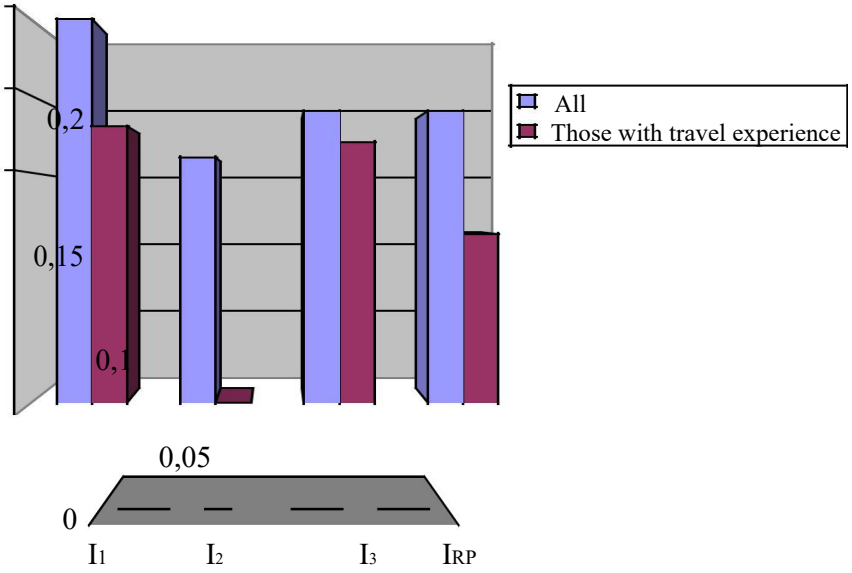
The analysis of the factors used to measure risk perception

Travel risk	Never	Rarely	Often	Always	Respond	Media
1 I feel nervous traveling right now	128	40	7	0	175	1,31
2 Traveling is risky now	14	121	20	20	175	2,26
3Because of terrorism large theme parks should be avoided	7	60	20	88	175	3,06
4 I would feel very comfortable traveling right now	0	13	60	101	175	3,49
5 I would rather travel by plane	47	80	5	43	175	2,23
6 I would rather travel by train	13	87	28	47	175	2,60
7 I would rather travel by car	0	22	77	76	175	3,30

Travel risk	Never	Rarely	Often	Always	Respond	Media
Destination Risk						
1 Travel to natural areas such as national parks is not risky	21	116	30	8	175	2,14
2 Trips to natural area scenic attraction are safe light now	21	107	40	7	175	2,17
3 Vocation travel is perfectly safe	20	19	98	38	175	2,88
4. Visiting art galleries / museums are safe tourist activities	46	47	34	49	175	2,49
Safety concerns						
1. Safety is most important attribute o destination can offer	0	7	20	148	175	3,80
2 Safety is a serious consideration when choosing a travel destination	7	13	34	121	175	3,53
3 Additional security measures at airports make traveling safe	0	7	13	155	175	3,851
International versus domestic travel						
1. International travel is just as safe as domestic travel	0	32	93	50	175	3,10

Figure no. 1

The values of the analythic and synthetic variables



The probabilities were measured by analysing data, from only one survey. By doing more surveys the accuracy of the probabilities may increase.

Figure no. 1 shows the values of the analytic and synthetic variables for all the respondents and for the ones with travel experience. and for the ones with travel experience.

7 Discussions and conclusions

The objective of this study was to examine the effect of perceived risk on travel intentions in the next 12 months. This study identified three factors associated with perceived risk towards travel. Examining risk perceptions, risk factors and mediating variables as predictors of travel intensions revealed that only four items were significant predictors of the

intention to travel in the next year. Travel experience emerged as the most significant predictor of travel intentions.

8 Conclusions

Travelers' concern about safety has been felt in every sector of the industry. Understanding traveler's risk perception and its relationship to travel intention has a number of benefits to marketers in the various sectors. The results of this study suggest that money income, past air travel experience, perceived safety concerns and perceived social risks were the best predictors of intentions to travel (in the next 12 months). The results suggest that strategies to decrease perceptions of risk might only exist for two of these predictors: safety concerns and social risk. One strategy to mitigate safety concerns and perceived social risk is through persuasive advertising techniques.

"Therefore, more experienced travelers may be less focused on safety than less experienced travelers. Spending associated with domestic travel is also substantial. Information about the effects of perceived risk and its effect on travel intentions has the potential to contribute to marketing strategies to counter losses associated with perceptions of risk". (Ion-Bocanete, 2012)

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THE IMPORTANCE OF CONTINUING GROWTH FOR THE EMERGING AND DEVELOPING COUNTRIES – PRESENT AND PERSPECTIVES

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Abstract

The global economy is facing in the past years diffrent paths of growth in the advanced economies and emerging and developing economies. Slow growth, high global uncertainty and perceptions of a lack of equality of opportunity should prompt policy makers to act in order to revive the global economy. Adressing domestic reforms, as this paper present from the economic outlook analysis of the International Monetary Found and other organisations, is the necessary condition for making the most of megatrends - like globalisation, digitalisation, population ageing and environmental degradation - and requires gouvernments to carrefully select, prepare, prioritise and implement structural reforms.

Keywords: growth, reforms, economic policies, emerging and developing economies

JEL Classification: O, O40, O47

1. A short analysis of the global growth in 2018 and the beginning of 2019

Global growth has fallen sharply over the past year. Between economies the situation has different causes. On one hand, advanced economies had their weakening been broad based, affecting major economies (the United States and especially the euro area) and smaller Asian advanced economies. Even more pronounced was the slowdown in activity across emerging market and developing economies, including Brazil, China, India, Mexico, and Russia.

Over the past year has been a geographically broad-based slowdown in industrial output driven by multiple and interrelated factors, such as:

- A sharp downturn in car production and sales, which saw global vehicle purchases decline by 3 percent in 2018. The automobile industry slump reflects both supply disruptions and demand influences—a drop in demand after the expiration of tax incentives in China; production lines adjusting to comply with new emission standards in the euro area (especially Germany) and China; and possible preference shifts as consumers adopt a wait-and-see attitude with technology and emission standards changing rapidly in many countries, as well as evolving car transportation and sharing options.
- Weak business confidence amid growing tensions between the United States and China on trade and technology. As the reach of US tariffs and retaliation by trading partners has steadily broadened since January 2018, the cost of some intermediate inputs has risen, and uncertainty about future trade relationships has ratcheted up. Manufacturing firms have become more cautious about long-range spending and have held back on equipment and machinery purchases. This trend is most evident in the tradeand global-value-chain-exposed economies of east Asia. In Germany and Japan, industrial production was recently lower than one year ago, while its growth slowed considerably in China and the United Kingdom and, to some extent, in the United States;
- about the production of capital goods, we saw a slowdown in demand in China, driven by needed regulatory efforts to rein in debt and exacerbated by the macroeconomic consequences of increased trade tensions. With the slowdown in industrial production, trade growth has come to a near standstill. In the first half of 2019, the volume of global trade stood just 1 percent above its value one year ago—the slowest pace of

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growth for any six-month period since 2012. From a geographical standpoint, major contributors to the weakening in global imports were China and east Asia (both advanced and emerging) and emerging market economies under stress.

- Downturns in global trade are related to reduced investment spending—as was the case, for instance, in 2015–16. Investment is intensive in intermediate and capital goods that are heavily traded.
- The front-loading of exports, before tariffs were imposed in late 2018, likely also played a role by bringing forward demand for import components. For example, global semiconductor sales declined in 2018, in part related to seeming market saturation in smartphones and fewer launches of new tech products more broadly.
- While manufacturing lost steam, services (a larger share of the economy) broadly held firm. Resilient services activity has meant steady aggregate employment creation, which supported consumer and, in turn, household spending on services. This favorable feedback cycle between service sector output, employment, and consumer confidence has supported domestic demand in several advanced economies.

Weakening growth in the advanced economy group stabilized in the first half of 2019, after a sharp decline in the second half of 2018. The main countries reacted differently:

- The US economy shifted to a somewhat slower pace of expansion (about 2 percent on an annualized basis) in the past few quarters as the boost from the tax cuts of early 2018 faded;
- the UK economy slowed, with investment held back by Brexit-related uncertainty;
- The euro area economy registered stronger growth in the first half of this year than in the second half of 2018, but the German economy contracted in the second quarter as industrial activity slumped. In general, weak exports have been a drag on activity in the euro area since early 2018, while domestic demand has, so far, stayed firm;
- Japan posted strong growth in the first half of this year, driven by robust private and public consumption. Preliminary data suggest a modest pickup in growth in the first half of 2019;

The emerging market and developing economy group were well below its pace in 2017 and early 2018:

- China's growth was lifted by fiscal stimulus and some easing of the pace of financial regulatory strengthening initiated in the second half of 2018;
- India's economy decelerated further in the second quarter, held back by sector-specific weaknesses in the automobile sector and real estate as well as lingering uncertainty about the health of nonbank financial companies;
- In Mexico, growth slowed sharply during the first half of the year owing to elevated policy uncertainty, budget under-execution, and some transitory factors;
- growth resumed in the second quarter in Brazil after a first-quarter contraction driven in part by a mining disaster;
- likewise, growth recovered modestly in the second quarter in South Africa, helped by improved electricity suppl;
- growth recovered in Turkey in the first half of the year following a deep contraction in the second half of 2018, benefiting from more favorable global financial conditions and fiscal and credit support;
- in contrast, the contraction in Argentina continued through the first half of the year, albeit at a slower pace, and risks going forward are clearly to the downside due to the sharp deterioration in market conditions.

Projected growth for 2019, at 3.0 percent, is the weakest since 2009. Except in sub-Saharan Africa, more than half of countries were expected to register per capita growth lower than their median rate during the past 25 years. The marked deceleration reflects carryover

from broad-based weakness in the second half of 2018, followed by a mild growth uptick in the first half of 2019 and supported, in some cases, by more accommodative policy stances (such as in China and, to some extent, the United States). With growth estimates for both the second half of 2018 and the first half of this year marked down, the 2019 growth projection is 0.3 percentage point weaker than in the April 2019 WEO.

Continued macroeconomic policy support in major economies and projected stabilization in some stressed emerging market economies are expected to lift global growth modestly over the remainder of 2019 and into 2020, bringing projected global growth to 3.4 percent for 2020. The forecast markdown of 0.2 percentage point for 2020 relative to the April 2019 WEO largely reflects the fact that tariffs have risen and are costing the global economy: following tariff announcements in May and August 2019, the average US tariff on imports from China will rise to just over 24 percent by December 2019 (compared with about 12¼ percent assumed in the April 2019 WEO), while the average China tariff on imports from the United States will increase to about 26 percent (compared with about 16½ percent assumed in the April 2019 WEO).

2. Reforms for growth in the emerging and developing economies

After slowing sharply in the last three quarters of 2018, the pace of global economic activity remains weak. Momentum in manufacturing activity, in particular, has weakened substantially, to levels not seen since the global financial crisis. Rising trade and geopolitical tensions have increased uncertainty about the future of the global trading system and international cooperation more generally, taking a toll on business confidence, investment decisions, and global trade. A notable shift toward increased monetary policy accommodation—through both action and communication—has cushioned the impact of these tensions on financial market sentiment and activity, while a generally resilient service sector has supported employment growth. That said, the outlook remains precarious.

Emerging markets and developing economies have enjoyed good growth over the past two decades. But many countries are still not catching up with the living standards of advanced economies.

At current growth rates, it would take more than 50 years for a typical emerging market economy to close half of its current income gap in living standards, and 90 years for a typical developing economy.

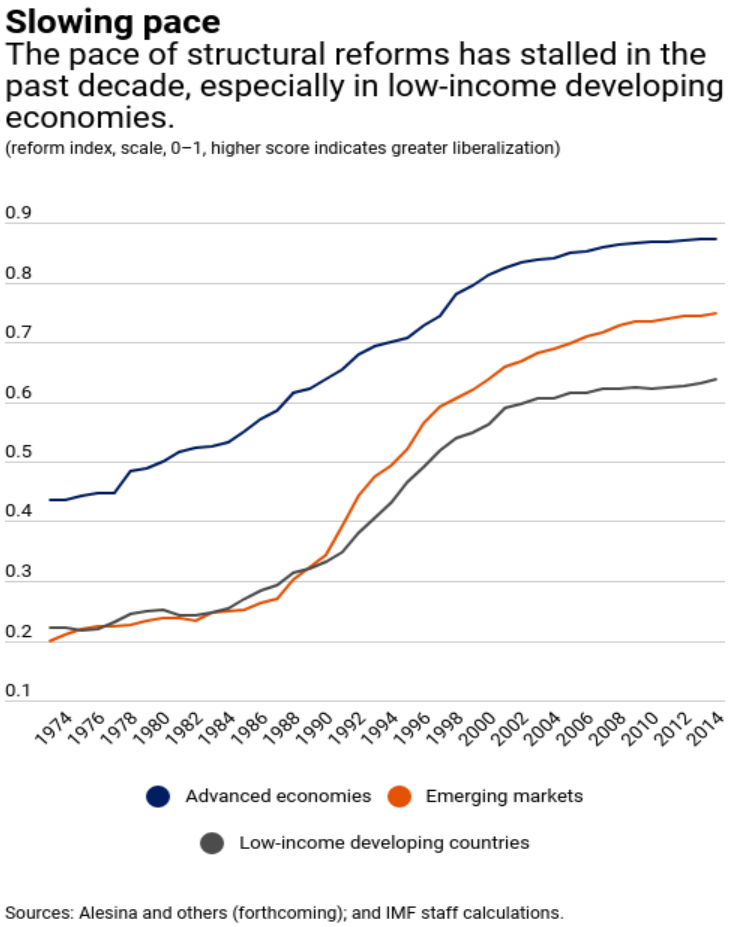
Based on the World Economic Outlook, October 2019, the emerging and developing countries must implement major reforms in six key areas at the same time—domestic finance, external finance, trade, labor markets, product markets, and governance— so they can double the speed of income convergence of the average emerging market and developing economy to the living standards of advanced economies. This could raise output levels by more than 7 percent over a six-year period.

Policies that change the way governments work—known as structural reforms—are difficult to measure. They often involve policies or issues that are not easy to quantify, such as job protection legislation or the quality of supervision of the domestic banking system.

To address this, the IMF recently developed a comprehensive dataset covering structural regulations in domestic and external finance, trade, and labor and product markets. The data cover a large sample of 90 advanced and developing economies during the past four decades. To the five indicators, we added the quality of governance (for example, how countries control corruption) from the World Governance Indicators.

The new indicators show that, after the major wave of reforms in the late 1980s and—most importantly—the 1990s, the pace slowed in emerging market and developing economies during the 2000s, especially in low-income developing countries (see Figure 1).

Figure 1



While this slowdown reflects the prior generation of reforms, as in advanced economies, there remains ample room for a renewed reform push, particularly in developing economies—notably, across sub-Saharan Africa and, to a lesser extent, in the Middle East and North Africa and the Asia-Pacific region.

For the average emerging market and developing economy, the results imply that major simultaneous reforms across all six areas considered can raise output by more than 7 percent over a six-year period. This would increase annual per capita GDP growth by about 1 percentage point, doubling the average speed of income convergence to advanced-country levels.

One channel through which reforms increase output is by reducing informality. For example, lowering barriers to businesses' entry in the formal sector encourages some informal companies to become formal. In turn, formalization boosts output by increasing companies' productivity and capital investment. For this reason, the payoff from reforms tends to be larger where informality is pervasive.

Some reforms work best when the economy is strong. In good times, reducing layoff costs makes employers more willing to hire new workers, while in bad times it makes them more willing to dismiss existing ones, magnifying the effects of a downturn. Similarly,

increasing competition in the financial sector at a time of weak credit demand may push certain financial intermediaries out of business, further weakening the economy.

In countries where the economy is weak, governments may prioritize reforms—such as strengthening product market competition—that pay off regardless of economic conditions, design others to alleviate any short-term costs—such as enacting job protection reforms now with a provision that they will take effect later. These reforms can also be accompanied with monetary or fiscal policy support where possible.

Reforms also work best if properly packaged and sequenced. Importantly, they typically deliver larger gains in countries where governance is stronger. This means that strengthening governance can support economic growth and income convergence not just directly by incentivizing more productive formal enterprises to invest and recruit, but also indirectly by magnifying the payoff from reforms in other areas.

Finally, to fulfill their promise of improving living standards, reforms must be supported by redistributive policies that spread the gains widely across the population—such as strong social safety nets and programs that help workers move across jobs. For reforms to be sustainable and therefore effective, they need to benefit not just some, but all.

3. Growth Forecast for Emerging Market and Developing Economies

Growth in the emerging market and developing economy group is expected to bottom out at 3.9 percent in 2019, rising to 4.6 percent in 2020. The forecasts for 2019 and 2020 are 0.5 percentage point and 0.2 percentage point lower, respectively, than in April, reflecting downward revisions in all major regions except emerging and developing Europe.

• Emerging and Developing Asia remains the main engine of the world economy, but growth is softening gradually with the structural slowdown in China. Output in the region is expected to grow at 5.9 percent this year and at 6.0 percent in 2020 (0.4 and 0.3 percentage point lower, respectively, than in the April 2019 WEO forecast). In China, the effects of escalating tariffs and weakening external demand have exacerbated the slowdown associated with needed regulatory strengthening to rein in the accumulation of debt. With policy stimulus expected to continue supporting activity in the face of the adverse external shock, growth is forecast at 6.1 percent in 2019 and 5.8 percent in 2020—0.2 and 0.3 percentage point lower than in the April 2019 WEO projection. India's economy is set to grow at 6.1 percent in 2019, picking up to 7 percent in 2020. The downward revision relative to the April 2019 WEO of 1.2 percentage points for 2019 and 0.5 percentage point for 2020 reflects a weaker-than-expected outlook for domestic demand. Growth will be supported by the lagged effects of monetary policy easing, a reduction in corporate income tax rates, recent measures to address corporate and environmental regulatory uncertainty, and government programs to support rural consumption.

• Subdued growth in emerging and developing Europe in 2019 largely reflects a slowdown in Russia and flat activity in Turkey. The region is expected to grow at 1.8 percent in 2019 and 2.5 percent in 2020. The upward revision to 2019 growth relative to the April 2019 forecast reflects a shallower-than-expected downturn in Turkey in the first half of the year as a result of fiscal support. In Russia, by contrast, growth has been weaker this year than forecast in April, but is projected to recover next year, contributing to the upward revision to projected 2020 growth for the region. Several countries in central and eastern Europe, including Hungary and Poland, are experiencing solid growth on the back of resilient domestic demand and rising wages.

• In Latin America, activity slowed notably at the start of the year across the larger economies, mostly reflecting idiosyncratic factors. Growth in the region is now expected at 0.2 percent this year (1.2 percentage point lower than in the April 2019 WEO). The sizable downward revision for 2019 reflects downgrades to Brazil (where mining supply disruptions have hurt activity) and Mexico (where investment remains weak and private consumption has

slowed, reflecting policy uncertainty, weakening confidence, and higher borrowing costs). Argentina's economy is expected to contract further in 2019 on lower confidence and tighter external financing conditions. Chile's growth projection is revised down, following weaker-than-expected performance at the start of the year. The deep humanitarian crisis and economic implosion in Venezuela continue to have a devastating impact, with the economy expected to shrink by about one-third in 2019. For the region as a whole, growth is expected to firm up to 1.8 percent in 2020 (0.6 percentage point lower than in the April forecast). The projected strengthening reflects expected recovery in Brazil (on the back of accommodative monetary policy) and in Mexico (as uncertainty gradually subsides), together with less severe contractions for 2020 compared to this year in Argentina and Venezuela.

• Growth in the Middle East and Central Asia region is expected to be 0.9 percent in 2019, rising to 2.9 percent in 2020. The forecast is 0.9 and 0.4 percentage point lower, respectively, than in the April 2019 WEO, largely due to the downward forecast revision for Iran (owing to the effect of tighter US sanctions) and Saudi Arabia. While non-oil growth is expected to strengthen in 2019 on higher government spending and confidence, oil GDP in Saudi Arabia is projected to decline against the backdrop of the extension of the OPEC+ agreement and a generally weak global oil market. The impact on growth of the recent attacks on Saudi Arabia's oil facilities is difficult to gauge at this stage but adds uncertainty to the near-term outlook. Growth is projected to pick up in 2020 as oil GDP stabilizes and solid momentum in the non-oil sector continues. Civil strife in some other economies, including Libya, Syria, and Yemen, weigh on the region's outlook.

• In sub-Saharan Africa, growth is expected at 3.2 percent in 2019 and 3.6 percent in 2020, slightly lower for both years than in the April 2019 WEO. Higher, albeit volatile, oil prices earlier in the year have supported the subdued outlook for Nigeria and some other oil-exporting countries in the region, but Angola's economy—because of a decline in oil production—is expected to contract this year and recover only mildly next year. In South Africa, despite a moderate rebound in the second quarter, growth is expected to be weaker in 2019 than projected in the April 2019 WEO following a very weak first quarter, reflecting a larger-than-anticipated impact of labor strikes and energy supply issues in mining, together with weak agricultural production. While the three largest economies of the region are projected to continue their lackluster performance, many other economies—typically more diversified ones—are experiencing solid growth. About 20 economies in the region, accounting for about 45 percent of the sub-Saharan African population and 34 percent of the region's GDP (1 percent of global GDP), are estimated to be growing faster than 5 percent this year while growth in a somewhat larger set of countries, in per capita terms, is faster than in advanced economies.

Over the medium term, growth for the emerging market and developing economies group is projected to stabilize at about 4.8 percent, but with important differences across regions. In emerging and developing Asia, it is expected to remain at about 6 percent through the forecast horizon. This smooth growth profile rests on a gradual slowdown in China to 5.5 percent by 2024.

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ROMANIAN BANKING INDUSTRY IN THE GLOBAL CONTEXT

Daniela, Haranguş[1]

Abstract

In a context characterized by global uncertainties, the role of central banks in implementing macro-prudential policies has increased. After the global financial crisis, appeared the necessity for the adoption of measures to strengthen the financial stability. The high degree of uncertainty was represented by: the measures to strengthen the monetary policy in the USA, the coordinates of the international trade, the dynamics of the Chinese economy, and also by the progress of Brexit. In the international context of the year 2018, the world economy moderated its growth by 0.2 percentage points, up to 3.6%.

This research aims, in the context of macro-prudential policy priorities, to analyze the developments and performances registered in the Romanian banking industry. It is also analyzed the dynamic evolution over the period 2017-2019, and the composition of the Romanian banking system by forms of ownership. It is also presented the evolutions of the market shares of credit institutions, in dynamics and structure, as well as the aggregate indicators of these credit institutions operating in the Romanian banking system. The development of the Romanian banking industry allowed the sustainable economic growth.

Keywords: *Romanian banking industry, global context, credit institutions, financial stability*

JEL Classification: G21, G28

1. Introduction

The globalization of the world economy has increased the role and importance of credit institutions. European dynamics in a changing world are also reflected by the development of the banking industry in the European monetary area. After the global financial crisis, appeared the necessity for the adoption of measures to strengthen the financial stability.

In 2018, the world economy moderated its growth by 0.2 percentage points to 3.6 %.

The international context was characterized by the increase of uncertainty on a global level.

The main determinants of the higher degree of uncertainty were represented by:

- the measures to strengthen the monetary policy in the USA;
- the coordinates of the international trade;
- the dynamics of the Chinese economy;
- the progress of Brexit.

In this global context, International Monetary Fund, based on the Financial Sector Assessment Program (FSAP), implemented during 2017-2018, has introduced a series of requirements regarding the monitoring of the net stable financing indicator on the components specific to the significant currencies (lei and euro), as well as the liquidity indicator differentiated according to the denomination currency.

According to the prudential framework, available in European Union and directly applicable at national level, credit institutions must have the following minimum own funds requirements:

- 8 percent for total capital ratio;
- 6 percent for Tier 1 capital ratio;
- 4.5 percent for Common Equity Tier 1 capital ratio.

The requirements are in accordance with 92 article of UE Regulation no. 575/2013, of the European Parliament and of the Council. These prudential requirements for credit institutions and investment companies change UE Regulation no. 648/2012.

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In 2018, the credit institutions registered an adequate level of solvency indicators, located above the capital requirements. Total own funds of the credit institutions, Romanian legal entities, registered at the end of 2018, an increase of 10.9% compared to the same period of the previous year. The main indicators of analysis of the banking system show the performances registered in the Romanian banking industry.

The general prudential requirements for credit institutions are supplemented by individual measures that the National Bank of Romania, as competent authority, can establish.

The prudential indicators registered by Romanian banking industry had a positive overall evolution in 2018, the levels registered by them could be considered adequate from the perspective of the regulated requirements.

Implementation of the new accounting standard IFRS 9, from January 2018, generated an increase in banks' pro-activity in recognizing expected losses for the performing loans category. The quality of assets improved in 2018 and the main indicators were located within the ranges set by the European Banking Authority, which did not concern a high risk.

Expected credit losses are classified into three different stages of impairment (NBR, Annual Report 2018, p. 135):

► *Stage 1* – expected losses for the next 12 months, when the financial instrument is initially recognised or when its credit risk is low;

► *Stage 2* –expected losses for the entire life of the financial instrument whose credit risk has significantly increased, but does not have objective evidence of impairment;

► *Stage 3* – expected losses for the entire life of the financial instrument which has objective evidence of impairment.

As a result of this approach, the share of provisions for non-performing loans has diminished, especially as a result of the write-off or sale of the loans.

This research aims, in the context of macro-prudential policy priorities, to analyze the developments and performances registered in the Romanian banking industry. It is also analyzed the dynamic evolution over the period 2017-2019, and the composition of the Romanian banking system by forms of ownership. It is also presented the evolutions of the market shares of credit institutions, in dynamics and structure, as well as the aggregate indicators of these credit institutions operating in the Romanian banking system. The development of the Romanian banking industry allowed the sustainable economic growth.

In the literature review, the issue regarding performance and systemic risks faced by the banking industry, as well as the contagion effects are treated in full. The literature shows various conclusions on the banking risks in the Romanian banking system. For instance, Imbierowicz and Rauch (2014), analyze a large number of studies revealing the relationship between liquidity risk and credit risk in banks. Hainz and Kleimeier (2012), analyse the relationship between political risk, project finance, and the participation of development banks in syndicated lending.

This paper analyzed in details the aggregate indicators for credit institutions, especially the indicators of bank profitability.

2. Materials and methods

In analyzing the Romanian banking industry in the global context, the evolution and performance of the Romanian banking system, of their market shares and the main aggregate indicators registered by credit institutions, were used the indicators reported by the National Bank of Romania. The reports made by the National Bank of Romania target both financial stability, as well as prudential supervision of the entire Romanian banking system.

The research methods used are: classification, comparison, definition and scientific observation, description, analysis, synthesis, induction and deduction, conceptualization, scientific generalization and abstraction.

In this research we analyzed the composition of the banking system by forms of ownership, in dynamic and structure. In dynamic, the research horizon is the period of 2017-2018, according to the data provided by the National Bank of Romania. In structure, are highlighted credit institutions, Romanian legal entities, with fully or majority state capital, or private capital, as well as the branches of credit institutions, foreign legal entities. We have analyzed the market shares of credit institutions, depending on the net assets and their main aggregate indicators.

In this research it is also presented the dimension and evolution of credit institutions as a share in aggregate capital (share/endowment capital), in the period of 2017-2018.

The main source of the banking indicators presented is the Annual Report for 2018, of National Bank of Romania.

3. Results and discussions

The financing of the Romanian banking sector continues to be provided mainly by the sources attracted from the internal market. The territorial network of credit institutions continued to shrink even in 2018, with a number of 215 branches and banking agencies being closed, while the number of employees in the system decreased by 1,307 persons.

The structure of the Romanian banking system was dominated in 2017-2018 by credit institutions with majority private foreign capital.

By analyzing the composition of the banking system by ownership, during the years 2017-2018, it can be observed the high share of credit institutions, Romanian legal entities, with majority private (foreign) capital of total credit institutions. This share is 62.9% in 2017 and 61.8% in 2018. Also, it can be noticed the low share of branches of foreign credit institutions (foreign legal entities), in total credit institutions, respectively of approximately 20%. It is interesting to note that, during the period 2012-2014 the total number of credit institutions was 40. In 2017-2018 the number of credit institution was 34, so it has decreased with 15%.

The composition and evolution of the banking system by ownership, during the years 2017-2018, are presented in the following table:

Table no. 1

Composition of the banking system by forms of ownership

- number of banks, end of period -

Credit institutions	2017	2018
A. Credit institutions, Romanian legal entities, of which:	28	27
- Credit institutions with fully or majority state capital	2	2
- Credit institutions with majority private capital, of which:	26	25
• with majority domestic capital	4	4
• with majority foreign capital	22	21
B. Branches of foreign credit institutions	7	7
Total credit institutions (A+B)	**35**	**34**

Source: National Bank of Romania - Annual Report 2018, p. 129.

At the end of 2018, the number of credit institutions with majority foreign private capital dropped from 22 to 21, following the merger by absorption between Banca Transilvania S.A. (the absorbing entity) and Bancpost S.A. (the absorbed entity). Size and structure of the banking sector were marked by significant merger operations, but also by sales of portfolios and share packages of banks, which contributed to a greater consolidation of the Romanian banking industry.

The market shares of credit institutions, depending on net assets are presented in the table below:

Table no. 2

Market share of credit institutions (Net assets)

- End of period -

Credit institutions	2017		2018	
	Million Lei	%	Million Lei	%
Credit institutions with domestic capital, of which:	98,477.5	23.0	112,892.7	25.0
– with majority state-owned capital	37,244.3	8.7	36,548.7	8.1
– with majority private capital	61,233.2	14.3	76,344.0	16.9
Credit institutions with majority foreign capital	282,459.4	66.0	287,044.8	63.6
I. Credit institutions, Romanian legal entities	380,936.9	89.0	399,937.5	88.6
II. Branches of foreign credit institutions	46,855.7	11.0	51,232.2	11.4
Total credit institutions with majority private capital, including branches of foreign credit institutions	390,548.3	91.3	414,621.0	91.9
Total credit institutions with majority foreign capital, including branches of foreign credit institutions	329,315.1	77.0	338,277.0	75.0
Total credit institutions (I+II)	**427,792.6**	**100.0**	**451,169.7**	**100.0**

Source: National Bank of Romania – Annual Report 2018, p. 130.

From the table above it is noted that the value of aggregate net assets grew slightly, by 5.5%, from 427,792.6 million Lei in December 2017, to 451,169.7 million Lei in December 2018. The market share of credit institutions with majority foreign capital narrowed from 66.0 % in 2017, to 63.6 % at the end of 2018. At the same time, the market share of credit institutions with majority domestic private capital widened from 14.3 % at 31 December 2017 to 16.9 % at the end of 2018. In this period, Marfin Bank S.A. made significant changes in its shareholding following the acquisition, in July 2018, of a direct holding of 99.54 % by the Cypriot company Barniveld Enterprises Limited. At the end of May 2019, Marfin Bank S.A. became Vista Bank S.A. At the same time, similar changes affected Piraeus Bank Romania S.A. J. C. Flowers group acquired, in June 2018, a 99.99 % holding of its share capital. Since October 2018, Piraeus Bank Romania S.A. has operated under the name First Bank S.A. The Romanian banking system also demonstrated its structural stability during 2018.

The structure and evolution of credit institutions as a share in aggregate capital (Share/Endowment capital) are presented in the following table:

Table no. 3

Credit institutions as a share in aggregate capital (Share/Endowment capital)

- End of period -

Credit institutions	2017		2018	
	Million Lei	%	Million Lei	%
Credit institutions with domestic capital, of which:	7,816.0	29.4	8,439.7	31.3
– with majority state-owned capital	3,081.0	11.6	3,261.2	12.1
– with majority private capital	4,735.0	17.8	5,178.5	19.2
Credit institutions with majority foreign capital	18,406.4	69.3	18,012.9	66.9
I. Credit institutions, Romanian legal entities	26,222.4	98.7	26,452.6	98.2
II. Branches of foreign credit institutions	336.5	1.3	472.7	1.8
Total credit institutions with majority private capital, including branches of foreign credit institutions	23,477.9	88.4	23,664.1	87.9
Total credit institutions with majority foreign capital, including branches of foreign credit institutions	18,742.9	70.6	18,485.6	68.7
Total credit institutions (I+II)	26,558.9	100.0	26,925.3	100.0

Source: National Bank of Romania – Annual Report 2018, p. 130.

The share of credit institutions, Romanian legal entities, in total credit institutions is 98.7 % in 2017 and 98.2 % in 2018 (as a share in aggregate capital). The branches of foreign credit institutions have a very small share, of approximately 1.8% in 2018.

The share of credit institutions with majority foreign capital in aggregate capital of the banking sector dropped from 69.3 % at 31 December 2017 to 66.9 % at 31 December 2018.

Dimension of credit institutions as a share in aggregate capital and the indicators presented in the table above, reflect the size and potential of the Romanian banking industry.

The evolution and performance of the Romanian banking industry is reflected in the aggregate indicators of credit institutions, presented in the following table (Table no.4):

Table no.4

Aggregate Indicators for Credit Institutions

	June 2018	December 2018	June 2019
Number of credit institution	35	34	34
Of which foreign bank's branches	7	7	7
Total net assets (RON Billions)	434.6	451.2	458.8
Assets of private-owned institutions (% in total assets)	91.7	91.9	91.9
Capital Adequacy Ratio (over 8 %)	20.09	20.71	19.60
Impaired loans (% in total loans)	2.42	1.96	1.89
Impaired loans (% in total assets)	1.34	1.08	1.07
Impaired loans (% in total debts)	1.49	1.21	1.19
Return on assets - ROA (%)	1.66	1.55	1.21
Return on equity – ROE (%)	15.71	14.58	11.28
Loan-to-Deposit Ratio (%)	75.22	73.64	74.69

Source: https://www.bnr.ro/Aggregate-Indicators-for-Credit-Institutions-3369.aspx (available on 15.11.2019).

Profitability is an important indicator of banks' competitiveness level and management quality. In terms of profitability, the financial result was higher than in the previous year, given that approximately 74 percent of the credit institutions ended 2018 with positive financial results. Banks conduct their business based on the profitability criterion. Commercial banks in Romania make a net profit depending on the specific risks they take, the restrictions imposed by the legislative framework, the general economic developments, their portfolio of banking products and services, the market share they hold etc.

The main indicators of bank profitability shown in Table no.4 are:

– ROA - Return on assets (Annualized net profit / Total average assets);

– ROE - Return on equity (Annualized net profit / Average own capital);

- Loan-to-Deposit Ratio, represents Loans granted to clients (gross value) / Deposits from clients, in %.

Total assets and Own capital for Leverage Ratio, ROA and ROE are calculated as averages.

From the table above it is noted that the value of total net assets grew from 434.6 RON Billions in June 2018, to 458.8 RON Billions in June 2019, with 5.6%. In 2018, the Romanian banking system reported a net profit of 6,827.5 million lei. In this year, 25 out of all 34 credit institutions recording positive net financial results. The financial performance at the system level was better than in the previous year, due to the increase of the operating profit and the reduction of the expenses with the adjustments for the depreciation. The structural analysis of the operating income, shows the prevalence of net interest income, which reached a 65.4 % at

the end of 2018. From the perspective of the determinants, the improvement of the remuneration of the bank capital was due to a more alert increase of the profit compared to that of the own equity at average value.

4. Conclusions

After the global financial crisis, appeared the necessity for the adoption of measures to strengthen the financial stability. In this context, the Romanian National Bank's role in implementing macro-prudential policies increased.

In 2018 financial stability remained solid and no severe systemic risk was identified.

The major high systemic risks were of external origin, referring mainly to the uncertainties regarding the economic activity in the European Union, i.e. Brexit and the sovereign debt situation in the euro area.

Return on assets and return on equity (ROA and ROE) also ended in 2018 at adequate, yet not excessive, levels of 1.6 % and 14.6 % respectively.

A substantial contribution to securing Romania's external credibility comes from the comfortable level of its international reserves, (i.e. EUR 36.8 billion at the end of 2018) and the gold stock (at around 104 tones).

In the global context, the reserve adequacy indicators staying within recommendable limits has enhanced the capacity of the Romanian economy to absorb potential adverse shocks on financial markets.

In this research, the analysis of the evolution of the Romanian banking system, of the components of its forms of ownership, the evolution of market shares of credit institutions, as well as of the main aggregated performance indicators, highlights the development of the Romanian banking industry, as well as its registered performances and vulnerabilities.

The development of the Romanian banking industry in the global context allowed the sustainable economic growth.

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RETAIL ACCOUNTING

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Abstract:*The starting point of this article was the importance that the stocks of goods have in the development of the economic entities' activity and from the particulars of bookkeeping of the retail price goods. The goods are one of the main components of the stocks. The retail stock method approximates the cost of the goods sold and it is often used in retail. In this method the cost of the inventories is calculated by deducting the gross margin from the sale price of the stocks. The retail stock method involves its own methodology for calculating the selling price of the goods, as well as for downloading from the inventory the value of the goods sold, a methodology which is analysed in this article.*

Keywords: *stocks, goods, purchase cost, commercial added value, retail price*

JEL classification: M41

1. Introduction

There are several issues related to the method of accounting for merchandise stocks at retail price, including:

- what are stocks?
- what are the goods?
- what is the use of the accounting method of goods at retail price?
- accounting method that involves using goods at retail price?

We shall try to answer all these questions below, as well as possible.

2. Literature

Given that in the trade activity the stocks, in general, and the commodities, in particular, occupy a central place, their accounting is a common topic in the literature. Regarding their definition we will only review the approach in terms of national and international accounting rules.

IAS 2 "Inventories" define stocks as active:

- held for sale during the normal course of the business activity;
- under production for such sale; or
- as types of materials or supplies to be used in the production process or performance of services.

Inventories are also defined in the national legislation within the OMPF 1802/2014 for approval of the Accounting Standards on the annual individual and consolidated financial statements, similarly with the definition from IAS 2 "Inventories".

Inventories are "goods purchased by the entity for resale" (Claudia Burtescu - eds., 2008).

Goods may be defined as property owned by the entity "for resale or products presented for sale in one's own outlets" (Magdalena Mihai, Florin-Constantin Dima – eds., 2013).

Regarding the method of goods at retail price, it "approximates the cost of the goods sold" (Dumitru Vişan, Corneliu Burada, Dorina Luţă – eds., 2006) and it is often used "in the retail industry for measuring the cost of the large numbers and rapidly changing stocks of items, which have similar margins and for which it is not practical to use another costing method" (Dorina Luţă – eds., 2012).

3. Research Methodology

The approach is based on the utility of the stocks at retail price method and it envisages the formation of the retail price, as well as the mechanism for the specific calculation. Thus, the following aspects are analysed:

- calculation of the trade margins;
- calculation of the retail price;
- calculation of the coefficient of discharge of goods sold;
- necessity and utility of the stocks at retail price method.

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4. Components of the retail price

The retail price of the goods consists of their acquisition cost, plus the trade margins and the VAT. By adding up the cost of acquisition with the trade margins, we obtain the retail price, excluding the VAT. The establishment of the value of the retail price components of the goods takes place as follows:

- the cost of acquisition: it results from the documents of the acquisition of the goods issued by the suppliers plus, if applicable, the transportation costs – supply and other expenses directly attributable to that acquisition;
- the trade margin or the gross margin: it is calculated by applying the commercial addition share practiced by the entity on the acquisition cost;
- VAT under settlement: it is included in the price and it is established by applying the statutory rates of VAT on the amount of the purchase cost and the trade margins or, in other words, on the retail price, excluding the VAT.

5. Calculation of cost of the goods sold

The calculation of the cost for the goods sold and for the other components of the retail price is made at the end of each month on the reverse path of its formation, as follows:

- VAT not due in related to the goods sold equals the VAT collected related to the goods sold;

By subtracting the VAT not due in, related to the goods sold, from the retail price, we obtain the proper price.

- the trade margins for the goods sold is calculated based on the distribution coefficient, as follows:

$$\textit{Distribution coefficient} = \frac{\textit{378 account credit balance at the beginning of the year} + \textit{Credit turnover of account 378 cumulated from the beginning of the year until the end of the reference month}}{\textit{The debit balance of account 371 from the beginning of the year (retail price without VAT)} + \textit{Credit turnover of account 371 cumulated from the beginning of the year until the end of the reference month (retail price without VAT)}}$$

$$\textit{The amount of the trade margins related to the goods sold} = \textit{The value of the goods sold at retail price without VAT (credit turnover of account 707)} \times \textit{Distribution coefficient}$$

Since the goods are recorded at the retail price that also includes the VAT, for calculating the distribution coefficient of the trade margins, recalculation of the VAT rate is required following the procedure of the increased hundred:

VAT recalculated rate = $\frac{100 \times K}{100 + K}$, where K = VAT rate

The VAT recalculated rate is applied to the retail price with VAT and, by difference, the actual selling price of the goods is obtained; this is used when the entity collects the VAT also from other economic-financial operations than from the trade of goods at retail price and in the turnover of account 4427 there are also other amounts than the VAT collected and related to the goods sold;

- the cost of the goods sold is calculated as the difference between the actual selling price and the trade margin related to the goods sold, established according to the methodology above.

6. Accounting for goods at retail price

From what we have analysed so far it results that the accounting operations related to records of the goods at retail price are related to: the entry, the sale and the subtraction from the administration. For better understanding them, we consider the situation in which S.C. Alfa S.R.L. presents the following matters on goods in May, N year:

- stock of merchandise on 01st May, N 840,000 lei, of which 200,000 lei trade allowance and 240,000 lei VAT not due;
- purchases of goods in May, N: acquisition cost 400,000 lei, VAT 20%. 40% share of practiced trade allowance;
- Sales of goods in May, N: 800,000 lei, VAT 20%.

Accounting operations in May, N:

- entry under management of the goods bought:

- registering the goods at the purchase cost based on the invoices from the suppliers:

	%	=	**401**	480,000
400,000	**371**		Suppliers	
	Goods			
80,000	**4426**			
	VAT deductible			

- calculation and registration of the goods at retail price, based on the input reception Note:

Retail price (PVA) = Acquisition cost (Ca) + Trade allowance (Ac)
+ VAT under settlement (TVAn)

Trade allowance (Ac) = Acquisition cost (Ca) x share of trade allowance (KAc)

TVAn = (Ca + Ac) x VAT share (Ktva)

Ac = 400,000 x 40% = 160,000 lei

TVAn = (400,000 + 160,000) x 20% = 560,000 x 20% = 112,000 lei

PVA = 400,000 + 160,000 + 112,000 = 672,000 lei

272,000	*371*	=	**%**	
	Goods		**378**	160,000
			Price differences in goods	
			4428	112,000
			VAT under settlement	

- the sale of goods at retail price:

960,000	*5311*	=	**%**	
	Cash register in lei		**707**	800,000
			Income from the sale of goods	
			4427	160,000
			VAT collected	

- derecognising the goods sold:

The calculations for unloading the management of the goods sold:

- VAT not due corresponding to the goods sold is reflected in the account 4427 "VAT collected," being in the amount of 160,000 lei;

- The calculation of the distribution coefficient to establish the value of the trade allowance for the goods sold:

$$\text{Distribution coefficient} = \frac{200{,}000 \text{ lei} + 160{,}000 \text{ lei}}{(840{,}000 \text{ lei} + 672{,}000 \text{ lei}) - (240{,}000 \text{ lei} + 112{,}000)} = 0{,}31$$

Amount of the trade allowance = 800,000 lei x 0,31 = 248,000 lei

Cost of goods sold = 800,000 lei – 248,000 lei = 552,000 lei

	%	=	**371**	960,000
552,000	**607**		Goods	
	Expenditure on goods			
	378			
248,000	Price differences in goods			
	4428			
	VAT under settlement			
160,000				

D	371 Goods	C
S_i	840,000	960,000
	400,000	
	272,000	
RD	672,000	RC 960,000
TSD	1,512,000	TSC 960,000
		SFD 552,000

D	378 Price differences in goods	C
		S_i 200,000
	248,000	160,000
RD	248,000	RC 160,000
TSD	248,000	TSC 360,000
SFC	112,000	

D	4428 VAT under settlement	C
	160,000	S_i 240,000
		112,000
RD	160,000	RC 112,000
TSD	160,000	TSC 352,000
SFC	192,000	

D	707 Income from the sale of goods	C
		800,000
RD		RC 800,000
TSD		TSC 800,000
SFC		

D	4427 VAT collected	C
		160,000
RD		RC 160,000
TSD		TSC 160,000
SFC		

D	5311 Cash register in lei	
	960,000	
RD	960,000	RC
TSD	960,000	TSC
		SFD 960,000

7. Conclusions

The retail price method has its own methodology of making it starting from the acquisition cost of the goods plus the trade margins and the VAT under settlement. Moreover, upon unloading the goods sold from the management, the same calculation methodology is followed, only it is in reverse.

The stocks method at retail price is frequently used in retail because it allows the establishment of the cost of the goods sold for the stocks of large number and fast moving items.

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CHALLENGES REGARDING THE NON-FINANCIAL REPORTING IN THE GLOBAL CONTEXT

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Abstract: *During the last years UE acknowledged the increasing role of corporate social responsibility. In this regard, in the accounting field, it was required the disclosure of non-financial information by the undertakings that are within the scope of the Directive 2014/95/EU for the financial year starting on 1 January 2017 or during the calendar year 2017. This allows managing change towards a sustainable global economy by combining long-term profitability with social justice and environmental protection. Also this contributes to meet the needs of investors and other stakeholders as well as the need to provide consumers with easy access to information on the impact of businesses on society. The paper aims to present a dynamic analysis of the european legislation in the field, since 2014 to date, by underlining the role of non-binding guidelines issued by the European Commission in facilitating relevant, useful and comparable disclosure of non-financial information by undertakings.*

Keywords*: sustainable global economy, non-financial information, methodology and performance indicators for reporting, non-financial statement, key principles for reporting*

JEL Classification: *M48, O16, Q01.*

Non-financial information is generally seen as *environmental, social and governance (ESG)* information. *Corporate Social Responsibility (CSR)* is defined as "the responsibility of enterprises for their impacts on society"3. A strategic approach to CSR is increasingly important for competitiveness, as it can bring benefits in terms of risk management, cost savings, access to capital, customer relationships, human resource management and innovation capacity. In order to fully meet their social responsibility, enterprises should therefore have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in collaboration with their stakeholders. The aim of such a process is twofold: first, to maximise the creation of shared value, able to generate returns on investment for the company's owners/shareholders at the same time as ensuring benefits for other stakeholders. Second, to identify, prevent and mitigate possible adverse impacts which companies may have on society.

In this regard, at european level, was issued in 2014 the *Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups*4. Some of the objectives underlying the issuance of Directive 2014/95 /EU are the following:

1) to increase the transparency of certain companies, and to increase the relevance, consistency, and comparability of the non-financial information currently disclosed, by strengthening and clarifying the existing requirements;

2) to increase diversity in the boards of companies through enhanced transparency in order to facilitate an effective oversight of the management and robust governance of the company;

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[3] This definition, introduced by the CSR Communication, is consistent with internationally recognised CSR principlesand guidelines, such as the OECD Guidelines, the ISO 26000 Standard and the UN Principles on Business and Human Rights.
[4] Hereinafter referred to as *Non-financial Reporting Directive*.

3) to increase the company's accountability and performance, and the efficiency of the Single Market.

In Romania, starting with 1st January 2017, for economic operators, were transposed within the national legislation the provisions of *Directive 2014/95/EU* by the *Order of Minister of Public Finance no. 1.938/2016 regarding the modification and completion of some accounting regulations*.

In this regard, ***for the financial year 2017***, the public-interest entities that applies the *Accounting regulations on the annual financial statements and consolidated financial statements approved by the Order of Minister of Public Finance no. 1.802/2014, as subsequently amended and supplemented,* as well those that applies the *Accounting regulations* in *accordance with the International Financial Reporting Standards approved by the Order of Minister of Public Finance no. 2.844/2016*[1]*, as subsequently amended and supplemented,* shall include in the management report a non-financial statement if those entities exceed on their balance sheet dates the criterion of the average number of 500 employees during the financial year.

In Romania, ***starting with the financial year 2018,*** the obligation to include a non-financial statement in the management report was extended to all entities which applies the above mentioned regulations if those entities exceed on their balance sheet dates the criterion of the average number of 500 employees during the financial year.

This non-financial statement contains, to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, information relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:

a) a brief description of the undertaking's business model;

b) a description of the policies pursued by the undertaking in relation to those matters, including due diligence processes implemented;

c) the outcome of those policies;

d) the principal risks related to those matters linked to the undertaking's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause adverse impacts in those areas, and how the undertaking manages those risks;

e) non-financial key performance indicators relevant to the particular business.

It should be specified that to an entity that does not pursue policies regarding one or more of the aspects mentioned in letter. a) - e) is requested, in the non-financial statement, a clear and reasoned explanation regarding this option.

Also, the non-financial statement shall also, where appropriate, include references to, and additional explanations of, amounts reported in the annual financial statements.

An important provision states that where an undertaking prepares a separate report corresponding to the same financial year whether or not relying on national, Union-based or international frameworks and covering the information required for the non- financial statement, that undertaking is exempt from the obligation to prepare the non-financial statement, provided that such separate report:

a) is published together with the management report in accordance with the provisions of Section 9.1. "General publication obligation"[2] / Section 5.1 "General publication obligation"[3]; or

b) is made publicly available within a reasonable period of time, not exceeding six months after the balance sheet date, on the undertaking's website, and is referred to in the management report.reported in the annual financial statements.

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[1] Through which was replaced the Order of Prim-Minister, Minister of Public Finance no. 1.286/2012, as subsequently amended and supplemented.

[2] From the *Order of Minister of Public Finance no. 1.802/2014, as subsequently amended and supplemented.*

[3] From the *Order of Minister of Public Finance no. 2.844/2016, as subsequently amended and supplemented.*

The entities specify the frameworks on which they have relied for the presentation of the information contained in the non-financial statement, these may be national, Union or international frameworks.

According to the Non-financial Reporting Directive1 the European Commission issued non-binding guidelines on methodology for reporting non-financial information, including non-financial key performance indicators, general and sectoral, with a view to facilitating relevant, useful and comparable disclosure of non-financial information by undertakings, taking into account best practices, relevant developments and the results of related initiatives, both within the EU and at international level.

► These guidelines were issued in 2017, namely Guidelines on non-financial reporting (methodology for reporting non-financial information)2.

The aim of these *Guidelines* is to help companies disclose high quality, relevant, useful, consistent and more comparable non-financial (environmental, social and governance-related) information in a way that fosters resilient and sustainable growth and employment, and provides transparency to stakeholders. These non-binding guidelines are proposed within the remit of the reporting requirements provided for under the *Non-financial Reporting Directive*. They are intended to help companies draw up relevant, useful concise non-financial statements[3] according to the requirements of the directive.

When presenting non-financial information by entities, a number of key principles set out in *the Non-Financial Reporting Directive* should be considered, which are detailed in the *Guideliness*, respectively:

1. Disclose material information

When identifying and assesing the key issues which makes information material, materiality concept may be used, concept already used by those who prepare the financial statements, by the auditors and by the users of the respective information.

A new element to be taken into account when *assessing the materiality of non-financial information* by referring to information 'to the extent necessary for an understanding of the […] impact of (the company's) activity'[4].

The impact of a company's activity is a relevant consideration when making non-financial disclosures. Impacts may be positive or adverse. Material disclosures should cover both in a clear and balanced way. The non-financial statement is expected to reflect a company's fair view of the information needed by relevant stakeholders.

2. Fair, balanced and understandable

In order to evaluate and present objective non-financial information, should give fair consideration to favourable and unfavourable aspects, and information should be assessed and presented in an unbiased way.

The information may also be made more understandable by using plain language and consistent terminology.

Understandability may also be enhanced by explaining key internals of the information disclosed, such as measurement methods, underlying assumptions and sources.

3. Comprehensive but concise

Material information on certain categories of issues explicitly reflected in the Non-financial Reporting Directive should be disclosed as a minimum.

Material disclosures are expected to provide a comprehensive picture of a company in the reporting year. This refers to the breadth of information disclosed. However, the depth of

[1] Article 2 and recital 17.

[2] Published in the Official Journal of the European Union C 215/05.07.2017, hereinafter referred to as Guidelines.

[3] Non-financial statement/Consolidated non-financial statement/Separate report, as appropriate, provided by the *Non-financial Reporting Directive*.

[4] Article 1(1) of the Non-financial Reporting Directive.

information reported on any particular issue depends on its materiality. A company should focus on providing the breadth and depth of information that will help stakeholders understand its development, performance, position and the impact of its activities.

The non-financial statement is also expected to be concise, and avoid immaterial information.

4. Strategic and forward-looking

The statement is expected to provide insights into a company's business model, strategy and its implementation, and explain the short-term, medium-term and long-term implications of the information reported.

Companies are expected to disclose relevant information on their business model, including their strategy and objectives. Disclosures should provide insight into the strategic approach to relevant non-financial issues; what a company does, how and why it does it.

By disclosing targets, benchmarks and commitments, a company may help investors and other stakeholders to put its performance in context. This may be helpful when assessing future prospects. External monitoring of commitments and progress towards targets promotes greater transparency towards stakeholders. Targets and benchmarks may be presented in qualitative or quantitative terms. As appropriate, companies may disclose relevant information based on science-based scenarios.

Forward-looking information enables users of information to better assess the resilience and sustainability of a company's development, position, performance and impact over time. It also helps users measure the company's progress towards achieving long-term objectives.

5. Stakeholder orientated

Companies are expected to consider the information needs of all relevant stakeholders. They should focus on information needs of stakeholders as a collective group, rather than on the needs or preferences of individual or atypical stakeholders, or those with unreasonable information demands.

Companies should provide relevant, useful information on their engagement with relevant stakeholders, and how their information needs are taken into account.

6. Consistent and coherent

The non-financial statement is expected to be consistent with other elements of the management report.

Making clear links between the information presented in the non-financial statement and other information disclosed in the management report makes the information more useful, relevant and cohesive. The management report should be viewed as a single, balanced and coherent set of information.

As contents are related to each other, explaining key linkages makes it easier for investors and other stakeholders to understand material information and interdependencies.

The content of the non-financial report should be consistent over time. This enables users of information to understand and compare past and present changes in a company's development, position, performance and impact, and relate reliably to forward-looking information.

Consistency in the choice and methodology of KPIs is important to ensure that the non-financial statement is understandable and reliable. However, updates may be necessary, as KPIs may become obsolete, or new and better methodologies be developed that improve the quality of information. Entities are expected to explain any changes in reporting policy or methodology, the reasons for changing them and their effects (for example by restating past information, clearly showing the effect of changing reporting policies or methodologies).

► In June 2019, the the European Commission published new guidelines on the publication of climate information under the heading of *Guidelines on non-financial*

*reporting: Supplement on reporting climate-related information*1. Like the general guidelines published in 2017, the supplement on climate-related reporting is non-binding. Entities may chose alternative approaches to the reporting of climate-related information, provided they meet legal requirements.

The content of climate-related disclosures may vary between entities according to a number of factors, including the sector of activity, geographical location and the nature and scale of climate-related risks and opportunities. Because the methodologies and best practice in the field of climate-related reporting are evolving fast, the *Climate-related Guidelines* recognise that a flexible approach is necessary, entities and other organisations being strongly encouraged to continue to innovate and further improve climate-related reporting beyond the content of the guidelines. Entities should also ensure that their approach to climate-related reporting is regularly updated in line with the latest scientific evidence.

The *Climate-related Guidelines* do not encourage stand-alone climate reporting, entities being encouraged to integrate climate-related information with other financial and non-financial information as appropriate in their reports.

In the followings we will present the non-financial information required by the Non-Financial Reporting Directive, highlighting the details that the entities may consider when presenting them:

A. Regarding environmental issues, the non-financial statement must contain details on the current and predictable impact of the entity's operations on the environment and, as the case may be, on health and safety, the use of renewable and non-renewable energy, greenhouse gas emissions. greenhouse, water use and air pollution.

According to the Directive on non-financial reporting, the non-financial statement also includes the consequences on the climate change of the entity's activity and the use of the goods and services it produces, as well as on its commitments in favor of sustainable development, the fight against food waste and in the fight against discrimination and the promotion of diversity.

The Guidelines provides that entities should publish relevant information about the actual and potential impact of operations on the environment and how current and foreseeable environmental issues could affect the entity's evolution, results or position.

Such information may include: significant information on pollution prevention and control, environmental impact generated by energy consumption, direct and indirect atmospheric emissions, use and protection of natural resources (for example: water, soil) and protection of biodiversity, waste management, the environmental impact of transport or use and disposal of products and services, and the development of new environmentally friendly products and services.

Where appropriate, entities may refer to the significant information presented in the context of the specific environmental reporting requirements.

The Climate-related Guidelines propose the publication of climate information for each of the five reporting areas listed in the Non-Financial Reporting Directive:

a) the business model;

b) due diligence policies and procedures;

c) the results of the policies;

d) main risks and risk management and

e) key performance indicators.

For each reporting area, the guidelines identify a limited number of publications of recommended information. An entity should consider using the disclosures of recommended

[1] Published in the Official Journal of the European Union C 209/20.06.2019, hereinafter referred to as *Climate-related Guidelines*.

information to the extent necessary to understand the development, performance and position of the entity and the impact of its activity.

Following the recommendation for information releases for each reporting area, additional guidance is provided. The supplementary guidelines consist of more detailed information proposals that entities may consider to include in the publications of recommended information.

B. Regarding the social and employees aspects, the information provided in the non-financial statement can refer to the actions taken to ensure gender equality, the implementation of the fundamental conventions of the International Labor Organization, working conditions, social dialogue, respect for workers' rights, to be informed and consulted, respect for trade union rights, health and safety at work, dialogue with local communities and/or actions taken to ensure the protection and development of these communities.

The Guidelines provides that the entities should publish significant information on social and work-related issues. These include: implementation of the fundamental conventions of the International Labor Organization; diversity issues, such as gender diversity and equal treatment in employment (including age, sex, sexual orientation, religion, disability, ethnicity and other relevant issues); issues related to employment, including consultation and/or employee participation, employment and employment conditions; the relationship with the trade unions, including regarding respect for trade union rights; human capital management, including restructuring and career management, professional insertion, remuneration system, vocational training; health and safety at work; the relationship with consumers, including their satisfaction, accessibility, products with possible effects on the health and safety of consumers; the effects on vulnerable consumers; responsibility for marketing and research; and community relations, including the social and economic development of local communities.

Entities may find it useful to rely on widely recognized and high quality frameworks, such as the OECD1 Guidelines for Multinational Companies, the Tripartite Declaration of the International Labor Organization establishing principles on multinational companies and social policy or ISO 260002.

C. ***With regard to human rights, the fight against corruption and bribery***, the non-financial statement may include information on preventing human rights abuses and/or on the instruments put in place to combat corruption and bribery.

With regard to respect for human rights, *the Guidelines* provides that entities should publish significant information about the impact of operations, real and potential, on holder’s rights.

Expressing the commitment of entities to respect human rights is considered to be a good practice. This commitment can define what the entity expects from management, employees and business partners in terms of human rights, including core labor standards. The information may explain the rights of persons covered by the commitment, for example the rights of children, women, indigenous people, people with disabilities, local communities, small farmers, victims of human trafficking and the rights of workers, including those working on temporary contracts, supply chain workers or subcontractors, migrant workers and the families of those workers.

Entities should publish significant information on the due diligence process on human rights and on the procedures and mechanisms applied to prevent human rights abuses. These may refer, for example, to how human rights issues are dealt with in contracts concluded by entities with firms in the supply chain and how entities minimize the potential negative impact on human rights and take appropriate action in the case, where these rights are violated.

[1] Tthe Organisation for Economic Co-operation and Development.
[2] The International Organisation for Standardisation's ISO 26000.

Significant published information may reflect how entities approach, inter alia:

- Guiding principles on business and human rights for the implementation of the UN framework "Protection, compliance and remedial measures";
- OECD guide for multinational companies; and
- Tripartite declaration of the International Labor Organization establishing the principles regarding multinational companies and social policy.

At the same time, *the Guidelines* stipulates that entities should publish significant information regarding the management regarding the fight against corruption and bribery and the registered cases.

Entities may publish information on the organization, decisions, management tools and resources allocated to fighting corruption and bribery.

Also, entities can explain how they evaluate the fight against corruption and bribery, take measures to prevent or minimize adverse effects, monitor their effective application and communicate on this subject internally and externally.

Entities may find it useful to rely on widely recognized, high quality frameworks, such as the OECD Multinational Companies Guide or the ISO 26000 standard.

Non-financial information similar to the ones listed above is also presented by ***the entities that are parent companies of a group*** which, on the balance sheet date on a consolidated basis, exceed the criterion of having an average number of 500 employees during the financial year, in a ***consolidated non-financial statement*** included in the consolidated report of the directors.

The provisions regarding the exemption of the obligation to draw up the consolidated financial statement are similar to those regarding the non-financial statement, respectively if a parent compiles a separate report corresponding to the same financial year, which refers to the whole group, whether or not this report is based on national frameworks. , of the Union or international, which includes the information required for the consolidated financial statement, the respective parent company is exempted from the obligation to draw up the consolidated financial statement, provided that this separate report:

a) to be published together with the consolidated report of the directors, in accordance with the provisions of Section 9.1. "General publication obligation" / Section 5.1 "General publication obligation"; or

b) to be made available to the public within a reasonable period not exceeding six months from the balance sheet date, on the parent company's website, and be mentioned in the consolidated report of the directors.

Exceptions are also provided for the preparation of the non-financial statement/consolidated financial statement, respectively for:

→ an entity that is a subsidiary - if the respective entity and its subsidiaries are included in the consolidated report of the directors or in the separate report of another entity, prepared in accordance with the provisions of the *Order of the Minister of Public Finance no. 1.802/2014*, with the subsequent modifications and completions, respectively of the *Order of the Minister of Public Finance no. 2.844/2016*, with subsequent modifications and completions;

→ a parent company which is also a subsidiary - if the respective exempt parent company and its subsidiaries are included in the consolidated report of the directors or in the separate report of another entity, prepared in accordance with the provisions of the Order of the Minister of Public Finance no. 1.802/2014, with the subsequent modifications and completions, respectively of the Order of the Minister of Public Finance no. 2.844/2016, as subsequently amended and supplemented.

For both the non-financial statement and the consolidated non-financial statement, *the statutory auditor or statutory audit company checks whether the non-financial statement/consolidated financial statement or the separate reports have been provided.*

The members of the administrative, management and supervisory bodies of an entity, acting within the limits of the powers conferred by national law, have the collective responsibility to ensure that the individual annual financial statements/consolidated annual financial statements, the directors' report/the consolidated reports of the administrators and the separate reports are prepared and published in accordance with the provisions of the *Order of the Minister of Public Finance no. 1.802/2014*, *with the subsequent modifications and completions, respectively of the Order of the Minister of Public Finance no. 2.844/2016, as subsequently amended and supplemented.*

Non-financial transparency is one of the main elements of any strategy for corporate social responsibility. It is estimated that an increased degree of transparency will strengthen the resilience and the results of the entities both in terms of financial and non-financial aspects. This will also in time lead to consolidation of economic growth and employment and greater trust among stakeholders, including investors and consumers.

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3. Guidelines on non-financial reporting: Supplement on reporting climate-related information;

4. Order of Minister of Public Finance no. 1.938/2016 regarding the modification and completion of some accounting regulations.

THE FINANCIAL - ACCOUNTING INFORMATION: AN AUTHENTIC POWER FACTOR IN THE GAIN – LOSS RELATIONSHIP OF INVESTMENTS ON THE CAPITAL MARKET

Claudia Nicoleta Guni[1]

Abstract

The purpose of this material is to present the usefulness of the financial accounting information and accounting theories applicable to financial markets, in order to highlight the extent to which the quality of the financial accounting reports influences the investment decision on the capital market and subsequently outlines ways to improve them. The quality of the information provided through financial reporting, which directly involves International Accounting Standards, is a goal in itself. These must add value to the financial reporting system in support of the financial system stability and economic growth.

Keywords*: internal users, external users, stock market capitalization, financial globalization*

JEL Classification: G3; G32; G34

1. Introduction

The perception of information in the specialized literature is that information is a generic element of the process of knowledge and representation of reality, as well as that of conception and communication, inherent in human action, on the scale of society - in general - and of organizations - in particular.

The parameters of the efficiency of the information are determined by the degree of subjectivity - objectivity, its servitude of the user, the temporary duration taken as a reference, but also by the qualitative and quantitative aspects, in this sense, the most expressive example constituting the notion of "accounting information". The information is associated with a value of utility, representing the possibility of economy, this being calculated from the difference found between the effects of a decision promoted by and without the knowledge component. The value of utility is directly influenced by the physical, but also the moral, depreciation that becomes a priority. The information is exposed to a high degree of degradation, this being automatically included by the actions of production and dissemination resulting from the diversified and versatile interaction with the sum of the information from a certain environment.

The accounting information can be assimilated and analyzed through three aspects: semantic, syntactic and pragmatic. The semantic aspect of information refers to the importance it holds for the receiving element. The syntactic side highlights how the signs that make up information remove an element of uncertainty, determining the phenomenon, and the practical utility of information for the user synthesizes the pragmatic aspect. Thus, the economic information is characterized by the fact that it expresses explanations regarding economic resources, production, distribution, exchange and consumption of results, being formulated on the basis of a set of indicators that together form the "data repertoire" indispensable for coordinating an efficient economic process.

2. Demand and supply of accounting information - users and information needs

The most common and most representative type of relationship in the existence of an economic entity is represented by the one between its owners and its managers. This must be correlated and understood in the context of the governance mode of the society in question. If the relationship between the directors and the owners is a fundamental relationship in the

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governance of the company, it can be argued that, at international level, accounting must meet the needs of a diverse range of users, its offers having an increasingly social character.

Internal users are managers, who use accounting information that reflects the operations for the exploitation, investment, financing and management of the treasury, in order to substantiate and make decisions. In this respect, they use both the information set forth in the current accounts and in the annual financial statements. In the context of the internationalization of the Romanian accounting, the internal users have the responsibility of the accounting choices regarding the definition of the options regarding the optimal accounting policies, in order to reflect the economic reality. Appointed by the owners to manage the assets and activity of the economic entity, the managers use the data provided by the financial accounting, and correlate it with the information related to management accounting.

External users are the financiers of the economic entity, its commercial partners, social partners, public power, as well as other external users.

The financiers are the users who, potentially or effectively, provide the economic entity with the necessary resources for the smooth running of its activities. Differentiated on the criterion of the financing method can be found:

a. grant financers, if the companies are listed on the financial market;

b. bank financiers, if the companies procure external resources by resorting to bank loans;

c. public power, as an investor in autonomous regions and in enterprises of national interest;

d. other categories of financiers (financing through the completion and the development of location-financing contracts, also called financial leasing contracts).

Equally important to note is the fact that an economic entity with assured financial soundness achieves a balance between the recourse to external sources of financing and the generation of own sources (the way of self-financing, by amortizing the different components of fixed assets and by allocating a representative share of the profit for the creation of reserves). Therefore, the financiers are represented by investors, creditors (especially bankers), the state and government agencies, tenants, etc. As provided for in international accounting regulations, the external users of information, defined in the financing processes and operations, are the investors and the creditors.

2.1. The need for managers to base their decisions

In the case of small economic entities, the manager most often coincides with the owner. In the other typologies, however, the shareholders being numerous, they cannot be directly involved in the daily activity and delegate the authority to lead a group of managers. The information needs of managers are mainly covered by reports that are not published to other categories of users. These reports are usually prepared both on the basis of management accounting information and on financial accounting information. Their nature varies from one enterprise to another, depending on the type of activity.

The more complex and diversified the company's activity, the more managers need more detailed information. Furthermore, the larger the company, the more the manager is away from daily activity, which forces him to request additional information, based on which he can effectively control the activity of his subordinates.

Also, the specific activity of the entity influences the informational needs of the managers. Managers have immediate and complete access to accounting information. They should not wait and are not limited to the information published in the financial statements. Although they benefit from informational asymmetry in relation to the other categories of users, however, managers pay special attention to the way in which the published information

is perceived by them. Such an interest is due to the fact that the published financial statements inform the third parties on the managerial capacity of the management team. In other words, managers use the information in the financial statements to communicate.

2.2. The globalization of the financial markets and the emerging needs of investors

In most cases, investors (shareholders) want to measure the return and risk of their investments, based on these they make the decision to maintain, increase or reduce their contributions. Thus, investors are interested in the ability of the company to make future profits. The notion of ability to make future profits refers to the extent to which the company will adopt a strategy whose purpose is to increase its wealth, obtain new funds and be able to subsequently convert the benefits into wealth. Investors usually reason according to the cash flows, which have a tangible representation, and less depending on the net profit which, depending on accounting conventions, does not always reflect the real economic enrichment of the company. Their reasoning also takes into account the fact that companies use part of their profits for self-financing. Although the shareholders appear to be the first victims of self-financing, in reality, through self-financing the net assets and the theoretical value of the stock increases, which can lead to an increase in the stock exchange rate or a free distribution of shares. Under these conditions, the shareholder recovers through capital the part that he lost in the form of dividends. Moreover, while the distributed benefits are subject, in most countries, to numerous cascading tax deductions, diminishing the amount that actually reaches the shareholders' disposal, stock market surpluses are taxed to a small extent.

Shareholders, however, also want information on the dividend, as this is not just a simple cash transfer. This and its long-term growth rate circulate a rich information flow about the company's prospects. The increase in the number of "ethical" investors, eager to invest in environmentally friendly companies, has led to an increased demand for information on the environmental management of the company. Thus, the investors request information on the costs of environmental management (legal expenses, expenses for the decontamination of some areas, expenses with pollution control, investments in pollution control equipment, etc.), that would allow them to calculate the debt involved by this type of administration and make the decision to buy, sell or hold shares.

As for potential investors, they want to be able to calculate the rate of return they have the right to demand from the company in order to invest their funds, taking into account the risk attributed to their investment and the opportunities existing on the market. In order to answer the demand for measuring the wealth that is appropriate for the investors, the specialized literature recommends the use of stock market capitalization. The practice reacted quickly to this proposal, numerous financial analysis companies creating a classification of companies, according to the amount of wealth created for the shareholders.

The most commonly used method is the "market added value", which requires the restatement of certain balance sheet items, calculating the total value of shareholders' equity and comparing them with the stock market value of the company. A favorable difference is interpreted as an increase of the invested funds, while an unfavorable difference represents a loss of wealth.

3. The financial - accounting information as a power tool in the age of globalization

The general dictum of specialists in management, journalism, politics and economics has in recent years become the notion of globalization, being studied by economists and sociologists around the world. In this context, globalization refers to a wide range of economic, ideological, technological and cultural changes and interdependencies. Economic changes mainly refer to the internationalization of production, the rapid increase of capital

mobility, the development of transnational corporations, as well as the deepening and intensification of economic interdependencies worldwide. The economic manifestations of globalization include the spatial reorganization of production, the development of financial markets, the distribution of fungible consumer goods in different countries and the mass population movements.

Regarding the manifestations of globalization, some areas, such as the financial market, for example, are more easily subject to globalization than others. After all, the movement of certain symbols – like money- by electronic means, is much simpler than the circulation of a quantity of products. In the acceptance of most of the specialists in the field, the financial market has four major components: the capital market, the money market, the insurance market and the mortgage market. In a functioning and competitive market economy, the role of the capital market is paramount. The proper functioning of the capital market is particularly important in developing economies in order to be able to make an efficient transfer of money resources from those who save to those who need capital and who are able to offer a higher return value. The capital market can significantly influence the quality of investment decisions.

The collection of the temporary capital available in the economy, the reallocation of the insufficient ones and even favoring some sectoral restructuring inefficiently capitalized at a given moment, are likely to outline the place currently occupied by the capital market in the economy of many countries, not only the most developed ones.

Financial globalization is characterized by the emergence of capital markets without borders, operating on the entire planet due to the instantaneous circulation of information, due to the elimination of the exchange control and due to the homogenization of the financial instruments offered to savings holders. Under these conditions, multinational, transnational, transregional or interregional industrial and financial companies can borrow or place money without limitations where they want and when they want, using all existing financial instruments.

The globalization of the capital markets also had the effect of a more and more homogeneous information, of the understanding and comparison of the financial-accounting information of the different corporations. Under these conditions, the contribution of accounting in the international capital markets is emphasized, especially on informing the participants in the stock exchange.

4. Correlating the quality of financial - accounting reports with the level of economic efficiency of investments in the capital market

Investors want to turn their cash availability into investments, and their investments into liquidity within a stable environment. The SSIFs want to make those investments for their clients that do not involve a major loss in terms of the value of their investments.

On the capital market, and within the SSIFs, the performance is related to the quality of the financial-accounting information, by its accuracy, of the accurate image of the reality of an operation or securities transactions.

The audit procedures of the financial-accounting information concern two directions: the utility of the financial-accounting information in the investment decision on the capital market and respectively the effect of the financial-accounting information in the investment decision on the capital market. Also, the performance on the capital market is directly related to the quality of the decisions made on the basis of the financial-accounting information.

Therefore, audit research in the field of capital markets is up-to-date and may be considered necessary where the attention is focused on the investors and the decisions made by them. The decision of the investors implies the correlation between the current consumption and the future benefits, hence the need for appropriate and relevant information.

Effective and potential investors are constantly analyzing the alternatives available, hoping to make those decisions that best meet their present and future interests. Numerous information on future monetary flows, attached to different securities, is presented in cash flow tables, while the summary accounting documents provide relevant information on the risk associated with an investment, determined by the degree of flexibility in the allocation of resources. The role of financial auditors can be determined in the recommendations of sale-purchase-preservation of securities and in estimating future income (as a basis for determining the price of securities).

As a result, the auditor who has thus evaluated the financial-accounting information and the investment decision through the financial analysis used as an audit method, may motivate the use in the audit of the SSIFs, namely the audit of the performance in the financial investment decision and even create a debate group in audit. This group, represented by capital market specialists, accounting experts and financial analysts, should express, based on the audit, the point of view, by collecting qualitative audit evidence and applying the audit standards, so that the information provided is useful and indispensable to all investors.

5. The financial analysis - diagnostic procedure in the adoption of the investment decision

The objectives and financial goals of the company can be approached from different points of view. A first approach aims at maximizing profit by rationalizing financial decisions, which materialize in increasing the wealth of the company with favorable consequences on the stock market value and the wealth of shareholders.

From another point of view, the managerial one, these objectives and goals mainly aim to achieve economic growth, financial balance and financial liquidity. The analysis, as a self-contained scientific system, using the information provided by the synthesis accounting documents and based on their own methodology, links and interprets all this information, in the sense of the economic and financial objectives that the company proposes to undertake.

The valences of the Romanian accounting system offer the possibility of performing the financial analysis, which represents the activity of diagnosing the financial performance of the company. It can be considered as a managerial tool meant to contribute to maintaining and developing the company in an increasingly dense competitive environment, as well as to understanding the past and the present, in order to substantiate future strategic objectives.

Information on the performance of an enterprise, including its profitability, is necessary for the correct assessment and evaluation of any changes in the economic resources it could control in the future. Of particular importance is the variation of the performance in the foreseeable future, determining for this purpose the aspects related to the generation of cash flows according to the existing resources. Regarding the orientation of the entity towards new financial resources, the performance analysis will have to provide conclusions about the impact that the use of additional resources would have.

Equally, the financial analysis aims to highlight the means of achieving financial balance in the medium and long term and the stages of money accumulation, of profitability of the activity of the economic entity.

In the case of the analysis of the financial - patrimonial situation, a special role is played by establishing the ways to maintain financial independence and to achieve flexibility in this area. The purpose of the financial analysis is the elaboration of the financial diagnosis of the company in order to highlight the strengths and weaknesses, the state of health or financial weakness of the company, as well as the potential of financial management. At the same time, diagnostic analysis is a component of the overall analysis of the enterprise, also called strategic analysis. The static analysis of the financial balance based on the annual financial statements is a traditional component of the financial analysis.

Regardless of the objectives set by an economic entity, their fulfillment is conditioned by the satisfaction of major financial restrictions, such as the achievement of the financial balance, which generally expresses the company's ability to harmonize resources and their related uses, which allows it to permanently ensure solvency, and increase profitability, respectively the ability of the company to obtain a monetary surplus, which allows it to fulfill its commitments and ensure its development.

6. Conclusions

In an attempt to reflect the way in which investors assimilate financial information, companies have tried - due to the pressures of the economic environment and the need to provide more accurate information - to eliminate the gaps by making the presentation of the annual financial statements more efficient, fact that led to the use of financial accounting information for forecasting the profitability of companies, this aspect having an important impact on investors, who analyze the accounting information as soon as it is received. From here the most well-known research activity expanded, which makes the connection between the change of the price of securities and the accounting information, which led to the elaboration of sets of predictive theories, which caused a true revolution in the financial accounting theories. But the relativity of the predictive theories is difficult to measure because its value depends on the ratio between the correct and the wrong forecasts, which has led to the elimination of imperfect theories or those which have not been able to prove their validity in time.

Accounting theoreticians have long recognized that the accounting information system is an integral part of the control system of an organization and that accounting information provide and facilitate critical decisions that influence the formulation of useful information to achieve control. The financial accounting information is intended for external users, such as investors, employees, creditors, the government or the general public and is designated by the summary financial statements or, shortly, financial statements. Every year, the administrators of the companies must prepare a set of financial statements in a standardized form, consisting of: balance sheet, profit and loss account, the statement of changes in equity, the statement of cash flows and accounting policies, and explanatory notes to them.

At the same time, management accounting information is intended for internal users, respectively the management of the economic entity. This information is non-standardized, often non-monetary, and includes information on the unit cost of the products, the behavior of costs relative to the volume of activity or profitability per product. The reports are submitted to the management at short intervals - monthly, weekly or daily - and are limited to subdivisions of the economic entity, called responsibility or profit centers.

In order for users to benefit from an eloquent accounting financial diagnosis, the relevance and credibility of the financial accounting reports must be brought to the highest degree of fidelity without containing elements of subjectivism and creativity in order to provide an objective, complete and neutral image, that reflects the substance of the economic events produced.

At the same time, the intelligibility with which the actors of the capital market understand the accounting financial information and use it when comparing the companies in the market, must have a level of comprehensiveness in the most appropriate way possible.

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THE MIRROR IMAGE AND THE ACCOUNTING PROFESSION

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Abstract

In this material we aim to identify the criteria that define the importance of the accounting profession from the perspective of obtaining the accurate image in accounting, to delineate the landmarks that guided the international evolution of the accounting profession and the responsibilities of the various categories that make up the accounting profession, from the perspective of ensuring the faithful image and the recognition of the main ethical and social responsibility issues faced by the accounting profession in order to ensure the faithful image in accounting.

Keywords*: accounting standardization, competent decision, balanced decision, professional competence and diligence*

JEL Classification: G3; G32; G34

1. Introduction

In the context of a national and international economic environment characterized by a strong dynamism, which has acquired strong social connotations in the last decades, the spectrum of diversity of professions is noted, the increasing importance that the accounting profession has acquired, being able to have an increasing impact on the economic and social life, due to its influence on the development of the economic-social environment as a whole.

The foundation of the accounting professional is the university, its purpose being to create valuable exponents of the accounting profession. The profession of accountant reveals from the fineness of its details, after a continuous involvement and development of the accounting professional on the chart generated by the university. Unguided by the university quality of the preparation of the accounting professional, the accounting expert evolves chaotically and induces a distancing from professional accounting, rather a rudimentary accounting, that only sounds good, or, in any case, we do not want that.

In no case should the significance of the accounting professional be minimized, because in the organization of the economic life of the entities, the accountant is the one in whose hands are the tools that allow him to put into practice, under the coordination of the management, of the organization and harmonization of information, reflecting the evolution and movement of the entity's material, financial and human resources, which, classified according to certain categories, according to a set of accounting principles, rules and norms, reflects at one point, the economic-financial situation of the respective entity, or in other words, it allows us to hope in achieving the chimera so much desired by the accounting professionals, and offers a faithful image of the economic reality of the entity.

2. The normalizers and the mirrored image in accounting

The satisfaction of the public interest in accounting implies bringing to a common denominator the accounting practices, or in other words an uniformization of them. However, in order to achieve this difficult task, we must at least consider the following premises:

- ✓ Accounting is a science that enjoys a certain rigor, specific to fundamental economic sciences with a fundamental character, having its own object and a terminology specific to it;
- ✓ Accounting is the result of a long historical process of evolution, with profound social implications, and which is subject to the impact of the aspirations of its different users, or in other words it is directly influenced by the satisfaction of the public interest.

The need for the accounting standardization process was imposed due to the multitude of accounting practices used by different professionals, for the purpose of publishing information, intended for several categories of users, and allowing them to have a basis for

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making different comparisons. The accounting standardization has as its object and purpose the application of identical accounting rules in the same geopolitical space and aims to create uniform accounting practices. Two trends can be identified in achieving this accounting standardization:

✓ The Anglo-Saxon normalization, characterized by the rather small intervention of the state in the accounting standardization act;

✓ Normalization of continental influence, where the accounting norms and rules are under the impact of the state, being dictated by it, as the main user of accounting information.

Essentially, regardless of which of the two forms of normalization they agree on, the main objectives of this process are:

– establishing a unitary system of accounting terms, which is easy to learn and understand by all categories of users of accounting information;

– identifying fundamental accounting principles, generally accepted by both the accounting professionals and all categories of users of the financial statements;

– establishing common elements around which the presentation of financial statements will be built;

– the grouping and ordering of accounts on the basis of well-identified criteria, in classes and groups of accounts and the elaboration of an Accounting Plan, with the purpose of classifying the different categories of operations.

If we analyze, from the point of view of the mirrored image provided by the current accounting, through the annual financial statements, we appreciate that the normalizers have a significant contribution to increasing its quality, because through this normalization process there are created the premises for increasing the homogeneity, veracity and reliability and finally the quality of the accounting information reflected by the financial statements - the accounting product.

Regarding the normalization in those accounting systems heavily influenced by the state, there were voices of the professional accountants, who argued that the criteria for obtaining a true faithful image were not completely fulfilled, and this because the economic part would be strongly influenced by legal and fiscal reasons. And the practice has shown that, quite frequently, accountants put their heads together, finding ways to avoid the impact that certain tax rules would have had.

As the evolution of accounting and implicitly of the accounting profession is increasingly directed towards finding those ways of achieving maximum public satisfaction and serving the public interest, lately, we are witnessing a diminution of the role of state intervention in accounting standardization, increasing the contribution of the accounting profession, thus giving priority to economic reality over legal issues. This fact is justified by the simple argument that the large mass of the public enters a large variety of categories of users of financial statements, the state is only one of them. Moreover, the category of users that is beginning to dominate the public interest is that of investors. Currently, the accounting professionals and normalizers are concerned, in particular by the rebuilding the credibility of the information provided by the accounting professional from the challenged investors in the last decade.

3. Accounting professionals and the mirrored image

The contribution to ensuring the faithful image of the annual financial statements of an entity is, to a very large extent, that of the accounting profession, through its representatives. The managers make decisions, exercising the management function, but in order to be able to establish a future projection of the activity of the entity and the key points of the strategy that it should follow, the management needs the support offered by an internal consultant, a role that is increasingly being fulfilled by the accounting professional.

The ultimate goal of the accounting specialists is or should be to keep the accounting and the preparation of the annual financial statements, so as to allow to offer an accurate image and to provide credible, honest and relevant information. This information will be the basis of the process of substantiating the economic decisions of the users of this information, so they will satisfy their economic interests. The practice has shown that the role of the professional accountants has undergone certain changes, in the sense that their significance within the entities has increased, the accountant is no longer viewed from the perspective of a simple performer and begins to be approached from the position of a true specialist. Obviously, the ideal would be for the accounting professional to remain firmly in the position, not to be affected by certain conflicts of interest, or by certain pressures, and to pursue that the ultimate requirement of obtaining the accurate image is actually fulfilled.

The management aims to increase the wealth of the shareholders, so it justifies their existence and why not recognize the remuneration and bonuses they receive. In most cases this remuneration is directly related to the performance of the company. Therefore, sometimes we may face cases, in which certain pressures are made on the accountant, there are made attempts to impose the interests of a group of users to the detriment of other categories of users, which generates tensions, which in the end may have negative consequences on the entity and its shareholders, finally on satisfying the public interest of all the categories of users that it includes.

4. The mirrored image from the perspective of the auditors

Considering that the very definition of the concept of a mirrored image is so controversial, not having yet a unanimous and generally accepted definition, it is quite difficult to measure the degree of objectivity of the opinion issued by the auditor. This difficulty is caused by the fact that we do not have defined objective instruments for measuring fidelity reflected by the financial statements. It is true that there are issued a number of accounting rules and standards, as well as audit, whose application should lead to obtaining these long-awaited accurate images, but we do not have, at least at this moment, a universally valid recipe that guarantees the quality of the mirrored image.

With all these impediments, financial auditors face up to this challenge, having a permanent concern to perfect their method so as to obtain the highest degree of objectivity and safety in expressing the opinion on the fidelity to the economic reality of the image provided by the annual financial statements. They follow the principle that they have, at least, the necessary knowledge, the necessary qualities to identify those situations in which the demand for a faithful image is not respected. The professional reasoning is attributed a major contribution to the achievement of their approach to appreciating the faithful image.

Achieving the objectives of the audit work and achieving its purpose is closely linked to the fulfillment of several conditions:

✓Professionalism: it is important that the professional status of the auditor is recognized by the clients of his services;

✓Credibility: there is a need for the whole entity to obtain information and appreciation regarding the quality of the accurate image;

✓Quality of services: the client of the auditor must obtain a certain level of assurance, which will confirm the accomplishment of the audit work at the highest level of performance;

✓Trust: The accounting information users must have confidence in the person that has the mission to appreciate the quality of the mirrored image, being aware that there is a set of audit rules and standards that regulate these audit services, and the Code of Conduct and Professional Ethics provides an ethical and moral certainty.

5. The ethics and social responsibility of the accounting professionals from the perspective of ensuring the mirrored image

If we were to summarize the criteria that a decision must meet in order to be considered ethical, these would be:

✓competent decision based on knowledge and gained experience;

✓relevant decision, taken in the conditions in which it has identified exactly the details of the specific problem as well as the obligations of each party involved and also estimated what would be all the relevant options they would have in making the decision;

✓balanced decision, in the sense that it was made according to a certain prioritization of the ethical principles that were the basis of this decision;

✓objective decision, in the sense that there were taken into account the ethical principles and rules, without being influenced by certain conflicts of interest by acting objectively and responsibly.

Ethics is not just about respecting the letter of the law, but also respecting the spirit of justice. In fact, we could say that sometimes the law enforces certain moral rules of conduct established in the economic environment, but sometimes the law conflicts with these rules, which they subordinate to extraordinary interests. If the law establishes the moral rule legally, then the observance of the law also means ethical conduct; and if the law conflicts with the moral rule, the first must prevail, once we have agreed that a reputable professional is bound to abide by the law - which is also a moral commitment at the principle level.

The observance of ethical principles implies a good management of relationships with others. Ethics means more than resolving or preventing conflicts. Ethics involves finding a balance between the interests of the affected or involved groups.

Professional ethics implies taking over the general framework of ethical benchmarks and principles, particularizing them at the level of a profession, the accounting profession as is our case. A true professional will relate to both general ethical principles, but it will also consider the compliance with a set of standards or rules that establish an ethical ideal behavior. Obviously, every professional organization has or should have a well-founded and respected code of ethics, without which the consequences would be adverse.

No code of professional ethics can claim to be truly complete, because all the situations that may arise in practice cannot be foreseen. Therefore, the professional accountant will use his professional reasoning for making a correct ethical decision. The Code of Ethics will set out the principles that will have to be taken into account when conducting this professional reasoning, provided they are realistic and indeed applicable. For a professional accountant to have a truly respected status in the professional and social community in which he is active, it is necessary to respect these principles of ethical conduct.

Users do not have the necessary skills or abilities, most of the time, to objectively assess the quality of work done by a professional accountant. Therefore, for them, the fact that the accounting professional has adhered to a code of professional ethics of conduct constitutes an additional guarantee for their professional integrity and competence. It is the duty of the accounting professional or specialist to promote an image for the public, stating that:

✓ they are objective, upright from a professional point of view, they do not get involved in various conflicts of interests;

✓ they have the professional knowledge necessary to carry out their tasks with professionalism;

✓ they assume the social and moral responsibilities they have towards the beneficiaries of their work;

✓ they develop quality professional relationships with other members of the accounting profession.

A distinguishing sign of the accounting profession is the responsibility to act in the public interest. Therefore, the social responsibility of an accounting professional does not consist exclusively in meeting the needs of a client or an individual employer. Acting in the public interest, a professional accountant should respect and adhere to a set of ethical principles. The audience to which the accounting profession is addressed is made up of: clients, creditors, the government or its representatives, employers, employees, investors, the business community, of the financiers, and other people who rely on the objectivity and integrity of the accounting professionals to be able to make the best economic decisions and thus maintain the proper functioning of the economy.

Accounting professionals have an important role in society. Investors, creditors, managers, including the government and the public rely on accounting professionals for financial accounting and financial statements to ensure the provision of a sound image, for efficient financial management and competent advice regarding a fiscal nature. It is important for the accounting professional to be aware that their attitude and behavior when providing such services have a decisive impact on the economic well-being of their community and country.

Accounting specialists can benefit from this advantageous position only by continuing to provide the public with superior quality services that are able to support the public's confidence. It is in the interest of the accounting profession to convey the message to the users of the work submitted, that it is executed at the highest level of performance and in accordance with the ethical requirements associated with these services.

The professional accountants will respect the ethical requirements that concern them, without having to resort to constraints or sanctions. However, we may face certain situations where such requirements are blatantly ignored or not complied with due to error, omission or misunderstanding. We must mention that it is in the interest of the profession and of all its members, which the general public should trust that non-compliance with the ethical requirements of the profession will be investigated and, where appropriate, disciplinary action will be taken.

6. Conclusions

Lately, we are seeing a mixed approach of the normalization process in more and more accounting systems, in the sense that the accounting standardization does not belong to only one authority, by the intervention of more forces this process being known in the specialized literature as a process of national accounting deregulation.

We consider that the mixed-type approach would best meet the requirements of the users of accounting information and would provide a general conceptual framework that would satisfy the real information needs of the different categories of users, both of the state and of other categories of beneficiaries of information provided by accounting.

Standardization and therefore the normalizers, have a significant responsibility and contribution to the increase of the guarantee that the image provided by the accounting is a real and accurate one. They help increase user security to third parties that this information is consistent and satisfies the requirements to an acceptable level.

It is particularly important for the accounting professional to accept that he has a social responsibility towards the users of the results in which their work materializes. They perform work for their benefit and therefore the beneficiaries of their work must be convinced that they act in a competent manner and with professional integrity.

If we were to summarize, the future prospects of the accounting profession will have to focus on the adoption of measures that will allow for the greatest transparency, as much public oversight as possible, but this in the context of accounting policies that are neutral and independent of the influence of the various interest groups. The final goal of the professional accountant will have to be to rebuild his credibility and image in front of the public, who is following him with great interest.

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DASHBOARD - TOOL FOR IMPROVING FINANCIAL PERFORMANCE FOR ENTITIES IN THE ROMANIAN CLOTHING INDUSTRY

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Abstract

This article aims to emphasize the importance of the dashboard on the financial performance for the entities in the clothing industry in Romania. The analysis presented by the Dashboard is based on those results that can be used by the decision makers in the clothing industry for the elaboration and implementation of the necessary measures for improving the financial position and the economic performance by using modern tools for managing the organization's activity with perspectives. clear and solid for the future. The results of the research carried out show an upward evolution of the majority of the volume indicators of the presented dashboard, which can be used by the decision makers in the clothing industry.

Keywords: *financial performance, dashboard, clothing industry, accounting results, managerial decisions*

JEL classification: *M41, L67*

1. Introduction

The economic-financial environment is influenced by uncertainty and information asymmetry. Starting from this idea, we consider the economic and social transfigurations to be imposed by the change of the way of thinking and of the business undertaken. The present state plays a fundamental role in the economic entities, namely the one of the increase of the performance, although the competition for each division of the market, it has been found that it has become more and more tight, and the mechanisms of globalization remove from the horizon the few competitors. According to this principle, the chances of surviving in this competition are greatly diminished by the companies concerned.

By this, it is deduced the importance of the utilization of the accounting information that is imperatively needed, through the continuous study of the economic-financial performance, to establish the performance problem in a global manner and to highlight the performance evaluation within an industry. For this we propose highlighting them through the dashboard as an instrument for piloting responsibility centers within companies, which proves its usefulness due to the conditions under which its users use it to understand the economic reality of the company, in order to make appropriate decisions.

The difficulty of achieving the performance and the necessary continuous transformations, of economic and social level, at global level, which are the basis of the needs of renewal and improvement, according to the requirements of those involved in the flow of activities and for the correct management of future actions, are only two of those more important reasons underlying the choice of investigating the topic addressed.

We believe that the current socio-economic development imposes a continuous improvement of the accounting information, through modern methods of studying the financial performance, so that it can respond both to the requirements of the company, through the fundamental decisions implemented, but also to the informal needs of the clients and business partners. Therefore, we consider that the quality of the information that the company provides through the financial statements that add value to the financial reporting framework is important first and foremost.

In the national economy, the clothing industry presents through an extensive analysis (Adriana Gîrneaţă, Marius Potcovaru, 2015) an important segment due to the considerable share in the gross domestic product, the number of exports and the number of employees in

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these companies. However, from the specialized statistics (Adriana Gîrneaţă, Adriana Giurgiu, Cosmin Octavian Dobrin, Ion Popa, Doina Popescu, Sunhilde Cuc, Laura Voicu, 2015, pp. 108 - 113) we can see that the socio-economic and political changes that have held in Romania during the last two decades, they have affected this industry, which has been forced to constantly adapt to the changes that have taken place, and which has made the market a continuous change.

2. Literature review

Over time, the dashboard has been developed continuously to meet the needs of users, especially - managers. The various researchers in the economic field (Sorinel Căpuşneanu, Ileana Sorina Boca (Rakos), Cristian Marian Barbu, 2012, p. 3) consider that regardless of the form of presentation of the dashboard, as a graph, table or modular - it is part of those more useful tools for making the best decisions, the basics and the vials by a manager.

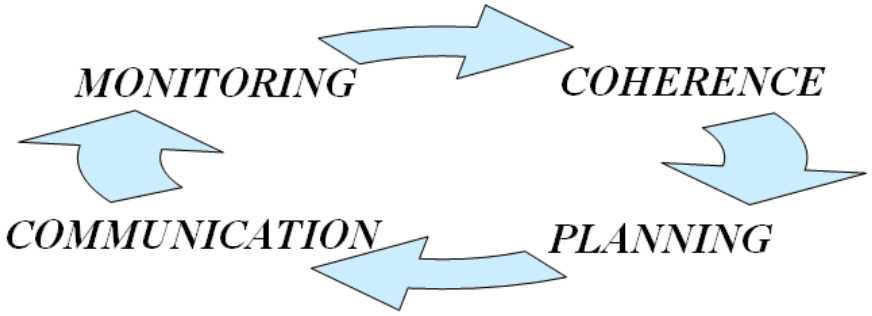
The evolution of the dashboard with the aim of improving the financial performance of companies is still on the rise, which, as Ogan Yigitbasioglu also states, Oana Velcu (2012, p. 49) believes that in the future it will be integrated into the systemic workflow management.

The dashboard according to Ion Verboncu (2001, p. 23) is "a set of relevant information regarding the results obtained in the field conducted, presented in a synthetic form, predetermined and transmitted operatively to the beneficiaries" and also meant to synthesize. the information necessary for the management (Niculai Tabără, Gabriela Chetrariu, 2002, p. 2).

David Arnott, Graham Pervan (2005, pp. 67-87) points out that the dashboard is considered to be a particular type of decision support system and a visual and interactive performance management tool that displays the most on one screen. important information about one or more companies, in an objective way that allows the user to identify, explore and communicate the problem areas that need corrective and immediate action.

Multiple international researchers (Koen Pauwels, Tim Ambler, Bruce Clark, et al., 2009, p. 180; Oana Velcu, Ogan Yigitbasioglu, 2012, p. 42) according to figure no. 1, considers that there are 4 purposes for which the dashboard would be used.

Figure no. 1. Purposes of using the dashboard



Source: Own processing by Oana Velcu, Ogan Yigitbasioglu, 2012, p. 42

1. *Monitoring* refers to the daily evaluation of the values that should lead to corrective actions. This could be considered the most fundamental function of the dashboard.
2. *Coherence* refers to aligning and measuring procedures used in departments or for the whole company.
3. Dashboards can also be used for *planning*, given that scenario analysis is present among its features.
4. *Communicates* information to both financial performance managers and stakeholders for choosing company values.

Claudia Guni (2011, p. 555) shows that the dashboard represents a suitable way for framing, selecting, arranging and presenting the indicators that form an overview of the general trends of evolution. From here we can deduce that the dashboard has the following functions: (1) the function of informing the manager about the factual status of the managed work; (2) the warning function on the unfavorable situations or on any deviations from the norm that might occur; (3) the function of evaluating the results that must be in accordance with the decisions and actions taken; (4) the decision function on the basis of its foundation and its proper accomplishment.

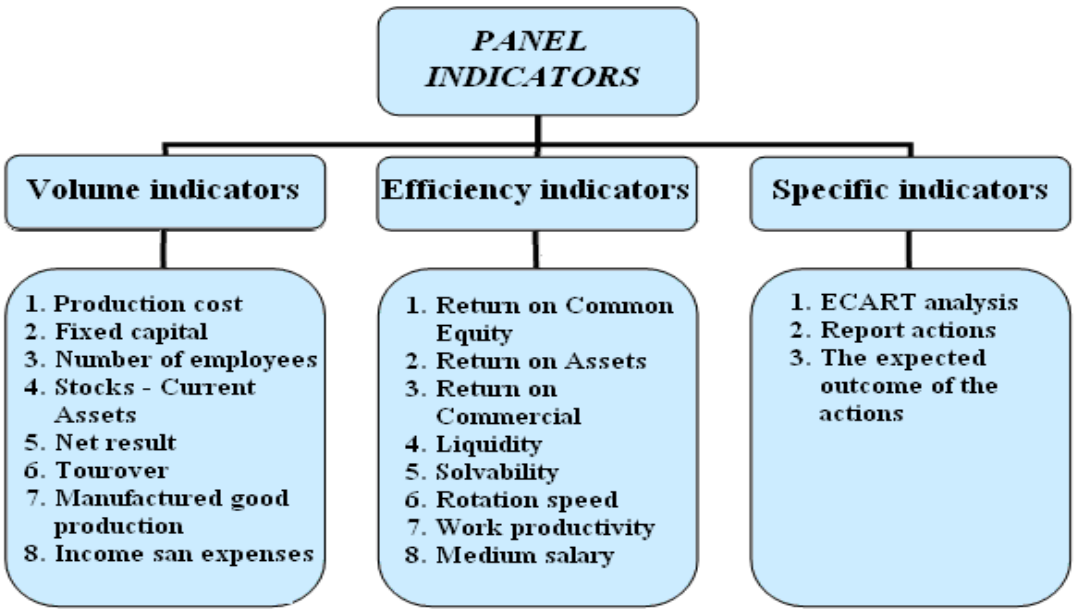
We agree with those stated by Simona Elena Dragomirescu and Daniela Cristina Solomon (2013, p. 175) who believe that an effective dashboard should allow the evaluation and management of performance using the progress modalities established in the strategy and it should also or a useful tool for performance management that can constantly adapt to changes and challenges in the context of today's economy. Therefore, we can say that its outline and development offers the possibility of satisfying a wide range of requirements that may arise at the level of companies from a microeconomic perspective, or at the industry level from a macroeconomic perspective.

3. Research methodology

The implementation of the financial dashboard in companies in the clothing industry as a technological solution (Ivo Damyanov, Nikolay Tsankov, 2019, pp. 428-429) makes it possible to quickly create, maintain, retrieve and provide updated accounting information at the right time, in order to making the most optimal managerial decisions, as well as their use in various procedures related to quality evaluation or publicity of accounting information.

After researching the specialized literature, we found that there are no universal indicators for the composition of the dashboard applicable in all fields of activity. We believe that in order to ensure the coherence and visibility of the scoreboard in the clothing industry, the indicators that can be used are divided into the following types (figure no. 2).

Figure no. 2 The system of specific indicators of the dashboard in the clothing industry



Source: Own processing by Niculai Tabără, 2004, pp. 199-208

In order to design and use the dashboard to improve the financial performance of the confectionery industry entities in Romania, we believe that the following steps are necessary (Ion Lead, Andreea Zamfir, Ion Popa, Cosmin Dobrin, Sofia Colesca, Oana Sabie, Răzvan Corboş, Irina Popescu, Vasile Deac, 2011, pp. 252-255):

Stage I - Outline of the dashboard

This stage is preparatory, but fundamental in ensuring the success of using the dashboard as a decisive tool for improving the financial performance of the clothing industry. The main aspects that this stage deals with refer to:

- setting the objectives of the company, as well as those regarding the design, completion and use of the dashboard;
- specifying the ways of visualizing the information and designing the information methods that can be used by the dashboard;
- fixing the circuits related to the information situations and determining the procedures for processing the information;
- prioritizing completing and submitting the layouts used for the dashboard.

Stage II - Diagnosis of the information system specific to the clothing industry

In this stage, the primary components of the information system are analyzed - the data, information, procedures, flows and information circuits, in order to:

- framing from a typological perspective the information, flows and information circuits;
- establishing the quality of the information in the system and adapting it to the beneficiary information requirements;
- analyzing through the deficiencies of the information system and identifying the causes that cause these deficiencies;
- analyzing from the perspective of some principles of functioning of the information system (the principle of correlation, the principle of methodological unity, the principle of flexibility of the information system, the principle of focusing on deviations).

Stage III - Redesigning the information system needed to make managerial decisions

We consider that when the information system fails to provide qualitative information in the first phase, it is necessary to redesign it, taking into account the following methodological aspects:

- reconceiving some components specific to the information system (information, information flows and circuits);
- increasing the degree of information on the execution and management processes;
- re-creation of some informational documents, by modifying their content;
- diminishing the causes that cause malfunctions of the information system;
- promoting the image of the information system in the clothing industry.

Stage IV - Drawing up the dashboard

This stage involves the realization of the dashboard from a structural-organizational point of view, by completing the informational models and transmitting them to managers in order to make the most optimal decisions in order to increase the financial performance of the companies.

Step V - Use the dashboard and continually improve it

This stage can be discussed in three ways:

- the decisional use of information, which we consider to be the most important task within the dashboard;
- operational intensification in the garment industry according to the information transmitted and the application of the decisions already adopted;
- informing the decision-making forum about the achievements in the company, or at the industry level (degree of achievement of objectives, manner of allocating resources).

The dashboard found that it uses accounting information from the financial, management and budgetary accounting systems. We believe that this dashboard can be shaped on the accounting structure in companies by applying the principle of deviation analysis. Therefore, the dashboard presents a set of universally accepted indicators that can be used according to needs and which the management of companies must regularly analyze in order to evaluate the activity carried out.

4. Results and Discussion

The research continues with the systematization of the volume indicators of the financial performance and the drawing up of the dashboard for a representative company in the Romanian clothing industry, entitled CONF Ltd. for privacy reasons. Although at national level the activity of garment manufacturing is attributed to a large number of similar companies as object of activity with CONF Ltd. in the following we will focus our attention only on it in order to identify punctually the implementation of managerial decisions in correlation with economic-financial results obtained.

In order to analyze the current assets, we highlight in table no. 1 indicators the component indicators of the stocks for the final analysis and preparation of the General Dashboard.

Table no. 1 The size of stocks of current assets during the period January-December 2017

-lei-

Month	*Raw materials*		*Consumable materials*		*Packaging*		*Accessorys*	
	Planned	*Accomplished*	*Planned*	*Accomplished*	*Planned*	*Accomplished*	*Planned*	*Accomplished*
January	780,850	787,977	315,000	322,799	110,500	124,781	35,000	34,139
February	705,000	709,438	270,950	295,410	100,350	118,476	33,550	32,349
March	730,500	688,915	140,000	141,789	90,000	75,490	29,500	28,442
April	700,340	691,753	205,500	219,391	101,000	108,567	30,100	29,567
May	690,000	679,878	280,300	292,741	99,000	104,451	32,500	31,471
June	697,300	664,213	260,000	158,263	70,550	76,438	25,050	23,521
July	560,000	554,725	134,500	148,335	48,000	52,501	22,450	21,432
August	580,800	523,572	135,550	138,674	45,000	45,889	19,450	18,454
September	550,000	525,094	125,500	139,728	41,500	45,939	20,090	19,096
October	715,500	682,370	130,000	156,967	65,000	71,622	24,050	22,673
November	750,380	745,417	135,500	152,140	55,500	67,890	24,500	23,838
December	780,500	775,699	215,500	218,371	100,450	111,436	31,000	29,065

Source: Own processing

According to those observed in table no. 1, we can say that CONF Ltd. it failed to realize its activity plan proposed for the months of 2017, due to the small size of the goods held and intended for sale following their processing in the production process. We hope that the focus of the company has been on long-term assets in the company - fixed assets, and this is why the company has a low and even unrealized stock volume compared to its own forecast. In the general context, we observe a reduction of stocks in the summer months, and this is due to the leave granted to the employees, so that the workload and consequently the necessary stocks are reduced.

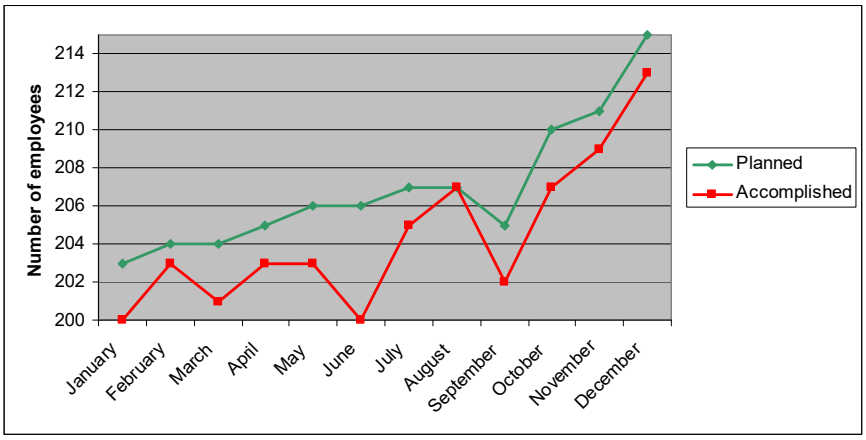
We find that the raw materials occupy a significant place in the total of these stocks, failing to fulfill the plan due to the difficulties arising in the production of certain articles of manufactured clothing and which was not taken into account in the planning made at the beginning of the year. By analyzing the technical documentation held by the company, we found that most of the raw material held by it is found in the finished products as it was consumed.

Consumable materials we find that they participate in the manufacturing process of garments made and that exceeds in most months the action plan. Also an oversupply of the plan is observed also among the packages intended for the sale of products that come as a result of a higher level of raw materials than the one foreseen. Because the raw materials

made by CONF Ltd. they were bigger than planned, they increased - consumables and auxiliary materials (sewing threads, linings, protections, reinforcements), but also the packaging used for storage and transport (cardboard boxes, separators, biodegradable foils). An inverse situation is observed in the case of the accessories that as values expressed in lei according to the takeover from the annual financial statements are smaller than the forecast ones and this is due to the renunciation of some accessories (buttons, zippers, staples, embroidery) from the realized series production.

The evolution of the number of employees according to months for 2017 is presented in figure no. 3:

Figure no. 3 **Evolution of the number of employees during the period January-December 2017**

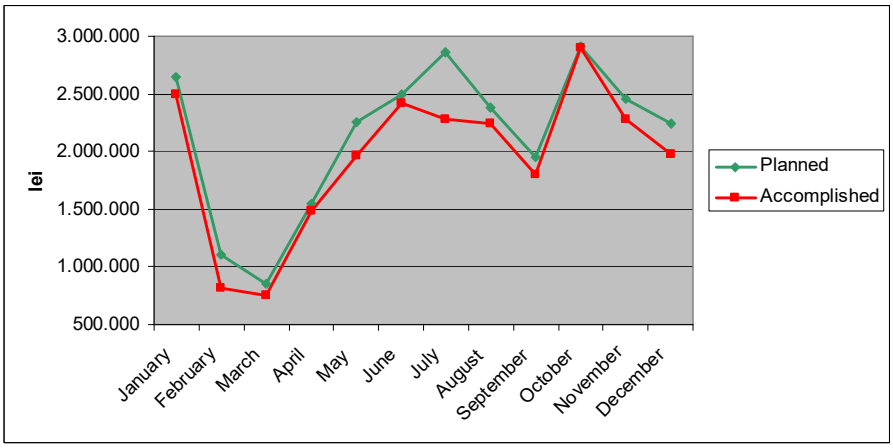


Source: Own processing

We observe from the figure no. 3 an increase in the number of employees as a result of the recruitment and employment plan elaborated by the company management. The average number of employees in the 12 months analyzed is equal to 204 employees, and after a wave of departures by resignation in September, the situation is worsening in the last months of the year, when CONF Ltd. almost manages (213 employees) to reach the forecast level (215 employees).

Manufactured merchandise for the volume of garments from CONF Ltd. from 2017 it represents the production (the value of the finished products) obtained and destined for sale. According to months, this is divided as follows (figure no. 4):

Figure no. 4 **Evolution of the production of goods manufactured during January-December 2017**



Source: Own processing

The data presented in figure no. 4 shows that the goods produced at CONF Ltd. is in 2017 below the planned level. However, we consider that in some months the forecast values are close to those achieved, which is encouraging because the competition on this type of market is increased, the clients referring in most cases to the value for money.

In addition to the indicators present at CONF Ltd. presented above, in the following we build the general scorecard of the company analyzed for December 2017 (table no. 2), which if desired can help in the elaboration of the business plan for the following year.

Table no. 2 **Dashboard at CONF Ltd. for December 2017**

-lei-

Indicators	U.M.	MONTHLY VALUES			ACCUMULATED VALUES			CUMULATION n-1	TREND n;n-1
		ACCOMPLISHED	PLANNED	%	ACCOMPLISHED	PLANNED	%	ACCOMPLISHED	
Raw materials	lei	775,699	780,500	99.38	8,029,051	8,241,170	97.43	7,723,147	▲
Consumable materials	lei	218,371	215,500	101.33	2,394,608	2,348,300	101.97	2,031,950	▲
Packaging	lei	111,436	100,450	110.94	1,003,480	926,850	108.27	943,238	▲
Accessorys	lei	29,065	31,000	93,75	314,047	327,240	95.97	279,526	▲
Number of employees	employees	213	215	99.07	213	215	99.07	123	▲
Manufactured goods production	lei	1,980,000	2,240,500	88.37	23,405,890	25,800,000	90.72	19,354,871	▲
Turnover	lei	2,350,805	2,500,000	94.03	35,041,010	37,855,000	92.57	32,670,478	▲
Total income	lei	3,482,244	4,645,000	74.97	38,774,696	50,480,000	76.81	39,100,328	▼
Total expenses	lei	4,553,924	2,800,500	162.61	38,392,970	24,700,000	155.43	38,237,055	▲
The net result	lei	20,752	58,000	35.78	381,726	500,000	42.64	863,273	▼

Source: Own processing

Following the analysis of the data in the General Dashboard of the CONF Ltd. we can say that the activity carried out from the perspective of financial analysis presents an upward trend, except making 2 of the most important indicators Total income and Net result of the financial year, profit that we observed that decreased from December 2016 to the same month of 2017 with 481,547 lei . We note an increase in the number of employees as a result of taking measures to increase the wage benefits as a result of a high number of dismissals of employees. We believe that the financial decision makers have a delicate mission to follow, namely - increasing the production and reducing the costs involved, which as we see in table no. 2 seems to have an upward path. A possible plan elaborated to increase the profit of the financial year will help the company management to determine which are the ways in which the revenues can be increased and the expenses reduced.

5. Conclusions

Through the above, we believe that through our research we have provided a modern perspective for measuring and tracking the ways in which financial performance can be improved through the dashboard as an instrument of the centers of responsibility within the analyzed companies.

The obtained results offered the possibility to identify the indicators used to construct the dashboard of the analyzed company in the Romanian clothing industry - CONF Ltd. For each described indicator, data were presented according to months for 2017, both from the perspective realized and planned by the management of the company.

Using the volume indicators the general dashboard for CONF Ltd. was built in December 2017 compared to the same month of 2016, which led to the establishment of the trend, with the purpose of observing which are the financial indicators of the scoreboard that need to be improved in order to increase the financial performance. The construction of the dashboard in the clothing industry is of the opinion that it is useful to the managers who make the financial decisions, the heads of corporations, as well as the business partners - customers, suppliers. This tool is a modern variant of financial performance evaluation that increases its influence due to the double perspective in which it was analyzed: planned results and achieved results.

Finally, we can say in other words that the dashboard offers the possibility to view the accounting information in a simplified way in order to evaluate the performance of the activity undertaken by the analyzed company with the help of representative indicators that help in making the best managerial decisions, as well as detecting the actions. and taking the necessary measures to correct the incompatibilities. We appreciate that the dashboard plays an essential role in improving the management of companies in the Romanian clothing industry, offering a complex and up-to-date model for evaluating financial performance.

Acknowledgement

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ACCOUNTING POLICIES AND CORPORATE GOVERNANCE IN JORDAN

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Abstract

Financial crises and Globalization has increased need to ensure the validity of financial statements issued by companies, especially after the bankruptcy of many companies as a result of the adoption and changing of accounting and financial policies by company managers that distort the financial statements , that led to adopt corporate governance both developed and developing countries which is the way organized relationships between all stakeholders of business and to preparing financial statements in accordance International Financial Reporting Standards (IFRS) .

The purpose of this paper is to present the current legislative environment and institutional framework of corporate governance in Jordan and to develop knowledge about assess accounting and financial policies in the practice of corporate governance, accordance with the key principles of corporate governance by Organization for Economic Co-operation and Development (OECD), and how accounting policies effect on corporate governance.

Corporate governance is the way that Company is managed by management through the approved accounting and financial policies which help companies enhance their ability to achieve the objectives and increase efficiency and effectiveness with the best use of available resources, which means that company who have good governance will have more disclosure and transparency.

In general, Jordan has some features of the best corporate governance practices, but he still needs more progress in the independence of directors, shareholder rights and entitlement, and needs more independent for internal and external auditing.

The problems of Jordanian business environment which impact on corporate governance are:

1-There is a need to raise awareness and education about corporate governance, its importance and the mechanisms for its implementation.

2-Adequate disclosure and transparency instructions are required only from companies listed on the Amman Stock Exchange;

3-Some managers use creative accounting by changing certain accounting policies to affect the company's financial results; and

4-Some companies still owned and managed families, and some limited liability companies are not listed on the Amman Stock Exchange.

Keywords: Corporate Culture, Accounting, Auditing

Jel: M14, M41, M42.

Introduction

After globalization and global financial crises, the bankruptcy of many companies and spectacular collapse of the global financial markets, many countries, scientists and researchers were forced to look for causes of these financial crises, because the investment was in the open market around the world and financial investments will be not between countries just but also across continents.

These financial crises led to the bankruptcy for many companies in both developed and developing countries, where scientists and researchers concluded that the main reason is lack of governance in these companies, which helped managers to modify and distort the financial statements as a result of adoption and change of some accounting policies to reflect the financial statements of companies this will significantly affect shareholders and stakeholders and make, wrong decisions that affect on future of their financial investments.

Corporate governance has become a national concern following developments in the corporate environment and administrative complexity of multinationals and globalization that have led to a need for standards, guidelines, and codes of governance, so Governments have

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developed different methods of regulating companies and protecting their assets so the company as a collective entity bears responsibilities and obligations towards key stakeholders, with shareholders considered only one group of stakeholders.

The adoption and preparation of financial statements by International Financial Reporting Standards (IFRS), will determine accounting and financial policies that managers use when they preparing financial statements.

Corporate governance in Jordan is mainly related to the legislative environment and institutional framework adopted by Jordan, so Jordan adopted governance based on the principles of governance approved by the Organization for Economic Cooperation and Development (OECD), which affected on accounting policies adopted by companies.

Corporate governance is the way that Companies are managed through approved accounting and financial policies which helped companies enhance their ability to achieve the objectives and increase efficiency and effectiveness with the best use of available resources, which means that company who has good governance will have more disclosure and transparency and reaching its goals.

Accounting data plays an important role in making decisions on capital investments by measuring management's ability to use accounting information when making investment decisions. The main three objectives of accounting information are:

1. information on annual cash flows;
2. Information about expected cash flows at the end of investment in assets;
3. Information on the operation of external cash flows (eg tax).

Enhancing the ability of these companies to achieve overall objectives of economic development by increasing efficiency and effectiveness in making the best use of available resources with fear of a low rate of return on expenditure compared to expenditure will lead to decisions that may affect continuity or survival of the company.

Accounting information plays a vital role in the preparation of financial statements. (Oyer et al. ,2017) found that the accounting information system has a clear impact on the level of governance. (Romney and Steinbart, 2016) noted that accounting information systems can support appropriate management data to make appropriate decisions and use a suitable alternative to the company's investments. Therefore, the financial report aims to provide users and stakeholders with the necessary information to help them in making decisions. Companies can be used and evaluated the decision by many parties and categories inside it.

Corporate Governance consists of three different elements: shareholders, Board of Directors and senior management team "(Brenes et al., 2009). Corporate governance is the way of managing, organized and regulated the relations between all stakeholders in the business.

Corporate governance is defined as rules and practices governing the relationship between managers, shareholders, and stakeholders of companies such as employees and creditors who contribute to the growth and financial stability by enhancing confidence and soundness of financial market and economic efficiency (OECD,2004).

The concept of corporate governance is the rules and standards that define the relationship between management of the company and stakeholders associated with the company: employees, suppliers, lenders, creditors, consumers, shareholders and bondholders (Kim 2006)

The report of the Cadbury Commission is known governance as "the system through which companies are directed and controlled" (Dunne & Morris 2008).

Generally, its the framework of rules, relationships, regulations and processes through which power is exercised and controlled, for promoting, achieving justice and transparency in public shareholding companies

OECD corporate governance principles include:

First: Protecting Shareholders' Rights:(Murphy and Tupyan ,2005) stated that the most important aspect of corporate governance is the protection of small shareholders, not just big and active, which leads to greater confidence of the organization (Klapper & Love 2004). These procedures include maintaining clear records of shareholders and applying secure methods of property registration; providing timely and regular information; ensuring shareholder rights to participate and vote in public shareholder meetings; and selecting board members (King & Wen 2011).

Second: Governance involves fair treatment of all shareholders, including a minority, so Since corporate governance increases the company's ability to protect shareholders' rights, all shareholders must have the same voting rights and should be able to obtain sufficient information about their voting rights before buying shares in the company.(OECD 2004).

Third: the relationship between company and stakeholders (OECD 2004): as governance regulates the relationship between company and stakeholders and following that rules of governance protect the interests of external parties and increase the value of the company.

Fourth: Disclosure and transparency of all issues related to the company (OECD 2004): Enhancing transparency is a key feature of corporate governance which includes accurate and complete disclosures of the company's financial and operating results, objectives, strategies, ownership structure and governance, and provides substantive information on directors and key employees.(Seal 2006).

Fifth: Responsibilities of Board of Directors (OECD 2004): The governance framework of company includes rules of directing the company, mechanism which the board supervises management, and monitoring of board of directors by shareholders of company and monitoring of key executives and development of a strategy to set goals (Hutchinson & Gul 2004) they are also responsible for reviewing plans and addressing gaps during implementation when this principle is actively applied so we recommended the functions of CEO should be separated of the Chairman.

Business environment and corporate governance principles

Board of Directors is responsible for achieving objectives of the community and includes the development of accounting policies, financial control systems, financial planning, auditing its financial statements annually and the presence of internal audit.

Board improves corporate governance through improved accounting policies, the Board has full responsibility for its approval and follow-up.

Good corporate governance practice ensures effective public disclosure of data, financial status, performance, partnership, events, requests, commitments and uncertainties arising from climate change that are likely to have a material impact on the financial condition or operating performance.

The primary responsibility of corporate governance lies on boards of directors and is influenced by the behavior of shareholders, external auditors, governments, securities regulators, stock exchanges, other self-regulatory organizations, and employees.

Corporate Governance in Jordan

In Jordan, adoption of International Financial Reporting Standards (IFRS) to support corporate governance, this assists in accessing international capital markets; ensuring a higher degree of transparency and comparability of financial data between companies

Corporate governance in Jordan can be categorized into six dimensions:

1- legislative framework and government oversight,

2- Institutional framework and capital market,

3- disclosure and accounting standards,

4- transparency in privatization,

5- effective oversight of the board of directors,

6-preservation of property rights and protection of minority rights (Al-Khoury 2003).

These dimensions are related to Companies Law of 1997 and Securities Law of 2002, so the Company Controller also plays an important role in the implementation of corporate governance under Companies Law (World Bank 2004).

1. Legislative framework and government oversight:

The legislative environment in Jordan is the basis for the development of good corporate governance procedures (Al-Bashir 2003). Through laws such as Corporate Law, Securities Law, Banking Law, Insurance Law, Commercial Law, Competition and Monopoly Law, Investment Promotion Law and Privatization Law (Al-Jazi 2007).

2.Institutional framework and capital market:

Mangina and Shamisa (2008) argued that building an institutional framework is the basis for corporate governance practice. In Jordan, governance is carried out through three bodies: Jordanian Securities Commission (JSC), Amman Stock Exchange (ASE) and Securities Depository Center (SDC).they are develop and monitor the stock market.

The Securities Law provides a way to enforce governance rules, it defines market regulations, issuance of shares or bonds and trade procedures; responsibility and obligations of securities issuers, brokers and auditors; listing requirements in the stock market; and protection measures for minority rights and disclosure and transparency requirements.

3. Disclosure and accounting standards:

Full disclosure and clear accounting standards are essential for strong corporate governance (Rajagopalan & Zhang 2008). Jordanian laws require companies to follow international financial accounting standards. In 1994, Jordan fully adopted International Accounting Standards, now called International Financial Reporting Standards (Word Bank 2004).

4.Transparency in privatization

The Jordanian government worked to increase participation of the private sector in the economy through privatization of some government companies and institutions (Shanikat 2007), which improved the level of services provided and raised the efficiency of privatized companies.

5.Effective supervision of the Board of Directors

The Board of Directors is responsible for advising, reviewing and evaluating management performance (Gillan 2006). In Jordan, the Board of Directors carries out duties defined by Company Law, such as setting policies and planning for the management of Company, appointing Chief Executive Officer, maintaining internal control systems for financial and administrative accountability and inviting shareholders of Company to Ordinary General Meeting.

6.Exercise control over comprehensive audit and Protection of minority rights

Review the external and internal audit reports, plans, procedures, reports, and review financial statements before submitting them to the Board of Directors to ensure the accuracy of accounting and regulatory procedures.

Shareholders who own at least 15% of the company can audit and seek compensation for any violations committed by the Company's Board, General Director and Auditors (World Bank 2004).

The Corporate Governance Code has been issued and includes definitions of key terms; an overview of the Board's structure and responsibilities; public shareholder meetings; shareholders' rights, guidelines for financial disclosures; and a conceptual framework for accountability and auditing.

Administrative performance is enhanced reflect on the performance of the national economy and enhance investment climate (Jordan Securities Commission 2005).

Following the establishment of the Amman Stock Exchange in 1999, the Jordanian government encouraged local companies to expand issue securities to the public, but there are a large number of family-owned companies where Companies Law protected their property rights.

The situation of the Jordan capital market

Amman Stock Exchange (ASE) is responsible for managing and develop the operations and activities of securities, commodities and derivatives markets within and outside Jordan. As an independent, non-profit organization, ASE has been mandated to act as a regulated securities market in Jordan to do these points :

First, the ASE's institutional structure strengthens the government's control over the financial independence of the ASE.

Second, families and government officials control, making it difficult to dictate rules of corporate governance required, preventing some listed companies from complying.

Third, lack of coordination, data sharing and functional overlap between regulators makes it difficult to monitor financial disclosures and corporate activities.

Jordanian Securities Commission (JSC) is responsible for compliance with the application of disclosures and disclosures but does not widely review the quality of financial statements due to functional overlap. In 2004, as part of the World Bank-IMF Joint Program, Standards and Rules Compliance Report (ROSC) assessed Jordan's corporate governance policy framework and accounting compliance practices. Calling for development of corporate governance rules, application of public financial disclosure, periodic review of financial reports and contents, and greater compliance with OECD principles.

The element of the Jordan capital market

1.Control levels of lower concentration of property:

Publicly owned companies play an important role in the Jordanian economy and can be seen as a means of raising capital from a large number of public savers and their use by companies.

The market capitalization of the Amman Stock Exchange increased to more than $ 14.2 billion, which led new investors to enter the market to take advantage of the wealth that can be obtained through a share of ownership.

2. Shareholders' equity

Shareholders' ownership is recognized by the Companies Law, These records are kept in company shareholder shall be free to dispose of stock, they will be entitled to review share register in specific cases,they have right to vote and ask questions to Board of Directors and obtain answers at the shareholders' meeting and seek compensation in case Board of Directors breaches its responsibilities.

3. Prohibit transactions from internal parties

Presidents of Board of Directors, any member of Board of Directors, Director General and employees are prohibited from trading based on internal information or disclosure, although insider trading is a criminal offense punishable and the law requires disclosures and approvals of transactions with related parties by an audit committee of the company.

4. role of stakeholders in corporate governance in Jordan

Jordanian laws protect stakeholders, so In bankruptcy, employees have priority over creditors and creditors can object to capital reduction, but the law does not allow stakeholder participation in decisions by representing employees on boards.

5. Financial Disclosure

Disclosure is necessary to protect investors from making poor decisions as a result of their lack of knowledge. Disclosure can help shareholders exercise their voting effectively and discuss management's expectations about the company's future liquidity, capital needs or operating results so Jordan generally focuses on full disclosure, Directors have a responsibility to disclose reports.

The JSC is the entity responsible for implementing disclosure requirements and ensuring the quality of financial statements and reports. The JSC intensively reviews the quality of the disclosures and extent to which companies comply with disclosure requirements.

6. Role of Auditors

Auditors play an important role in corporate governance by protecting their reputation and protecting investors who rely on audit reports and as the number of audit firms in Jordan increases.

The presence of the four major audit firms encouraged Jordan in 2002 to oblige any company by law to prepare and disclose financial and operating statements by recognized international accounting and auditing standards.

The financial records are disclosed under Companies Law and law requires companies to review financial results by an independent auditor to reduce conflicts of interest and audit fees are not linked with audit results because the auditor is responsible from shareholders and third parties, and auditor can be prosecuted for mere negligence but his responsibility shall be limited in proportion to his fault within three years starting from the date of general assembly meeting of the company.

Corporate Governance and Disclosure in Jordan

Disclosure plays a key role in addressing the asymmetry of information between managers and investors in an organization that means management provides information about past events and expectations regarding future growth opportunities for current and future investors, so this information included in financial report should be prepared well and have a high level of disclosure, inside and outside financial statements, whether financial or non-financial, because non-financial information outside financial reports may have a significant current and future impact for stakeholders,so When quality of disclosure is high that reduces uncertainty associated with all parties that have contracts with Company, and affects of liquidity plus attracts future shareholder investments so its mainly related with corporate governance.

Governance helps investors in making their investment decisions efficiently because they provide a part of their money to invest which move the economy

All institutions seek to demonstrate their financial position in a manner that reflects their economic stability. Therefore, management chooses a policy of accounting policies that may affect accounting disclosure of the company's profits and financial position, where disclosure is one of the main requirements of securities markets, provides high-quality information to investors, lenders, analysts, and researchers interested in the financial situation of the company.

Financial disclosure is a broad subject and consists of "all the accounting data and information needed to make profits for users, particularly in making the right decisions, since disclosure is a relative term. However, it has become important not to consider financial statements as a goal but as a means to help parties make different decisions. (Karami & Hajiazimi, 2013) provides important information to investors and other beneficiaries in a way that enables them to predict the project's success in making profits and covering its future obligations (Anagnostopoulos & Gkemitzis, 2013)).

In November 2005, a cooperation agreement was signed in Jordan between International Finance Corporation (IFC), which is a part of the World Bank, to rehabilitate the private sector in developing countries to improve corporate governance regulations. The agreement includes providing technical support for the development of corporate governance principles in Jordanian banks, thus enhancing national and international confidence.

Because of development of national economy at various levels, there is a need for rules and regulations for corporate governance in order to establish a clear framework governing relations and management, ie defining rules and regulations duties and responsibilities that help to achieve the strategic objectives of the company and safeguard the rights of parties with interests in that company.

An Instruction Manual for Governance of Listed Joint Stock Companies was made by Securities Commission based on the Securities Law and Regulations, Companies Law, and International Principles of Corporate Governance established by Organization for Economic Co-operation and Development (OECD) (Jordan Securities Commission, 2005).

Ali et al. (2007)The study looked at the quality of disclosure of financial data in family businesses compared to non-family companies and their relationship to corporate governance they found that family business profits were of higher quality than other firms, but family businesses generally faced less agency-related problems than other firms. This results in lower profit manipulation and therefore higher quality of those profits, However, family-run companies show less voluntary disclosures than corporate governance and have incentives to reduce transparency to facilitate the control of family members on the board without the involvement of other stakeholders either by disclosing financial performance and thus better disclosure than unmanaged family businesses.

Al-Qashi and Al-Khatib (2006) conducted an analytical study on the reasons behind the collapse of companies and the role of corporate governance in those collapses. The results of the study showed that collapse of these companies is mainly related to the low level of ethics of professionals and because of shortened role of stock exchange as a supervisory body for listed companies and that problem is not related to the laws of corporate governance in general, but ethics of people who apply these laws.

Corporate governance enhances the relationship between stakeholders, the Board of directors, executive management and the entities associated with the company.

good corporate governance reduces losses that may occur as a result of weak internal control systems due to increased risk and that the existence of these good systems includes independent monitoring that minimizes risks.

Some elements affect corporate governance performance of companies is Audit Committee, Size of Audit Committee, Number of Audit Committee meetings, Independence Audit Committee, Accounting experience in the Audit Committee, Muslim Directors in the Audit Committee.

Key elements of the corporate governance process (Basel, 1999):

1) Setting strategic objectives and a set of organizational values: Board of Directors should define strategic objectives or organizational values.

2) Identify and strengthen broad lines of responsibilities and accountability in the entity: through defining powers and responsibilities of the Board of Directors and Executive Management

3) members of the board of directors shall be qualified and understand their roles in corporate governance, majority of the board of directors shall be able to exercise their powers and qualified from outside entity and existence of a supervisory committee independent of the board of directors, that will enhance objectivity and independence.

4) Ensure that there is adequate control by executive management: that means boards oversee executive management, and executive management oversees other operational management.

5) Effectiveness of internal and external auditing and recognition of its supervisory role

6) Emphasize remuneration systems under ethics, objectives, and strategy so linking the remuneration system to the entity's strategy, which may encourage managers to achieve short-term goals to serve their interests without considering short and long-term risks.

7) Transparency is the foundation of corporate governance: because through transparency, boards of directors and executive management can be held accountable.

Detecting Creative Accounting in Jordan

Creative Accounting: its a process of changing accounting numbers from a real model to the desired model to achieve advantages for the company and its management by disclosing this information, by choosing between accounting policy alternatives or ignoring some of them,

Major companies in developed and developing countries have been affected by accounting scandals affecting the national and global economy. Creative accounting practices are a deliberate cessation of the real financial situation of the company and dealing with the management of financial disclosure to depict the required financial situation.

These manipulations and distortions arise from corporate governance that connects points between companies and stakeholders, as corruption resulting from corporate mismanagement can be linked to managerial misconduct, account manipulation, and financial reporting. Corruption may arise through financial and accounting reporting. Corporate governance is a guarantee of creative accountability because corporate governance is a system by which business is directed and controlled.

A recent study showed that corporate governance and ethical values predict creative accounting and reliable accounting reporting. Corporate governance may be a necessary condition for reducing creative accounting and improving financial reporting.

some financial managers may have to use accounting practices known as creative accounting to control business results and beautify financial position in a manner that serves the wishes of the company. Creative accounting is the use of best accounting principles, rules and policies to achieve complete reliability of financial information creatively.

The most important goal of reducing creative accounting is to improve appropriate standards and principles for access to reliable and high-quality financial information because some executive departments seek to portray their desired profits rather than their actual profits in pursuit of some ulterior motives (financial rewards, etc.). This may affect how people use these financial statements.

Accounting sciences are known to be one of the rapidly evolving sciences, accounting standards and experience of accountants evolve. This leads to the collapse of these companies as a result of the proliferation of creative accounting methods in various sectors and their impact on the presentation of misleading data in some cases. This affects the quality of the financial statements of these companies.

Most of the previous studies focused on the relationship between methods of applying creative accounting and the quality of financial statements in terms of importance, reliability, stability, and comparability.

Management of financially strapped companies applies innovative accounting techniques to improve the elements of their financial statements, management of some companies apply creative accounting methods during last year of operation before bankruptcy, manipulate published financial statements and fraud during period before

financial crisis as crisis Economic affect on behavior of managers in application of creative accounting, which is due to changes in market rules

Over past 30 years, creative accounting processes have increased, but their application will affect reliability of financial statements, affecting cost of borrowing and share price, confidence of investors and regulators, and company's relationship with its customers and suppliers, causing many companies to collapse due to scandals and creative accounting, hiding their true financial situation, prompting researchers For study of creative accounting applied by corporate management.

financial statements provide information that stakeholders use to assess the performance of managers and make economic decisions. Therefore, some companies may make changes in financial statements before issued by using some creative methods to create balances that do not indicate real situation of these companies, which led to lack of transparency in financial statements and bankruptcy , by exploiting alternatives available in Certain laws and standards, or due to multiple accounting policies that allow Company freedom of measurement and disclosure in preparation of financial statements, which will affect processed data where its credibility is affected (Matar, 2016).

Financial statements play an important role in helping investors to make their future decisions. Since earnings per share are one of the indicators that investors are interested in because it shows the profitability of the company. Creative accounting has affected the prices of stocks, but the decline in the performance of the company will directly or indirectly affect share prices in stock exchange also has stability of the company's results to stability of shares. Some companies may use innovative accounting methods to achieve many objectives, such as increasing profits and attracting or reducing new investors to evade prices.

Managers of companies in financial distress and high risks of bankruptcy and to prolong the economic life of their companies in hope of achieving a better economic environment in future work on the presentation of financial statements using appropriate accounting techniques and techniques became financial statements misleading

There are reasons led to emergence of creative accounting such as the freedom to choose between accounting principles, freedom of accounting estimates, great competition between companies, attempt to evade taxes, maintain share price (Naffaa, 2015) and need to generate profits that do not actually exist, using accountants to their expertise and knowledge of accounting rules ,laws and flexibility in selection of accounting principles and standards where creative accounting played an important role in preparation of financial statements, either to maintain the share price or use of profit management techniques and income mitigation to make risks between numbers of financial statements (Hamada, 20 10).

The main reasons why managers and senior executives of companies that lead to the implementation of creative accounting methods and techniques to change financial statements and decorate their financial statements are:

1. Attempt to regain confidence on part of banks due to the company's late payment of loan obligations and hope of new financing to temporarily overcome liquidity problem.
2. To try to restore confidence in the relationship with customers and suppliers due to the weak financial situation of the company.
3. Prolong stay of executives or senior executives in the company and obtain benefits before final collapse and bankruptcy by increasing published profits or by increasing share price.
4. Resist stock collapse and maintain the company's stock price.
5. Create favorable conditions for other companies to acquire the business or defend acquisition attacks by other companies.
6. Hide mistakes made in management.

Company managers follow various manipulation practices through mechanisms and procedures that vary between countries by applicable legislation and investor protection laws.

Creative accounting is done by processing accounts of fixed assets, liabilities, sales, income and expenses, as well as by changing accounting methods and policies including:

1. Create virtual and virtual revenues.

2. Dealing with real activities, giving excessive sales discounts at the end of the year.

3.Change (increase) of inventory at the end of the year resulting in a lower cost of goods sold and an increase in gross profit.

4.Appropriate management of accounts receivable and breach of the principle of accrual.

5. Avoid deleting corrupt inventories or damaged and inoperable fixed assets.

6. Accounting estimates and policies that determine accounting numbers and form a hidden form of profit management

7. Capitalization of expenditure, recording of various operating expenses (i.e. expenditures of fixed assets purchased and their improvement) as costs, which are subject to amortization.

8. Transfer and reimbursement of expenses in the next management period.

9. Changes in accounting policies (depreciation method, depreciation rate, asset valuation method)

10. Change the conditional policy in securities held by the company and transfer them from the investment portfolio to the trading portfolio.

Managers follow methods of profit management, which correspond to incentives that exist every time, to hide their real financial situation, they using creative accounting techniques so auditors are subjected to pressure from management to make financial reports in their favor that causes differences between independent auditor and management over accounting policies and estimates and choices between different alternatives to measurement policies, such as fair value assessment ,External auditors face pressure from management to issue a positive opinion or adjust their opinions if they disagree with management, and "an auditor who is concerned about possible loss of client and is under pressure to accept client's position. This affects on his professionalism and his independent role as a shareholder agent, in securing the financial reporting system (Rahim, Johari, & Takril, 2015).

Jordan has adopted the application of accounting and auditing standards and corporate governance initiatives in the region and The study (Obeidat, 2007) showed that the external auditors in Jordan comply with the International Accounting Standards.

(Humeedat MM, 2018) examined the role of profit management to avoid financial distress and improve profitability in the Amman Stock Exchange for the period 2011 to 2016. The results showed that there is a positive relationship with debt to equity ratio and a positive relationship between dividend per share and return on Equity and profit management.

Also, study Al-Hedi et al. (2017) aims to study the extent to which Jordanian companies practice profit management, to find out the impact of profit management practices on accounting profit management, to see impact of company size, indebtedness, and return on assets on management of declared accounting profits in Jordanian industrial companies. The study found that management of the profits of Jordanian industrial companies decreased overall. Where they aim to cut profits.

For Mostafa (2017), the study aims to study the relationship between profit management and the importance of profit value and the study concluded that there is a positive impact of the company's use of management practices of accounting with low operational performance more than companies with high operational performance.

The Al-Khoury and Shakhtra study (2014) aims to ascertain whether Jordanian service companies are practicing income harmonization policy, and to identify the most important

factors affecting income harmonization policy. Income levels were divided into net operating income, net income before tax, net income, and earnings per share. the study concluded that there was no relationship between the profitability factor of company and profit distribution factor with income homogeneity policy using all income levels. Using net income level.

Disagreements with a client with good financial status are related to application of accounting standards,so audit committees support auditors in disputes with management and reasons for this are: background of member as responsible for other listed companies, degree of objectivity of issue according to accounting standards, and when the financial position of company is weak.

the auditor needs more frequent meetings between auditor and Audit Committee, improve quality of audit and reduce risk, effective communication between audit committees and auditors reduces administrative pressure on auditors and reduces the use of personal relationships with auditor's results resulting from the length of the audit period.

Company Dividend Policy and investors in Jordan

Maximizing shareholder wealth is one of the key concerns of managers, which is the foremost economic objective to be achieved in the Organization through the appropriate allocation of adequate financial resources. Any increase in shareholders' value as the main objective through which the organization's economic target can be achieved. Stakeholders from companies and other interested parties may use disclosed financial reports to predict the performance of the company, which includes the company's ability to pay a higher return to shareholders (dividends).

financial information and dividend policy play a sound and effective way, attracting the interest of potential investors as well as existing investors to reinvest.

Compliance with financial reporting standards reveals the true financial position of companies that ultimately attracts investor interest and leads to increased profits.

dividend policy is described as guidance to management of the company by which managers determine the percentage of dividends that will be shared to shareholders concerned as a cash return on their investments as well as the portion that will be retained for future investment by the company (Khan and Ramirez, 1993)

Many researchers believe that there is a direct or indirect relationship between dividend policy and financial disclosure. As such, Zhai, J., & Wang, Y. (2016) argued that a low-disclosure company must pay a higher percentage of profits to create a good reputation in the treatment of shareholders. They concluded that the quality of disclosure had negative effects on the distribution of profits

Al-Kuwari (2009) claimed that both current and potential investors viewed dividend policy as a source of information that conveyed the company's future financial viability, and other studies have individually revealed a positive and significant relationship between dividend policy and the value of the company.

Conclusion

Corporate governance in Jordan is mainly related to the legislative environment and institutional framework adopted by Jordan, so Jordan adopted governance based on the principles of governance approved by the Organization for Economic Cooperation and Development (OECD), which affected on accounting policies adopted by companies.

Corporate governance is the way that Companies are managed through approved accounting and financial policies which helped companies enhance their ability to achieve the objectives and increase efficiency and effectiveness with the best use of available resources, which means that company who has good governance will have more disclosure and transparency and reaching its goals

Corporate governance is the way that Company is managed by management through the approved accounting and financial policies which help companies enhance their ability to achieve the objectives and increase efficiency and effectiveness with the best use of available resources, which means that company who have good governance will have more disclosure and transparency.

In general, Jordan has some features of the best corporate governance practices, but he still needs more progress in the independence of directors, shareholder rights and entitlement, and needs more independent for internal and external auditing.

The problems of Jordanian business environment which impact on corporate governance are:

1-There is a need to raise awareness and education about corporate governance, its importance and the mechanisms for its implementation.

2-Adequate disclosure and transparency instructions are required only from companies listed on the Amman Stock Exchange;

3-Some managers use creative accounting by changing certain accounting policies to affect the company's financial results; and

4-Some companies still owned and managed families, and some limited liability companies are not listed on the Amman Stock Exchange.

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ECONOMETRIC MODELS OF OIL PRODUCTION IN ROMANIA

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Dr. Andreea Constantinescu[2]

Abstract
Oil production is a major topic in the Europe 2030 Energy Strategy. The evolution of oil production during 1990-2018 is a fair indicator of the state of the Romanian national economy and of the trends at European level. The steady decrease in the quantities of extracted oil both at EU level and in Romania is representative for the new trends regarding energy resources and atmosphere pollution. It is a scientifically proven fact that oil production is a source of CO_2 emissions, the main pollution factor in the world. The research presented in this article aims to identify an integrative model for oil production in Romania. This model will allow a better management of Romania's energy resources and the possibility of optimizing them in the future. Three time series models have been developed to model oil production. From their analysis, the most significant model was chosen, with the best indicators. The article aimed at achieving the following results: analysis of the structure and volume of oil production at national and EU level; achieving an integrative model of oil production in Romania; conclusions on oil production in Romania.

Keywords
Oil production, statistical modelling, simple regression, polynomial equation

JEL
Q32, Q35, C30

Introduction

The article follows the evolution of oil production in Romania and proposes some models and tools for integrative modeling. The evolution of final oil production, the trends registered in the last 20 years in EU 28 and in Romania are considered (Constantinescu A., 2014). These developments are seen in conjunction with the main trends in EU Member States and global trends. The topic is part of the efforts to optimize the production model of fossil fuel resources in Romania. To analyze how evolved oil production in Romania, statistical data available in the Eurostat database were used. The Statistical Yearbook of Romania offers quantitative data for the period prior to the EU accession but from 2007 only data regarding the energy production are available, lacking the information about quantities of raw materials used to obtain the energy. The lack of continuous data streams was the reason why the analysis are performed only for the period 1990-2016. For this period, annual data strings were identified, without interruptions to the analyzed parameters.

1. Evolution of oil production in Romania

After 1990, the drilling activity for exploration of new oil fields registered a continuous decrease, from 181 000 m in 1991, to about 38 000 m in 1999. The determinations made highlight that the potential of undiscovered reserves represents about 30 % of the volume of reserves discovered so far (Buzatu G., 1998).

If by 1990 in Romania was drilled about 23 000 wells for exploration and exploitation after 1990 drilling activity or geological survey by drilling, experienced a significant decline, mainly due to lack of funds for investment (Axenciuc V., 1992). As a direct result of these decreases, oil production also decreased continuously (Figure 1).

Although it was experiencing a natural decline in oil production, Romania continues to remain the fourth largest oil producing country in the European Union, respectively the fifth country

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in Europe (including Norway). Compared to European production, national crude oil production represents about 2% of Europe's production and about 6% of that of the European Union.

At European level, the evolution was slightly different, the last peak of production was recorded in 1999, with a value of 177 789 thousand tons of oil. The trend is decreasing also at European level, at present, the value of the production being below half of the one recorded at the beginning of the analyzed period, respectively 72728 thousand tons in 2016.

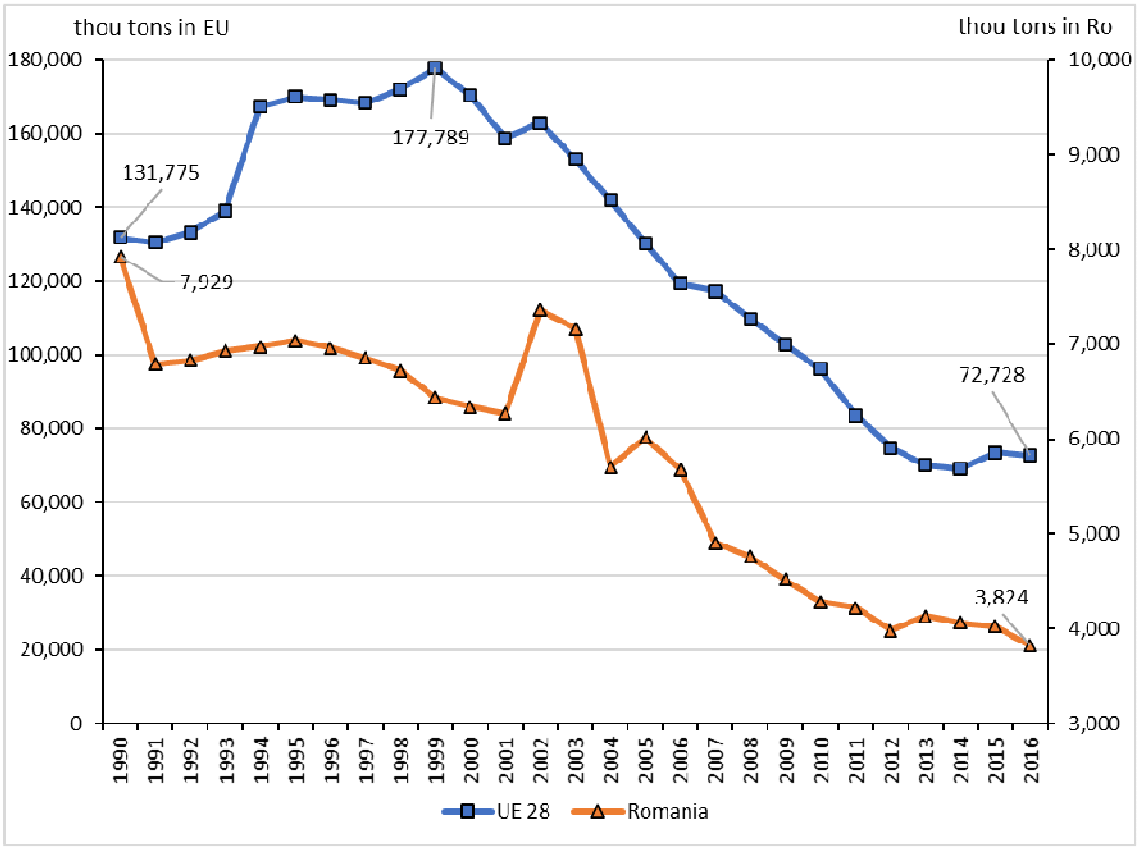


Figure 1 Evolution of oil production in Romania and the EU (1990-2016)
Source: Own processing according to Eurostat data.

As can be seen in Figure 1, oil production followed a decreasing trend for the entire period analyzed, except for a peak production in 2002-2003. However, values like those recorded before 1990, the last one being 7 929 thousand tons (in 1990), were never recorded again (Buliga, Ghe., Fodor, D., Diță, S., 2014). At the level of 2016 (the latest statistical data available), the oil production registered a value of only 3 824 thousand tons, about half of the value recorded in 1990.

2. Evolution of oil production in the EU

For the period analyzed in this article (1990-2016) the oil production in EU had a parabolic evolution: the production increased during 1990-2000, followed by a sharp decrease in the period 2000-2013, as at present, the oil production at European level to be growing slowly (Constantinescu A., Frone S., 2015).

Oil production in the European Union is currently on a downward trend. The highest production was recorded in 1999, with a total of 177 789 thousand tons of crude oil. The main oil producers at European level are: first place Norway, second place Great Britain, followed by Denmark, Romania (fourth place) and Germany.

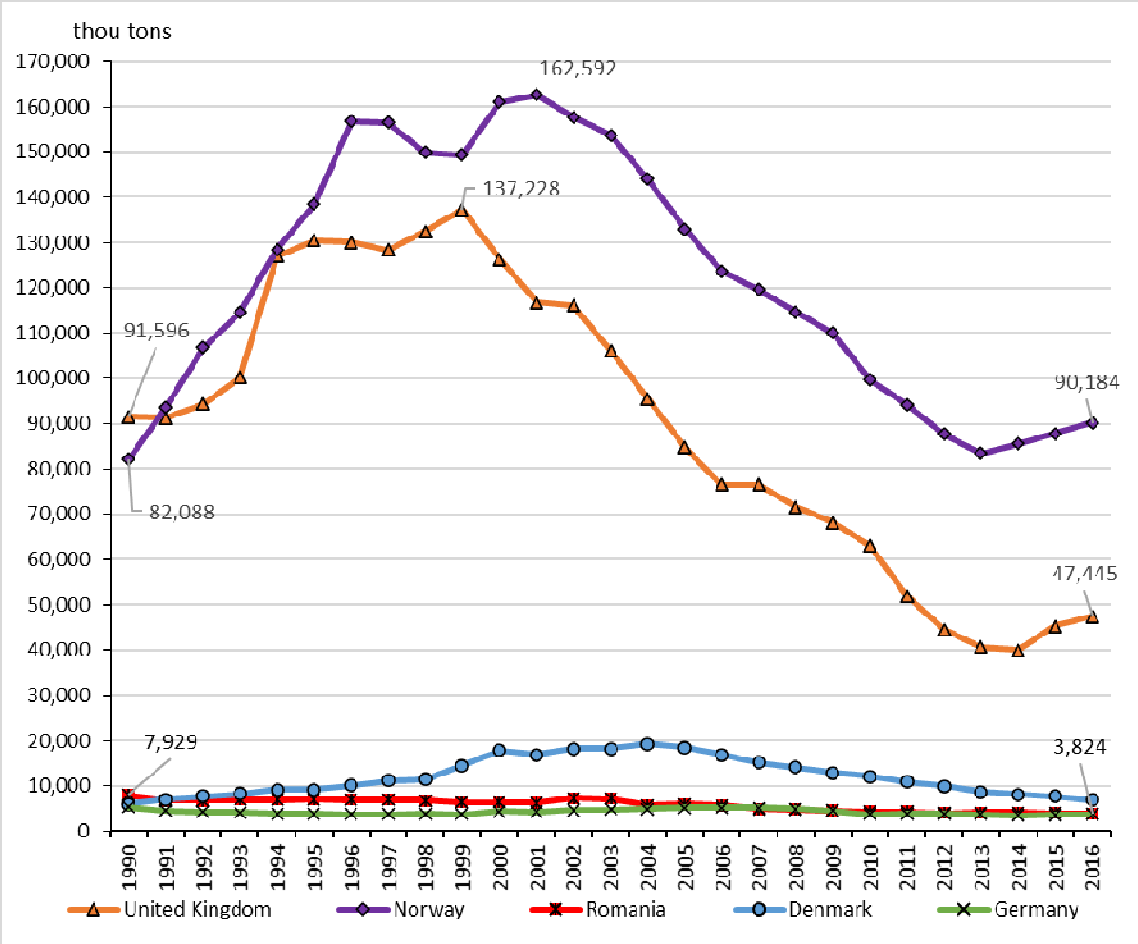


Figure 2 Evolution of oil production in Europe - main producers (1990-2016)
Source: Own processing according to Eurostat data.

United Kingdom was in first place in 1990, with 91 596 thousand tons of oil annually. It had a constant increase of production to a maximum reached in 1999, respectively 137 228 thousand tons, after that it entered a decreasing trend, so in 2016 it was second in EU 28, with 47 445 thousand tons of crude oil.

Norway was in second place in 1990, with a production of 82 088 thousand tons of crude oil annually. After a period of constant growth of production, which culminated in 2001, respectively 162 592 thousand tons. Norway also recorded a decreasing trend, yet it remains the largest producer of crude oil in the EU 28, with an amount of 90 184 thousand tons in 2016.

As we can see in Figure 2, as of 2013 Norway and the United Kingdom have returned to a slow growing trend, while all other European countries continue to have an increasingly low oil production.

In 1990, Romania was in third place in Europe in the production of crude oil, with a value of 7 929 thousand tons, and at present, with a value of 3 824 thousand tons, it is in fourth position, on a par with Germany (Platon V., Constantinescu A., 2006).

3. Integrative modeling of oil production

For the integrative modeling of oil production in Romania, the following methodology (Dejong, D. N., Dave C., 2007) was used:

1. The series considered are time series, expressed in physical units (thousands of tons).
2. For each series, 2-3 regression equations were analyzed, which were then separated by the AIC (Akaike Info Criterion) and RMSE (root mean square error) indicators (Pindyck R., Rubinfeld D. 1997).
3. Coefficients of the equations will be considered statistically significant if the probability of having the null value is less than 5% (Sadoulet, E., De Janvry, 1995).
4. Autocorrelation of errors have been eliminated by introducing the first autoregressive term AR (1).

Analyzing the evolution of the time series (petrol extraction in Romania) we can see a rapid increase, up to a maximum in 1977 (14,65 mil. tons), followed by a decrease of production to 3,71 mil. tons in 2016. Taking into account the oil reserves, this evolution pose the problem of depletion of the oil resource, except for the identification of new petroleum perimeters or major technological changes in the extraction of remaining oil (Yergin, D., 2007).

3.1. The simple and polynomial regression model of second degree (Eq 1a and 1b)

The results of two models are included in Table 1: a first model resulting from the application of a simple regression line (Eq1a) and a second polynomial model (Eq 1b). Both models have statistically significant coefficients, considering a probability of 5%. Also R^2 has similar values (0.85 in the case of linear regression and 0.88 in the case of parabolic regression). Both models, from the figures of the distribution of the residuals and from the value of the Durbin-Watson statistic (which is low, closed to 1), showed a significant correlation of the errors, which raises question marks on the two models.

As a result, we will move to the following two models.

Table 1: Comparison between Model 1a and Model 1b

Model 1a: Simple linear equation

Eq1a: PRODUCTION_OIL_THOU_T = C(1) + C(2)*TIME

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	422418.6	23014.09	18.35478	0.0000
TIMP	-207.9045	11.57611	-17.95979	0.0000

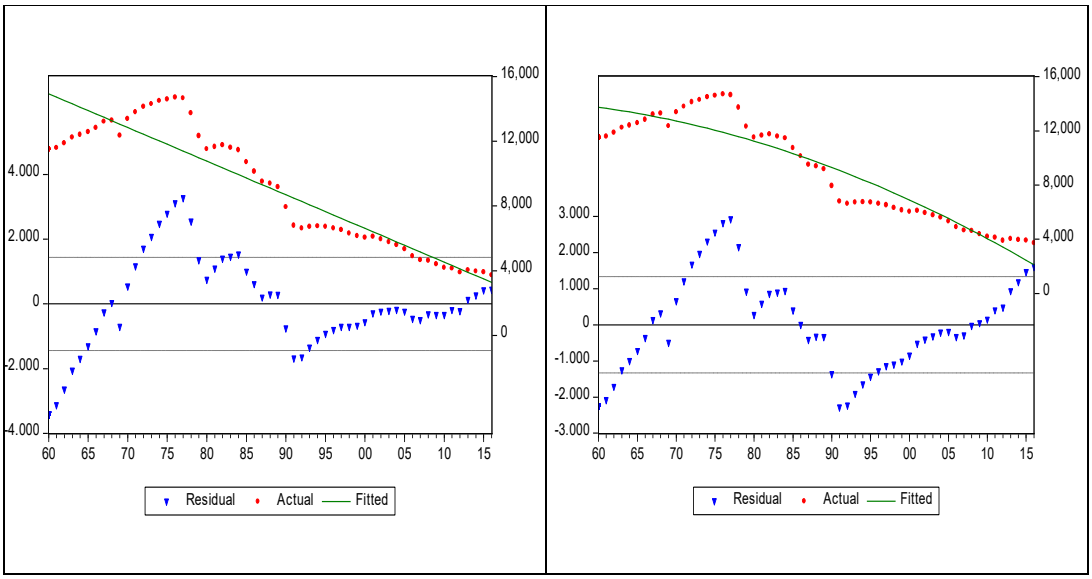
R-squared	0.854325	Mean dependent var	9104.544
Adjusted R-squared	0.851677	S.D. dependent var	3733.472
S.E. of regression	1437.863	Akaike info criterion	17.41416
Sum squared resid	1.14E+08	Schwarz criterion	17.48585
Log likelihood	-494.3036	Hannan-Quinn criter.	17.44202
F-statistic	322.5540	Durbin-Watson stat	0.092313
Prob(F-statistic)	0.000000		

Model 1b: Polynomial equation of second degree

Eq1b: PRODUCTION_OIL_THOU_T = C(1) + C(2)*TIME + C(3)*TIME^2

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	-8603373.	2888777.	-2.978206	0.0043
TIMP	8872.991	2906.354	3.052963	0.0035
TIMP^2	-2.283927	0.730969	-3.124519	0.0029

R-squared	0.876630	Mean dependent var	9104.544
Adjusted R-squared	0.872060	S.D. dependent var	3733.472
S.E. of regression	1335.413	Akaike info criterion	17.28306
Sum squared resid	96299724	Schwarz criterion	17.39059
Log likelihood	-489.5674	Hannan-Quinn criter.	17.32485
F-statistic	191.8530	Durbin-Watson stat	0.104074
Prob(F-statistic)	0.000000		



Source: Own processing according to Eurostat data.

3.2. The model of interrupted regression and interrupted regression with self-regressive term (Eq 1c and Eq 1d)

The second set of models are built as a discontinued regression. The discontinuity took place at the level of 1977 when the decline in oil production begins (Table 2). The 1d model includes an autoregressive component. The analysis of the statistical indicators shows the following:

- Model 1c has all statistically significant coefficients (C1 and C2), while model 1d has only two statistically significant coefficients out of four.
- R^2 has the value 0.96 in the case of the 1c model and the value 0.98 in the case of the 1d model.
- The autocorrelation of the errors is significantly lower in the case of the 1d model (the Durbin-Watson statistic has the value 1.53 against 0.38 in the 1c model).

Table 2: Comparison between Model 1c and Model 1d

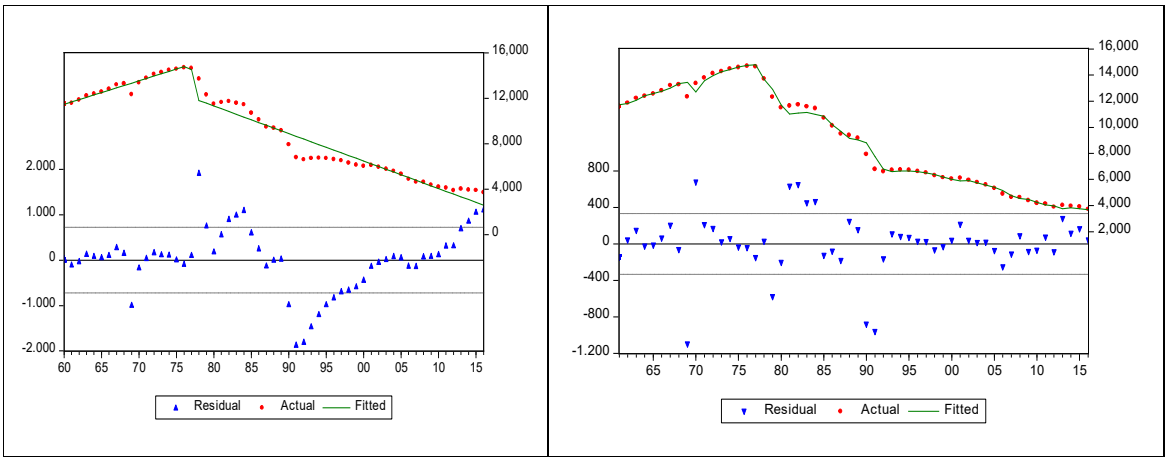
Model 1c: Interrupted Regression	**Model 1d: Interrupted regression and self-regressive term**
Eq 1c: PRODUCTION_OIL_THOU_T = C(1) + C(2)*TIME + C(3)*LEVEL3 + C(4)*TREND3	**Eq 1d: PRODUCTION_OIL_THOU_T = C(1) + C(2)*TIME + C(3)*LEVEL3 + C(4)*TREND3 + C(5)*PRODUCTION_OIL_THOU_T(-1)**

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	-393676.9	65504.94	-6.009881	0.0000
TIMP	206.7127	33.27741	6.211804	0.0000
LEVEL3	-2491.451	388.4021	-6.414619	0.0000
TREND3	-448.9605	34.86778	-12.87608	0.0000

R-squared	0.964778	Mean dependent var	9104.544
Adjusted R-squared	0.962785	S.D. dependent var	3733.472
S.E. of regression	720.2333	Akaike info criterion	16.06462
Sum squared resid	27493005	Schwarz criterion	16.20799
Log likelihood	-453.8416	Hannan-Quinn criter.	16.12034
F-statistic	483.9203	Durbin-Watson stat	0.381896
Prob(F-statistic)	0.000000		

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	-58845.89	40811.94	-1.441879	0.1554
TIMP	31.14227	20.96042	1.485766	0.1435
LEVEL3	-1033.511	209.6520	-4.929652	0.0000
TREND3	-61.37768	32.70340	-1.876798	0.0663
PRODUCTIE_TITEI_MII_T(-1)	0.825988	0.058844	14.03701	0.0000

R-squared	0.992704	Mean dependent var	9061.768
Adjusted R-squared	0.992131	S.D. dependent var	3753.139
S.E. of regression	332.9264	Akaike info criterion	14.53877
Sum squared resid	5652839.	Schwarz criterion	14.71960
Log likelihood	-402.0854	Hannan-Quinn criter.	14.60887
F-statistic	1734.663	Durbin-Watson stat	1.539073
Prob(F-statistic)	0.000000		



Source: Own processing according to Eurostat data.

Conclusions

The research presented in this material follows the evolution of the Romanian oil production, possible models and tools for its integrative modeling, the trends registered during the last 20 years in the EU (EU 28) and in Romania. These developments are seen in conjunction with the main trends in EU Member States and global trends.

Oil production followed a decreasing trend for the entire period analyzed, except for a peak production in 2002-2003, both nationally and in the EU (Platon V., Frone S, Constantinescu A., Jurist S., 2010). At the level of 2016 (the latest statistical data available) oil production registered a value of only 3824 thousand tons, about half of the value recorded in 1990.

In the next table there are all four modes compared, taking into account most important indicators. We may notice that the first two models have poor indicators (Durbin-Watson, R^2, RMSE) so we may discard them. Models described by interrupted regression have better indicators (Whitney, J.D., 1994). Of these two models, we decided to select the model described by Eq1c due to the fact that all three coefficients are statistical significant, R^2 is high enough (0.96) and RMSE is low (694.5). We could accept some autocorrelation of errors. We discard model described by Eq1d, because two coefficients are not statistically significant. This model has the highest value for R^2 and lowest value for RMSE (489.67).

Table 3: Comparison between all models

Equation	Significant coefficients (5% prob.)	Durbin Watson statistic	R^2	RMSE
Eq. 1a	All coefficients are significant (2 coeff.)	0,092	0,85	1412,412
Eq. 1b	All coefficients are significant (3 coeff.)	0,104	0,87	1299,796
Eq. 1c	All coefficients are significant (3 coeff.)	0,38	0,96	694,5023
Eq. 1d	Two out of four coeff. Are significant	1,53	0,99	489,6748

Source: Own processing data.

Eq 1c: PRODUCTION_OIL_THOU_T = C(1) + C(2)*TIME + C(3)*LEVEL3 + C(4)*TREND3

As a conclusion, modeling of oil production was done using different regression equations. The most significant model for the evolution of oil production is the 1c model, represented by the above equation.

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SECTION: EUROPEAN LAW AND PUBLIC POLICIES

CIVIL LIABILITY FOR ENVIRONMENTAL DAMAGE IN ROMANIAN LAW

Marian Bănică[1]
Nicoleta – Mariana Bănică[2]

Abstract

In a world of interdependence relationships, civil liability represents the legal relationship of civil liabilities in the environmental law in respect of its basis, functions and peculiarities.

In as far as the entire corpus of legal provisions in our country is concerned, they have undergone modifications in alignment with the regulations in the European Comunity.

Civil liability for environmental harm is regarded through the perspective of the new law provisions with updates up to 2017, such as the Government Emergency Order No. 1985/2005, updated up until 6th of April 2016, such as in view of the obligations of legal persons to cover the costs of the necessary measures meant to prevent and/or diminish the consequences of pollution. In the same direction, the Emergency Order No. 68/2007 regarding environmental responsibility, prevention and compensation for environmental harm, establishes a special regime for non-contractual liability of the economic operator which pivots around the event which causes the harm and around the nature itself of the occured environmental damage.

Therefore, the work has a special significance for the understanding of the legal frame of environmental law and of the legal provisions which define and describe civil liability for pollution-caused damage in respect of the legal rule.

Section I: Civil liability for environmental damage under the conditions of Government Emergency Order No. 195/2005 on environmental protection

The foundation of civil liability for environmental damage differs from one legal system to another. Thus, in the countries governed by continental law, founded on the Napoleonic Civil Code (France, Belgium, Germany, the Netherlands, Romania), the actions are most often brought about by the infringement of specific rules, irrespective of whether the injurious act is considered a crime or a 'quasi-delict'.

Legal liability as a form of social responsibility is a legal category specific to all branches of law, suggesting the idea of legal sanction because it intervenes in case of breaches of legal provisions and has the effect of enforcing legal sanctions.

In Romanian law, environmental liability originated in the Government Emergency Order No. 195/2005 on environmental protection and G.P.O. No. 68/2007 transposing Directive 2004/35/EC and Directive 2008/99/EC transposed into Romanian law by Law No. 101/2001. Legal liability for environmental damage takes the form of criminal civil liability, contravention liability and penal liability.

In many countries in Europe and the world, the fine for the environment does not have a maximum limit and sometimes it is regulated as a special form of liability "payment for pollution", the fine being proportionate, for example, with the volume of waste water, with the degree of pollution from the heated rules and its harmfulness. One can also note the remedy purpose of the fine, which does not preclude the full remedy within the framework of civil liability.

An issue which also arises in the current regulation of the framework law in contravention matters is related to the limitation, as a case which removes contravention liability, with its two aspects, namely: limitation of the application of the sanction (article 13) and the limitation of the execution of the sanction (article 14). This way, art. 13 of the Government Order No. 2/2001 provides that the imposition of the penalty of the fine shall be

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limited to 6 months from the date of the offence or 'in the case of continuous contravention ', from the date of the finding of the offence.

When the deed was pursued as a criminal offence and subsequently established that it constitutes contravention, the limitation of the application of the sanction does not flow at all times in which the case was before the investigation or prosecution bodies or before the Court of law, if the referral was made within the six-month period provided for above.

The execution of the penalty of the fine shall be limited within 2 years from the date of application or within one year from the date of the irrevocable termination of the judgment, if the infringer has not opted to provide community service.

In the field of the environment law it is to be noted that, if limitation periods are provided for in relation to the execution of the fine, in relation to the limitation of the application of the sanction, neither the law on environmental protection nor the special laws which complement it do not provide any term in relation to the facts considered to be the infringements of various components of the environment or the environment as a whole.

We consider that, in the environment law, the contravention character of the offence may be dismissed by the court if there are cases of self-defense, state of necessity, physical or moral constraints, unforeseeable circumstances, irresponsibility, complete involuntary inebriation, the error of fact, as well as the infirmity, if related to the deed committed.

The spectacular evolution of environmental law under the pressure of the generalised ecological crisis, on the one hand, and the concerns of all the countries in the world to protect the environment, on the other hand, have highlighted the lack and ineffectiveness of the recommendation rules in this field, as well as civil and contravention forms of liability. In this situation, it was resorted to the implementation of pollution actions, developing regulations on protected sectors, in which numerous offences are foreseen. At the same time, in more and more countries, criminal codes comprise a distinct chapter of ecological crime.

Given the particular importance of conservation, development and protection of environmental factors in particular, where a serious deterioration in the environment is also discovered in our country, on the one hand, and provided that pollution sources are extremely different and each protected environmental component has its own legal regime, on the other hand, we believe that, depending on the specifics of this protection and the general purpose of the rules in this field, it should be expressly provided, on a case-by-case basis, and specific situations that may sometimes lead to the exemption from liability of the polluting carrier that bears the damage.

Field of application of the special liability regime

The main criterion, determining the nature of the injury, is in this regard. Thus, in art. 95 para. (1) of the Emergency Ordinance No. 195/2005 the expression ' environmental damage ' shall be used more accurately than the term 'ecological damage ' used by Law No. 137/1995, and the meaning conferred is not identical.

As such, whenever it comes to such an 'environmental harm ', the specific principles (of objective liability and of the solid liability, depending on the case), derogating from the common law are to be applied and the rules compatible with the ecological specificities of ordinary civil law apply.

In this perspective, it can be observed that if under the conditions of Law No. 137/1995 three categories of damage were subject to the special liability regime: the first represented by the damage caused to human health, the second one, the damage caused to the goods (material, tangible or intangible, etc.) and the third, the environmental damage, in all cases caused by pollutants, harmful activities, ecological accidents or dangerous natural phenomena, the Order No. 195/2005 using the expression ' environmental damage ' concerns only the latter category. Within the meaning of the same framework regulation, the pollutant constitutes any substance, prepared in solid, liquid, gaseous or vapor or energy form,

electromagnetic, ionizing, thermal, sound or vibration radiation which, introduced into the environment, modifies the balance of its constituents and living organisms and damages material goods. As to the effect it is noted that the requirement of the cumulative meeting of the two requirements (both affecting the balance of the constituents of the environment, living organisms and damage to material goods) is excessive, contravenes the first element of the definition and cancels many defining meanings of the notion.

The term "harmful activities " is not defined, but from its corroboration with the "environmental deterioration" (indicated by the law) It would be about altering the physic-chemical and structural characteristics of natural components of the environment, reducing the diversity and biological productivity of natural and man-made ecosystems, affecting ecological balance and quality of life by overexploitation of resources, their management and their deficient exploitation, as well as through spatial planning.

Through the environment, they are thus affected by collective interests and indirectly, for which the repair could not be adequately ensured under the conditions of classical law, which implied the damage of individual, clearly identified interests.

The second category constitutes damage caused to the environment, irrespective of direct injury of a human interest. In this situation, the natural environment is no longer only the "vector" of damage, but even their object. Under the current regulation, only they are subject to the special repair procedure.

Objective liability, independent of guilt

Taking into account the increasing risks for the environment posed by human activities, the law establishes a liability for the damage, which is 'objective and independent of guilt'.

Consequently, the victim will only have to prove the existence of the damage and the causal relation between the deed and the damage. Thus, the obstacle to the sample is eliminated, particularly difficult in ecological matters, because of the investigations which the discovery and identification of the precise source of damage, including a certain cooperation of the pollutant, are to be identified.

Joint liability in case of multiple authors

Through art. 95 para. (1) of the Emergency Ordinance No. 195/2005 the fifth case of legal passive solidarity in relation to obligations is introduced in the Romanian legislative system.

According to art. 1382 and 1443 of the new Civil Code, if the injurious deed was committed by several persons, which were held jointly and severally to repair the damage, any of the co-authors could be obliged to fully repair the damage, the obligation to compensate being thus extinguished and the one who paid will then recover their proportional contribution from the co-authors.

Precautionary principle and objective liability

Solving this complicated problem must depart from the fact that the precautionary principle was not built as a principle of responsibility. It aims at guiding the decision-making process, constituting a procedural principle, which requires compliance with the precautionary requirements in the presence of an uncertain risk, a legitimate doubt on a potential risk. These precautions require, for example, the adoption of procedures for the confrontation of competing interests or the production of knowledge on risk in parallel with the development of the activity likely to be creative of such risks. From here, the risk of slipping to liability is obvious. As such, even if the precautionary principle is not a principle of responsibility, the judge will naturally be inclined to assess the liability of the operator by reference to the precautionary measures he has undertaken or has waived to adopt. In this context, the acceptance of the thesis of liability for guilt may be observed, as the judge will not be able to ignore in assessing the responsibility of the positive prescriptions of preventive measures. Only that such a position would contradict rules already stated by the case-law and even

positive law. Traditionally, it was considered that the administrative authorisations and the prescriptions accompanying them are given subject to the right of third parties; Compliance with them does not constitute a cause of disclaimer. The operator shall therefore act under a double constraint: on the one hand, that of the general interest expressed by the administrative decision and the prescriptions which it imposes and which are sanctioned by criminal or administrative law; On the other hand, that of private interests, which, in turn, are defended by the employment of liability, the regime of which may be subject to a logic independent from that of preventive measures. This traditional construction presents a number of advantages, leading to the failure of the victim, to obtain the repair, to sample the culpa of the one he pursues. The conclusion that is required is that the precautionary principle must apply solely to the process of adopting the decision and, consequently, not to have any implications for the liability regime.

The 'polluter pays' principle and the matter of liability for environmental damage

In its essence, the principle implies that pollution is attributable to an economic operator who must this way be designated as a payer. Thus, the establishment of a causal link becomes one of the conditions for the 'polluter pays' principle to be applied in practice. As is known, at its origin, this principle was based on a negative idea, that the national budget must not bear the cost of environmental damage through private activities, and consequently the burden of compensation must be shifted and imputed to a polluter in order to compel it to take over external charges, which implies the designation of one or more identifiable polluters, which sends us to establish a causal link. In view of the specificities of the field, there cannot be a causation of certainty and it is appropriate to accept the existence of a probable eminence. There is also the question of the measure, which must take into account all the elements in the present, so that it does not come to the denial of its necessity, but also to a maximum certainty! A significant contribution to the achievement of the effects of the principle is contravention liability; Thus constitutes contravention and is punishable accordingly, the breach of the obligations of natural and legal persons to bear the cost of repairing an injury and to remove the consequences produced by it, restoring the conditions prior to the occurrence of injury, according to the principle of ' polluter pays ' [Article 96 para. (3) Point 14 of G.P.O. No. 195/2005] or the obligations of legal persons to cover the costs of the measures necessary to prevent and/or reduce the consequences of adverse effects of activities as genetic organisms [art. 96 para. (3) point 10).

Section II: Emergency Ordinance No. 68/2007 on environmental liability regarding the prevention and repair of environmental damage

Through the adoption of this normative act was the transposition into Romanian legislation of the directive on environmental liability No. 2004/35/EC[1] was accomplished. The objective of the directive is to establish a common framework at European level for the prevention and remediation of environmental damage and the minimum conditions to be respected so that the operator whose activity caused an environmental damage or a threat of such damage be financially liable. The directive is based on the application of the 'polluter pays' principle entered in the Treaty of the European Communities. Consequently, on the basis of the philosophy of the operators directive should adopt measures and implement practices to minimize the risks of environmental damage, so that their exposure to financial liability is reduced.

[1] Doina Anghel, Raspunderea juridical privitoare la protectia mediului (*Civil liability in the field of environment protection*), Ed. Universul Juridic, Bucharest, 2010, p 143

The legal instrument chosen by the EU was a directive which leaves a wide discretion for Member States with regard to important issues such as those relating to the optional field of application and exemptions.[1]

Government Emergency Ordinance No. 68/2007[2] establishes a special employment and liability regime for the operator which revolves around the event at the origin of the damage (risk activities, installations subject to integrated authorization, transport of hazardous substances, etc.) and the nature of the damage to the environment itself.

The Romanian state has been able to regulate the liability regime taking into account the provisions laid down in the implemented directive by imposing a stricter protection regime either by broadening the scope of the order or by reducing the exceptional circumstances laid down in the directive, namely the general application of the environmental objective liability regime. Unfortunately, this did not happen.

For the delimitation of the field of application of this normative act, it is useful to establish the relationship between environmental damages and professional activities that can generate them. Any environmental damage to protected species and natural habitats, water or soil, caused by one of the professional activities set out in annex No. 3 The order is subject to the special scheme laid down therein.

In addition, in the case of biodiversity are targeted under art. 3 para. 2 and damage caused by any professional activity other than those referred to in Annex No. 3 Whenever the operator acts intentionally or in fault, which has the effect of considerably extending the rational regulatory scope of the Emergency Ordinance.

For this reason, annex No. 3 has an important effect because it delimits two distinct liability regimes: 1) Objective liability without fault applying to operators carrying out hazardous or risk-potential activities; and 2) The subjective liability based on the cult applicable to the other professional activities.

In regards to the field of application of the Order, the Internal Normative Act also regulates environmental damage which is excluded from its application[3]. At the same time, one must give proper attention to para.3 align.4 which specifies that natural or legal persons governed by private law are not entitled to compensation as a consequence of harm to the environment or imminent threat of such injury. In these cases, the provisions of the common law shall apply.

It was stated in the doctrine[4] that, given that the applicable common law is the framework law on environment protection which provides that civil liability is objective, this law must be applied. Let us recall the definition that this law gives to the harm "*the quantifiable effect on the cost of damage*[5] *to human, property or environmental health, caused by pollutants, harmful activities or disasters*".

The competent authority for the application of these legal provisions is the county Environmental Protection Agency which consults with the national Environmental Guard when determining the necessary measures and on the case, with the scientific councils organised at the level of protected natural areas, with the county offices for pedological and agrochemical studies, the Territorial Inspectorate of Forestry and Hunting. The National

[1] Anna Karamat, *La directive 2004/35/CE sur la responsabilite' environnementale: defis principaux de la transposition et de la mise en ceuvre,* în lucrarea *La responsabilite environnementale, prevention, imputation, reparation,(The 2004/35/CE Directive regarding environmental liability : main challenges of the application*, in the work *Environmental liability, prevention, attribution, compensation)* Ed. Dalloz, Paris, 2009

[2] Transposes into Romanian legislation the 2004/35/CE Directive regarding the liability for environmental harm in respect to the prevention and compensation of the damage caused to the environment.

[3] Art.4 and 5 from Government Emergency Ordinance No. 68/2007

[4] Marilena Uliescu, *Les responsabilites environnementales dans les sites Natura 2000 en Roumanie (Environmental liability aspects in the sites Natura 200 in Romania),* R.R.D.M. nr. 2/2009, p. 12

[5] Art.2 pct.52 from the Framework law

Agency for Environment Protection shall be consulted for assessing the significance of environmental harm and determining the necessary remedies[1].

As we have shown, there are also exceptions to the liability; therefore the application of the order becomes limited. Article 28 is one of the most important exceptions, essentially representing a loss of the precautionary principles and the full repair of the damage caused. This article provides that:

By exception to the provisions of art. 26, the operator does not bear the cost of the remedies taken, if he proves that he did not act intentionally or from the fault or the environmental damage was caused by:

(a) An emission or an event specifically authorised in full accordance with the conditions laid down in the Regulatory Act issued in accordance with the rules implementing the measures set out in Annex No. 3, in force on the date of the emission or event;

(b) An emission, activity or any way of using a product during an activity, for which the operator demonstrates that it was not possible to cause damage to the environment, according to the stage of scientific technical knowledge existing on the date when the emission was issued or when the activity took place.

The article quoted was taken as such from the directive although the Romanian state was able to remove this article from national law. By this regulation, the polluter is able to defend himself by relying on those provisions which lead to the exemption of payment of the costs of remedies if it proves that it has not acted intentionally or from fault and is found in one of the predetermined situations specified in the norm referred to in points A or B of art. 28.

Section III: Special regulations on civil liability in the law of the Environment

A) *Civil liability in the area of nuclear damage*. In accordance with the provisions of the Paris Convention on Liability in the field of nuclear energy, 1960, of the Convention on Liability for Nuclear Damage in Vienna, 1963 and the common protocol on the application of those conventions, adopted in Paris in 1988, documents which Romania has ratified by Law No, 106/1992, Law No. 703/2001 on civil liability for Nuclear damage.

According to the law [Article 3 (d)] *nuclear damage* is understood as:

1. Any death or injury;
2. Any loss or damage to the goods;
3. Any economic loss resulting from a damage referred to in points 1 and 2, not included in those provisions, but is suffered by a person entitled to claim compensation in respect of such loss;
4. Cost of recovery measures for the environment damaged following a nuclear accident, if such deterioration is significant and if such measures are taken or are to be taken and are not included in point 2;
5. Any loss of income deriving from an economic death from any use of the environment due to significant deterioration of the environment and if it is not included in point 2;
6. The cost of preventive measures and any losses or damages caused by such measures;
7. Any other economic damage other than caused by environment degradation, if permitted by the law on civil liability of the competent court of law.

The losses or damages indicated above, with the exception of the cost of preventive measures and any loss or damage caused by such measures, shall be considered as nuclear damage to the extent that such loss or damage:

[1] Art.6 alin 3 of the above mentioned law

- arises as a result of ionizing radiation emitted by any source of radiation which is located in a nuclear plant or nuclear fuel rods, radioactive products or radioactive waste from a nuclear plant or nuclear material originating in, coming from or sent to a nuclear plant;

- is the result of the radioactive properties of such material or a combination of radioactive property with toxic, explosive properties or other hazardous properties of such material.

It is to be noted that in the definition of nuclear damage not only the damage suffered by man of his belongings is taken into account, but also those incurred by the environment, by including the costs of recovery measures, if its deterioration is significant, as well as economic damage other than that resulting from environmental degradation if they are admitted by the legislation on civil liability of the competent court and the loss of revenues resulting from an economic death from any use of the environment caused by its damage.

At the same time, nuclear damage also includes the cost of preventive measures and any loss or damage caused by taking such measures.

The operator of a nuclear plant shall be held responsible objectively and exclusively for any nuclear damage, if it has proved to be *caused by a nuclear accident occurring at its installation, or involving a nuclear material originating from that installation or sent to it*.

In connection with the damage produced by *the nuclear material originating in the installation*, the operator shall be responsible for the nuclear Damage: (a) before that liability has been assumed, on the basis of a written contract; (b) in the absence of an express provision of such a contract, before an operator has taken over the nuclear material; c) even if the material was sent to a person on the territory of another state, as long as it was not discharged from the means of transport.

For damage produced by *the material sent to the nuclear installation*, the operator shall be held accountable: a) under a written contract, after that liability has been transferred to the operator by the controller of another nuclear installation; (b) after taking over the nuclear material by the operator, in the absence of any express provisions of a written contract; (c) where the nuclear material has been sent with the written consent of the operator by a person in the territory of another state only after the nuclear material has been loaded in the middle of transport with which he must leave the territory of that state.

In the event of an accident occurred during the transport of nuclear material, civil liability for damages shall return entirely to the transporter - considered as operator, within the meaning of the law - upon the request and with the consent of the installation operator.

The nuclear accident is defined as any fact or succession of facts having the same origin, which causes a nuclear damage, and with regard to the preventive, it creates a serious and imminent threat of such damage (art. 3 (it. a)).

Where a nuclear damage entails the responsibility of several operators and cannot reliably determine the part of the damage attributable to each, they shall be fully jointly and severally liable, the liability of each of which may not be higher than the amount applicable, according to the law.

If several nuclear installations belonging to the same operator are involved in a nuclear accident, the operator shall be responsible for each nuclear plant involved, up to the amount applicable to it under the conditions laid down by law.

In the event that a nuclear and a non-nuclear damage are caused by a nuclear accident or, jointly, by a nuclear accident and by one or more different events and the non-nuclear damage cannot be separated with certainty from the nuclear one, it is considered as a nuclear damage caused by the nuclear accident.

The objective liability in the case of nuclear damage differs from the classic objective liability, since the operator cannot escape from it by invoking the causes of exemption from common law (force majeure, unforeseeable circumstances etc.). The operator shall be exempt

from liability only if he proves that: the nuclear damage is the direct result of acts of armed conflict, civil war, insurrection or hostility; The damage is entirely or partly due to the serious neglect of the person who suffered it or when that person acted wrongly or failed to act, with the intention of causing a damage. In such cases, the competent court may exempt the economic operators, in whole or in part, from the obligation to repair the damage suffered by that person. When it turns out that the natural person acted or failed to act with the intention of producing a nuclear damage and for which the operator was freed of liability, the natural person is obliged to respond.

In as far as the compensation scheme is concerned, the Law No. 703/2001 limits the operator's liability for each nuclear accident to a maximum maximum amount which cannot be inferior to the equivalent in RON to 300 million DST [art. 8 para. (1)].

From this rule, there are a few exceptions, namely:

With the approval of the competent national authority, the operator's liability may be limited for each nuclear accident to less than the equivalent in RON of 300 million DST, but not less than the equivalent in RON of 150 million DST, provided that the remaining difference up to the minimum equivalent of 300 million DST be allocated by the state from public funds in order to cover nuclear damage under the conditions laid down by law.

For a period of 10 years from the date of entry into force of the law, with the approval of the competent authority, the operator's liability may be limited to each nuclear accident produced during this period under the equivalent in RON of 150 million DST as well, but not less than the equivalent in RON of 75 million DST, provided that the difference to the equivalent in RON of 150 million DST is allocated by the state from public funds.

Under the same conditions provided by the law, the operator's liability may also be limited to some smaller amounts in the case of research reactors, radioactive waste deposits and burnt nuclear fuel (minimum equivalent in RON of 30 million DST may be reduced to the equivalent in MDL 10 million DST), as well as in the case of transportation of nuclear materials (the equivalent in RON of 5 million DST) and the transportation of fuel that was used in a nuclear reactor (equivalent in RON of 25 million DST).

Coverage of a part of the nuclear damage by the state from public funds also implies liability from its side, by ensuring payment of allowances to the extent that the insurance or financial guarantee provided by the operator is not sufficient; at the same time, this constitutes an incentive in the severe enforcement of legal rules in order to prevent such accidents and limit their consequences when they occur.

Within the limit of the amount paid as compensation, the operator shall have *a right of action for recovery* only in the following situations: (a) Where such a right has been expressly provided for in a written contract; (b) If the nuclear accident arises from an action or omission committed with the intention of causing a nuclear damage to the natural person who acted or failed to act with that same intention.

The law provides for the right to action for recovery for the state to the extent that it has allocated public funds, according to the law.

In accordance with the provisions of the Vienna Convention, which gives states the right of setting limitation periods for the entitlement to compensation to less than 10 years by means of national laws, if the liability of the holding is covered by insurance or any other financial guarantee, or by public funds according to the law of the state on whose territory the plant is located. Law No. 703/2001, provides in art. 12, depending on the seriousness of the nuclear damage produced, that the right to compensation is prescribed, if the action has not been introduced within:

-30 years from the date of occurrence of the nuclear accident, if the action is related to death or injury;

-10 years from the date of occurrence of the nuclear accident, if the action relates to the production of the other nuclear damage provided for by law (except for the costs of preventive measures and any loss or damage caused by such measures).

Within those deadlines and without them being exceeded, the victim's right to compensation shall be extinguished if the action has not been filed within 3 years from the date when he or she should have known the damage and the identity of the responsible operator.

The law provides [art. 12 para. (3)] that the person who has suffered the damage and brought the action within the time limits laid down by law (30 and 10 years respectively), may amend his application if the damage has worsened, even after the expiry of those deadlines, provided that no definitive and irrevocable judgment has occurred by the competent court of law.

We consider this text to be subject to critics on the ground that it takes into account only the 'worsening of current damage', not the production of new damage. But nuclear accidents have effects in a long time and may cause new damage, which should lead to the recognition of the victim's right to amend their application in such situations as well.

b) *Producer's liability*[1] for damage caused by faulty products. The invasion of faulty products the market and the alarming increase in the number of cases of sickness, as well as the production of other damage, resulted in the distinct regulation of the legal relationships between producers and injured persons or harmed by faulty products put into circulation, the determination of liability for the damage caused by these products, as well as the procedure for repairing the damage.

According to government Ordinance No. 87/2000 on the liability of producers for the damage caused by faulty products, this special objective liability has a number of derogatory rules from common law, of which we mention:

According to that normative act, the manufacturer, as defined by that notion, responds both for the current and the future damage caused by the fault of his product;

It shall be held accountable in the situation where the damage is the cumulative result of both the fault of the product and an action or omission from a third person's side (article 4);

The law provides for the joint and several liability of all liable persons;

It is irrelevant if those products are hazardous or not, because it has been found that products considered to be non-hazardous may, under certain conditions, produce damaging results. It is therefore about any product which the consumer had bought with confidence.

The basis of the manufacturer's liability is the presumption of liability. The victim must not prove the manufacturer's fault.

For the incurrence of manufacturer's civil liability, the injured person must only prove the damage suffered, the fault of the product and the cause - effect relationship between the fault and the damage.

The manufacturer's disclaimers are specific to the domain, namely: a) the manufacturer proves that he is not the one who put the product in circulation; (b) The fault which generated the damage did not exist on the date on which the product was put into circulation or arose after the release into circulation of the product from causes that can not be attributed to the manufacturer; c) The product has not been manufactured to be marketed or for any other form of distribution for economic purposes: D) The fault is caused by complying with mandatory

[1] According to the Government Order No. 87 from August 29th 2000 regarding the liability of producers for the damage generated by faulty products (published in the Official Monitor No. 421 from 01.09.2000) it is understood: a) the manufacturer of a finite product, of raw material or of a component of the product; b) any person which presents herself as a producer by applying her name, trademark or any distinctive sign on prodcts; c)any person which imports products in view of a posterior sale, rental, leasing or any other form of distribution specific to the business activity; d) the distributer of the product, shall the producer be unidentifiable and fail to inform the damaged party within 30 days from her request regarding the identity of the producer or supplier; e) the distributer of the imported product, shall the importer remain unknown, even if the manufacturer is mentioned.

conditions imposed by the regulations issued by the public authorities; e) The level of scientific and technical knowledge at the time the product was put into circulation did not allow the manufacturer to detect the existence of the fault (art. 7)

The manufacturer of components shall be exempt from liability if he proves that the fault is attributable to the wrong design of the assembly in which it was mounted or the instructions given afterwards by the manufacturer of the final product.

Unless expressly provided for by law, any contractual clauses limiting or disclaiming the manufacturer shall be deemed as void.

The competent court may limit the manufacturer‘s liability if the damage is caused together by the fault of the product and the guilt of the injured or damaged person or other person for whom he is bound to respond.

The application of the provisions of the Government Ordinance No. 87/2000 does not exclude the possibility of the injured person from claiming compensation and under contractual or extra-contractual liability or other special liability regime existing on the date of entry into force of the order.

For amounts paid to injured persons, social security has a right to an action for recovery against the manufacturer, according to the law.

The right to action for compensation of damages can be exercised either directly, by the damaged person or by specialised consumer protection bodies, which may resolve by administrative and/or consumer protection associations-non-patrimonial legal persons who have been recognised as entitled to enter into legal proceedings for the protection of the rights of the laws-time interests of their members and shall be prescribed within 3 years flowing from the date of lactation the complainant had or should have Be aware of the existence of the damage, defect and identity of the manufacturer, but no later than 10 years after the date on which the manufacturer placed the product in circulation, provided that the damages occurred within the 10-year period[1].

This provision introduces the general limitation period of three years from the date on which the applicant had or should have been aware of the existence of the damage, fault and legal person of the manufacturer and a special limitation period of 10 year beginning to run from the date on which the manufacturer put the product into circulation, provided that the damages occurred within that period.

The action to repair the damage produced shall be under the jurisdiction of the court competent for the territory where the damages have occurred, or, where appropriate, for the place of residence of the defendant.

c) *Civil liability governed by art. 13 Para, (3) of the law of the Hunting Fund and the protection of the game 407/2006. The art. 41, 42 of the law 407/2006, updated in March 2017 regulate legislative issues concerning civil or criminal liability, depending on the case*[2].

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[1] Daniela Marinescu – *Tratat de dreptul mediului* (*Treatise on environmental law*), Editura All Beck,2003, pg 459

[2] Law No 407/2006

Art.13– (1) In the case of damage to agricultural crops, forestry and domestic animals by specimens of the species of fauna of kinegetic interest, compensation shall be granted.

(2) The method of granting compensation shall be determined by decision of the government within 60 days from the date of entry into force of this law.

(3) Civil liability for damage caused by the hunting of strictly protected species listed in annex No. 2 It rests with the Central public authority responsible for the protection of the environment. The procedure for establishing civil liability shall be governed by decision of the government within 60 days from the date of entry into force of this law.

Art. 41. – The breach of the provisions of this law entails contravention, civil or criminal liability, as appropriate

Art. 42. – (1) The following represent poaching offence and are punishable by imprisonment from 3 to 7 years or with a fine from 5,000 lei to 25,000 lei:

a) Hunting without a permit and without legal hunting authorization;

Also, art. 135 Para, (1) of the Constitution, according to which the state protects the property, involves 'the fair repair of the damage caused by the destruction or deterioration of the goods forming the object of the property '.

The president of the Senate, in his memorandum, considered that the complaint is unjustified, because the provisions of art. 15 para. (2) of Law No. 103/1966 are constitutional and the conditioning the preventive measures necessary for the security of the goods upon compensation are 'in accordance with the general rules and substantiated on criminal civil liability'.

The conclusion was based on the principle of social solidarity, on the 'contribution of all to compliance with the law', on the coercive and reciprocal nature of reflecting social relations under a legal aspect, on the fact that both the owner of the game fund and the holder of the goods must contribute to the prevention of damage production.

It has also been shown that the liability concerns 'both the owner and the holder of the goods that could be degraded, which corresponds to a modern guideline in matters of tort liability'.

In the note presented by the Chamber of Deputies, starting from the idea that it is about a legal liability, it was argued that, according to art. 41 para. the noncompliance of this task makes the owner unable to benefit from any compensations.

It was also considered that, even if the provisions of art. 1001 Civil Code, the holder of the injured property, who has not taken the necessary measures to secure his property, cannot claim to be compensated, because the damage is the consequence of the deed of the 'victim itself ', and in art. 135 para. (1) of the Constitution it is stipulated that the state protects the

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b) Hunting by the use of greyhounds or greyhound mixes;

c) Issuance of hunting authorisations exceeding the approved hunting rate for each manager of hunting ground;

d) Hunting of game species strictly protected outside the conditions provided by the law;

e) Hunting in special conservation areas of natural parks;

f) Hunting in fauna reservation of species subject to protection in the protected natural area;

g) Hunting in special fauna protection areas and in special areas of conservation established under the directives of the European Union, as well as in other natural areas protected by national interest, other than those in the categories on areas not constituting hunting funds, without complying with all the provisions relating to hunting, contained in the management plans and/or their regulations;

h) Pursuit of the injured game on another hunting ground without the consent of its manager, or the passage on such a ground, with the hunting weapon, outside the communication pathways;

i) Hunting on another hunting ground than the one the hunter is authorized to hunt;

j) Hunting outside the periods in which hunting is permitted for that species, according to annexes 1 and 2;

k) Hunting by night use of motor vehicles or devices allowing the aiming and shooting in the dark;

l) Hunting from the helicopter as well as from moving motorboats;

m) Hunting through the use of toxic chemicals used in the fight against vegetal and animal pests of agricultural and/or forestry crops and which cause intoxication or death of fauna of kinegetic interest;

n) Hunting bears to the nade and/or the lair without the approval of the Administrator and the Central public authority responsible for the protection of the environment;

o) Hunting of non-flying chickens of birds of hunting interest;

p) Hunting with specimens of hawks, otherwise than the special Law provides;

q) Hunting by using electric current, explosives, poisons, narcotics, electronic apparatus capable of killing, noose, and any other unauthorized traps, weapons, othes than handheld and any other weapons authorised or approved for hunting in Romania.

(2) The facts provided for in para. (1) are punishable by imprisonment from 3 to 10 years if they were comitted:

a) by two or more persons together;

b) By a person with service duties or public powers in the field of hunting, as well as by representatives of legal persons who have in their object of activity the protection of game or hunting;

c) In cinegetic reservations;

property, but only with the consideration of the circumstances of art. 41 para. (1) and (6) of the fundamental law.

It has been also laid out[1] that the object of the complain does not infringe the provisions of art. 41 of the Constitution, 'establishing a general measure which is not discriminatory, based on the obligation of the land holder for the material security of the goods destroyed or damaged by the game, which, depending on the purpose of the game's protection, constitutes an obligation *proptem rem*.

The basis of liability is a presumption of guilt which can be overturned by the damaged party.

In its decision[2], the Constitutional Court retained in respect to the first ground of unconstitutionality invoked that the provisions of art were not infringed. 41 para. (1) of the Constitution, according to which the content and limits of the right of ownership are to be established by law, they correspond to the provisions of art. 480 Civil Code, and according to para. (6) of the same text (art. 41), the right to property obliges to respect the environmental protection tasks and ensure good neighbourhoods. And to respect the other tasks which, according to the law, are incumbent upon the owner.

The game is a public good of national interest [art. 2 para. (2) of Law No. 103/1996] , therefore it does not constitute the property of the land-holders on which it finds itself nor of the managers of the hunting funds nor of the state.

According to art. 15 para. (1) of Law No. 103/1996 in conjunction with art. 8 lit. i), in order to prevent the damage caused by the game, the central public authority responsible for forestry, together with the competent ministry, is authorised to lay down rules on the protection of agricultural and forestry crops and domestic animals. Compliance with those rules rests with the land-holders by virtue of their right over the land they hold and the material security which this right entails, as well as their tasks, for the purpose of protecting the game, according to art. 16 of the law. Therefore, the failure to take those measures by land holders has the significance of infringing a legal obligation established under art. 8 lit. i) and art. 15 para. (1) of the law, which makes the land owner suffer the damage, being the consequence of its guilt.

In relation to the second ground of lack of constitutionality, this is deducted from the provisions of art. 135 para. (1) of the Constitution, 'the assertion that the ownership of the property by the state implies compensation to the owner for the damage caused is justified only if, a different person than the owner is to be held liable for damages produced. In the contrary case, the owner's failure to take necessary measures of protection against damage that might be caused by the game has the significance of the owner taking the risk of damage.'

The establishment of the guilt of the owner incurring the damage and, where applicable, establishment of the guilt of the manager of the hunting fund or of the central public authority responsible for the forestry lies with the court of law in the event of potential litigation.

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REGULATIONS OF INTERNATIONAL ROMANIAN PRIVATE LAW AND "EMIGRATION" OF TRADE COMPANIES IN THE EUROPEAN UNION

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Abstract

In this study, the author analyzes the way of establishing the registered office by the companies, taking into account one of the fundamental freedoms of European Union law, namely the free movement of natural persons and legal persons, irrespective of the Member State in which this freedom is to be exercised. freedoms. In the case of legal entities, there are two valences of the right of free establishment: the right of primary establishment and the right of secondary establishment. The right of secondary establishment refers to the freedom of the legal person to set up secondary offices (branches,agencies, etc.) in any Member State of the European Union, and the right to primary establishment offers the possibility of a legal person to transfer his headquarters to the another state without the need for liquidation. While the right to secondary settlement is explicitly guaranteed in European Union law, the right to primary settlement is one of the most controversial and debated topics of European business law, both from the point of view of doctrine and from the point of view. of the case law. The present research tries to establish under what conditions the regulations of Romanian private international law allow the commercial companies to exercise their right to primary establishment in relation to the doctrinal statutes and the jurisprudence of the Court of Justice of the European Union.

Keywords: *legal entity, registered office, free movement, primary law, secondary law, European jurisprudence.*

1. Introductory considerations. The freedom of establishment of company premises in the European Union has as their consequence, the exercise by them of commercial activities, as set out in the object of activity, outside the borders of the state in which they established their premises and the efficient and controlled expansion of companies activity is necessary to be accompanied by the establishment by the parent company, in the territory of the states in which it seeks to penetrate its goods, branches, agencies or subsidiaries [1].

The premises are an element of identification of the legal person, the localization in space, and the dichotomy between the structural approach and the formal point of view constitutes a constant of legal doctrine [2]. Formally, the seat of a company called and the statutory seat shall be the place declared in the constituent act of the legal person concerned and appearing in all official acts of the company. Structurally, the seat of the company is appointed as a real establishment and is represented by the actual place where the central administration of a company and its decision-making bodies is located, irrespective of the place established as its headquarters through of the constituent Act. The actual establishment justifies its usefulness by the idea that the decision-making centre of any company must be as close as possible to the production activity of the company concerned [3]. In turn, the registered office is of relevance at Community level with various roles (the liaison between a company and the system of law of a Member State, the domicile of the company for the purposes of applying the legal provisions of substantive law, criterion for determining the competent jurisdiction).

In reality, we are in the presence of a double determinations: The registered office determines the law applicable to a company (Lex societatis) by the link it establishes between the company concerned and the system of law of the Member State, but at the same time The notion of a registered office shall be determined by the law of the Member State in whose territory the statutory seat has been declared or is the actual establishment. The magnitude of the phenomenon of establishment of the registered office determined at European Union level

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the need to consecrate a right allowing companies to transfer their headquarters from one Member State to another, with the preservation of legal personality.

Starting from this double determination, two great conceptions are shared within the European Union, according to which Lex Societatis is established: The Theory of Incorporation that a company is constituted and operates in accordance with The law of the State in whose territory it declared its statutory office, without relevance the place where it operates itself or the place where the decision-making bodies of the company are located, shared in the community area, among other states, The United Kingdom, Denmark, the Netherlands, Ireland and Spain [4]; and the actual seat theory that the law applicable to a company belongs to the State in whose territory the central government is located, independently of the state in whose territory the statutory seat was declared, shared in the space Community, among other states, by Germany, Belgium, France, Italy [5].

Since 1968, the year of the first directive [6] has followed a remarkable legislative effort in the field of society, having as its starting point compliance with the principle of freedom of establishment, namely with the prohibition of restrictions on freedom of establishment, component of the freedom of movement of persons and services [7].

In the case of legal persons, there are two valences of the right of free establishment: the primary establishment and the right of secondary establishment, irrespective of the Member State in which the exercise of that freedom is intended. The right of secondary establishment refers to the freedom of the legal person to establish secondary offices (subsidiaries, branches, agencies, etc.) [8] In any Member State of the European Union, doctrine [9] In this regard was relatively unified. The problem becomes much more complex in the case of the primary right of establishment which provides the possibility for a legal person to transfer their premises to another State without the need for liquidation, the present research trying to determine under what conditions they can Exercise commercial Companies the right to primary establishment, as a freedom guaranteed by the Treaty of Rome [10].

2. Right of establishment of legal persons. While the right to secondary establishment is explicitly guaranteed in European Union legislation, the right to primary establishment is one of the most controversial and debated topics, both in terms of doctrine and in terms of Jurisprudence [11], and the judgment given in Cartesio [12] was the culmination of a polemic for more than three decades in the doctrine of private international law and European business law.

The right of establishment in cases involving an element of extranicity enshrines a equality of treatment of parent companies against the companies belonging to the host State, a tie highlighted by offering the possibility to establish units Subsidiary in the territory of another Member State under the same conditions as the host State's nationality companies. Nationals of any Member State shall enjoy the right to constitute a company in any of the Member States, the right to establish the registered office or the principal administration in its territory and to exercise the commercial activity contained in Its object of activity through a branch or subsidiary established for that purpose in that state.

The right of establishment presupposes the prohibition of discrimination having as a benchmark the conditions laid down for their own nationals by the law of the country where that establishment is made (Article 18 of the Treaty of Rome), without removing application of national treatment or determine the uniformity of national legislations and local peculiarities. On the contrary, the right of primary establishment is in an area of overlapping of a fundamental freedom of legal persons and of the private international law of the Member States, the complexity of the problem being generated precisely by the heterogeneity of the rules legal (private international law) in the Member States of the Union: Some legal systems facilitate the exercise of the right of primary establishment, while other systems exclude the possibility of exercising this right.

In order to fully exploit the benefit of the right of free movement, the issue of legal personality of companies, regulated differently in Member States [13], must be resolved in advance, since some recognise foreign companies only by virtue of the criterion of the registered office, others take into account, in certain circumstances, the actual establishment, if different from the statutory premises, and others consider the criterion of incorporation which privilege the fulfilment of the formalities of incorporation [14]. Treaty of Rome in art. 54 defines the notion of companies as representing all legal persons which have been constituted in accordance with the rules of civil or commercial law of a Member State, irrespective of whether they are legal persons governed by public or private law, with the sole condition of having a lucrative purpose; thus, the liberal system of incorporation, for the benefit of companies incorporated under the legislation of a Member State, is necessary for companies to have within the community either their statutory seat or central administration, be a main establishment [15].

In the meaning of art. 54, become art. 48, of the treaty, beneficiaries of the right of establishment are civil or commercial law firms, including cooperative associations and other legal persons governed by public or private law, with the exception of companies which do not pursue a lucrative purpose. Account shall be taken of both groups of companies possessing capacity for action and their own assets [16] and mixed economic societies, groups of economic interest, public institutions. In the absence of action at EU level, only non-harmonised national solutions would remain available, SMES would continue to face obstacles to the effective exercise of freedom of establishment and companies would be largely affected by related costs [17].

The main prerogatives of the right of establishment of companies are [18]: a) the right of the founders of a company to decide freely what will be the Member State in which the company will set up and which will be the form it will wear this; (b) the right of associates (shareholders) to decide freely whether the exercise of the company's commercial activity will be carried out in the territory of the Member State where it has its registered office or the main administration or in the territory of another State Member State where a subsidiary or branch will be established in this regard; c) the right of members to opt freely if the exercise of commercial activity outside the territory of the state of incorporation is to be carried out through a subsidiary or branch, the receiving state being obliged to remove any rule from the legislation national law which creates, directly or indirectly, the obligation of a foreign company to establish itself in its territory only in the form of the subsidiary; (d) the right of any company to equal treatment in the event of the establishment of a subsidiary or branch in the territory of another Member State, without discrimination based on the origin of capital or nationality and under conditions similar to companies belonging to of the host state.

Any restriction on the right of establishment must be strictly reasoned as to how restrictions can be made to this fundamental right. Thus, art. 45 of the treaty provides for a derogation from the right of establishment where the public interest of a Member State intervenes [19]; when the object of the company is to exercise an activity involving a public authority exercise; for reasons of policy, security and public health, the state concerned may demonstrate the existence of a real and sufficiently serious danger which could affect the interest of society [20].

3. Nationality and headquarters company. Nationality is what puts the company within a system of law expressing his membership in a particular state. The criterion for determining nationality common law legal person is the registered office, with whom there are special criteria, found mainly in international conventions for special situations. One of these criteria is the special control under which a person can be considered as belonging to a foreign state due to the control exerted on them by foreign interests [21].

The existence of differences between national legal systems, on the means used to determine the lex societatis prevents consecration express primary right of establishment of companies, which must be accompanied by a standardization or harmonization of national regulations of the Member States of the European Union. Thus, if a company moves its headquarters on the territory of a Member State, used as a means of determining the lex societatis system incorporaţiunii the territory of another Member State, which is used for this purpose system real seat will be required in indirectly, in advance, to dissolve in their home State and then to establish a valid in accordance with regulations of the receiving State and thus excluded the completion of the transfer of the seat, while keeping legal personality.

The transfer from one Member State to another, while preserving the legal personality, can only be achieved if both countries apply incorporaţiunii system. There are other criteria that may be used to determine lex societatis: criteria will founder legal entities; territoriality criterion management (headquarters) [22]; control criterion [23], etc.

Changing the company's nationality is irrelevant only if the headquarters move from one state to another. Nationality places companies under a system of law, domestic or foreign, and are identified by location of headquarters and after that it exercises control over the management and organization of foreign states such forms of society. A corporate implementation plan eloquent thesis admissibility of multiple nationalities for individuals is the existence of transnational corporations, companies that have offices in several states simultaneously. In turn, the branches and the branches are influenced by a foreign element specific to species of companies having their specific behavior. They must meet prior formalities, such as the mention in the constituent documents of the organizational structure of the company (form, seat, capital), the general assembly and respect its decisions.

4. The collision of legal norms of the European Union on establishment of legal entities and private international law of the Member States. The most important provisions which govern the seat of legal persons (including commercial companies) are articles 49 and 54 of the treaty on the functioning of the European Union. Article 49 forbids any provisions which would restrict the right of establishment of nationals of a Member State in another Member State, the prohibition including also those measures which would hamper the rights of those citizens of a Member State wishing to set up agencies, branches and subsidiaries in another Member State. Freedom of establishment includes the right to set up and manage undertakings, and in particular companies and is guaranteed for citizens of the Member States. This fundamental freedom must be achieved in accordance with the conditions set for their own nationals of the Member State concerned.

Regarding freedom of establishment of legal persons, art. 54 of the treaty on the functioning of the European Union [24] states that: „companies incorporated under the law of a Member State and having their registered office, central administration or principal place of business within the Union shall in application of this subsection, persons physical nationals of Member States ". These provisions relate to the establishment side, when registered office and central administration of the company remain unchanged, but the work being completed by setting up new business units or agencies, branches or subsidiaries in any Member State of the Union.

While the right of establishment secondary problem was solved satisfactorily, much more difficult and uncertain is the matter of establishing primary law [25], which implies the possibility that a company can transfer its seat to another Member State, it preserves and while legal personality in the state of establishment. If companies transfer office while preserving the legal person is entirely in the spirit of free movement within the Community, but the treaty does not contain explicit provisions on this point and, as such, the issue cross-border transfer of company seats keeping the person legal has become one of the most controversial [26]. The transfer of a European Union Member State to another, while

preserving the legal person, is hampered by differences in private international law of Member States in determining organic status, nationality and ownership, society [27].

Referring to determine ownership, applicable to companies, there are two principles in private international law: the principle headquarters and principle record identifier (incorporation) [28], these two principles competing to establish your ownership of companies, although the legal systems of the Member States of the European Union are divided according to this criterion. The principle states that the right staff headquarters of the legal person is the law of that state where the head office of the legal person, while the principle of registration determines the personal law applicable state law where there was foundation of the company.

A comparative analysis of the principle and the principle of registration of the registered indicates that the latter is more advantageous for the transfer of the registered preserving nationality; and thus the question is to what extent it is compatible with the principle of free movement of office stipulated in the Treaty of Rome. The main problem in clarifying these issues is that the Treaty of the European Union does not give clear indications in this regard, but the key to the solution was given from the beginning as art. 293 of the Treaty of Rome recommended already in 1957 new negotiations to facilitate the conclusion of an international convention for Member States to clarify the transfer of headquarters while preserving the legal person.

On February 2, 1968, it was signed in Brussels by the six founding states treaty drafted under art. 293 designed to provide a solution to the transfer of headquarters and the mutual recognition of companies and legal entities, however, since it was ratified by the Netherlands, has not been implemented [29].

For a long time, the possibility of exercising the right of establishment mayor was only a theoretical problem, but since the 80s of the twentieth century more and more cases concerning the transfer of headquarters to come before the European Court of Justice. Thus, the expression of the gaps of the founding treaty resulted in a very extensive literature has been presented and analyzed where relevant Court case law.

5. Interpretation primary right of establishment Court of Justice of the European Union. Problem primary right of establishment was discussed for the first time in the fund by European Court of Justice in case *Daily Mail* in 1988 [30]. The company Daily Mail wished to move - tax considerations - UK head office in the Netherlands, but such a transfer of central government was possible only after having obtained an opinion from tax authorities. Since the Daily Mail has not fulfilled tax obligations, the British authorities have not given notice required for transfer of the registered. As a result, the company made reference to freedom of establishment contained in article 43 (52) 48 (58) of the Treaty of Rome, arguing their case by the fact that the refusal of the required transfer of headquarters is in conflict with Community law. Subsequently, legal court action initiated preliminary proceedings and asked the Court of Justice of the European interpretation of legal norms to which reference was made.

Court ruled in favor of English IRS stating that regulatory differences can not be harmonized or standardized on art. 49 and Art. 54 of the Treaty of Rome since these two articles only establish secondary right of establishment of a company, not the primary setting. Accordingly, art. 49 and Art. 54 of the treaty can not be invoked by a legal person of a Member State for it to be able to transfer its registered office and central administration of a Member State to another with retention of legal personality [31]. The key decision in case *Daily Mail* is the assertion as that unlike individuals, legal persons (including commercial companies) are entities established under a legal order and thus they are exclusively based on those rules judicial national legal system governing their establishment and operation.

The Treaty of Rome on freedom of movement are able to dissolve the differences between the legal systems of the Member States and, therefore, such provisions entitling a company incorporated and registered under the law of a Member State to transfer administration central in another Member State maintaining at the same time, the quality of legal entity if the competent authority does not grant approval. According to the Court, to resolve the issue concerning the transfer and storage premises, while the quality of legal entity, it would take measures to harmonize legislation, namely the conclusion of an agreement between Member States.

In its core business the Court was called upon to settle a question which, at least apparently, on freedom of establishment on a secondary basis (establishment in another Member State of a branch) in the settlement that did not even refer to any conflict of laws between the two systems of law which intersected (the English and the Danish). And yet, the solution exceeded the freedom of establishment in the alternative in that it recognized the right of the center's decision a company to be in a country other than hosting the registered office, which is practical for the transfer of the real seat of -a state in another Member State [32].

The problem right of establishment mayor came again to the European Court of Justice in the case of *Überseering* [33]. Essentially, this question aimed at clarifying whether Community law is compatible with German law - the principle advocate the establishment - which determines the quality of a company legal proceedings by state law where the company's registered office. European Court of Justice, the argument offered, the partially reinterpreted in the order given in due *Daily Mail* [34], and said that in the spirit of art. 43 and 48 of the treaty, Member States may refuse to recognize the quality of legal subject of a company incorporated under the law of a Member State and therefore i can not refuse any recognition of its locus. Despite efforts by European Court of Justice to give a meaning jurisprudence Überseering doctrinal decision was seen as a time when the Court postulated the theory incorporaţiunii as a method of determining the law applicable to a company detrimental theory of real seat, which by nature undermining the freedom of establishment guaranteed by the EC Treaty.

In cases *Commission v France, Commerzbank, Commission v Italy*, the Court held that state tax provisions contravene the freedom of establishment established by art. 49 and art. 54 of the Treaty of Rome as restricting the right of choice of foreign companies in terms of their presence in another Member State, in the form of free options for setting up a branch, agency or branch. Host States forced indirectly foreign companies in this sector of the economy to create branches at the expense of branches to benefit from certain tax benefits, which represent, however, a restriction of freedom of establishment and infringement of these articles, which obliges state parties to take steps not likely to affect this right.

Also in *Factortame II* case C-221/89 ECR I-3905 §21 Court of Justice stated that the UK rules on the registration in that State of companies and its main activity is fishing and the fishing vessels they own represents a restriction of freedom of establishment provided for by art. 52 and art. 58 of the Treaty of Rome as drastically limits the possibility of companies from other Member States to establish in the UK company and its main activity is fishing.

On April 19, 2001 European Court of Justice was asked by the Cantonal Court in Amsterdam with an action whose purpose was preliminary interpretation of art. 43, art. 46 and art. 48 of the EC Treaty. Questions whose answer must be given by the European Court of Justice appeared in the proceedings of the Chamber of Commerce and Industry Amsterdam and *Inspire Art* Ltd, a company of British who set up a branch in the Netherlands that has made a the Dutch Trade Register, as such, no special mention. The Court held that as long as *Inspire Art* is present in its relations legal third parties as a company nationality English, but not to induce their error further conditions which kept its status as a company pseudo-strangers could not be justified on grounds of creditor protection and the protection of the

general interest, creditors are sufficiently warned. On the other hand, the Court ruled that the very concept of pseudo-foreign companies is contrary to freedom of establishment guaranteed by the EC Treaty, which leads to the conclusion that Member States are free to maintain legal provisions on these companies as condition that requires them, in this way, restrictions on freedom of establishment [35].

Most recently, the European Court of Justice had the opportunity to express their views on the right of establishment during the primary cause of *Cartesio.* In November 2005, Cartesio Oktató és Szolgáltató Bt. submitted an application to the competent court, Bacs-Kiskun Megyei Bíróság (Regional Court, Bács-Kiskun), who requested to make changes on the new headquarters address Italy, 21013 Gallarate, Via Roma 16 "[36]. Rejecting the request was based on the principle headquarters Court stating that in Hungary and Italy apply the principle of personal law office to establish legal persons [37]. The appeal against the decision was filed by Cartesio Bt. Court of Appeal of Szeged, which started preliminary procedure, asking the Court of Justice of the European First question whether a company has the right to refer directly to the rules of EU law for the transfer of their seat from one Member State to another or the question whether or not incompatible with European Union law regulating the internal case law that prevents companies to move their headquarters from one Member State to another Member State.

The ECJ ruled that a Member State may require companies established in accordance with its national law to maintain their seat in that state as long as it is subject to its laws and if this change headquarters involves changing the law applicable national, state the company moved its headquarters may not require dissolution or liquidation of the company [38]. With her decision, the Court held that in the present state of EU law, freedom of establishment is incompatible with the practice of a Member State to restrict a company incorporated under national law in transferring headquarters in another Member State, keeping in both a company registered in the country of origin. The Court also pointed out that freedom of establishment allows such changes in company statutes without the need for dissolution and liquidation of the country of origin, provided that the country of destination to recognize this transformation (unless restriction of this freedom is justified by the public interest).

Consequently, the decision given in case *Daily Mail* to *Cartesio* decision because it is an indisputable trend in the European Court of Justice on the right of establishment of companies mayor. *Daily Mail* this decision held that Member States are entitled to restrict or prohibit the company to transfer its registered legal entity with keeping quality country of origin. In the case of Überseering, has been debated "emigration" of societies, the Court held that Member States are not entitled to refuse legal recognition of a company incorporated legalmente in another Member State. As in the case of the Daily Mail, the cause Cartesio Court had to decide on the right of "migration" of societies and the decision once it appears that it is maintained that Member States have the right to decide whether to allow or not a company transfer headquarters legal entity with keeping quality in the home.

Although means are always different intended result remains the same, whether it is because of Centros, Überseering and Inspire Art, namely order indirect companies established in a Member State to comply with the conditions of the receiving State for setting up a companies, despite the fact that the companies concerned by these conditions already enjoyed by virtue of treaty provisions, the status of legal persons.

6. The rules of private international law on nationality Romanian legal entities in the light of EU law. Romanian Civil Code [39] regulates the relations of private international law, in Book VII, art. 2571 or art. 2580-2584. The most important recognition of the foreign legal persons in Romania are contained in art. 2571 par. 1 C. civ., which states that the legal person is a national of the state in whose territory has set, according to the articles of incorporation, registered office. In para. (2) establishes that if there offices in several states determined to

identify the nationality of the legal person is the head office while par. (3) defines the notion of real seat. If foreign law determined in par. (1) - (3) refer to the law of the state was constituted legal person, applicable law of that State.

Further, articles 2580-2581 of the Civil Code states that are governed by national law as capacity and exercise capacity, the acquisition and loss of quality of the associated rights and obligations of an associate, the election, powers and functioning of the governing bodies of the legal entity, its representation through their organs, liability of legal persons and bodies to third parties, amending articles of incorporation, dissolution and liquidation of companies.

In the spirit of art. 2584 C. civ., the merger of several legal persons of different nationalities can be achieved if all the conditions laid down in relevant national laws of their organic status.

The analysis shows that the abovementioned provisions in force in Romania headquarters principle, for art. 2571 par. 1 Civil Code statuază that "legal person is a national of the state on whose territory has set, according to the articles of incorporation, registered office." Para. (2) once again confirms this principle, formulating real seat principle: "If there are offices in several states determined to identify the nationality of the legal person is the real seat". The head office is defined by law as a place where the main center management and business management statutory organ even if decisions are taken according to directives sent to shareholders or in other countries [40].

Headquarters principle is confirmed by paragraph. (2) art. (1) of the Law no.31/1990 on companies, companies based in Romania are romanian legal persons. "In addition to this principle comes societies numerous clauses principle, the principle form" companies will be one of the following forms: a) limited partnership; b) limited partnership; c) joint stock company; d) limited partnership by shares e) limited liability company. "

So, from the perspective of private international law Romanian organic status and nationality of legal persons, including companies and are determined by the law of that State where the head office. Thus, if it is proved that the real seat of a company is in Romania, under the principle of the headquarters, the company will be the Romanian nationality, but since the company was established pursuant to Law No.31 / 1990 on companies or under other legal rules governing the formation of companies, romanian law can not recognize the legal personality. The doctrine are opinions that if a foreign company transfers its head office in Romania (without set by romanian law), we can infer the intent of circumventing the romanian legislation, and hence there can not be accepted as a legal [41].

These views but do not appear to be compatible with European Union law or the principles that are outlined in the European Court of Justice on freedom of establishment. From that date *Überseering* decision make clear that the authorities of a Member State may not refuse recognition as a legal subject of a legal companies legally established in another state.

Romanian law does not provide clear provisions on "emigration" companies, but in my personal opinion, this option is excluded under the legal rules governing the relations of private international law embodied in the new Civil Code and under Law No.31/1990 the companies that make the real seat principle. Thus, in the spirit of the Law no.31/1990 on companies considered only those companies are romanian legal persons domiciled in Romania, and the cross-border transfer of the seat would extraction under romanian law, and therefore is unlikely endorsing this the Trade Register of such claims. Moreover, that judgment as interpreted by the European Court of Justice on emigration societies, as shown in this case, the Daily Mail and Cartesio causes.

7. Conclusion. Freedom of establishment of companies within the common market is another proof in the sense that in the absence of legislative harmonization at EU level, member states continue to promote, through various legal regulations, protect their legal

system to companies incorporated under the legislation of another member, since Community law does not provide satisfactory solutions to the problem of cross-border transfer of the seat, but some key court decisions are crucial.

Each Member State must recognize the right of a company incorporated under its legal system, to be decided by the general assembly decision adopted by forms and procedures required to amend the statute to transfer its registered office in another Member State in order to gain a new personality legal in the place of origin. This decision, as the start of the registration procedure in the new Member States can not lead by itself or to the dissolution of the undertaking, nor the loss of legal personality which has in the Member State of origin as long as the acquisition of legal personality by society receiving Member State will not be confirmed by registration in the latter.

Analyzing the effect Court of European Justice on regulating Romanian, one can say, in my personal opinion, that on "migration" of legal persons, the principle of the establishment which is applied in Romanian law is consistent with the interpretation given by the Court in the cases of Daily Mail and Cartesio. But in terms of "immigration" companies are of the opinion that the legislator should take into account the decision that date Überseering, for unconditional application of the principle of real seat could restrict freedom of establishment of social companies.

In the current state of EU law, member states have the power to set both the connecting element required for a company to be considered validly constituted in accordance with its national law (and likely so to invoke European freedoms of movement), as and conditions necessary to maintain that status after, implying for any State member, the possibility of refusing a company incorporated under the law of his right to retain its legal personality in the event that shifts its head office in territory of another Member State.

References

[1] Directive (EU) 2017/1132 governing EU company law. In the EU there are about 24 million businesses, of which approximately 80% are limited liability companies. Approximately 98-99% of limited liability companies are SMEs.

[2] M.V. Benedettelli, *Conflicts of jurisdiction and conflicts of law in company law matters within the EU market for corporate models: Brussels I and Rome I after Centros*, in European Business Law Review 2005, p. 64-65.

[3] W.F. Ebke, *The European conflict of corporate laws revoluŃion: Uberseering, Inspire Art and Beyond*, in European Business Law Review 2005, p.10-13.

[4] R.R. Drury, *Migrating companies*, in European Law Review, 1999, p. 354-358.

[5] M. Menjucq, *Droit international et europeen des societes*, Ed. Montchrestien, Paris, 2001, p.19-26.

[6] Directive. 68/151 / EEC of 03.09.1968 "transparency directive" or "direct advertising" was developed based on art. 54 para. (2) of the Treaty of Rome.

[7] To date 12 Directives were adopted. Last directives XI no. 89/666 / EEC relating to branches of companies registered in another Member State and XII on the limited liability company with sole no.89 / 667 / EEC concerning disclosure requirements in respect of branches of companies.

[8] In the case Centros the Court held that companies may operate through a branch or agency in any state, even if the state in which they were registered did not work. The argument on equal opportunities prevailed on the protection of third parties.

[9] G. Ripert, R. Roblot, *Traite de droit commercial, Tome I*, 16eme edition, Libraire generale de droit et de jurisprudence, Paris 1996, p. 516-518; C. Gheorghe, *Drept comercial comunitar. Instituții de drept comunitar din perspectiva dreptului român,* Ed. Logisticon,

București, 2005, p. 150 și urm.; A. Fuerea, *Drept comunitar al afacerilor*, ed. a II-a revizuită și adăugită, Ed. Universul Juridic, București, 2008.

[10] Treaty of Rome refers to the treaty which was established the European Economic Community (EEC) and was signed by France, West Germany, Holland, Italy, Belgium and Luxembourg on 25 March 1957. Initially, the full name of Treaty was the treaty establishing the European Economic Community, but the Maastricht Treaty fined eliminating, among other things, the word "Economy" as the name of the community and of the Treaty. For this reason the treaty is often called the Treaty establishing the European Community or the EC Treaty. For details see Gh. Bonciu, *Drept comunitar european*, Ed. Cartea Universitară, București, 2006, p. 78 și urm.

[11] Claudia Antoanela Susanu, *Sediul societății comerciale: aspecte relevante în jurisprudența Curții Europene de Justiție,* în „Analele Științifice ale Universității <Al. I. Cuza> Iași", Tomul LV, Științe Juridice, 2009, p. 89-109.

[12] Case C-210/06. Cartesio Oktató es Szolgaltato Bt., ECR (2008) I-00000. ECJ ruling - Grand Chamber of 16 December 2008.

[13] In some Member States such as Italy, Germany, Netherlands term "legal person" is used only for capital companies, but in the sense French term used for all companies.

[14] Recognition of companies incorporated in the UK, France and the Netherlands is not under Common Law. Without recognition, the company can not rely on the principle of legal capacity under the law of its home State.

[15] In this context, it is sufficient to have a statutory seat, central administration with and without a headquarters.

[16] This also applies to civil and commercial companies registered in the Commercial Register French law, and among them simplified joint stock company.

[17] A similar solution can be found in Regulation (EC) n ° 2157/2001 of 8 October 2001 on the European Company Statute (SE), which provides in Article 7 that a member state " It may require European companies registered in its territory the obligation to establish central administration and registered office in the same place ", subject to liquidation (Article 64 §2).

[18] G. Mihai, *op. cit.,* p. 22.

[19] *Cauza Commission vs. Greece*147/86 ECR 1637 § 7, *Commission vs. Spain* C-114/97 ECR I-0000 §34.

[20] *Cauza Commission v Spain* C-114/97 ECR I-0000 §46.

[21] control is assessed by citizenship (nationality) members, by origin of capital and / or citizenship by persons forming management bodies of the legal person.

[22] If the legal person has several governing bodies in different countries, registered legal entity in the land in which the top management body of the entire legal entity.

[23] Nationality legal person shall be determined either by leaders belonging legal person or by the nationality of shareholders or capital by nationality or citizenship by those carrying out activities on behalf of the legal person.

[24] Former Articles 43 and 48 of the Treaty.

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[38] Judgment of the ECJ - Grand Chamber of 16 December 2008.

[39] Law no. 287/2009 on the Civil Code, republished in the Official Gazette. Part I, no. 505 of 15 July 2011.

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CONSIDERATIONS REGARDING THE LEGAL TELEWORKING REGIME IN ROMANIA AND THE EUROPEAN UNION

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Abstract

The increase in the competitiveness of enterprises and the protection of European workers, including the flexibilisation of labour relations and their adjustment to the current socio-economic conditions, have represented strategic objectives of the European Union. In 2002, the social partners signed the Framework Agreement on Teleworking applicable, according to the TFEU, in all Member States. The Agreement states that teleworking represents a form of work organisation where employees perform work activities outside the employer's premises, usually using information and communication technology (ICT).

Internally, the adoption of Law no.81/2018 quaranteed the legal framework for performing activities in a teleworking regime, the law being applicable in the fields of activity where the technology of information and communication can be used.

***Key words** : teleworking, European Union, technology of information and communication, labour relations*

***JEL classification :** K31, K33*

1. Teleworking within the European Union

The concept of teleworking first occurred during the oil crisis in the early 1970s, when Jack Nilles of the University of South Carolina, nicknamed "the father of teleworking," argued that information technology has the ability to replace physical displacement by electronic communications and thus the work can be done remotely. With the activation of the general interest, this flexible form of work has received great attention. A large number of definitions have been formulated to establish the exact content, first by doctrinal and then by regulation, including at European level.

One of the strategic objectives of the European Union, in the context of current global developments, is to become the most competitive and dynamic knowledge-based economy, to increase the competitiveness of companies, while maintaining a high level of social protection.

Digital technologies and new labour market demands are transforming the workplace, and in this context, the modernization of labour relations, including the establishment of flexible working means, the building of new contractual varieties, which will meet the needs of employees and employers to a greater extent has represented a permanent concern. Based on these considerations, the social partners from the European Union level were invited by the European Commission to start the negotiations for ensuring the legal framework for teleworking, negotiations that started on 20 September 2001 and ended on 16 July 2002 with the signing of the European Framework Agreement on Telework S / 2002 / 206.01.02.

The agreement does not have the nature of secondary legislation at European Union level, but it must be implemented by the social partners in the Member States under the conditions established by the Treaty on the Functioning of the European Union, according to which the dialogue between social partners can be implemented as agreements that can be implemented by other agreements entered into between the social partners in the Member States or, upon the request of the partners having concluded them, by decisions of the Council.

In September 2006, within the European social dialogue, the first joint report on the implementation of this Framework Agreement was completed. The Agreement has been implemented in most Member States so far, either through Collective Agreements, at national or sectoral level, or through guides, codes and recommendations (France, Belgium,

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Luxembourg, Austria, Germany, Italy) or through national regulatory acts in countries such as the Czech Republic, Hungary, Poland, Slovakia or Slovenia, Romania, countries that do not have a strong tradition of collective bargaining between social partners.

According to art. 2 paragraph (1) of the mentioned Agreement, telework is defined as that form of organization and / or work provision by an employee, using information technology, under an employment contract / employment relationship, in which the activity, which can be also executed on the employer's premises / working sites, is regularly performed outside these spaces. The person performing the work under a telemarwork contract is defined in the following paragraph, as a telework employee.

In order to determine the place where the work can be performed by the employee, the idea that the most used space for telework is actually the employee's home is expressed in the literature in the field, but the definition does not exclude the possibility of performing the activity in any other locations where the employee could have access to the necessary means of information and where appropriate conditions of data protection and occupational health and safety could be ensured. Article 9 of the European Framework Agreement on Telework even sets forth measures to prevent the isolation of the telework employee in the sense that his presence at the employer's headquarters is not forbidden but even accepted for a normal functioning of the relationship telework employee-employer.

Telework must be based on the express free consent of the two contracting parties, which cannot be imposed by the employer, being mutually agreed either at the conclusion of the individual employment contract or, subsequently, by signing an addendum.

The employee employed in the teleworking regime enjoys equal rights with the employees who carry out the activity in the framework of an ordinary employment contract at the employer's headquarters. Also, a series of sanctions can be enforced.

In addition, given the specific nature of teleworking, which involves carrying out working tasks by means of information technology, specific provisions are established which set out a series of obligations for the parties.

Thus, it is foreseen the responsibility of the employer to take the necessary measures, especially regarding the software used, for the protection of the data used and processed by the employee, as well as regarding the communication of the specific rules and restrictions regarding the employee (i.e. restrictions on the Internet networks used or on the use of the equipment made available).

The employer shall observe the employee’s right to privacy, so that any means of monitoring used by the employer shall be proportionate to the objectives pursued. All the rules regarding the equipment used to perform the telework by the employee must be established before the telework begins. As a rule, the employer is responsible for providing, installing and maintaining the necessary equipment, except when the employee uses his own equipment. In addition, the employer shall offset the costs directly involved by teleworking, such as those related to ensuring the communication, as well as the necessary technical support.

The employer shall also comply with the rules regarding the employee’s occupational health and safety. It has the possibility to verify the conditions in which the employee works to evaluate the fulfillment of the legal requirements of occupational health and safety, but it is necessary to have the prior approval of the employee to act as such when the employee works from home.

2. The regulation of telework in Romania

Based on the European Framework Agreement on teleworking, concluded between the social partners, in Brussels, in 2002 in Romania Law no. 81/2018 has been recently adopted

on the regulation of teleworking, published in the Official Gazette of Romania, part I, no. 296, as of April 2, 2018.

Prior to the approval of the mentioned regulatory act, in our country the work performance outside the spaces organized by the employer has benefited from regulation since the 70s, through the Decision of the Council of Ministers no. 1956/1970 regarding the use of work at home for the execution of handicraft articles and other products and works applicable until 1980, at that time the regulatory act establishing the economic fields that allowed labour mobility, the conditions regarding the duration and the form of the legal report on which this is based, as well as the way of providing the materials and raw materials necessary for the employee.

In order to make labour contracts more flexible, by creating new contract versions that correspond to the evolutions of the labour market and to give greater freedom to the contractual partners, although Romania has not ratified until now Convention no. 177/1996 of the International Labour Organization on work at home, Law 53/2003 of the Labor Code regulates the contract with work at home. The main peculiarity of this employment contract is given by the fact that the tasks are performed at the employee's address, the place of work being in this situation his domicile. In this context, unlike the regulation stipulated by the Convention no. 177/1996 of the International Labour Organization, according to which the place of work may be not only the domicile, but also in any other place chosen by the employee, the fact that the Romanian regulation offers only the possibility of providing the work at the employee's domicile appears to be more restrictive.

The law on the regulation of teleworking does not specifically determine the recipients of the law, by the provisions of art. 1 paragraph 2 stating abstractly that its provisions are to be applied in the areas of activity in which it is possible to carry out the activity in this regime.

Telework is defined by art. 2 letter a) in relation to art. 3 paragraph (1) of the Law, as that form of work organization by which the telework employee, on a regular and voluntary basis, fulfills his/her specific duties for the position, occupation or trade he/she may have, in a place other than the workplace organized by the employer, at least one day a month, using information and communication technology. This legal regulation entails that the most important elements of conditionality of the teleworking regime are those regarding (a) the activity in spaces that are not organized by the employer at least one day per month and (b) the use in this purpose of information and communication technology.

It follows from the legal provision stated that the activity of the telework employee, unlike that of the employee working at home, can be carried out at home or in any other place that allows him to connect to the computer networks for the activity, place that must be mentioned in the contract concluded between the parties. The literature in the field includes the idea according to which the notion of domicile shall also include the employee’s place of residence, in fact, the reference to the domicile in the Labour Code being made by reference to the employee's residence, first or secondary as appropriate.

The agreement on how to provide telework can be concluded upon the conclusion of the employment contract or later by an addendum attached to the employment contract, providing for the change of the form of work organization. In this regard, the legislator expressly provided for in art. 3 paragraph (1) of the law that the employee's agreement to provide telework can be given either on the date of signing the individual employment contract or upon the conclusion of an addendum thereto. The employee's refusal to consent to the telework activity cannot be a reason for unilaterally amending the individual employment contract and cannot represent a disciplinary sanction thereof.

The telework contract, full time or part time, is concluded only in writring and contains the mandatory elements for any type of individual employment contract and, in addition, according to art. 5 paragraph 2:

a) express mentioning that the employee works in a teleworking regime;
b) the period and / or the days when the telework employee performs his / her activity at a working site organized by the employer;
c) the place(s) where telework is performed, as agreed by the parties;
d) the program when the employer has the right to verify the activity of the telework employee and the actual means of performing this verification
e) the way of highlighting the working hours provided by the telework employee;
f) the responsibilities of the parties agreed according to the place(s) of telework, including the responsibilities related to occupational health and safety
g) the employer's obligation to ensure the transport to and from the place where telework is performed of the materials that the telework employee uses in his/her activity, as appropriate;
h) the obligation of the employer to inform the telework employee about the provisions of the legal regulations, of the applicable collective employment agreement and / or the internal regulations, regarding the protection of personal data, as well as the obligation of the telework employee to comply with these provisions;
i) the measures taken by the employer so that the teleworking staff is not isolated from the rest of the employees and which ensures the possibility of meeting with colleagues on a regular basis;
j) the conditions in which the employer bears the expenses related to the activity performed in the teleworking regime.

In the absence of a civil sanction, we consider that the non-insertion of these clauses will not automatically attract the qualification of the employment contract in a classic labour law report, but, the real will of the parties can be proved by any means of proof. However, the fact of not inserting these clauses in the telework contract is considered contravention and is sanctioned, according to art. 11 lit. d) of the Law regarding the regulation of the teleworking activity, with a fine of 5,000 RON.

The employer is responsible, pursuant to art. 7 of Law no. 81/2018, and the provisions of Law no. 319/2016 on occupational health and safety, the task of ensuring the occupational health and safety at work, at the locations where telework is performed, in relation to the specific characteristics of these places and those agreed in the individual employment contract. Thus, it shall: a) provide the means related to information and communication technology and / or the secure work equipment necessary for the performance of the work, unless the parties agree otherwise; b) install, verify and maintain the necessary work equipment, unless the parties agree otherwise; c) provide conditions for the telework staff to receive sufficient and adequate training in the field of occupational safety and health, in particular in the form of information and working instructions, specific to the location of the teleworking activity and the use of the display screen equipment: upon employment, upon changing the location of the telework activity, uponintroducing new work equipment, upon introducing any new working procedures.

From the way of drafting the provisions of art. 7, it follows that these obligations provided under letters a) and b) are not absolute, the law offering the possibility of the parties to derogate from them by convention.

According to any employment contract, the employer has the right to control the activity of his employees. The peculiarity is represented in the case of this type of contract by the fact that the law allows a control exercised by the employer over the activity of the

employee in the latter's spaces, considering the fact that they also have obligations and responsibilities regarding the occupational health and safety, as stipulated in the text of art.7 of the law. It is worth pointing out that the employer's right of control is limited by the pre-agreed program for this purpose with the employee and can only be achieved with his agreement. The employee who does not allow the access of the employer (or the one delegated by him to carry out the control according to the predetermined program) commits a disciplinary deviation.

Telework employees benefit from all the rights recognized by the law, the internal regulations and the collective employment contracts applicable to the employees who have the job on the employer's premises.

At the same time, the law sets forth a series of obligations. Thus, the telework employee has the legal obligation to carry out his activity, in accordance with his training as well as with the instructions received from the employer, so as not to expose to the danger of accident or professional illness both his own person and other persons who may be affected by his actions or omissions during the work process. Also, Law no. 81/2018 stipulates that, in particular, in order to achieve the objectives set out above, the telework employee is obliged to inform the employer about the work equipment used, equipment that does not represent a danger to his health and safety, to the conditions existing at the working sites and to allow the latter's access, in order to establish and carry out occupational health and safety measures at work, required according to the clauses of the individual employment contract or for investigating events, as well as the obligation to maintain these conditions.

He also has the obligation to carry out the activity in compliance with the provisions of the Law on occupational health and safety and in accordance with the clauses of the individual employment contract and observe the specific rules and restrictions established by the employer regarding the Internet networks used.

In order to verify the working conditions of the telework employee, the representatives of the trade union under the organization or the employees' representatives have access to the places where telework activity is performed (under the conditions stipulated in the collective employment agreement, the individual employment contract or the internal regulation) while the representatives of the competent authorities have access to the locations where telework activity is performed in order to verify the application and compliance with the legal requirements in the field of occupational health and safety. These verifications shall be performed, if the place where the telework activity is performed is at the employee's address, provided that the telework employee has been notified in advance and subject to his/her consent.

3. Conclusions

We can conclude to the extent that, both at European level, but also internally, there has been a constant concern for the modernization of work, in conjunction with the reconciliation of the active life with the social one, thus including new possibilities of achieving the balance between flexibility and job security.

Although the 2002 European Framework Agreement on telework was not incorporated into EU secondary legislation by a binding document, in most EU Member States it was applied in compliance with the mechanisms and traditions of the states in the field of work relations.

In Romania, once it was enforced by means of a distinct regulatory act, telework has now acquired new meanings, in accordance with the modern European laws. We consider it would have been appropriate that the regulation of telework should to be made by the provisions of the Labour Code together with the other forms of the individual employment contract and not by a separate regulation.

Law no. 81/2018 on the regulation of the telework activity represents a modern legal instrument, whose adoption allows flexible working relations of some categories of employees, who can carry out their activity in any place where there is access to the Internet or to a similar local network and the possibility of using certain information and communication technology equipment, with obvious benefits for the contracting parties, while at the same time increasing the employment rate.

However, in relation to its current form, it can be stated, in a detailed analysis, that it could benefit from certain improvements and clarifications regarding the scope, the conditionality related to the use of telework, the compatibility of the locations where telework is performed with the regulatory acts governing occupational health and safety and ensuring the protection of the employees against the potential abuses of the employers, without diminishing the practical effect of the mechanism that it introduces in the labour legislation.

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REASONS AND PROSPECTS OF THE ENVIRONMENTAL FISCAL REFORM IN THE EUROPEAN UNION

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Abstract

In this paper we resume research on the importance and effects of a possible Environmental Fiscal Reform in the European Union member states, as a possible solution to foster sustainable economic development and the transition towards a green economy in Europe.

Therefore, we first state some principles of the law concerning the environment and analyse the main features of the environmental taxes, as well as their trends and particularities in the EU countries, including Romania. The next section reminds the debate on the double dividend paradigm, conceptually clarifies the term and the underlying reasons for implementing an Environmental Fiscal Reform.

We are now able to figure and analyse in the next section, the main objectives, prospects and issues of implementing this type of fiscal reform in the European Union.

In the end are some conclusions and recommendations to highlight some of the most important and current features of environmental taxes which may be used in the Environmental Fiscal Reform to efficiently and more or less directly address most environmental, economic, and social issues.

***Key words**: environmental, fiscal, reform, taxation, double dividend, labour*

***J.E.L. classification**: H30, H230, Q580*

1. Introduction

At the European Union and global scale, the environmental urges have become nowadays more and more stringent, since the international increasing recognition of the climate change developments. In order to address these challenges governments and all actors should act to limit the emissions of greenhouse gases and further reduce emissions of air pollutants.

The international environmental agreements, such as the Kyoto Protocol, the Paris Agreement, and the Agenda 2030 for Sustainable Development have raised the relevance of environmental taxation for reaching mid and long-term environmental goals.

Since applying only stricter environmental regulation to accomplish those goals would be costly, the European Union promotes some economic instruments like the environmental taxes especially as more flexible and cheaper means for reinforcing the polluter-pays principle in pursuing environmental policy objectives.

The use of economic tools for the benefit of the environment is promoted in the EU Environment Action Programme to 2020, the EU sustainable development goals and Europe 2020 strategy. However, the environmental issues are not the only ones to be considered and approached by the environmental taxation in view of sustainable development since the social and economic objectives have lately proved to be urgent and significant as well.

This paper will highlight some of the most important and current features of environmental taxes which may be used in the Environmental Fiscal Reform to efficiently and more or less directly address most environmental, economic, and social issues in view of a sustainable development in the European Union member states.

As part of a more extended study, the paper has the objective to present and analyse some of the main characteristic mechanisms and features of environmental fiscal reform, to enhance understanding of its conceptual and practical issues. The methodological approach is mainly based on literature review, conceptual analysis and synthesis as well as new qualitative and quantitative insights from the global and European experience.

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2. Principles and features of environmental taxes

In the classical economic theory, mainly in respect to welfare economics, the issue of the externalities and market failure is one of the most significant. A negative externality represents a market failure since it occurs when the production or consumption of a good harms someone other than the buyer or seller of that good so the decisions of the buyers and sellers fail to take into account that external cost.

Generally, pollution and resource consumption create costs, such as those incurred from health impacts, reduced crop yields, and biodiversity loss. If the economy does not internalise these so-called 'external costs', it will operate inefficiently and market distortions and inefficient economic decision-making will result. Consequently, when unregulated and free, the market will generally result in a too high quantity of any good with a negative externality, such as pollution. Therefore, it is by imposing a tax on the externality-generating good that the negative externality can be corrected (internalised).

Environmental taxation can internalise these external costs and include some or all of them in the price of pollution with many benefits such as the generated welfare gains, better environmental quality and increased efficiency in the economy.

The environmental tax is considered to be a Pigovian tax, i.e. a tax levied on the negative externality at a tax rate that is equal to the marginal damage costs and is considered to correct the market outcome back to efficiency. (Pigou A., 1920).

As concerning the level of the environmental tax rate, in theory, it should be commensurate with the environmental damage addressed, or more precisely their marginal damage costs. However, only if the market price corresponds to the real costs of a resource or an activity, the market equilibrium does yield an efficient result (EC, 2014). In reality, though, it is difficult – and in some cases impossible – to calculate these externalities accurately and, as a result, a pragmatic approach to tax rate setting is called for.

To better understand environmental taxation and its reasons, it may be also necessary to state some foundations and principles of the environmental law. The EU environmental principles are used in many of government and public authority decisions.

The main EU principles of environmental law are (clientearh.org, 2019):

a. The precautionary principle;

The precautionary principle allows protective measures to be taken without having to wait until the harm materializes. This principle is valuable in managing risk where there is uncertainty about the environmental impact of an issue.

b. The prevention principle;

This principle requires preventive measures be taken to anticipate and avoid environmental damage before it happens.

c. The principle that environmental damage should be rectified at source;

Working alongside the prevention principle, this ensures damage or pollution is dealt with where it occurs.

d. The polluter pays principle;

According to this principle, the person who causes pollution should bear the costs of the damage caused and any remedy required. It plays a significant role in environmental management, directing accountability for harm.

e. The integration principle;

This principle requires that environmental protection is integrated into all other policy areas, in line with promoting sustainable development.

The EU environmental principles work together to ensure high environmental standards by directing how judges and other decision-makers should interpret the law.

It should be nevertheless noted that, even in the absence of the market, a number of formerly planned economies of Eastern Europe had already implemented a form of

environmental taxes under the old political regime. They did not earn revenues on this market but governmental funds were allocated where necessary. This policy raised environmental awareness and it facilitated the introduction of real tax instruments as these economies started their transition process. (Radulescu M. et al., 2017)

According to the environmental principles and the economic theory, currently within the European Union, there are managed and levied the following environmental taxes (Eurostat, 2019):

a) *taxes on energy products* (taxes on mineral oils, motor fuels, gasoline, diesel, heating oil, kerosene, petroleum, gas, electricity and taxes on gases that cause the greenhouse effect) ;
b) *taxes on transportation* (the tax on the registration and usage of motor vehicles, the tax on import and selling motor vehicles, car insurance, the tax on using roads –road toll, the tax on using other transportation means);
c) *taxes on pollution* referring to the air pollution (CO2, NOx, SO2), taxes on pesticide and artificial fertilizers, tax on waste that endanger the environment (bacteria, rubber, plastic bags);
d) *taxes on the resources* including water treatment, usage of biological resources, exploitation of mineral raw materials (ores, oil, gas) and of forests.

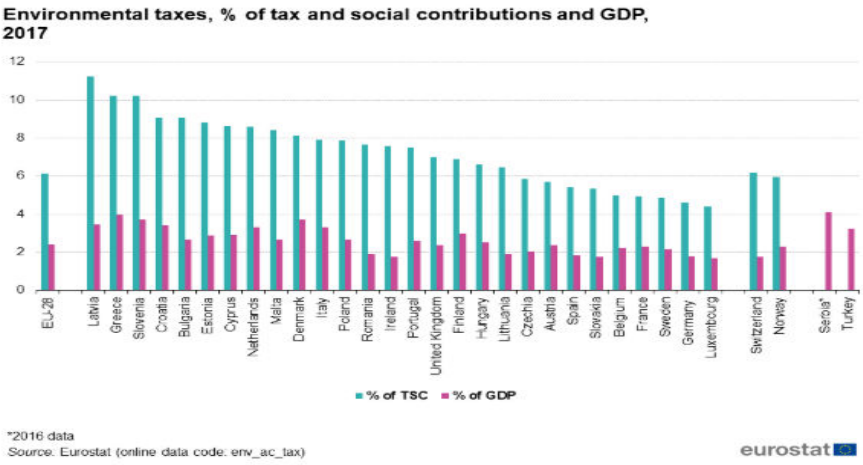
They are of relative importance. In 2017, the total environmental tax revenue in the EU-28 (i.e., revenue from environmental taxes collected by governments in all EU Member States) amounted to EUR 368.8 billion; this figure represents 2.4 % of the EU-28 gross domestic product (GDP) (Figure nr. 1).

Also, on average, environmental taxes in the EU accounted for 6.1% of total taxes and social (TSR) contributions in 2017. This share varies significantly across the EU countries and was considerably higher in 19 EU-countries (see Figure nr.1).

Relative to GDP, the largest level of environmental tax revenue was recorded in 2017 in Greece (4.0 %), followed by Slovenia and Denmark (both 3.7 %), Latvia (3.5 %), Croatia (3.4 %) and the Netherlands and Italy (both 3.3 %). In six other EU Member States (Lithuania, Romania, Spain, Germany, Slovakia, Ireland) the level of environmental tax revenue was similarly low in 2017 compared to the size of their economies, and did not reach 2 % of GDP (Figure nr. 1).

The proportion of environmental taxes in total revenue from taxes and social contributions (TSC) also varied significantly across the EU Member States. Latvia reported the largest share in the EU (at 11.2 %), ahead of Greece and Slovenia (both 10.2 %). Two other EU Member States recorded a share of 9.1 %: Croatia and Bulgaria.

Figure nr. 1. Environmental taxes, % of tax and social contributions and GDP, 2017



Source: Eurostat (env_ac_tax)

At the opposite end of the scale, Luxembourg (4.4 %), Germany (4.6 %), Sweden (4.9%), France and Belgium (both 5.0 %) had the lowest shares of environmental taxes, followed by Slovakia and Spain (both 5.4 %), Austria (5.7 %) and Czechia (5.9 %).

The environmental tax revenue measured as share of the all taxes and social contributions is an indicator to help assess progress towards 'greening' the taxation system.

Part II of the Working Paper on the Roadmap to a Resource Efficient Europe recommends that 10% of taxes and social contributions in the EU are environmental taxes by 2020. This indicator reflects a certain degree of internalisation of environmental impacts in the national economies and the degree of implementing the Environmental Fiscal Reform, as further analysed.

3. The Double Dividend and other reasons for the Environmental Fiscal Reform

The concept of Environmental Fiscal Reform (EFR) has several definitions since it also is currently considered or approached with different meanings:

- In one definition, EFR means "a range of taxation or pricing instruments that can raise revenue, while simultaneously furthering environmental goals. This is achieved by providing economic incentives to correct market failure in the management of natural resources and the control of pollution." (IBRD – World Bank, 2005)
- A second definition considers the EFR as "a tax shift from labour towards environmental use, supplemented by the reform or removal of environmentally adverse subsidies" (EEB, 2017).
- in the third definition the Environmental Fiscal Reform has a more complicated meaning: it is a 'tax shift' in which "a progressive increase in the revenues generated through environmentally related taxes provides a rationale for reducing taxes derived from other sources, such as income, profits and employment, the taxation of which is less desirable." (OECD, 2017)

In order to better understand the mechanisms of the EFR, it must be acknowledged that the two main components of fiscal theory, respectively the fiscal policies to collect revenue and the fiscal policies to correct externalities, were until recently addressed independently. The argument that the revenue-raising role of environmental taxes is a substantial additional reason to implement such taxes and develop them for the Environmental Fiscal Reform was issued by the "double dividend" literature.

In the original approach of the double dividend by (Pearce D., 1991), the first dividend of the environmental tax reform would be the improvement of environmental quality. The second dividend is that cutting pre-existing and more distortionary taxes (offset with new environmental tax revenue) would result in a reduction of the economic efficiency-cost incurred for raising a given amount of tax revenue. Also, according to (Roberton C., 2016) the basic idea is:"if revenue from an environmental tax can be used to finance a cut in the tax rate for a distortionary tax (such as the income tax), that cut produces an efficiency gain in addition to the other effects of the environmental tax".

The term "double dividend" refers to the assertion that environmental taxes raise economic efficiency through two separate channels, both by correcting an externality and by raising revenue that can be used to cut other taxes. That second "dividend" has since come to be known also as the "revenue-recycling effect."

Although, starting from the double dividend theory, there is a rich literature on these issues it is still the need to analyse more on the equity and efficiency of the EFR, especially in emerging-market economies and newer EU member states, where the institutional capacity and experience is not so rich in this regard. To mitigate equity and efficiency issues, environmental taxes should have incentive, but not a conflict character. (Frone S., Constantinescu A., 2019)

The main reasons determining the need for EFR are linked to the following features of the environmental taxation which is considered:

a) an environmental policy using market-based instruments to reflect the cost of environmental damage in prices faced by polluters;
b) a fiscal policy meant for raising public revenue and deploying it in a socially useful way.

Requiring the productive or useful revenue use is not an empty statement, however, as it highlights one of largest potential drawbacks of the use of revenue-generating instruments, namely that the revenue would be wasted.

Another good reason for promoting the Environmental Fiscal Reform is that shifting taxation from labour to pollution, energy and resource use in a budgetary neutral way is a policy approach promoted not only by the European Commission, but also by most international institutions such as the Organisation for Economic Co-operation and Development (OECD), the World Bank, the International Monetary Fund (IMF).

Due to the weak tax-evasion possibility and to their lower administrative costs, the environmental taxation schemes are especially well-suited to the post-financial crisis context, in which countries wish to continue to grow while also raising revenues to plug budget gaps. (EEA, 2016).

Furthermore, as shall be further emphasized, environmental taxes have been shown to be the least detrimental to employment and growth.

4. Trends and prospects of the EFR in the European Union

According to a recent study (Groothuis, 2016) conducted for 27 EU countries (EU 28 except Croatia) using the macro-econometric model E3ME to investigate the effect on growth and employment of shifting taxes from labour towards fossil fuels and carbon emissions, while also increasing standard and reduced VAT rates and raising taxes on electricity and water use for large users, there is a significant potential for positive economic, social and environmental outcomes in the European Union states. By implementing these measures of Environmental Fiscal Reform, a total of EUR 554bn is shifted from labour towards natural resources and consumption, which is equivalent to 13% of labour tax revenue and results in a 5.6%-point reduction of average personal income tax rates.

The econometric model suggested that gradually introducing this tax shift from labour taxation to environmental taxation, over the period 2016 – 2020, would increase employment by 3% in 2020, GDP would rise by 2%, while water use, energy use and carbon emissions would decline by more than 5%. This means that there would be indeed, a substantial double dividend of the EFR.

Another outstanding study (Radulescu M. et all, 2017) was dedicated to the research of the possibility and reality of the double dividend theory in the European Union and in Romania, as a European Union member state. By employing a rich and diverisified methodology including modelling and econometric techniques, the outcomes of this research are significant and should be taken into account by the followers in policy making and public finance research development.

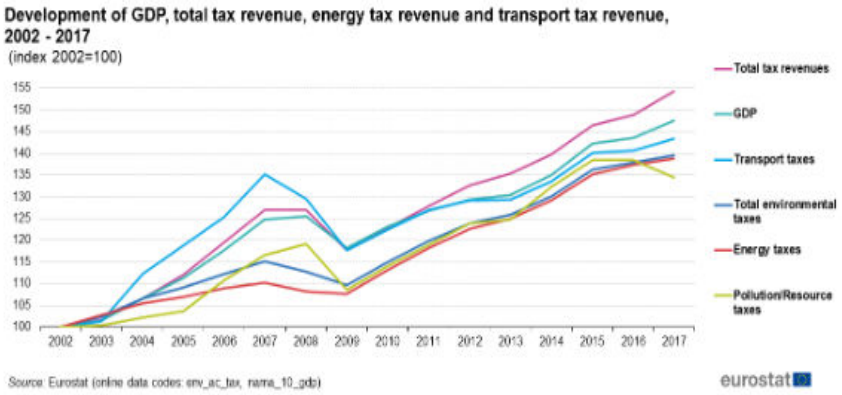
It was demonstrated that in Romania, „the impact of the unemployment on the greenhouse CO2 emissions is significant and negative, similar to in the EU area, but there is a much more significant impact on greenhouse CO2 emissions in Romania." Both in the EU area and in Romania, an increase of the environmental taxes determines a decrease of greenhouse CO2 emissions, which validates the double dividend theory.

Also, another great conclusion of the study (Radulescu M. et all, 2017) was that „in Romania, a still low level on environmental taxation allows some further increases of the environmental taxes in order to support the GDP growth, by developing a real industry for the

environment protection and thus, supporting much more the employment process. The public budget can further rely on the increase of the environmental taxes, while the labor taxation can decrease, so all three aims of the double dividend theory can be achieved."

The mentioned studies are two of several recently developed in the EU, after the 2008 economic downturn, when new concerns and challenges called for the urge to use environmental fiscal reform to address rising unemployment, i.e. to increase environmental taxes by reducing labour taxes and thereby encourage employment creation.

Figure nr. 2 Development of GDP, total tax revenue, energy tax revenue and transport tax revenue, 2002 - 2017 (index 2002=100)



However, as may be noticed from figure nr. 2 there is no such significant progress in this kind of tax shift at the EU level, marking the further implementing of an EFR. Following the financial crisis, the economy (GDP), and the total tax revenue, grew at a faster pace than environmental taxes in the EU (see in figure nr. 2). This lack of progress comes in spite of renewed interest in environmental fiscal reform, driven by various factors including the push for fiscal consolidation and the growing recognition of the financial burden of certain measures such as fossil fuel subsidies. (EEA, 2018)

In addition to taxing energy and carbon, the pollution and resource taxes offer opportunities to further reduce environmental pollution and improve material resource efficiency, moving towards a green economy.

Figure nr.3: Environmental tax revenue by type, EU-28, 2002-2017 (EUR million and % TSC)

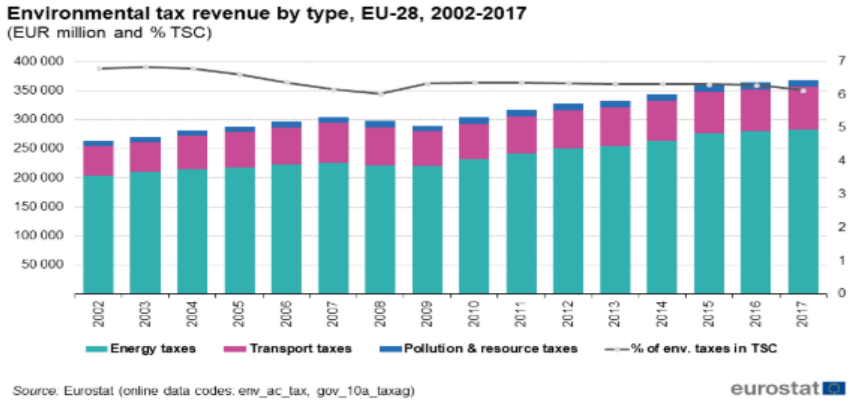
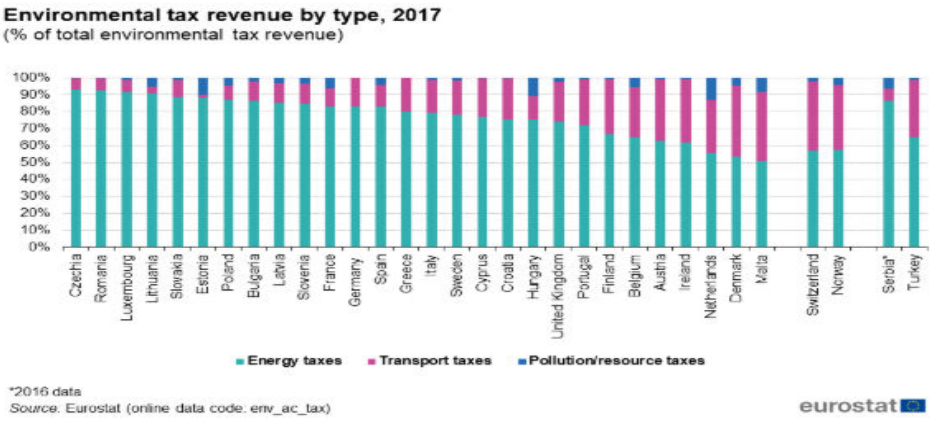


Figure nr. 4: Environmental tax revenue by type, 2017
(% of total environmental tax revenue)



Unfortunately, this type of environmental taxes are still largely unused in the EU, comprising only 3.3 % of revenues from all environmental taxes in 2017, which corresponds to around 0.08 % of gross domestic product (GDP) in the EU (Figure nr. 3).

Although the economic recession may have brought, in EU and Romania as well, some positive effects or opportunities of cutting resource-intensive production, the issues have been more or less powered and acknowledged by the public and private stakeholders in the national economy (Frone D.F., Frone S., 2015).

It may be noticed from figure nr. 4 that, for instance, in Romania the pollution and the resource taxes are almost negligible, since they are so low that they hardly contribute either to the fiscal revenues and/or to the environmental protection, to the increasing of resource efficiency.

Over recent years, there has been no sign of an increase in the share of pollution and resource taxes in environmental taxes. This is despite an increasing focus on material resources in EU policy, represented, for example, by the 2011 Roadmap to a Resource Efficient Europe and the 2015 Circular Economy Package.

The Seventh Environment Action Programme (7th EAP) calls for a shift in taxes from labour towards pollution and resource use as a means of helping to achieve environmental objectives and stimulating employment and green growth.

However, revenues from labour taxation remain eight times higher (about 48%) than the revenues generated by environmental taxes in the EU (about 6%). These relative shares in overall taxes have changed very little over the years and only a limited number of EU countries have decreased their share of labour taxes while increasing their share of environmental taxes. Nine EU Member States shifted taxation away from labour and towards the environment between 2003 and 2016 (Bulgaria, Estonia, Greece, Hungary, Italy, Latvia, Poland, Romania and Slovenia) but changes were quite small (EEA, 2018).

The main reasons for this lack of progress appear to be a combination of the political difficulty of making any changes to a country's tax system, along with the real and perceived economic and social challenges regarding environmental taxes. Research and analysis suggest that, in order for it to be successful, this type of fiscal reform requires careful planning to avoid any negative economic and social impacts, and widespread consultation that reflects good governance principles.

The lack of progress with environmental fiscal reform may be also a result of a number of obstacles in relation to implementing environmental taxation. In the last review of tax reforms in Member States (EC, 2015), the European Commission refers to three such key barriers:

1) the potentially regressive nature of environmental taxes and the possible associated equity issues;
2) the potentially harmful effect on the competitiveness of the sectors concerned;
3) the administrative and enforcement costs of raising these taxes.

As regarding the prospects of the Environmental Fiscal Reform in the European Union, there are no current indications from the vast majority of Member States that they intend to shift taxes from labour towards the environment, so the outlook for 2020 appears negative. However, not only the shift from the labour taxation may be a double dividend to be achieved through the EFR, since it depends from a country to another whether this is the highest priority or not.

For instance, in Romania, there is still quite a large scope to be done in the respect of the Environmental Fiscal Reform, due to the fact that both the environmental and the macroeconomic sectors may benefit from an increase in the size and scope of the environmental taxation.

Consequently, we agree that, in the long run, developing a real industry for the environment protection with EU technical and financial support could be the best solution Romania has for achieving the benefits of the double dividend theory (employment–economic growth–environment protection). (Radulescu M. et al., 2017)

5. Conclusions

The environmental taxes are modern and efficient policies with an important role in promoting a sustainable development, since they have both environmental and socio-economic benefits. The integration of taxation for income collection with the taxation to correct behaviour, underpins the inauguration of a new set of problems that take into account, at some level, a "double dividend" assumption.

In the conceptual analysis of the double dividend developed in section 3, the objective was to emphasize the fact that the economic and environmental efficiency of EFR may be combined in the so-called double dividend, since it is represented by a combination of income tax cuts and a greater emphasis on taxation of natural resources, as inputs and outputs - for example, water, energy and CO2, much needed in view of a transition to the green economy.

Although there are quite important obstacles and barriers that have prevented most EU countries from implementing a strong EFR, the European Commission, nevertheless, offers successful implementation strategies, namely transparency and early engagement with those affected by the tax, gradual implementation of the tax according to a pre-announced schedule and making such tax measures part of a broader policy package designed to achieve the specific environmental objective.

However, for now, the absence of policies promoting a shift of the tax base from labour to environmentally damaging goods and practices over past years, and the lack of plans by the vast majority of Member States to implement these changes, make it unlikely that the 2020 (10% of the TSC) objective will be met in the European Union.

A direction of further research is to show that in Romania, the further development and increase in the environmental taxation for the EFR is needed in order to promote a sustainable and greener economic development.

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REPAIR OF DAMAGE IN THE EVENT OF DELINQUENT CIVIL LIABILITY

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Abstract

The damage is a harmful consequence, patrimonial or non-patrimonial, of the non-observance of the subjective rights and of the legitimate interests of a person, which determines the obligation of compensation for the person who committed the wrongful act.

The notion of damage is designated by synonymous terms as damages.

According to art.1357 of the Civil Code, the one who causes the damage to another by an unlawful act, committed with guilt, is obliged to repair it. The author is responsible for the slightest guilt.

Keywords: *damage, liability, delinquency, wrongful act, loss, prejudice.*

Jel Classification: K0; K1

Conditions necessary to repair the damage

In order to be susceptible to reparation, the injury must meet the following conditions: be certain, it has not been repaired and be the result of a violation of a subjective right or a legitimate interest.

The conditions for the damage to be repaired are those for him to be the direct and natural consequence of the unlawful act (the direct damage), to be certain - that is, to be fixed - and not yet to be repaired[2].

The damage repair is done in kind, by restoring the previous situation, and if it is not possible or if the victim is not interested in the repair in kind, by payment of compensation, established by the agreement of the parties or, in default, by a court decision.

When establishing the compensation, it will be taken into account, unless otherwise provided by law, the date of the injury.

If the injury is of a continuity nature, the compensation is granted in the form of periodic benefits.

In the case of future damage, the compensation, regardless of the form in which it was granted, may be increased, reduced or suppressed, if, after its establishment, the damage has increased, decreased or ceased.

In order to be able to be repaired the damage must meet the following conditions:

The prejudice is certain, when its existence and its evaluation are certain.

In order to attract criminal liability, the damage must be safe and direct. It is safe when the damage has been produced and is directly in the situation where it is the result of the wrongdoing.

According to article 1532 of the Civil Code, in determining the damages, the future damages are taken into account, when they are certain.

The damage that would be caused by losing an opportunity to obtain an advantage can be repaired in proportion to the probability of obtaining the advantage, taking into account the circumstances and the concrete situation of the creditor.

The prejudice the amount of which cannot be established with certainty is determined by the court.

The injury may be current when it has already occurred and future when it has not occurred but it is certain that it will occur, such as the case of a person who has been the

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[2] The decisions of the Supreme Court no.346 of February 21, 1979, published in the Decision Book 1979. pp. 109-111 and no.470 of March 7, 1985, published in the Decision Book 1985, p.76.

victim of an unlawful act and who has been unable to work. In this situation, the current damages for the current injury (expenses with hospitalization, health care) are granted, but also for the future injury (supplementing the diminished salary).

According to art.1385 of the Civil Code, the damage is fully repaired, unless otherwise provided by law.

Compensation may also be awarded for future damage if its production is doubtful.

Compensation must include the loss suffered by the injured party, the gain he could have made under ordinary circumstances and which he was deprived of, as well as the expenses he incurred to avoid or limit the damage.

If the wrongful act also caused the loss of the opportunity to obtain an advantage or to avoid a loss, the reparation will be proportional to the probability of obtaining the advantage or, as the case may be, of avoiding the damage, taking into account the circumstances and the concrete situation of the victim.

According to art.1533 of the Civil Code, the debtor is liable only for the damages that he has foreseen or that he could foresee as a result of the non-execution at the time of the conclusion of the contract, unless the non-execution is intentional or due to his serious fault. . Even in the latter case, the interest damages include only what is the direct and necessary consequence of the non-performance of the obligation.

For eventual damages, ie whose production is not safe, no compensation is granted.

According to art.1365 of the Civil Code, the civil court is not related to the provisions of the criminal law, nor to the final decision to pay or to terminate the criminal trial regarding the existence of the prejudice or guilt of the perpetrator of the unlawful act.

The deed may not fulfill the conditions of a crime and by a criminal decision it will be decided to acquit or stop the criminal trial, but this does not cause the perpetrator to be exempted from repairing the damage, it exists and must be repaired. Not all illicit acts of injury are also crimes, but in all cases the damages must be fully repaired.

The damage was not repaired.

In case, the damage has been repaired, it is no longer justified to oblige the person who committed the deed to pay damages. For example, the one who destroyed another thing, repaired it or replaced it, or paid a sum of money for the victim to buy something else.

Usually, the obligation to repair the damage rests with the perpetrator of the wrongful act.

There are, however, certain situations when another person pays compensation for damages such as:

1) the victim receives compensation from an insurance company[1]. In this situation we must distinguish two hypotheses when the victim is insured and when the perpetrator is insured:

- the victim is insured, having the quality of insured person.

In the case of insurance of persons, the victim receives, at the realization of the risk, the sum insured from the insurance company, which is accumulated with the compensation due for the repair of the damage from the person who committed the unlawful act causing injury.

According to art.2236 of the Civil Code, the insurance indemnity is due, independently of the amounts due to the insured or the beneficiary of social insurance, to repair the damage of those responsible for its production, as well as of the amounts received from other insurers under other insurance contracts. .

- in the case of insurance of goods, the victim receives the sum for the insured goods and can accumulate with compensation from the person guilty of creating the damage only if the damage is greater and is not covered by the insurance in full[2]. The insurance company has

[1] Decision no.390 / 2004 of the Alba Iulia Court of Appeal

[2] Decision no.817 / 2006 Bucharest Court of Appeal, IV Civil Division.

the possibility to recover the amount paid to the insured person, by introducing an action in regress against the person guilty of producing the damage.

- the perpetrator of the wrongful act and implicitly of the damage is insured.

In this situation, the victim receives compensation from the insurance company where the perpetrator of the damage is insured, if the damage is not covered, the difference is borne by the perpetrator of the unlawful act, personally.

- Compulsory civil liability insurance

Compulsory motor liability insurance for damages caused to third parties by car and tram accidents, called RCA insurance;

According to art.3 of Law no.132 / 2017, the natural or legal persons who own vehicles subject to registration or registration in Romania, as well as the trams have the obligation to insure for civil liability cases as a result of the damages caused by vehicle accidents. within the territorial limits provided by law[1].

The natural and legal persons who use vehicles exclusively for the purpose of legally organized training, races, races or rallies are not obliged to conclude an RCA contract; for the risks deriving from these activities, the owners of vehicles or the organizers of the competition can be provided optional.

According to the provisions of art.5 of Law no.132 / 2017, the RCA contract is concluded for a period between one month and 12 months, multiple of one month, depending on the option of the insured.

Except from these provisions, the RCA contract may be concluded for a period of less than one month in the following situations:

a) for vehicles registered / registered in other Member States of the European Economic Area and the Swiss Confederation for which the insurance is requested for importation into Romania, for a maximum period of 30 days from the date of acquisition of the property, proven with supporting documents;

b) for vehicles intended for export, for a maximum period of 30 days;

c) for vehicles that are provisionally authorized for circulation, for periods of 30 days, but not more than 90 days.

Payment of insurance premiums is made in full or in installments according to the agreement between the insured and the RCA insurer. The RCA contract also takes effect if the insurance premium rate has not been paid within the term agreed between the insured / contractor / user and the RCA insurer, if the RCA insurer has not exercised the right to terminate the RCA contract. The RCA contract is an enforceable title for the outstanding and unpaid rates.

RCA insurance produces effects based on the provisions of the law, the regulations issued by A.S.F. in its application, as well as the conclusion of the RCA contract between the insured and an RCA insurer, issued including by electronic means, according to the regulations A.S.F.

The parties may also agree to include other clauses in addition to those established by this law and by the regulations issued by A.S.F. in its application, except for those that restrict the rights of the injured person.

The insured is obliged to pay the insurance premium to the RCA insurer, and the RCA insurer is obliged to pay the compensation of the injured third party, in accordance with the law and the insurance contract, when producing the insured risk.

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[1] Law no.132 / 2017 on compulsory motor liability insurance for damage caused to third parties by vehicle and tram accidents published in the Official Gazette no. 431 / 12.06.2017
Law no.237 / 2015 regarding the authorization and supervision of the insurance and reinsurance activity, published in the Official Gazette no. 800 / 28.10.2015.

At the conclusion of the RCA contract and during its development, the insured has the obligation to allow the RCA insurer access to the database with the compulsory civil liability insurance concluded on the territory of Romania, to the records of accidents and previous claims and to provide the information requested by the RCA insurer. for risk assessment and calculation of insurance premium, established by ASF regulations

The RCA insurer's liability begins:

a) from the day following that on which the validity of the previous RCA contract expires, for the insured who fulfills the obligation to conclude the insurance at the latest on the last day of its validity;

b) from the day following the date on which the RCA contract was concluded, for the persons who did not have RCA insurance valid at the time of the new insurance conclusion;

c) from the moment of issuing the insurance contract, but not earlier than the date of entry into force of the provisional movement authorization or registration / registration of the vehicle, for the commercialized vehicles to be registered / registered.

In the event that the information provided by the insured person is not real at the time the RCA contract is concluded, the insurance premium can be recalculated and modified by the RCA insurer after the insured's prior notification.

In the provided case, if the insured does not express his agreement regarding the modification of the contractual conditions, he can terminate the RCA contract within 20 days from the date of receiving the notification.

In order to maintain the bonus / malus class, through the RCA contract the parties may agree the possibility of redemption, respectively the insured's bearing the amount of the compensation corresponding to the event, the insured compensating the RCA insurer its amount, after the payment of the compensation due to the injured person.

The RCA contract contains information on: the number and date of the conclusion of the contract, the parts of the RCA contract, the validity period, the maximum liability limits set by the RCA insurer, the insurance premium, the number of rates, the maturity of the rates, the intermediary, the bonus / malus class, the registration number / registration and vehicle identification number, as well as the states in which this document is valid.

The minimum liability limits covered by RCA insurance in accordance with European Union regulations are as follows:

a) for the material damages produced in one and the same accident, regardless of the number of the injured persons, the compensation limit is set, for accidents, at a level of 1,220,000 euros, equivalent in lei at the exchange rate of the foreign exchange market at the time of the accident occurrence. , communicated by the National Bank of Romania;

b) for personal injury and deaths, including for non-patrimonial damages produced in one and the same accident, regardless of the number of injured persons, the limit of compensation is set, for accidents, at a level of 6,070,000 euros, equivalent in lei at the course exchange market at the time of the accident, communicated by the National Bank of Romania.

Liability limits are revised every 5 years, depending on the evolution of the European Consumer Price Index (HICP) established in accordance with Council Regulation (EC) No 2494/95 of 23 October 1995 on harmonized indices of consumer prices. and are provided in the ASF regulations.

The RCA contract gives the right of the injured person, in case of injury, to be able to address for the repair of any auto repair unit, according to the law, without any restriction or constraint from the RCA insurer or the auto repair unit, which could be able to repair it. influence the option.

In applying these provisions, the RCA contract will contain a clause according to which, in case of damage, the injured person can address to perform the repair of any economic

operator who performs repair activities of the vehicles, according to the law, without any restriction or constraint that would could influence his choice.

Based on a single premium, RCA insurance covers damage caused to third parties through vehicle and tram accidents.

The RCA insurer awards compensation for damages caused to third parties by vehicle and tram accidents and for the expenses incurred by them in the civil process, in accordance with:

a) the level required by the legislation of the Member State in whose territory the accident occurred or at the level of the Romanian legislation in case the latter is higher;

b) the level required by the Romanian legislation, if the injured persons are nationals of some Member States, during a trip that directly connects two territories in which the Treaty on European Union and the Treaty on the functioning of the European Union apply, if there is no office competent national car in the crossed territory in which the accident took place.

Compensation is granted in an amount equal to the extent of the damage up to the maximum liability limit of the RCA insurer which is equal to the highest value between the limit of liability provided in the applicable law and that provided in the RCA contract.

Risks covered

The RCA insurer has the obligation to compensate the injured party for the proven damages suffered as a result of the accident caused by the insured vehicle.

Without exceeding the liability limits stipulated in the RCA contract, and under the conditions in which the insured event occurred during the validity period of the RCA contract, the RCA insurer grants cash compensation for:

a) personal injury or death, including for non-patrimonial damages;

b) material damages, including costs of cancellation and registration, costs with stamp fees, expenses with limitation of the damage, evidenced by documents, expenses related to diminishing the value of the vehicle after repairs, evidenced by documents or expertise;

c) costs regarding the return of the vehicle to the state before the insured event, evidenced by documents issued by specialized systems or by documents issued according to the law;

d) damages representing the consequence of the non-use of the damaged vehicle, including the temporary replacement of the vehicle, based on the option of the injured person;

e) court costs incurred by the injured person or costs related to the alternative dispute resolution if the solution is favorable to the injured person;

f) the expenses related to the transport of the damaged vehicle, belonging to the injured third party, from the place of the accident to the location where the damage detection center is located, to the repairing unit chosen by the injured party to repair the vehicle, the one closest to the place of accident occurrence or from the domicile of the injured person, as the case may be, if the respective vehicle can no longer be moved by its own means, and the insurer does not provide transportation.

Regardless of where the vehicle accident occurred - on public roads, on roads that are not open to public circulation, in premises and in any other places, both during the movement and during the stationing of the insured vehicle, the RCA insurer awards damages up to at the limit of liability provided in the RCA contract for:

a) the damage caused by the devices or installations with which the vehicle was equipped, including for the damage caused due to the accidental detachment of the trailer, semi-trailer or attachment towed by the vehicle;

b) the damage caused by the driver of the insured vehicle;

c) the damage caused by the deed of work, when the injury has its cause in the characteristics, the action or the inaction of the vehicle, by means of another thing caused by the movement of the vehicle, by leakage, waste or accidental drop of the transported substances, materials or objects;

d) the damages caused to third parties, as a consequence of the opening of the vehicle doors, while driving or when the vehicle is stopped or stopped, by its passengers, without ensuring that the safety of the other participants in the traffic is not endangered;

e) the damages caused to third parties, as a consequence of driving the vehicle under the influence of alcoholic beverages or narcotics.

The provisions of the letter. b) applies even in cases where at the time of the accident the driver of the vehicle:

a) drove the vehicle without the express or presumed consent of the insured;

b) is not the holder of a permit attesting the right to drive the vehicle in question;

c) has not complied with the legal obligations regarding the condition and safety of the respective vehicle.

Members of the family of the insured, the driver or any other person whose civil liability is involved in a vehicle accident and is covered by compulsory RCA insurance are not excluded from the benefit of insurance for their own personal injury.

Not granting compensation

According to art.12 of Law no.132 / 2017, the RCA insurer does not grant damages for:

a) the cases in which the owner, user or driver of the guilty vehicle has no civil liability, if the accident occurred:

(i) in a case of force majeure;

(ii) the sole fault of the injured person;

(iii) from the exclusive fault of a third person, except in the situations provided in letter. d) the damages caused to third parties, as a consequence of the opening of the vehicle doors, while driving or when the vehicle is stopped or stopped, by its passengers, without ensuring that the safety of the other participants in the traffic is not endangered;

b) the damages caused to the goods belonging to the driver of the vehicle responsible for the accident, as well as those caused as a result of personal injury or his death, regardless of who requests these damages;

c) in the following situations:

(i) the damages were caused to the goods belonging to the natural or legal persons, if they were caused by a RCA insured vehicle, owned or used by the same natural or legal person and which is driven by a foreclosure of the same legal person or a another person for whom the natural or legal person is responsible;

(ii) the damaged property and the insured vehicle are part of the common property of the spouses;

(iii) the damaged good is used by the owner of the insured vehicle, which caused the damage;

d) the damages caused in the situations in which the proof of validity is not made at the date of the accident of the RCA insurance or the RCA insurer is not responsible;

e) the part of the damage that exceeds the limits of liability established by the RCA contract, produced in one and the same accident, regardless of the number of the injured persons and the number of persons responsible for producing the damage;

f) fines of any kind and the criminal expenses to which the owner, user or driver of the insured vehicle would be liable, responsible for causing the damage;

g) the expenses incurred in the criminal case by the owner, the user or the driver of the insured vehicle, responsible for producing the damage, even if in the criminal case the civil side was also resolved;

h) the amounts that the driver of the vehicle responsible for the damage is obliged to pay to the owner or the user who entrusted the insured vehicle to him, for damage or destruction of this vehicle;

i) the damages caused to the transported goods, if there was a contractual report between the owner or the user of the vehicle that produced the accident or the responsible driver and the injured persons at the time of the accident;

j) damages to persons or property in the vehicle with which the accident occurred, if the RCA insurer can prove that the injured persons knew that the vehicle was stolen;

k) the damages caused by the devices or the installations mounted on vehicles, when they are used as machines or work installations, these constitute risks of the professional activity;

l) the damages caused by accidents that occurred during the loading and unloading operations, these constituting risks of the professional activity;

m) the damages caused as a result of the transport of dangerous products: radioactive, ionizing, flammable, explosive, corrosive, combustible, which caused or aggravated the damage;

n) damages caused by the use of a vehicle during a terrorist attack or war, if the event is directly related to that attack or war.

Common fault

In the event that the injured person contributed, by fault, to the accident or to the increase of the injury, the person called to answer will be held liable only for the part of the damage that is attributable to him. In such situations, the extent of each person's liability will be that found by any means of evidence.

In case the extent of the liability of each person cannot be determined, it will be established in equal proportions, in relation to the number of parties involved in the accident, each party having the right to compensation in the proportion in which he was not responsible for the accident.

Amount of damages

According to art.14 of Law no.132 / 2017, the compensations are granted in an amount equal to the extent of the damage up to the maximum limit of liability of the RCA insurer which is equal to the highest value between the limit of liability provided in the applicable law and the one provided in the RCA contract, and the insurer is obliged to communicate the maximum amount of compensation, at the request of the injured party or his agent, within 7 calendar days.

In the case of total economic damage, the insurer evaluates the damaged vehicle, through a specialized evaluation system or through documents issued according to the law to determine its market value from the moment before the event. The injured party may choose to repair up to the market value of the vehicle, calculated as a result of the assessment, or to settle the case as a total damage by paying the difference between the market value of the vehicle and the value of the wreck.

The value of the repair is determined using the specialized evaluation systems or through documents issued according to the law in which the car repair unit can use its own value of the displayed working hours.

Compensation is granted for the amounts that the insured pays as compensation and for the costs and / or the expenses related to the alternative settlement of the litigation of the persons injured by bodily injury or death and by damage or destruction of goods[1].

[1] Decision no.1 / 2016 of the JCCJ, appeal in the interest of the law, published in the Official Gazette no. 258 / 06.04.2016. Admits the appeal in the interest of the law declared by the Prosecutor General of the Prosecutor's Office next to the High Court of Cassation and consequently:
In the unitary interpretation and application of the provisions of art. 86 of the Code of Criminal Procedure states that:
In the case of compulsory insurance of civil liability for damages caused by vehicle accidents, the insurance company has the quality of a civilly responsible party and has the obligation to repair the damage caused by the crime alone, within the limits established in the insurance contract and by the legal provisions regarding compulsory insurance. of civil liability.

In the event of personal injury or health or death, the compensation is granted both for the persons outside the vehicle that caused the accident and for the persons in that vehicle, except for the driver of the vehicle from which the accident occurred.

In the event of injury to the bodily integrity or health or death of other persons outside the driver responsible for the accident, damages are also awarded for the damages caused to the spouse or to the persons who are in the maintenance of the owner or driver of the insured vehicle[1].

In the event of injury to the bodily integrity or health or death of a person or damage or destruction of property, compensation is granted if the vehicle that caused the accident is identified and insured, even if the author of the accident remained unidentified.

For the damage or destruction of the goods, compensation is granted for the goods outside the vehicle that caused the accident, and for the goods in that vehicle, only if they were not transported based on an existing contractual relationship with the owner or the user of the vehicle, as well as if they did not belong to the owner, user or driver of the vehicle responsible for the accident.

Compensation, as provided for above, is also granted if the driver of the vehicle responsible for the accident is a person other than the insured.

Compensation is paid when the injured persons do not have their domicile, residence or headquarters in Romania.

RCA insurer's right to request recovery of amounts paid

According to art.25 of Law no.132 / 2017, the RCA insurer has the right to recover the amounts paid as compensation from the person responsible for producing the damage, in the following situations:

a) the accident was intentionally produced;

b) the accident occurred during the commission of acts incriminated by the legal provisions regarding the movement on public roads as intentionally committed crimes, even if these facts did not occur on such roads or during the commission of other intentional crimes;

c) the accident occurred during the time when the perpetrator of the crime committed intentionally tries to evade the prosecution;

d) the person responsible for causing the damage drove the vehicle without the contractor's consent;

e) the insured has unjustifiably refused to fulfill his obligations, thus preventing the RCA insurer from conducting his own investigation, and the insurer is able to prove that this led to the unjustified payment of the compensation.

In the unitary interpretation and application of the provisions of art. 320 paragraph (1) of Law no. 95/2006, the person who suffered a bodily injury through the act of another cannot be obliged, to the medical service provider, to pay the expenses of hospitalization and medical treatment that he has benefited within the respective medical unit, according to the law, within the limits of the package of basic or minimal, as the case may be, in cases where the perpetrator of injury was not identified or the injured person did not make or withdraw his prior complaint or the parties were reconciled.

Details: http: //legeaz.net/monitorul-oficial-258-2016/decizie-iccj-ril-1-2016-calitatea-asiguratorului-rca-in-procesul-penal-accidente-vehicule

[1] Decision no.23 / 2015 of the JCCJ, appeal in the interest of the law, published in the Official Gazette no. 71 / 01.02.2016 Admits the appeal in the interest of the law formulated by the Governing Board of the Alba Court of Appeal lulia.
It establishes that, in interpreting and applying the provisions of art. 50 paragraph 3 of Law no. 136/1995 regarding insurance and reinsurance in Romania, with subsequent amendments and completions, the right to compensation recognized to the spouse or persons who are in the maintenance of the owner or driver of the insured vehicle, responsible for producing the accident, regards only their personal injuries, as victims. direct from the road event.
Details: http: //legeaz.net/monitorul-oficial-71-2016/decizie-iccj-ril-23-2015-art-50-alin-3-legea-136-1995-asigurari-reasigurari

In the interpretation and application of the same legal provisions, the perpetrator of the injury can be sued, in a separate civil way, for the expenses of the hospitalization and medical treatment that the injured person has benefited, within the limits of the basic or minimal package, in case he does not responds criminally, as the parties have been reconciled[1].

According to art.93 of the Civil Code, if the right to assistance or a pension has been recognized in the social insurance, the reparation is due only insofar as the damage suffered by injury or death exceeds the aid or the pension.

As long as the aid or pension has not actually been granted or, as the case may be, refused to the injured party, the court may not compel the respondent to respond only to a provisional compensation

2) the victim receives compensation from a third party.

If the third party makes payment of money with the intention to repair the damage, the amount of money is compensation. The victim can claim damages from the perpetrator of the wrongful act in addition to the amounts received from the third party.

If the third party makes the payment with the intention of a gratuity, ie a free legal act, the victim may request the full compensation of the damage by the perpetrator of the unlawful act.

As for the proof of injury, to be repaired, it belongs to the injured party and can be done by any means of proof admitted by law.

The prejudice may be the result of a violation of a subjective right or a legitimate interest

The person who committed an act causing injury by infringement of a subjective right, is obliged to pay compensation for its complete repair, for example, violation of the right of real rights, the right to physical integrity, the right to copyright, inventor, honor, dignity, etc. .

Violation of simple interests may not be committed if they have been violated.

Violation of a legitimate interest gives the right to compensation if the following conditions are met:

- when a state of fact has stability and permanence and which justifies the assumption that it would continue for sure in the future. If the alleged victim received sporadic assistance from a person who died in an accident, the claim for compensation is not justified because he / she was harmed by this death;

- the interest to be lawful and moral. The concubine cannot obtain damages when it appears as an immoral connection[2].

The object of the repair

According to art.1381 of the Civil Code, any injury gives the right to reparation.

The right to reparation arises from the day the damage was caused, even though this right cannot be immediately reaped.

From the date of its birth, all the legal provisions regarding the execution, transmission, transformation and extinction of obligations are applicable to the right to reparation.

The perpetrator of the unlawful act is obliged to repair the damage caused and when this is the consequence of the harm brought to an interest of another, if the interest is legitimate, serious and, by the way it is manifested, creates the appearance of a subjective right.

[1] Decision no.22 / 2017 The ICCJ admitted the appeal in the interest of the law declared by the Governing Board of the Constanta Court of Appeal, published in the Official Gazette no.43 / 17.01.2018.

[2] I.Urs, Carmen Todică - Civil obligations, Titu Maiorescu University Ed., Bucharest, 2007. p.232-236.

REPRESENTATION OF THE PARTIES IN THE COURT

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Abstract

The parties are assured of the possibility to participate in all phases of the process. They can take cognizance of the contents of the file, propose evidence, defend themselves, present their support in writing and orally and exercise legal remedies, in compliance with the conditions provided by law.

The court may order the parties to appear in person, even when they are represented.

Keywords: *representation, trial, parties, evidence, court.*

Jel Classification: K0; K1

According to the provisions of art.13 of the Code of civil procedure, the right to defense is guaranteed.

The parties have the right, throughout the course of the process, to be represented or, as the case may be, assisted under the conditions of the law.

The parties are assured of the possibility to participate in all phases of the process. They can take cognizance of the contents of the file, propose evidence, defend themselves, present their support in writing and orally and exercise legal remedies, in compliance with the conditions provided by law.

The court may order the parties to appear in person, even when they are represented.

Procedural capacity of use

According to art.56 of the Code of Civil Procedure, any person who has the use of civil rights can be sued.

However, associations, companies or other entities without legal personality can be sued, if they are established according to the law.

The lack of procedural capacity for use can be invoked in any state of the process. The procedural documents performed by the person who has no capacity for use are struck by absolute nullity[2].

Procedural capacity for exercise

The one who has the quality of a party may exercise his procedural rights in his own name or through a representative, unless the law provides otherwise.

The party that does not have the exercise of procedural rights can stand trial unless it is represented, assisted or authorized under the conditions provided by the laws or, as the case may be, by the statutes that regulate its capacity or the way of organization.

The lack of capacity to exercise procedural rights can be invoked in any state of the process.

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[2] Article 32 of the Code of Civil Procedure

Any request may be made and supported only if its author:

a) has procedural capacity;

b) has procedural quality;

c) formulate a claim;

d) justify an interest.

These provisions also apply to defenses.

Decision no.2 / 2016 of the JCCJ Appeal in the interest of the law.

In the interpretation and application of the provisions of art.32 paragraph.1 letter a) and art.56 paragraph.1 of the Code of civil procedure, respectively of art.80 of Law no.85 / 2014 regarding the procedures for the prevention of insolvency and insolvency, the employer terminated following the insolvency proceedings finalized with the deletion from the specific registers, cannot stand in court, having no procedural capacity of use, and the former liquidator, called in the court in his own name has no passive procedural quality. of the Code of Civil Procedure

The procedural documents performed by the person who does not have the exercise of the procedural rights are cancelable. However, his legal representative or guardian will be able to confirm all or only part of these documents.

When the court finds that the procedural document has been performed by a party lacking the capacity to exercise, it will grant a deadline for its confirmation. If the document is not confirmed, its cancellation will be ordered. These provisions also apply to persons with limited exercise capacity.

Forms of representation

According to Article 80 of the Code of Civil Procedure, the parties may exercise the procedural rights personally or through a representative. The representation may be legal, conventional or judicial.

Individuals without exercise capacity will be sued by a legal representative.

The parties may stand trial through an elected representative, under the conditions of the law, unless the law imposes their personal presence before the court.

When the law provides or when the circumstances of the case require it to ensure the right to a fair trial, the judge may appoint for any part of the trial a representative under the conditions of art.58 paragraph 3 of the Civil Procedure Code, showing at the end the limits and the duration of the representation[1] .

When the right of representation arises from the law or from a court decision, the assistance of the representative by a lawyer is not mandatory.

The limits of representation. Continue the trial of the trial

The renunciation of the judgment or the right deduced from the judgment, the payment of the judgment, the conclusion of a transaction, as well as any other procedural documents of disposition can be done by the representative only on the basis of a special mandate or with the prior approval of the competent court or administrative authority.

The procedural disposition documents made in any process by the representatives of the minors, of the persons placed under interdiction and of the missing persons, will not prevent the trial of the case, if the court considers that they are not in the interests of these persons.

According to art.315 of the Civil Code, if one of the spouses is unable to manifest his will, the other spouse may ask the guardianship court to represent him for the exercise of his rights under the matrimonial property regime. By the decision issued, the conditions, limits and validity period of this mandate are established.

Except for other cases provided by law, the term of office ceases when the represented spouse is no longer in the mentioned situation or when a guardian is appointed or, as the case may be, a guardian.[2]

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[1] Article 58

In case of emergency, if the natural person lacking the capacity to exercise civil rights does not have a legal representative, the court, at the request of the interested party, will appoint a special guardian, who will represent it until the legal representative is appointed, according to the law. Also, the court will appoint a special guardian in case of conflict of interests between the legal representative and the represented one or when a legal person or an entity mentioned in art. 56 paragraph (2), called to stand trial, has no representative.

The provisions of para. (1) also applies to persons with limited exercise capacity.

The appointment of these trustees will be made by the court that judges the trial, among the lawyers specifically appointed for this purpose of the bar for each court. The special guardian has all the rights and obligations provided by law for the legal representative.

The provisional remuneration of the so-called curator is fixed by the court, by the conclusion, and the payment method is also established. At the curator's request, with the termination of his quality, taking into account the activity carried out, the remuneration may be increased.

[2] Art.345 of the Civil Code

Conservation, use and administration documents

Each spouse has the right to use the common good without the express consent of the other spouse. However, the change of the destination of the common good can only be done through the agreement of the spouses.

Also, each spouse may conclude single acts of conservation, acts of administration regarding any of the common assets, as well as acts of acquisition of the common goods.

The provisions of art. 322 remain applicable.

Lack of proof of representative quality

When the court finds the lack of proof of the representative's capacity to act on behalf of the party, it will give a short term for covering the deficiencies. If they are not covered, the application will be canceled.

The exception of the lack of proof of the quality of representative before the first court cannot be invoked for the first time in the appeal.

Conventional representation of natural persons

Before the first court, in the appeal, as well as in the appeal, the natural persons can be represented by a lawyer or another agent. If the mandate is given to a person other than a lawyer, the agent can draw conclusions on the procedural exceptions and on the fund only through a lawyer, both in the process investigation process and in the debates stage.

If the agent of the natural person is a spouse or a relative up to the second degree inclusive, he can draw conclusions before any court, without being assisted by the lawyer, if he is licensed in law.

In the case of the annulment appeal and the revision, the provisions apply accordingly.

Conventional representation of legal entities

The legal persons can be represented conventionally before the courts only through legal counsel or lawyer, according to the law.[1]

The aforementioned provisions also apply to the entities mentioned in art.56 paragraph 2[2].

Request for enforced execution

According to art.664 of the Code of Civil Procedure, forced execution can only start at the request of the creditor, unless otherwise provided by law.

The forced execution request is submitted, either personally or through a legal or conventional representative, to the competent judicial executor's office, or it is sent to him by mail, courier, fax, electronic mail or by other means that ensure the transmission of the text and the confirmation of the receipt of the execution request with all the documents supporting.[3]

To the extent that his interests related to the community of goods have been harmed by a legal act, the spouse who did not participate in the conclusion of the act can only claim damages from the other spouse, without affecting the rights acquired by the third parties of good -faith.

Article 346

Deed of alienation and encumbrance

The alienation or encumbrance documents with real rights regarding the common property can only be concluded with the agreement of both spouses.

However, any of the spouses may dispose of, on a charge basis, the common movable property whose alienation is not subject, according to the law, to certain advertising formalities. The provisions of art. 345 paragraph (4) remain applicable.

They are also exempted from the provisions of par. (1) ordinary gifts.

Art.347

Relative nullity

The act concluded without the express consent of the other spouse, when it is required by law, is void.

The third party acquiring the due diligence to inquire about the nature of the good is defended by the effects of nullity. The provisions of art. 345 paragraph (4) remain applicable.

[1]By Decision no.9 / 2016 of the JCCJ published in the Official Gazette no.400 / May 26, 2016 the Completion for the unraveling of some questions of law in civil matters and established:

In the interpretation and application of the provisions of art.84 paragraph 1 of the Code of civil procedure, the request for legal proceedings and the conventional representation of the legal person before the courts can not be made through the agent legal person, nor through the legal adviser or his lawyer.

[2] Art.56 of the Code of Civil Procedure

Procedural capacity of use

Any person who has the use of civil rights can be sued.

However, associations, companies or other entities without legal personality can be sued, if they are established according to the law.

The lack of procedural capacity for use can be invoked in any state of the process. The procedural documents performed by the person who has no capacity for use are struck by absolute nullity.

[3] By Decision no.19 / 2018 of the JCCJ published in the Official Gazette no.510 / June 21, 2018, the Completion for the unraveling of some questions of law in civil matters, and establishes that:

Form of mandate

According to art.84 of the Code of civil procedure, the power to represent a natural person given to the trustee who does not have the capacity of lawyer is evidenced by an authentic document.

In the cases provided above, the right of representation can also be given by verbal declaration, made in court and recorded at the conclusion of a meeting, showing the limits and duration of representation.

The empowerment to represent a natural person or legal person given to a lawyer or legal adviser is evidenced by writing, according to the laws of organization and exercise of the profession.

General mandate

The proxy with a general power of attorney can sue the principal only if this right has been given to him. If the person who has given the power of attorney has no domicile or residence in the country or if the power of attorney is given to a foreclosure, the right of representation in court is presumed given.

Content of the mandate

The mandate is supposed to be given for all the procedural acts performed before the same court; however, it may be expressly restricted to certain acts.

The lawyer who represented or assisted the party in the trial of the trial can do, even without a warrant, any acts for the preservation of the rights subject to a deadline and which would be lost by not exercising them in time and can also bring any appeal against the decision. pronounced. In these cases, all the procedural documents will be performed only to the party. The appeal can be sustained only on the basis of a new power of attorney[1].

Termination of the mandate

The mandate does not end with the death of the one who gave it, even if he has become incapable. The term of office continues until he is withdrawn by the heirs or by the legal representative of the incapable.

Waiver of mandate and revocation of mandate

The renunciation of the mandate or its revocation can be opposed to the other party only from the communication, except if it was made in the court hearing and in its presence.

The trustee who relinquishes the power of attorney is required to notify both the person who gave the mandate and the court, at least 15 days before the immediate term following the resignation. The trustee cannot waive the mandate during the term of the appeal.

Legal assistance

Granting conditions

According to Article 90 of the Code of Civil Procedure, the person who is unable to face the expenses involved in the initiation and support of a civil trial, without jeopardizing his own maintenance or his family, can benefit from legal assistance, under the conditions special law on public judicial aid.

The judicial assistance includes:

a) granting exemptions, reductions, staggerings or postponements for the payment of the legal fees provided by law;

b) free defense and assistance through a lawyer appointed by the bar;

c) any other modalities provided by law.

In the interpretation and application of art.664 paragraph 2 of the Civil Procedure Code, the conventional representation of the legal person cannot be made through the agent legal person, nor through the legal adviser or his lawyer according to art.84 paragraph 1 of the Procedural Code civil law, as it was interpreted by the decision no.9 / 2016 pronounced by the JCCJ.

[1] Law no.51 / 1995 for the organization and exercise of the profession of lawyer, republished in the Official Gazette no.440 / 24.05.2018.

Law no.514 / 2003 on the organization and exercise of the profession of legal adviser, published in the Official Gazette no.867 / 05.12.2003.

Judicial assistance can be provided at any time during the trial, in whole or in part.

The legal entities can benefit from facilities in the form of reductions, staggerings or postponements for the payment of stamp stamp fees due for actions and requests introduced in the courts, under the special law conditions.

Special provisions

The provisions contained in special laws regarding the exemption of taxes, tariffs, commissions or sureties for applications, actions and any other measures taken in order to administer the tax receivables remain applicable.

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ASSESSMENTS ON THE EUROPEAN COURT OF HUMAN RIGHTS

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Abstract

The European Court of Human Rights represents a body with jurisdiction attributes over human rights and functions within the Council of Europe. It is made up of judges, equal in number to that of the members of the Council of Europe, each state being able to have only one representative. The European Court of Human Rights, often informally referred to as the "Strasbourg Court," was created to systemize the procedure for human rights complaints from the member states of the Council of Europe.

The Court's mission is to ensure the compliance with the provisions of the European Convention on Human Rights and the additional protocols by the signatory states.

Keywords*: human rights, European Court of Human Rights.*

JEL classification: K 38

Regional bodies and organisations hold special importance in the evolution of human rights issues. Thus, at European level we distinguish: the Council of Europe and the Conference for security and cooperation in Europe.

a) The Council of Europe

On May 5th, 1949, the representatives of ten European states (Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, the United Kingdom, Norway and Sweden) signed the Statute of the Council of Europe in London (The main international human rights instruments to which Romania is part, vol. II, Regional Instruments, Romanian Institute for Human Rights, Bucharest, 2007). In its preamble it is mentioned that the aim of the Council of Europe is to achieve greater unity among its members in order to safeguard and accomplish the ideals and principles that are their common heritage and to facilitate their economic and social progress. Furthermore, another main objective is also the creation of a system of human rights protection. The main sources of this body are the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter (Scăunaș, 2003).

The observance of the human rights in Europe has long been the concern of the Council of Europe, and the willingness to defend and promote freedom and democracy is the dominant note of the status of the Council of Europe (Sudre, 2006).

The conditions to be met by the European states that acknowledge the Statute and which are members of the Council of Europe are the following:

- accept the principles of the rule of law;
- accept the principle by virtue of which every person under its jurisdiction must benefit from the fundamental rights and freedoms of the human being;
- undertake to collaborate, sincerely and effectively, in achieving the purpose of the organization.

Human rights, democracy and the rule of law are the essential values of the Council of Europe, grouping the European states with a similar conception regarding these social values.

Within the Council of Europe, there is a number of independent subsidiary bodies with human rights concerns, such as the European Commission on Human Rights and the European Court of Human Rights.

The Council of Europe provides the most effective mechanism for the protection and promotion of human rights through the European Court of Human Rights, but also by

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identifying new threats to human rights and human dignity, promoting education and training in the field of human rights (Zlătescu, 2008).

Until May 10, 1994, when Protocol no. 11 was adopted at the European Convention on Human Rights, the *European Commission on Human Rights* was at the top of the mechanism created by the Council of Europe for the protection of human rights (Bîrsan, 1998).

The Commission, based in Strasbourg, is made up of representatives of the member states of the Council of Europe, which have ratified the European Convention on Human Rights in 1950.

The European Commission for Human Rights is elected by the Committee of Ministers from a list of candidates drawn up by the Bureau of the Consultative Assembly, whose term of office is of 6 years.

The High Contracting Parties, through their representatives, present three candidates in the Consultative Assembly, out of which at least two will have the nationality of the respective state. The term of office for the members of the Commission is of 6 years, with the possibility of being re-elected. The members of the Commission cannot perform functions incompatible with the requirements of independence, impartiality and availability during the term of office.

With regard to the powers of the Commission, it can be notified by an application by any natural person, any non-governmental organization or any group of persons who consider that they have been victims of a violation by a State party of the rights defended by the European Convention on the human rights.

The Commission shall rule on the inadmissibility of the requests made by individuals. Thus, according to article no. 26 of the European Convention on Human Rights, "The Commission can only be notified after the exhaustion of the domestic remedies, as established in accordance with the principles of generally recognized international law and within a period of 6 months, starting with the date of the final internal decision."

The preliminary examination of the application can be completed in the following ways (Purda, 2001):

- The Commission detains the request;
- The Commission will not withhold the request if it is anonymous;
- The Commission declares the application inadmissible, if it was considered incompatible with the provisions of the Convention, manifestly unfounded or abusive;
- The Commission rejects the application as inadmissible on the ground that it is premature.

The Commission's solutions can be:

- solving the case through a good understanding;
- dismiss the application as inadmissible;
- the request is dismissed;
- ascertains the facts and determines whether they prove a breach by the State concerned of its obligations under the provisions of the Convention.

If a case withheld for examination is not resolved by good understanding, it is not rejected as inadmissible and it is not dismissed. The Commission then draws up a report in which it ascertains the facts and issues an opinion in order to establish whether the facts ascertained proved, on the part of the State concerned, a breach of the obligations under the provisions of the Convention.

The report shall be transmitted to the Committee of Ministers and communicated to the interested states, as well as to the applicant, if the application has been submitted by a private individual. The Commission may formulate, by transmitting the report of the Committee of Ministers, the proposals it considers necessary. Within 3 months from the submission of the

Commission's report, the dispute may be referred to the European Court of Human Rights, provided that the State concerned in the application has accepted the compulsory jurisdiction of this international court.

If, within 3 months from the submission of the Commission's report to the Committee of Ministers, the case is not referred to the Court, the Committee of Ministers, through a vote by a two-thirds majority of the representatives having the right to join the Committee, takes a decision on whether or not the Convention has been violated.

The European Court of Human Rights represents a body with jurisdiction attributes over human rights and functions within the Council of Europe. It is made up of judges, equal in number to that of the members of the Council of Europe, each state being able to have only one representative. The Consultative Assembly shall elect the members of the Court. They must enjoy the highest moral consideration and must meet the conditions required for the exercise of the high judicial functions or be lawyers of recognized reputation. It is the only genuine legal body created by the European Convention on Human Rights.

The European Court of Human Rights, often informally referred to as the "Strasbourg Court," was created to systemize the procedure for human rights complaints from the member states of the Council of Europe.

The Court's mission is to ensure the compliance with the provisions of the European Convention on Human Rights and the additional protocols by the signatory states. The system of protection of fundamental rights and freedoms introduced by the European Convention on Human Rights is based on the principle of subsidiarity. The Court intervenes only when the states have failed to comply with their obligations. The control exercised in Strasbourg is mainly activated through individual applications, through which the Court can be referred by any person, natural or legal, under the jurisdiction of the States Parties to the Convention.

The European Convention establishes a mechanism for controlling the enforcement of the Court judgments. The European Court of Human Rights is an important element of European cooperation and integration. The evolutionary interpretation of the Convention by the Court and the effective supervision of the execution of its judgments and, of course, the adoption of all necessary measures, both legislative and other, in order to remedy the found violations of the fundamental human rights, lead to a constant improvement of the legal and judicial system in the Member States (Zlătescu, 2008).

The jurisprudence of the European Court of Human Rights has repeatedly shown that respecting the rights stipulated in the European Convention on Human Rights imposes on the states the obligation to take positive measures (Mowbray, 2004) from an economic and social point of view.

The procedural subsidiarity finds its primary role in observing the human rights, and the remedy of the situation in case of their violation lies with the states. Only in case the state mechanisms were unsatisfactory do the international bodies intervene. This is what is called the principle of exhaustion of the internal remedies, that is to say, the compulsory completion of the internal remedies before the notification of an international body. Otherwise, the request will be rejected as inadmissible, being premature, but the procedure can be resumed after the exhaustion of the internal methods.

The main purpose of the European Court of Human Rights is not to punish the guilty states, but to respect the human rights, that is, to restore the violated rights and to repair the damages suffered by the victim.

The European Court of Human Rights has the role of a subsidiary international court (Beygo, 1995) for the exercise of domestic remedies.

The subsidiarity principle strengthens the protection of human rights nationwide, doubling it with a control system that operates as a safety net (Callewaert, 2000).

According to article 44 of the European Convention on Human Rights, only the States Parties and the Commission may appear before the Court.

In order for the Court to be invested, it is necessary that the Party States have recognized its jurisdiction as compulsory. Thus, according to article 46 any Party State may, at any time, declare that it recognizes as binding by law and without a special convention the jurisdiction of the Court on any matter concerning the interpretation and application of the Convention.

The Court has the possibility when a party has been harmed by a decision or measure, which is in total or partial opposition to the obligations arising from the European Convention on Human Rights, and domestic law does not allow for the complete removal of the consequences of the measures, to grant fair satisfaction to that party (Article 50 of the Convention).

b) Conference for security and cooperation in Europe

The Conference for Security and Cooperation in Europe, which opened on 3 July 1973 in Helsinki and continued in Geneva on 18 September 1973 until 21 July 1975 was signed in Helsinki on 1 August 1975.

The Helsinki Act of August 1, 1975 represents a code of good conduct for the East-West relations, dedicated to peace, security, justice and cooperation in Europe (Sudre, 2006). The final act upholds the general principle of respect for human rights and fundamental freedoms, including freedom of thought, conscience or religion.

The Conference for Security and Cooperation in Europe, was endowed, through the documents of Vienna from January 15, 1989, and Copenhagen of June 29, 1990, with a detailed catalogue of human rights, largely inspired by the universal texts and the ECHR, which grants special attention to religious freedom, the principles of justice, the right to free elections or the rights of national minorities (Sudre, 2006).

The Paris Charter (1990) asserts the protection of human rights, the first chapter being entitled "Human rights, democracy and the rule of law," which is also the main objective of the Conference for security and cooperation in Europe.

Outside the European continent, we notice in America: the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, and in Africa, the African Commission on Human and Peoples' Rights.

a) In America

The American continent is a second example of "regionalization of human rights" within the Organization of American States and inter-American cooperation, giving rise to a sophisticated protection mechanism, largely inspired by the European system (Sudre, 2006).

The Charter of the Organization of American States was adopted in Bogota on April 30, 1948 (Sudre, 2006), during the 9th international conference.

This regional political organization has created a number of specific bodies on the legal protection of human rights, such as the Inter-American Commission for Human Rights and the Inter-American Court of Human Rights, "the institutional mechanism of protection reproduced after that of the ECHR" (Sudre, 2006).

1) The Inter-American Commission for Human Rights

The Inter-American Commission for Human Rights was established on the basis of the provisions of article 33 of the American Convention on Human Rights (American Convention on Human Rights of November 22, 1969).

It consists of 7 members, who must be people of high moral standing and recognized competence in the field of human rights. The General Assembly of the Organization of American States selects these members from a list proposed by the governments of the States Parties.

Article 41 of the Convention contains the main attributes of the Commission:

- it performs functions of protection of human rights consisting of individuals and states' right of appeal (Articles 44 and 45 of the Convention);
- it promotes human rights among the people of America;
- it prepares the studies and reports necessary for the performance of its functions;
- it makes recommendations to the governments of the Member States, when they deem it necessary, to adopt progressive human rights measures;
- it calls on the governments of the Member States to provide it with information on the measures taken in the field of human rights;
- it adopts the measures in respect of the petitions and other communications received;
- it submit annually a report to the General Assembly of the Organization of the American States;
- it provides the requested consultations on human rights issues to the Member States through the General Secretariat of the Organization of American States and provides the necessary opinions.

At the request of the Commission, the Party States undertake to provide information on how to apply the Convention in their national law.

The petitions sent to the Commission may come from:

- any person or group of persons, any legal government entity claiming to have suffered a violation of the rights provided for in the Convention;
- any State which has recognized the power of the Commission to receive and examine communications concerning the violation by another State of human rights stipulated in the Convention.

In order to be admitted, the communication must meet the following conditions:

- the internal ways of resolving the case have been used and exhausted;
- to be introduced within 6 months from the date when the injured party in his/her rights became aware of the final decision;
- the case is not being examined by another international court;
- indicate the name, nationality, profession, residence and be signed, in the case of a particular person or group of persons.

Except from the above provisions are the situations in which the national law of the respective state does not provide a procedure for the protection of the alleged right to have been violated or the person to have been denied access to the internal methods or to have been unable to use them, as well as the unjustified delay in taking the decision by the courts notified.

The settlement procedure, in case of receiving a notification by the Commission, invoking the violation of any right provided in the Convention is regulated in article 48-51 of the Convention.

Thus, if the communication is accepted, it will ask the applicant state's government for the necessary information, setting a reasonable deadline for each case. At the expiration of the fixed term, the merits of the reasons for the petition or communication will be examined, and in a negative case, the case will be classified.

In the event of the case being detained, the Commission will inform the parties and proceed to examine the complaint. The Commission will provide its good offices in order to reach amicable settlement in accordance with the regulations of the Convention. If the case is not resolved within the deadline set by the statute, the Commission will draw up a report containing its facts and conclusions.

2) The Inter-American Court of Human Rights

The Inter-American Court of Human Rights is made up of 7 judges, citizens of the member states of the Organization of American States, elected from among the lawyers with a high moral reputation and recognized competence in the field of human rights.

The Court can only be referred to the Commission or a party State. Only 21 Party States to the Convention have recognized the jurisdiction of the Court (Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua. Panama, Paraguay, Peru, Dominican Republic, Suriname, Uruguay, Venezuela). The Court took its first ruling on July 29, 1988 (Sudre, 2006). A cause can only be tried after having passed the stage before the Commission.

The Court may be consulted by Party States regarding the interpretation of the Convention or other treaty on the protection of human rights in the American States. The jurisdiction of the Court concerns all cases concerning the interpretation and application of the provisions of the Convention.

The judgment of the Court is final and without the right to appeal, and separate opinions can be expressed. In the case of contesting the decision, the Court shall rule within 18 days of its communication.

Annually, the Court presents the General Assembly of the O.S.A. a report on the activity, specifying the cases of non-observance of its decisions and recommendations.

b) In Africa

The African Commission for Human and Peoples' Rights was set up under the coordination of the Organization of the African States. In 1963, in Addis Ababa, the Charter of the Organization of African Unity was adopted, on the basis of which (Article 30 of the Charter) the African Commission on Human and Peoples' Rights was established. It is an independent technical body, made up of 11 members elected on the basis of personal qualities, charged with the promotion (documentation and transmission, research and consultation, etc.) and the protection of human rights, the Commission being able to be notified, for any non-compliance of a state with the conventional provisions, by another Party State or by individuals (Sudre, 2006).

In accordance with the provisions of the Charter, the Commission has the following powers:

- it elaborates studies, documentation and research; it organizes seminars, colloquiums, conferences; it issues opinions and makes recommendations to governments for the promotion of human rights and peoples;
- it cooperates with other African or international institutions whose objective is to promote human rights;
- it ensures the respect of human rights within the limits mentioned in the Charter;
- it elaborates the principles and rules regarding solving human rights issues by African states;
- the interpretation of any provision of the Charter at the request of a party State, an African organization recognized by the O.U.A or an institution of the O.U.A;
- it fulfils other tasks that may be entrusted to it by the Conference of Heads of State and Government.

The Commission's Rules of Procedure (Adopted on 13 February 1988) provide for two types of individual communications, namely: communications presented by a person who claims to be the victim of a violation of one of the rights set out in the Charter and communications presented by a person or organization, supporting the existence of a serious violation of human rights. These communications only allow the petition to be listed, the Commission being notified by communication only at the request of the absolute majority of its members.

Conclusions

The observance of human rights is a concern for almost every state in the world. The European continent is noticeable through more advanced human rights regulations. We must admit, however, that for some groups of the population this problem remains an unknown, abstract, theoretical or partially understood subject, the significance of these rights for the evolution of the state as well as for the life of the citizens not being sufficiently acknowledged.

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ASSESSMENTS REGARDING THE WAY IN WHICH THE NORMS OF ROMANIA'S NATIONAL LAW HAVE INCLUDED IN THEM THE REQUIREMENTS OF THE INTERNATIONAL LEGAL INSTRUMENTS

Raluca-Viorica, Lixandru[1]

Abstract

The observance of the human rights is a concern for almost every state in the world. The European continent is characterized by more advanced human rights regulations. Nevertheless, we must admit that for some groups of the population this problem continues to remain an unknown, abstract, theoretical or partially understood subject, the significance of these rights for the evolution of the state, as well as for the citizens' life, not being sufficiently acknowledged.

Romania is a party in both international treaties specialized in human rights and to other international treaties related to the field of human rights. Furthermore, our country is a party in all international treaties with universal vocation and general value.

Keywords: human rights, treaty, convention.

JEL classification: K 38

Our country is a party to both international treaties specialized in human rights, as well as to other international treaties related to the field of human rights.

It is worth pointing out that Romania is a party to all international treaties with universal vocation and general value, such as: the International Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on civil and political rights, aiming at the abolition of the death penalty, the Optional Protocol regarding the International Covenant on civil and political rights; specialized international universal treaties, such as: the Convention on slavery, the Convention on the prevention and repression of genocide crime, the Convention on women's political rights, the Convention against torture and other cruel, inhuman or degrading treatment or punishment; specialized regional international treaties, for example: the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Framework Convention for the Protection of National Minorities, etc.; international treaties related to the field of human rights to which Romania is a party: the Charter of the United Nations and the Statute of the International Court of Justice, the Constitution of the International Labour Organization, the Convention of the United Nations for Education, Science and Culture, the Statute of the Council of Europe; international treaties specialized in human rights that Romania has signed but has not ratified: the European Social Charter, the European Charter for Regional or Minority Languages (signed on July 17, 1995), the Convention for the protection of people against processing automated personal data (signed on March 18, 1997), etc.

Article 4 of Law no. 4/1991 regarding the conclusion and ratification of the treaties (Published in the Official Gazette of Romania, Part I, no. 346 of July 22, 1999) regulates the problems of the legal form, of the competent body and of the act by which Romania expresses its consent to be legally bound by international treaties on human rights.

Regarding the matter of human rights, it does not belong, according to the constitutional norms, to the field reserved to the organic law, the general rule being that the international treaties on human rights are ratified by ordinary law. If the international treaty on human rights also contains provisions concerning the fields reserved to organic law, then it

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is necessary to ratify it by organic law. In practice, international human rights treaties have been ratified by ordinary law (Popescu, 2000).

According to article 11 paragraph 2 of the Constitution of Romania, the international treaties ratified by the Parliament, according to the law, are part of the national law. The constitutional norm does not refer exclusively to the international treaties on human rights, but concerns all international treaties ratified by the Parliament.

According to the Romanian national law, even at constitutional level, the directly applicable character, in the internal legal order, of the international human rights treaties, ratified by the Parliament, which are part of the internal law, are acts of internal law (Popescu, 2000).

According to paragraph 1 in article 20 of the Constitution, the interpretation and application of the constitutional provisions regarding human rights in the light of international treaties in this field is established. Reference is made to the Universal Declaration of Human Rights and to the two International Covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

In article 20 paragraph 2 of the Constitution, it is mentioned that if there are inconsistencies between the pacts and the treaties regarding the fundamental human rights, to which Romania is a party, and the internal laws, the international regulations have priority.

There are two situations (Popescu, 2000): the situation in which the international norms are more favourable and the situation in which the international norms are more restrictive compared to the national law. Thus, due to the principle of subsidiarity of international human rights protection, in case of conflict between international and domestic regulations, international ones will prevail to the extent that they are more favourable. The more favourable internal norms, which ensure an increased internal protection of human rights, will not be removed from the application of the more restrictive international norms, which provide a minimum level of protection.

In the event of a possible conflict between an internal norm of human rights protection and one provided by the Convention or between two international norms, the judge, internally, will consider the more favourable disposition invoked by the interested party. In the situation of international conflict, it may appear between the provisions of the Convention and the provisions of the International O.N.U. Pact since 1966 regarding the civil and political rights, insofar as they would discuss the rights and freedoms guaranteed by both treaties, the state concerned is a party to both, although the conflict is apparent: the Court can only apply the provisions of the Convention (Bîrsan, 2006).

Any action that would have as purpose and result the pre-eminent application of the international norms will have to involve a prior valorising operation of all the international norms in the matter, approved by the Romanian state, in order to identify the preferable norm to the circumstances of the case in question.

Regarding the jurisprudential sources of international human rights protection, the jurisprudence of the European Court of Human Rights is of particular importance for our country. In Romanian domestic law, the jurisprudence of the European Court of Human Rights is “directly applicable and has constitutional and super-legislative force” (Popescu, 2000).

As regards the European Convention on Human Rights, it has pre-eminence, not only by virtue of the principle of the primacy of international law, but also because it is enshrined in a constitutional norm (article 11 paragraph 2 and article 20 of the Constitution). This ensures effective and concrete guarantees for the application of the Convention’s rules in national law, both in terms of the quality of national law and in its interpretation and application, the jurisprudence of the European Court of Human Rights having an important directing role (Voicu, 2001).

The European Convention on Human Rights, considered to be the most complex and advanced international legal instrument on the protection of fundamental rights and freedoms, also has the role of standard in the interpretation of constitutional texts on the field of human rights, a role that the Constitutional Court has increasingly confirmed in more and more of its decisions (Tudorică, 2003).

The situation of the European Convention on Human Rights in the national law of the states implies a great diversity. Thus, in countries such as Ireland, these norms are not part of the domestic law, because international norms are considered to have legal value only in terms of interstate relations (Sudre, 2006).

In other member states of the Council of Europe (Malta, Finland, Sweden, Norway, Denmark, and the United Kingdom), the provisions of the Convention have been applied indirectly, after the transposition into the internal order by a special law. Furthermore, in countries such as Germany, Bulgaria, Spain, France, the Netherlands, Portugal, Belgium, the European Convention is incorporated directly, automatically into the domestic legal order through the effect of national constitutional provisions (Sudre, 2006).

Regarding the rank of the European Convention in relation to the Romanian legislation, it results from the corroboration of the provisions of article 11 and article 20 with those of article 1 paragraph (5) of the Romanian Constitution, the latter consecrating the supremacy of the fundamental law over all other laws. Therefore, in terms of legal force, the provisions of the European Convention cannot be located above the provisions of the Romanian Constitution; however, it would have the character of a law that is located immediately after the fundamental law and before the other categories of normative acts (Muraru, 2007).

The causes for which the dynamics of the process of incorporation into the national law of fundamental rights and freedoms have been slow, especially at the level of ordinary courts, are different in nature. First of all, the difficulty of applying the Convention arose due to the lack of any official information system on the Court's jurisprudence, the judges confining thus themselves sometimes to asserting the conformity of the acts of national law with the text of the Convention. Secondly, there was a strong reluctance of the judges towards a court and a supranational legal text. The phenomenon is not unique, manifesting at different intensities in other member states of the Council of Europe (Chiriță, 2008).

The European Convention has had and continues to have a great influence on the Criminal Code, the Criminal Procedure Code, the special laws with criminal content, as well as on the content of the organic and ordinary laws. This influence is clearly observed in the New Codes (Criminal and Procedure Codes), as well as the changes made by the jurisprudence of the European Court of Human Rights.

The universal declaration of human rights acquires binding legal force in the Romanian domestic law pursuant to article 20 paragraph 1 of the Constitution and is integrated into the block of constitutionality, having the same legal force as the international human rights treaties to which Romania is a party.

Human rights remain a problem of the national competence of each state, being more and more the object of international cooperation (Diaconu, 2001).

Conclusions

The applicability of the international legal instruments in the domestic law has been an intensely debated issue in the literature. The vast majority of these debates were based on article 20 paragraph 2 of the Constitution, where it is mentioned that if there are inconsistencies between the pacts and treaties regarding the fundamental human rights, to which Romania is a party, and the internal laws, the international regulations have priority.

In order to identify the preferable norm to the circumstances of the case in question, it a prior operation should be performed, valorising all the international norms in the matter, approved by the Romanian state.

With regard to the European Convention on Human Rights, it has priority, not only by virtue of the principle of the primacy of international law, but also because it is enshrined in a constitutional norm (Article 11 paragraph 2 and Article 20 of the Constitution).

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THE IMPORTANCE OF IN-DEPTH KNOWLEDGE OF LANGUAGE IN TRANSLATIONS

Georgiana Mîndreci[1]

Abstract

The translator's role becomes paramount in the translation process since he/she becomes the second author of the book. The translator's work is double when compared to the writer's, he/she has to thoroughly analyze every word, every detail, to understand the text as a whole and then in detail in order to be able to render it in the target language (TL) as close to the original as possible. All the meanings (more or less hidden), themes and symbols of the novel arise from the author's use and choice of the language, which is very important to him/her. That is why the task of translating the distinctive idiom of a novel is not an easy one for the translators–some of them even having problems and thus having little success in arriving at literary equivalents. Therefore, there are some difficulties while translating and it is very important to manage to overcome them through different translation techniques and especially knowledge. Consequently, one of the paramount conditions for translating fiction is, for example, the flawless mastering of the language, of the culture, of the history of a people, as well as of the customs and traditions described in the original, otherwise the translator risks distorting the features of the character, of the national specificity of the writer's inspired creation. Consequently, one of the most important achievements of an appropriate translation is the excellent knowledge of the two languages and cultures.

Keywords: *Translation errors, misinterpretation, knowledge, theory, translator's role.*

JEL Classification: K0

Introduction

English is nowadays, undoubtedly, a global language in terms of communication, whether written or spoken, and has thus been increasingly used in all translation processes. Nevertheless, the translation process begins by determining the genre of the literary work, as the choice of the vocabulary greatly depends on it to render the different nuances of the words. Thus, one of the paramount conditions for translating fiction is, for example, the flawless mastering of the language, of the culture, of the history of a people, as well as of the customs and traditions described in the original, otherwise the translator risks distorting the features of the character, of the national specificity of the writer's inspired creation. Consequently, one of the most important achievements of an appropriate translation is the excellent knowledge of the two languages and cultures.

The translator must always be very careful when choosing the equivalents. Two words may be equivalent in a bilingual dictionary, but they can always be used as equivalents in a translation and it is then when the translator must find a contextual equivalent. That is why a random, hasty, analysis-free or cultural/political-confined choice of equivalents for different elements of the original from a bilingual dictionary leads to serious mistakes and misinterpretations of the meaning. The greatest difficulties in the choice and rendering of words from a source language/text into a target language/text, and implicitly of ideas and images, besides polysemy, homonymy, synonymy, are those referring to context and culture-related meanings. To all these one must add the huge trap of computer-assisted systems of translation and the limitations that come along, especially when the translator is not a professional and cannot therefore perceive the limitations that could occur.

Theoretical Background

The issue of translation is one of the oldest in the history and theory of languages. Emerging from an immediate practical necessity, the activity of translating had at first an oral character, called "interpretation," and then it was extended to written texts. In fact, not until

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recently did the issue of translation create discussions since it was believed that a language, and especially its lexicon, is a simple inventory of words that have appropriate corresponding terms in other languages.

Closely connected to the above-mentioned issue of translation is the aspect referring to the distinction between translators and interpreters. A very clear difference between the two can only be made by making reference to the very distinctive tasks of each of them. It is usually known and accepted that a translator converts meaning from one language to another and that the translator is the one who translates in writing and the interpreter is the one who does the same things orally. But few people know which the real differences between them are, how they are trained, and what skills they are trained to develop in general. It is also true that time has also developed misconceptions concerning the translation profession. There is a wide tendency in thinking that if someone is able to speak and write a foreign language, they can become translators and if there is a dictionary, the translation is almost finished. But it is obvious that translation implies much more than translating words from a language with words from another language. It implies linguistic, cultural, and specialized knowledge.

Thus, one can say that a translator is a combination of a writer and a linguist, a person who takes written material such as newspaper or magazine articles, books, manuals or documents in one language and converts them into the equivalent in another language. In other words a translator knows two languages fluently, and often knows a third or even a fourth one. Translators must also have strong reading and writing skills, as well as a deep knowledge of the subject material they are working on. Translators typically work into their native language, that is to say that they translate material that is in their second, acquired language into the language they were born into. This situation is, quite frequently, the cause of mistakes, misunderstandings or losses in translations—as we have already seen and as we shall see further on. There are exceptions, especially among people who are born and raised bilingually, but in general translators produce their best work when going into their mother tongue. In the profession of translation, the translator's native language is referred to as the "Source Language" (SL) or the "A language," and the non-native languages as the "Target Language" (TL) or "B language" or "C language." AB language is one which the translator can speak, read, and write virtually as a native speaker does. AC language is one which the translator can read and understand almost like a native, but does not necessarily speak or write it as well as a native.

It is clear that a good translator is by definition bilingual. The opposite is not necessarily true, however. A born bilingual will still need two things to become a translator: first, the skills and experience necessary for translation; second, knowledge of the field in which he will translate. The skills and the experience for translation include the ability to write well in the language the translator is working into, the TL, and the ability to read and understand the language being translated, the SL. Further, the bilingual who would be a translator must be able to work with the most developed translation means for the period in which he or she translates. This idea adapted to nowadays involves working with the latest word processing software, machine-assisted translation tools, and typically Internet and email applications. This idea can be further developed and investigated, concerning the relationship between translators and modern translation means, but it is not the focus of our research paper.

Translators, regardless the time, environment, cultural background of their activity, must be language professionals, and they also have to cultivate knowledge of the areas they work in. Few translators claim to be able to translate anything written in their languages, which would imply that they are experts on everything. A translator who says that he or she can translate anything presents no credibility for anyone, as he/she claims to be capable of translating in every field, but in fact he/she does not master any. It goes without saying in this case that the work of such a translator is far from satisfactory and it can even cause damages,

judging from different points of view. Each field in a language is different and has its own specificity which makes it unique, different and difficult to translate and that is why a translator must work hard to develop the knowledge necessary to deal with each specific type of material.

The above-mentioned aspects lead to the idea that the translator's knowledge also includes two other important factors: first, the translator should have some background knowledge, experience and education in the respective translation's field, which can of course be acquired through self-documentation or self-study, coursework, on-the-job experience, etc. according to each specific translation context and situation; and second, the translator should have the necessary resources to deal with the material. This means dictionaries, glossaries, and any other terminology, language, or subject matter resources. Nowadays the access to such resources is almost unlimited and that is another reason why translators have to work tirelessly to improve their knowledge of the fields they work in by reading related material. Thus, being a translator represents a continuous process, a very lengthy process, not a state.

Translators are considered language professionals. They are linguists, even experts in intercultural communication and diplomats. If we try to explain all these appreciations we could say that: first, translators as linguists are capable of analyzing the syntax and structures of their languages, researching terminology, and dealing with all new developments in their languages; and second, translators as intercultural communication experts and diplomats have to be sensitive to the cultural and social differences which exist in their languages and be capable of addressing these issues when translating. These are just a few characteristics of a good translator. They are also competent writers and good socio-analysts, or at least this is what good and genuine translators are. This leads to the idea that the above-mentioned characteristics outline the ideal translator, but, unfortunately, not all translators have all these qualities, and they do not need all of them.

A very brief reference can be made to the difference between a translator and an interpreter. In common or popular acceptance, there is no difference between the two; translator and interpreter is one and the same person. But, besides the fact that translation and interpretation share the common goal of taking information that is available in one language and converting it to another, they are in fact two separate processes. A very brief and simple outline between the two refers first to the fact that translation is written and thus it involves taking a written text from a SL and translating it into a TL; and second, interpretation is oral and thus it refers to listening to somebody or something spoken and interpreting it orally into the target language. These two distinct processes differ mainly in their presentation, duration and the subject matter. In other words while interpretation involves instantaneous verbal transformation of communication on general subjects, translation involves a delayed transformation of written communication on subjects including highly specialized ones. Thus, we can easily say that translators are usually excellent writer, while interpreters have superior oral communication skills. In addition, spoken language is quite different from written language, which adds a further dimension to the distinction. We can also think about the common acceptance of the meaning of the two verbs "to translate" and "to interpret," the former refers to transposing something from a SL into a TL, and the latter refers to the interpretation of a text, which sometimes means even including our own words in order to find the best way to express the main idea.

There is a distinction between translating, which is the transferring from one language to another of ideas that are expressed in writing and interpreting which is the transferring of ideas orally expressed. Translation and interpretation require the ability to accurately express information in the TL. Word for word translation is neither accurate nor desirable and a good translator/interpreter knows how to express the source text or speech so that it sounds natural

in the TL. The best translation is one that you do not realize is a translation, because it sounds just like it had been written in the TL.

As types of interpretation we can distinguish between consecutive and simultaneous interpretation but a further analysis of the two types is not the object of the present research paper. One could say that, on the surface, the difference between interpreting and translating is only the difference in the medium: the interpreter translates orally, while the translator interprets a written text. But the practice of each profession differs in the same way that written language differs from spoken language. Thus, both translation and interpretation involve careful analysis of meaning in context and attention to extra-linguistic aspects of communication. But, in spite of the differences mentioned so far and even those not mentioned yet, there is one thing that both translators and interpreters must share, besides their deep knowledge of both languages they must understand the subject matter of the text or speech they are translating. Thus, a good translator must demonstrate general erudition and intimate familiarity with both cultures of the SL and of the TL. Translation is not just a matter of substituting words in one language for words in another, as we have mentioned before. It is a matter of understanding the thought expressed in one language and then explaining it using the resources of another language. In other words, a translator changes words into meaning, and then changes meaning back into words of a different language. So translating is basically paraphrasing. And if the translator does not fully understand one though, then he cannot translate or interpret anything. Another important idea is that of being aware of the matter that is being discussed and that of decoding the meaning of the source text and re-encoding this meaning in the TL.

In conclusion, both the translator and the interpreter have common and different abilities: different abilities because they are trained in different matters, in order to develop those particular skills required by their professions; common abilities because they are all linguistic professionals, experts in intercultural communication.

The Translation Process as a Human Activity

The 20th century has often been called the century of speed, the century of cinema, the century of electronic computers, but also the century of translation. The translation activity has old traditions and it is generated by the worldwide existence of foreign languages and it will continue to be necessary as long as humankind does not have a single language for communication. Emerging from an immediate practical necessity, the activity of translating had at first an oral character, called “interpretation,” and then it was extended to written texts. The practice of translation depended on the chosen text. Thus the translation of a religious text, which was considered sacred, did not allow adding or omitting anything from the original text, which was believed to have divine origins. The translation of a secular text was rather an imitation or adaptation, which sometimes even changed the characters and the subject. The aim of such a translation was, first of all, an aesthetic one.

The combination of the two attitudes towards the original text led to the creation of the characteristics of modern literary translation, which took from the religious translation its respect and scrupulosity towards the original, and from the imitation and adaptation translation it preserved the concern for the aesthetic aspect of the translation. Regarding the possibility of translation, there were two opinions that have challenged each other up to nowadays:

1. On the one hand, the naïve point of view concerning the identity of idioms led to the theory that anything can be entirely translated. This point of view has had a wider spread in particular up to the Renaissance period, and it is justified by the state of development of the linguistic knowledge and discoveries.

2. On the other hand, the development of the translation activity from the Renaissance period, with its interest on antiquity, and especially the new requirements called to the attention of the translation process by the awakening of the national consciousness emphasize the difficulties of translation. The tendency to keep the local color or atmosphere and the need to transpose the reader in another country and in another era or epoch, stressing at the same time the originality of the translated work, make the translator face new problems, which can prove sometimes very difficult to solve. On the theoretical level the consciousness of these difficulties led to the idea that a complete translation is never possible.

A translation is usually associated with the transposition of literary works from one language into another, that is why connected with the translation of artistic literature there have made many relevant considerations, but also even more speculations, both by literates and by linguists. Nevertheless, the decisive question still persists: what is a translation in the end? Is it science or art? Regarding the artistic texts we might say that a translation is an art based on science and the interpretations made by linguists were often the base of the translators' concrete experiments. Not even the definition of translation can be given very easily. In a broad sense, it can be considered as the process of transformation of a message delivered in a language, into the same message, but made in another language, provided that all (or rather all) qualities of the initial message are kept.

In fact, not until recently did the problem of translation create discussions, as it was believed that a language, especially its lexicon, is a simple inventory of words that have appropriate corresponding terms in other languages. In fact, every language has its own individual way of reflecting the reality and its own way of organizing the data of the experience. Languages divide into segments the outer reality in a different way and characterize it in different ways and, as a result, two pictures of the objective world, presented by two random languages, usually do not coincide.

In a simplistic acceptation it is believed that a translation is to find for the words of a language the equivalent words in another language. Considering that the lexemes are a kind of "labels or tags" of objects, phenomena, qualities, actions, etc., one can very easily get the wrong idea that the translation would be a simple exchange of "labels or tags." But a language, reduced to its essential principle, is not just a list or a bag of words or simply adding new labels or tags to already familiar objects, it is much more than that: getting used to analyzing this way the object of the linguistic communication. The idea according to which each language has its own way of analyzing the specific facts of the surrounding world presents a serious theoretical objection against the possibility of making a translation.

If we admit that languages differ one from another not only by their external aspect—by an individual vocabulary and through a specific grammatical structure—but also by how they organize the semantic content of the lexicon, people who speak different languages not present things in the same way. By comparing the lexical items of two languages, one can find only a partial coincidence between them: the semantic entities of the words in two languages coincide only in part. These factors hinder very much the process of translation. A translation, which is a creative process, must be distinguished from the translation theory, which is a special scientific discipline. The purpose of the translation theory is to follow the regularities which are at the base of a translation from one language into another, to establish the correlation between the original and the translation, to make some generalizations, based on some particular cases, which could then be used in the translation process. The help given by the translation theory to the practice of translation is the emphasis on the different possibilities of a language, in the choice, from a sea of varied means, of the most appropriate one for a context.

The translation process begins by determining the genre of the literary work, as the choice of the vocabulary greatly depends on it to render the different nuances of the words.

Thus, one of the paramount conditions for translating fiction is, for example, the flawless mastering of the language, of the culture, of the history of a people, as well as of the customs and traditions described in the original, otherwise the translator risks distorting the features of the character, of the national specificity of the writer's inspired creation. Consequently, one of the most important achievements of an appropriate translation is the excellent knowledge of the two languages and cultures.

Another extremely important condition is that the translation be adequate, to render truthfully the idea and content of the literary work, to keep the artistic expression with all its information. It is obvious that the knowledge of the language, the intuition, the sense of the language, entering the world of the images from the original have a great importance in the translation of literary works. Therefore, one of the most important conditions for achieving a loyal, accurate and appropriate translation is the exactitude. The criterion of exactitude or faithfulness is relative and it may vary depending on the style, the genre of a certain work. A translator should avoid both the distortion of the original text, the introduction into a text of foreign unsuitable items, and the mechanical literal translation.

Most research in the translation field are specifically linked to the study of the typical relationships between the original text and the text of the translation—it is something natural, since such research follow certain practical purposes: by comparing a large number of translated texts with their original to find the respective corresponding terms which appear regularly as equivalents of the linguistic elements of the original or source language.

The immeasurable nature of the lexicon of two languages and the divergence of the capacities of combining the words in different languages, raises another problem, namely if an appropriate translation in general is possible; in other words, if by using the linguistic sources of a language, one can exactly render a text from one language into another one, keeping the exact form and content of the original. Since the exact rendering of the specificity of the original's content and form is mostly complicated because every language has its own individual way of reflecting the surrounding reality, organizing in its own specific way the data of the experience, it is often said that proper translation is generally impossible.

A translator faces great difficulties when trying to translate an ancient monument into a language without old literary traditions. Great difficulties are also met when translating some words that designate "realia" belonging to the civilization and culture specific to a linguistic collectivity, plants and animals, known only by them, which represent the specificity of that particular area. For example, it is impossible to translate puns or play on words; they can only be imitated or commented in another language.

Thus, we can say that a text will always be translated with a slight deviation from the original, but nothing is untranslatable. In any translation, inevitably there is loss, especially in terms of form. Regarding the adequacy of a translation, one may not accept a translation performed under the standards. Of course there may be some objective factors when because of the lack of a rich written literature in the respective language, some awkwardness in translation will be inherent, as well as forced constructions, determined by the imitation of the structures of the original language, or by the lack of adequate means to render them.

But cases of mistranslation, errors, vagueness and inaccuracy caused by poor knowledge of the language are totally inadmissible. In part, it is about the failure to conform to the specificity of the target language by imitating the structures of the source language; the structure, which stylistically is the closest to the original play and seems to fully render its essence, is not always chosen. There are many cases in which the translators do not take into account the specificity of the translated work, using as equivalents for the translation words that belong to another stylistic level than the one used by the original, which breaks the overall image and atmosphere of the literary work, and leads to losing the peculiarities of the original. Many errors of this type are usually made by translators without experience, by

translators who have poor knowledge of the respective target language and who, by using the dictionary, randomly choose the first equivalent for a certain word from the source language. Thus, one should keep in mind the fact that, especially when it comes to an artistic work, nobody needs to replace a word with its synonym in the author's text; although in principle it could be possible to do that. Only the respective author also had the opportunity to use the word, which someone would like to recommend, but the author the one in the text, considering it more appropriate for the respective situation. Therefore, the translator also has the task of finding the appropriate equivalent for the word required. Thus, one of the basic problems in a translation, which presents special difficulties, is the choice of the words.

Conclusions

The crucial role played by both written and spoken translations in inter-human communication can be seen throughout history, and this role does not confine to offering access to important texts for scholarship and religious purposes. Translation can be viewed as a multidisciplinary field of work as it actually incorporates "the combining work in linguistics, literary studies, cultural history, philosophy, and anthropology" (Bassnett xi).

One of the paramount conditions for translating fiction is the flawless mastering of the language, of the culture, of the history of a people, as well as of the customs and traditions described in the original, otherwise the translator risks distorting the features of the character, of the national specificity of the writer's inspired creation. Consequently, one of the most important achievements of an appropriate translation is the excellent knowledge of the two languages and cultures. The importance of the translator is fundamental and S. Bassnett says that the translator "must be concerned with the particular use of *spirit* [or any other word] in the sentence itself, in the sentence in its structural relation to other sentences, and in the overall textual and cultural contexts of the sentence" (20-1).

In conclusion, a translator's work is not at all an easy one; on the contrary it is a laborious one since a translator must be simultaneously immersed in two different texts: the SL text and the TL text. This means being immersed in two different languages and in two different cultures at the same time. A translator must not only understand the source text, but must make that text understandable to people with a completely different linguistic and cultural background. On a more subtle level, the translator must recognize the register of the source text, and must be able to preserve that register in the target text—that means being continuously aware of the tone, vocabulary, and intention of a text. Such a task is all the more important when dealing with a literary work or text and the nonobservance of such rules and tasks can only lead to failure in translation, to errors of interpretation and to losses of the rendition of the source text, thus errors can easily occur — a situation which unfortunately cannot be repaired.

The general conclusion that can be drawn is that there cannot be a perfect translation, but there can be made efforts to try to find the best version of rendering a text from the SL into the TL. All these analyses can help a translator find the best choice for a challenging situation. Translators can also use the interpretation of other critics, the options of other native speakers of both the SL and the TL, and the help of numerous dictionaries, but this type of support is limited in ideas. To all these, one must add the huge trap of computer-assisted systems of translation and the limitations that come along, especially when the translator is not a professional and cannot therefore perceive the limitations that could occur.

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TECHNIQUES OF APPROACHING OBSOLTE TRANSLATIONS

Georgiana Mîndreci[1]

Abstract

The issue of translating literary texts has been heavily and extendedly debated and approached throughout the literature worldwide so that little is there left to be said regarding this topic. Yet there is always room for new points of view and perspectives on different ways of approaching a certain aspect of such translations. A case in point refers to the obsolete parts of a literary text, parts that do not only refer the use of literary terms and expressions that have become obsolete in the current use of the language, but also concepts related to the source text, which impede even more a translator's already delicate and difficult task. Thus, this short article is looking at a possible alternative of dealing with this translation matter: retranslation of the source literary text and its re-adaptation, by analyzing an example in point.

Keywords:

Techniques, obsolete translation, translation studies, renewal, retranslation.

JEL Classification: K0

Introduction

The aim of this paper work focuses on a connection between general translation theories and more specific approaches to the issue in point. This approach of translation studies will outline some of the most important theories concerning this new discipline in the 20th century and also a brief historical approach—as delineated by the exponent figures in this field. The case in point discussed in this article refers to J. D. Salinger's novel, "The Catcher in the Rye" and the reason for choosing it is well-grounded: its overwhelming translations into over thirty languages soon after its publication, and, subsequently, its numerous re-translations.

Soon after its publication, Salinger's novel became available in many countries and by 1970 it had already been translated into thirty languages and this fact supports the idea that such an important novel requires a lot of attention while translating. The language is the body of the book, it is of utmost importance and, having in view all the controversy created around it, it has to be thoroughly analyzed and perfectly rendered while translating it into any language; otherwise it loses its "aura," its "charm" and its value. It is at this point that the translator's role becomes very important, (s)he becoming the second author of the book. The translator's work is double when compared to the writer's, (s)he has to thoroughly analyze every word, every detail, to understand the novel as a whole and then the novel in detail in order to be able to render it in the target language (TL) as close to the original as possible. All the meanings (more or less hidden), themes and symbols of the novel arise from Salinger's use and choice of the language, which is very important to him. That is why the task of translating the distinctive idiom of the novel was not an easy one for the translators—some of them even having problems and thus having little success in arriving at literary equivalents. Nevertheless, although the book was rapidly translated into many languages, the Romanian and the French translators were not an exception to the above-mentioned rule and they had to face some difficulties while translating the novel.

Defining Translation

The task of finding a comprehensive definition for translation is not an effortless one, but this does not necessarily mean that there are no complete definitions of translation. From one point of view, the difficulty in defining translation can actually improve the quality of the yet unformulated theories about what should be understood by translation. How can such a thing be possible? In my opinion this would be possible by joining together all the essential

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elements from as many pertinent definitions as possible and then reunite them in the effort of creating a clear and comprehensive definition. Nevertheless, defining a concept—in our case that of translation—also refers, in my opinion, to the tasks a translation should perform. And this is when the difficulty of this process intensifies. Translation and the discipline of translation studies were rather newly formed disciplines as such (as we know them nowadays) and this indicates that there has not been much attention in this direction until the 20th century.

I feel it would be fair to say that starting with the second half of the last century there was a period of "boom" in the field of translation. All the new studies, theories, developments, new approaches and perspectives led to the creation of a new field of research and study, even to a revolution in how contemporary scientists approach and deal with translations nowadays. This so-called "boom" in translation theory can also be viewed as the result of the interdisciplinary character of the 20th century: all the new breakthroughs, the discovery and use of new tools in translation (new dictionaries, machine translations, Internet, memory databases, specialized and computerized programs for translation, etc.), the new findings from inter-related disciplines: linguistics, psychology, literary studies, cultural studies, social studies, anthropology, philosophy, and so forth, all these new developments together with an increased interest in translation manifested by more and more scientists, researchers, translators, teachers and students finally led to an explosion of new ideas and theories in the field of translation. All these new findings affect both the way the process of translation is performed and the role and the tasks of translators nowadays. This newly rising discipline is developing faster than ever before and that is why more and more attention is being paid to this fascinating field of study and human interaction.

The main aim of this paper is thus that of pinpointing the most representative definitions, theoreticians, theories and new developments in the field of translation studies in order to understand the process of translation in general and that of literary translation in particular.

In the process of translation (or as other critics divide it into translation-oriented analysis and translation-oriented interpretation) there are six major areas which are to be followed and respected by a translator in order to be able to render the adequacy of a text from the source language (SL) into the target language (TL): denotation, accentuation, modality, connotation, coherence and style. Professor L. Leviţchi, in the *Foreword* to "Limba Engleză-Manualul Traducătorului" (English Language-The Translator's Handbook) (2000), says that to translate means to paraphrase, to reproduce something using other words, to convey an idea from the SL into the TL. To translate well means to paraphrase well, to reproduce in the TL with the highest degree of accuracy the content of ideas, the logical and emotional structure of the original text so that the transposition can produce the same effect on the receiver as the original text; and the translation should not seem a translation (7).

A complete translation is the translation that reproduces as many meanings and values as possible from the foreign language into the mother tongue. The fruit of a translator's work has to be a paper work of the same value as the original one—no more, no less—having the same power of conviction. Fritz Güttingen said: "And when the original is not convincing, why should the translation be? From this point of view rises the belief or the conviction that the translator has to express himself just as the author would have expressed himself if his mother tongue had been the translator's" [my translation] (qtd. in Leviţchi 12). So the translator has to perfectly observe and render as such the original atmosphere of the text, by using the most appropriate associations of words and ideas in order to recreate the novel, but using his mother tongue. Professor L. Leviţchi also said that everything can be translated, but only with extreme efforts, and thus the work of a translator is much harder than that of the writer's. "A good translation must neither increase the difficulty of its comprehension (through an exaggerate encoding) nor 'lighten' it through an exaggerate decoding of some

meanings and connections which the writer himself wished to maintain ambiguous" [my translation] (Bantaş and Croitoru 128).

Lotfollah Karimi, for example, offers a very brief and concise definition of translation which he sees as converting one language, the SL, to another language, the TL, so that the TL could convey the intended message in the SL. In other words, it is a process through which the translator decodes the SL and encodes his/her understanding of the TL form. This is indeed a clear and concise definition which represents only the starting point for the following discussions. Translation can also be defined from the point of view of linguistics. Thus, translation is a branch of applied linguistics, because in the process of translation the translator consistently makes any attempt to compare and contrast different aspects of two languages to find the equivalents (Karimi).

Literary translation has as aim or task to reproduce the original artistic images from the SL into another language, the TL, so that the reader of the translation can become aesthetically entertained by the text, just as the native reader is moved or touched by the original. Clifford E. Landers argues that, as most critics do, "a translation should affect its readers in the same way that the original affected its first readers" (27), in other words to have the same effect on the TL readers as the original text had on the SL readers. A SL text should be translated using the same type of language as the original, the same style; it does not matter if the text is 300 years old, at that time the language of the original was modern to the readers, to its contemporaries, and it should be rendered the same ways, "not using slangy or faddish English" (Landers 27). He also considers that "if the speech patterns in the SL text struck the reader as deliberately old-fashioned, stilted, facetious, jargon-ridden, sub-standard, or in any other way a departure from expected modes of expression, that too should be reflected in the translation" (27).

Antar S. Abdellah, in the article "What Every Novice Translator Should Know," considers that translation is a science, an art, and a skill. The main reason why translation is considered to be a science is that, to a certain extent, it requires "complete knowledge of the structure and make-up of the two languages concerned." The main reason for being considered an art is that it needs "artistic talent to reconstruct the original text in the form of a product that is presentable to the reader who is not supposed to be familiar with the original." And, finally, it is considered to be a skill because it necessitates "the ability to smooth over any difficulty in the translation, and the ability to provide the translation of something that has no equal in the TL." Antar S. Abdellah gave a definition of translation which focuses on the qualities of a good translation: a good translation has to carry all the ideas of the original as well as its structural and cultural features; it has to be easily understood; to be fluent and smooth; to be idiomatic; to convey, to some extent, the literary subtleties of the original; to distinguish between the metaphorical and the literal; to reconstruct the cultural / historical context of the original; to make explicit what is implicit in abbreviations, and in allusions to sayings, songs, and nursery rhymes; and to convey, as much as possible, the meaning of the original text.

Muhammaf Hassan Askari, in a recent article called "If the Benefit of Translation is Concealment," follows Ezra Pound's belief and considers that "a good translation is one that may not necessarily contain the spirit of the original," but one that should become something. He also believes that the problem, until now, was that translation was regarded as a purely literary problem, "and that's why our literature, and especially our prose, is becoming feebler by the day" (195). Perhaps he is right about the latter part of his theory, but concerning the former part I believe that he is not entirely correct. A translation, in my opinion, must create the same effect on its readers as the original did on its readers at the time of publication of that text. This implies not only containing the "spirit of the original," but also the effects of the original. And, yes, a translation should indeed "become something," it should not be an

average—or worse, a mediocre—translation of, let's say, a famous literary text; it should have at least the same value as the original, but this is a very strenuous process.

M. Teresa Caneda Cabrera, in her article "Translation as a Paradigm of Thought for Modernism," believes that many modernist writers showed a great interest in translation, in the beginning of the 20th century, because they found "in foreign languages and cultures not only sources of inspiration and models for renewing their own culture but also ways of expanding the possibilities of expression in English" (55). This is perhaps one of the reasons why it is believed that translation played a crucial role in the development of modernism. She also points out that the new studies in the field of translation studies focused on "the aspect of literary translation as a complex cultural activity, thereby emphasizing its centrality to the emergence of innovative aesthetics and the development of new ideologies throughout different historical contexts and literary traditions" (54). Translation must be seen as a vital mechanism in "the process of consolidation of new poetics as well as in the negotiation of issues of cultural and individual identity" (54).

In general terms, numerous critics agree that not many things have drastically changed concerning translation. Translation cannot happen if there is not sound knowledge of both the source and the target languages, but there also has to be a thorough understanding of the topics dealt with in the text. Vicky Hartnack states that "one's cultural baggage and open-mindedness about the other's culture have always been decisive factors and the painstaking job of checking and rechecking one's work has always made part of the conscientious translator's routine" (59).

The Issue of Obsolete Translations

Translators usually adopt the "intermediary position," as G. Mounin calls it. It has scientifically been proved that it may, and often does happen, that not all the elements of the original can be rendered exactly the same way in the TL as in the SL. This may make us think about the idea of "gains" and "losses" in a translation. But this is not necessarily a loss, and thus there is the possibility of finding poetic equivalents in the SL, which have an aesthetic value as close to the original text as possible. Any translation tends towards perfection, but unfortunately not all of them become perfect. The Romanian and the French versions of Salinger's novel are not exceptions to this tendency; there are some cases of inadequacy in these versions of "The Catcher." It is possible that the translators put themselves, and thus implicitly Holden, in the corresponding Romanian and French periods of the writing of the novel, the 1950s. This fact raises an often argued and discussed problem connected with translations, the one of becoming obsolete. It is a process connected with the translator's responsibility concerning the original text. Some other critics consider that a translation can indeed become obsolete just because the translator, being profoundly dedicated to the text and to the respective culture, generally translates only for a couple of generations. It seems that this is the reason why every epoch needs its own translations.

While a literary text is "final," "irreversible," a translation has to be renewed from time to time. It is also said and believed that the translation of an original text is made with the linguistic and stylistic means of the TL, means that are specific to a certain historical moment. After very long periods of time have passed, these means become obsolete, they are no longer "fashionable," and the reason why this phenomenon occurs is because each generation has a specific vocabulary, with its own linguistic "sensibility" or "particular aesthetics," and also its own requirements regarding a translation. And this is all the more important and obvious in "The Catcher," as Holden's language is the teenage language. Translating is not just an exact science or an exact art, as G. Steiner says, it is also the relationship between art and science, it is the process of deciphering, decoding and interpreting the original text. As Jakobson said, and as G. Mounin has also agreed, the translation is nothing but the adequate interpretation of

a unit belonging to a foreign code and a perfect equivalence is impossible (qtd. in Bantaş and Croitoru 18). That is why it is important to refer to Tytler's three laws of translation:

- The translator must give a complete transcription of the ideas of the original.
- The style must be the same as the original one.
- The translation must 'flow' just like the original version. [my translation] (qtd. in Bantaş and Croitoru 13)

Mounin also claims that "unique personal experience is untranslatable"; the base units of two languages are not always comparable; and communication is possible when account is taken of the respective situations of the speaker and hearer / author and translator (Bassnet 36). But this also implies perhaps the most important of the translators' tasks (besides the one of having a serious and profound knowledge of both the source and target languages), namely the one of having a deep knowledge of the novel's context and of the writer's culture and style. Albrecht Neubert believes that a translation can undergo changes in the sense that it becomes obsolete: "What was a good translation under particular local conditions years ago may no longer be adequate in another place today" (qtd. in Schäffner and Adab 5).

Clifford E. Landers believes that the life, or better as he says "the half-life of a translation," usually lasts between 30 to 50 years, and then "the translation loses its vitality, its freshness, its ability to communicate to the reader in a contemporary voice" (8). If we accept that such a situation is true, then "major works of literature must be retranslated periodically if they are to retain their function as a bridge between cultures and eras" (8). Clifford E. Landers also considers, and I share his point of view, that "[l]iving languages are *moving* targets, and all we can say with certainty of today's translations is that, however good they may be they will at some future date become obsolete"(8). I believe that this can lead to the development of a new branch of translation studies in which the comparison and analysis of different (multilanguage) retranslations, from different countries, of a same original literary work represents the very core of this new branch. The main aims would be those of updating the language of a previous translation, of reviving the literary work itself (if necessary, especially by means of marketing strategies dealing with the new retranslation) and of finding the closest translation to the ideal one. The present book would be fitted for such an attempt. Clifford E. Landers also thinks that "[i]t matters little that all translations are foreordained to obsolesce. Their value to the future lies in their expression of how we spoke and thought and wrote in our own time" (12).

Conclusions

In this brief article I have tried to offer an overview on defining the concept of literary translation by reuniting the points of view of important theoreticians in this field although the task of giving a comprehensive definition of translation is very difficult mainly because it is a rather newly formed discipline. Nevertheless, a complete definition of translation, in my opinion, should always include the tasks that a translation should perform. Thus, in my opinion, a literary translation does not have to compete with the ST, it only has to recreate the same effect of the ST on the TT readers, to complement the original and make the readers understand the original text (especially when they do not speak the SL or even to understand better the ST even if they speak the SL). Another important aspect of a complete translation must necessarily take into account a series of contexts, such as the linguistic, the social, the political and the cultural contexts in which the ST was produced and those in which the TT has to be reproduced, and even adapting the TT to such contexts if necessary. I have also briefly discussed the discipline of translation studies from the perspective of "boom" developments due to the numerous researches, theories and revolutionary developments in this filed, to its multi- or interdisciplinary character and to the wide range of new

technological breakthroughs that affect and influence the translation process and translators themselves.

I have also briefly approached the issue of translations that become obsolete by presenting some reliable points of view. The conclusion was that translations, from a variety of reasons, do become obsolete and they have to be retranslated after a period of 30 to 50 years. This process also helps to the renewal of the translation, to its revival (as well as of the original), to its improvement and updateness of its language—all of them arguments in favour of Salinger's Romanian retranslation and its further analysis.

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QUALITY OF LIFE AND OF THE ENVIRONMENT IN A ECONOMICALLY DEVELOPED WORLD

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Abstract

Economic development is a major and a permanent desideratum of the countries. However, this cannot be an end in itself but an intermediate goal needed to support a better quality of life. Also, the quality of life is not only determined by the level of the economic development but also by the quality of the natural environment. The issue of the impact of economic development on the quality of the environment and, from this perspective on the quality of life, has been debated since 1987, in the Bruntland Report. The present paper analyzes how the economic development of the last decades has supported and has affected simultaneously the quality of life and also the way in which the states of the European Union act by greening the procurement process in order to create a sustainable economy.

Key words: quality of life, quality of the environment, sustainability, green public procurement

Introduction

During 1990 - 2018 the economic development and growth had an obvious upward evolution. According to statistical data provided by the World Bank, GDP of the European Union increased by 62.43% in current data (from $ 11.822 trillion in 1990 to $ 19.203 trillion in 2018), and in terms of GDP / capita, growth was 51.2% (from $ 24,747 million in 1990 to $ 37,417 million in 2018). Prior to this period of economic progress, in 1987, within the Bruntland Report, arose the issue of sustainable development, defined as "that type of development that ensures the needs of the present generation without compromising the possibility of future generations to meet their own needs", the needs referring to both the basic ones (water, food, etc.) as well as those related to the possibility of living life in a pleasant way.

In recent years, the question of the extent to which economic growth determines the quality of life is frequently raised. Economic and social policies focused on the economic growth, seem to be incomplete as long as the their ultimate goal must be a better quality of life, not the simple monetary performance. Economic growth indicators, such as GDP, tend to become an end rather than a mean. To avoid the narrowly paradigm of material well-being and promote the idea of a holistic growth, monetary performance must be correlated with issues such as life expectancy, infant mortality, gender equity, social inequality, ecological destruction, level of happiness and so on - aspects that can be brought together within the concept of quality of life. Therefore, concomitant with the interest for the economic evolution, must be expressed the interest for the extent to which the permanent economic development sustains the well-being of the population and provides positive perspectives regarding the quality of life.

This paper analyzes the impact of economic development on the quality of the environment and the way in which the EU states act to ensure the protection of the natural environment under the conditions of supporting economic development.

1. Quality of the environment determinant for the quality of life

Although there is no a widely accepted definition for the concept of the quality of life, it can be understood noticing the indicators that international bodies use to evaluate the quality of life. Thus, Eurostat (based on scientific studies and study initiatives launched in 2009,

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evaluates the quality of life according to the indicators included in the matrix "8 + 1 dimensions of quality of life"); OECD (uses a multidimensional matrix that includes 11 categories of indicators to evaluate the present quality of life, and 4 areas of interest to predict the evolution of the quality of life); Mercer - the largest human resources consulting firm in the world - uses a system of 10 categories of indicators to measure the quality of life; Legatum Institute calculates the prosperity indicator (Legatum Prosperity Index). From the perspective of the present paper it is worth mentioning that all the methodologies presented use as a component of measuring the quality of life index the environmental aspects: Eurostat includes the category *Natural and living environment*; OECD analyzes *Environmental quality*; Mercer measures indicators of the *Natural environment* category; The Legatum Prosperity Index includes in the calculation of the prosperity index, starting with 2016, the category *Natural environment*.

The literature also highlights a close correlation between the quality of the natural environment and the quality of life (Diener and Suh, 1997) and, moreover, the quality of the environment is considered a key element in determining the well-being of the population (Holman and Coan, 2008) and one of the most important factors in ensuring the well-being of the population over time. The quality of the environment affects the quality of life also from the perspective that many people value the beauty of the place where they live and are affected by the degradation of the planet and the depletion of natural resources (Balestra and Dottori, 2011). A worldwide study identified five fundamental conditions that determine the quality of life, including health (Damos, J., 2011), and this, in turn, is directly influenced by elements such as fresh air, the level of noise, the beauty of the place where people live (Keles, 2011). Also, in view of the increasing importance of health conditions in the concept of quality of life, the European Parliament voted in favor of an Additional Protocol to the European Convention on Human Rights, which introduces the right to a healthy environment (Doc. 12003 / 11.09.2009). Moreover, there are many studies highlighting that environmental factors are involved in more than 80% of major health problems and 25% of diseases worldwide are caused by inadequate environmental conditions (Pruss-Urstun, Corvalan, 2006). In addition, in the long run, drastic changes in the environmental conditions can affect health through climate change, water and air pollution and biodiversity changes (OECD, 2011).

Regarding the concept of quality of the environment, it is an extended one, and the indicators used in the analysis of the quality of the environment as a determining factor of the quality of life vary depending on the institution or the author who performs the evaluation. Eurostat assesses the quality of the environment through two categories of indicators: Pollution - a category operated by: Air pollution and Noise from the neighbours and from the street - and the category Landscape and the Environment created by humans - the average satisfaction level of the population is measured against these aspects. The OECD methodology uses indicators such as: air pollution; the effects of pollution on health; water polution; access to green spaces and sources of drinking water; carbon dioxide emissions; intensity of use of forest resources; nitrite / nitrogen surplus in agricultural land. Mercer measures the quality of the natural environment through indicators that highlight climate change and the effects of natural disasters, the Legatum Institute measures, in the Environment category indicators: the level of air pollution, the percentage of the population that has access to drinking water, the fraction of fish stocks from over-exploited national waters, water withdrawal internal sweets as a percentage of the renewable resources, the marine area protected as a percentage of the total, the terrestrial area protected as a percentage of the total, regulating the use of pesticides, the anthropic treatment of waste water, the satisfaction level of the population regarding the efforts made for environmental protection. The scientific literature also addresses the issue of environmental quality assessment indicators relevant to quality of life. Thus, there are mentioned indicators that affect the quality of air, soil, water, indicators that reflect responsible behavior towards the

environment; indicators of the quality of the urban environment (eg protected land areas, total area of forests, access to green spaces, etc.) (Streimikiene, 2015). Kelles, 2011, makes a classification of the factors that affect the quality of life from the perspective of the quality of the environment: on the first place is the access of the population to drinking water and to systems that provide hygiene, on the second place it places the level of greenhouse gas emissions from the areas. urban, on the third place places the degradation of the resources manifested by affecting the ecosystems, the fertile agricultural land, by the improper disposal of the industrial and urban waste or by affecting the cultural and historical heritage, and on the fourth place the natural disasters.

The environment quality concept is an extended one. The indicators used to analyze it as a determining factor of the quality of life vary depending on the institution or the author. Eurostat assesses the quality of the environment through two categories of indicators: Pollution (Air pollution and Noise from the neighborhood or from the street) and Living environment and green areas - the average satisfaction level of the population is measured against these aspects. The OECD methodology uses indicators such as: air pollution; the effects of pollution on health; water polution; access to green spaces and sources of drinking water; carbon dioxide emissions; intensity of use of forest resources; nitrite / nitrogen surplus in agricultural land. Mercer measures the quality of the natural environment through indicators that highlight climate change and the effects of natural disasters, the Legatum Institute measures Natural Environment pillar: air pollution, the percentage of the population that has access to drinking water, the fraction of fish stocks from over-exploited national waters, water withdrawal, the marine area protected as a percentage of the total, the terrestrial area protected as a percentage of the total, regulating the use of pesticides, the anthropic treatment of waste water, the satisfaction level of the population regarding the efforts made for environmental protection. The literature also addresses the issue of environmental quality assessment indicators relevant to the quality of life. Thus, there are mentioned indicators that affect the quality of air, soil, water, indicators that reflect responsible behavior towards the environment; indicators of the quality of the urban environment (e.g protected land areas, total area of forests, access to green spaces, etc.) (Streimikiene, 2015). Kelles, 2011, makes a classification of the factors that affect the quality of life from the perspective of the quality of the environment: on the first place is the access of the population to drinking water and to systems that provide hygiene, on the second place it places the level of greenhouse gas emissions from the urban areas, on the third place places the degradation of the resources which affects the ecosystems, the fertile agricultural land, the cultural and historical heritage and on the fourth place the natural disasters.

Summarizing, the quality of the environment and, implicitly, the quality of life are influenced by the air, water and soil pollution, by the level of noise, climate and biodiversity changes, by the access to green areas, by an environmentally responsible behaviour

2. Economic growth impact on the environment quality

The screening of literature through search engines and databases such as Google Scholar, Science Direct, Scopus based on key-words such as LCA (*Life Cycle Assessment)*, sustainable development, environmental impact, name of the product categories, has allowed the identification of numerous studies which emphasis that a relevant part of the negative evolution of the indicators which define the quality of the environment is influenced by the industrial and consumption processes specific to the current economic and social context. The following product categories were analyzed:

- Paper (M'hmadi, A.I. et al, 2017; Danison, R.A., 1997; PwC, 2010) – CEPI (Confederation of European Paper Industry) statistics highlights that the paper production of the European states members of CEPI was, in 2018, over 92 million tonnes, and

corresponding wood consumption around 155,000 m3 - both indicators on an upward trend. The main consequences of the paper production and consumption are, on the one hand the increasing number of the companies, of the employees, of the financial performances but, on the other hand, the forest destruction, loss of biodiversity and climate change, energy consumption, water toxicity , air pollution

- Cleaning products and services (Kapur et al., 2012; Boucher & Friot, 2017; ADEME, 2010) – as a result of the awareness of the importance of hygiene and its role in stopping the spread of infectious diseases, the global cleaning products market is constantly expanding. Statistics show increases in spending, consumption, sales, market share, consumer price index, revenues. At the same time, consequences of the production and consumption of such products are: climate changes, resource depletion, ecotoxicity, negative impact on the human health, eutrophication, photochemical smog, vegetation and crops damage.
- Construction (Sartori & Hestens, 2007; Khasreen et al, 2009) – the construction sector is also associated with economic growth. Its coverage area is extended: buidings design, site preparation, construction, servicing and ongoing management. Sector development is associated with the employment increasing, extension of micro and small businesses, and of the added value. On the other hand, the impact on the environment is just as important. Among all the environmental consequences, the most significant is the energy consumption associated with green house emissions. Other negative environmental impacts generated by this sector are: depletion of natural resources, waste generation, deterioration in indoor air quality, global warming etc.
- Office IT Equipment (Choi et al, 2006; Hoang et al, 2009; Marudut et al., 2012) – the economic relevance of this product group is obvious and relevant in the knowledge economy. The economic performance associated with the production and consumption of portable devices, tablets, integrated desktops, workstations, servers, computer displays etc. are supported by numerous statistics. At the same time, the impact on the environment they generate is determined in the use phase by the need of electricity to run and in the manufacturing phase by the consumption of critical raw materials, land transformation and the consumption of energy.
- Transport (Jørgensen et al., 1996; Merchan et al, 2017, Bauer et al, 2015) – this product category covers the production and use of road transport vehicles (passanger cars, light commercial vehicles, buses and coaches, waste collection trucks). According to statistics provided by the European Commission the market is dominated by vehicles using diesel and petrol rather than those using alternative fuels, while the fleets are dominated by vehicles that meet Euro emissions standards of Euro 4 / IV or earlier. The development of this market is highlighted by the upward evolution of indicators such as passanger cars per 1,000 inhabitants, stock of vehicles, oil pipeline companies, employment in oil pipeline companies, investment in oil pipeline companies. The analysis of the environmental impacts highlights the extent of the negative effects of the sector, both in the vehicles use phase (GHG emissions, air pollutant emissions and noise) and in the manufacturing phase (especially for electric vehicles, associated with the battery manufacturing).
- Furniture (Cordella, 2017) – with a value of over USD 575 billion in 2018 and with an expected growth of about 5% between 2019 and 2026 (according to Global Market Insights), the furniture market is a developing industrial sector but also a major consumer of wood as a raw material. The furniture industry determines a negative impact on the environment mainly in the raw material production phase, but also in the maufacturing phase, packaging, distrivbution and use phases. Thus, the main five impact categories are: acidification, climate change, eutrophication, ozine depletion, photochemical ozone formation.

➢ Textiles (Dodd et al, 2012; Beton et al, 2013) – in the last decades the amount of clothes bought in the EU per person has increased by 40%, about 5% of household expenditure in the EU is spent on clothing and footwear and more than 30% of clothes in Europeans' wardrobes have not been used for at at least a year. According to Euratex in 2015 the textile industry represented 5% share of employment and an over 2% share of value added in total manufacturing in Europe. This state of affairs is associated with important environmental issues such as: agricultural land use, terrestrial, freshwater and marine ecotoxicity and eutrophication, water depletion, CO_2 emissions, climate change, terrestrial acidification and particulate matter formation.

3. Environment protection in the context of economic development

The analyzed data show a major impact on the environment and, implicitly on the quality of life, determined by the economic development. As a result, EU Member States get involved through active measures in order to implement environmental protection solutions. An important step was the promotion of Green Public Procurement. The concept of GPP was introduced by the OECD in 2002 and refers to "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured" .

In line with the EU's concerns about sustainable development and involvement of public institutions in this process, the European Commission has encouraged Member States since 2003 to develop national action plans to sustain the procurement of green products. Thus, European states are encouraged to act: politically (through the national guidelines and programs for GPP); by providing public information on the environmental impact of the products and services, by implementing LCA thinking in the assessment of the procurement contracts, through implementation of environmental management systems (EMS) by purchasing authorities.

Although EU countries have reacted differently to the implementation of the European Commission's recommendations, some of them making significant progress - Green-7 (Austria, Denmark, Finland, Germany, Netherlands, Sweden and UK) - others being still in the early stages, it can be noticed encouraging progresses regarding the environment.

The table below shows the evolution of two of the most common consequences of the impact of the economic development on the environment: GHG emissions and Exposure to $PM_{2.5}$ and of a major consequence of the air pollution, respectively Mortality/1,000,000 inhabitants. The years selected for representation are justified as follows: 2003 (the implementation of the GPP aroused on the public agenda); 2010 (the implementation of the GPP became effective and extended), 2014 (intermediate year to suggest the evolution of the indicators); 2017 (the latest data available).

Table 1. Evolution of the air pollution indicators in the UE (2003 – 2017)

Indicators of air pollution	2003	2010	2014	2017	2003 – 2017	2010 - 2017
GHG emissions* (CO_2 – tonnes/capita)	8,00	7,20	6,20	6,30	-21,25%	- 12,5%
Exposure to PM2.5** (Micrograms per cubic metre)	16,18	16	13,84	13,09	-19,1%	-18,19%
Mortality per 1,000,000 inhabitants as a consequence of air pollution ***	475,4	438,2	400,5	402,3	-15,38%	-8,19%

Source: OECD Data

*Greenhouse gases refer to the sum of seven gases that have direct effects on climate change. The data are expressed in CO2 equivalents and refer to gross direct emissions from human activities

**Fine particulate matter (PM2.5) is the air pollutant that poses the greatest risk to health globally, affecting more people than any other pollutant. Chronic exposure to PM2.5 considerably increases the risk of respiratory and cardiovascular diseases in particular. Data refer to population exposure to more than 10 micrograms/m3 and are expressed as annual averages.

***It is calculated using estimates of the "Value of a Statistical Life" (VSL) and the number of premature deaths attributable to ambient particulate matter.

Figure 1. Evolution of GHG emissions in the EU countries (2003 – 2017)

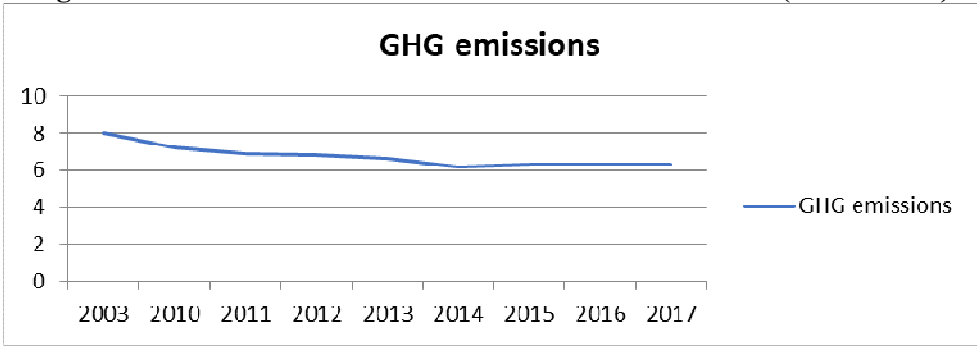


Figure 2. Evolution of Exposure to $PM_{2,5}$ in the EU countries (2003 – 2017)

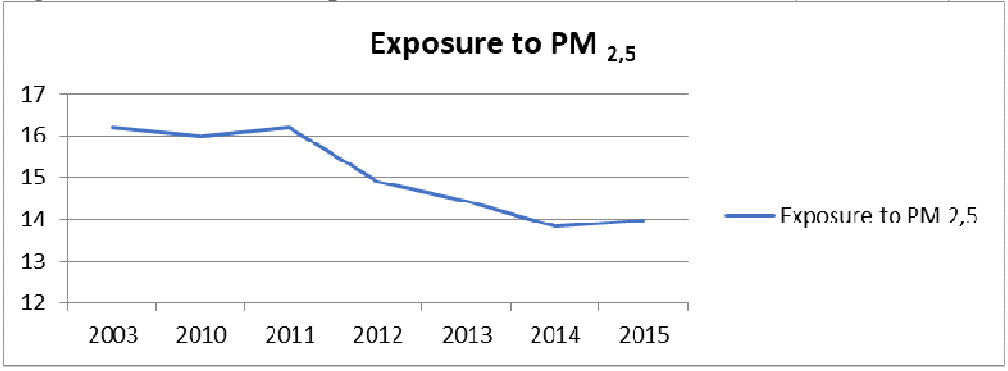
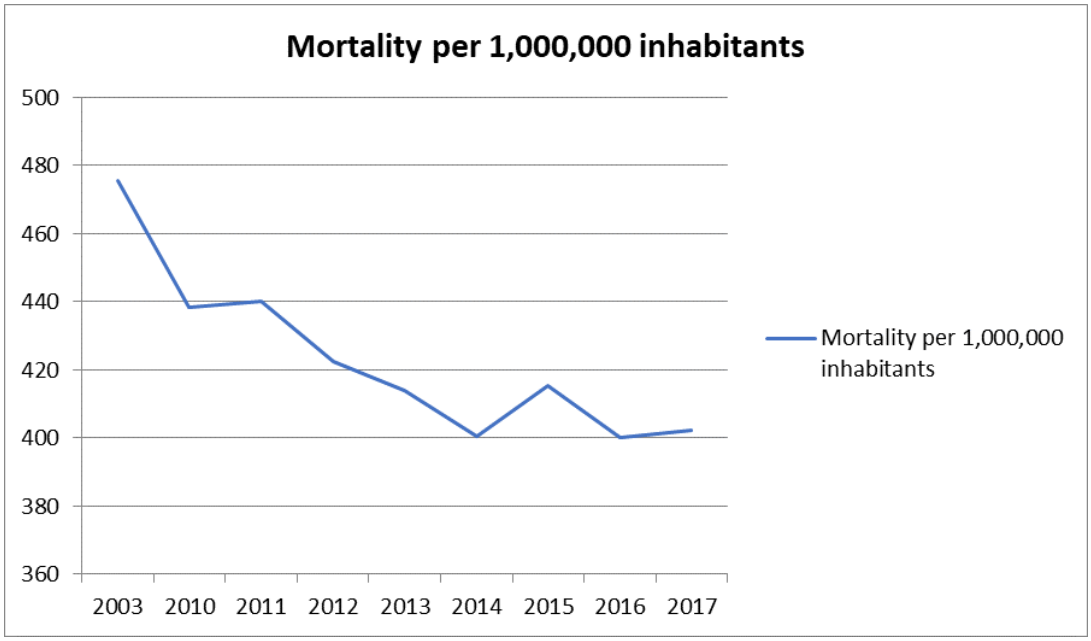


Figure 3. Evolution of Mortiality per 1,000,000 inhabitans in the EU countries (2003 – 2017)



Conclusions

In 1987 the World Commission on Economic Development in the Sustainable Development Report stated "We remain convinced that it is possible to build a future that is prosperous, just, and secure. The possibility depends on all countries adopting the objective of sustainable development as the overriding goal and test of national policy and international co-operation ". At 30 years after this moment we notice the interest of the states of the world and especially of the European countries, analyzed within this paper, to ensure the economic development in the context of maintaining a clean environment, capable of sustaining a quality life.

The regulation and implementation of the GPP process, which also influences the purchases made by the private sector, is proving to have the expected results as long as, with reference point in 2003, we notice an obvious decrease of the environmental pollution indicators associated with the industrial processes. For this reason, the process must be supported ideologically and practically, and the research in the field must identify solutions to overcome the barriers that public authorities claim in implementing green procurement.

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GREEN PUBLIC PROCUREMENT IN THE EU COUNTRIES

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Abstract
Green public procurement is a topic of debate and a very current action in the countries of the European Union. Their implementation is also considered beneficial for a better quality of life but also very expensive and difficult to practically run. As a result, European countries have been involved with different intensity in this process. This paper highlights this involvement from a multiple perspective: Ensuring the strategic context for implementing green public procurement; Presence of the criteria for green public procurement within public procurement documents; Actions to build the capacity to implement the practice of green procurement; Monitoring the results regarding the practice of green procurement, in order to provide a relevant image on the perspective of environmental problems in Europe.

Key words: green public procurement, quality of the environment, sustainability,

1. Introduction

Green Public Procurement (GPP) is a frequently addressed topic in the last 15 years worldwide and, implicitly, in the European Union. Member States are encouraged to promote and practice green public procurement, also known as green procurement. The concept of green public procurement was introduced by the OECD in 2002 and subsequently confirmed by the European Commission and the legislation of the Member States. *Public Procurement for a better Environment Report* defines GPP as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured". Of course, private consumers are also encouraged to focus on green purchases, but considering that European public institutions are an important consumer, with 1.8 trillion euros / year (14% of European GDP), their involvement in a constant process of purchasing goods and services with low environmental impact can decisively influence sustainable development in Europe and stimulate eco-innovation. This approach represents a call to the effort to "adapt ourselves to the limits that nature has". (Williams & Millington, 2004)

European countries react differently to actions meant to support green public procurement, as there are recommended in the European strategic documents, even if the environmental, social, health, economic and political benefits are widely recognized. The reluctance towards green public procurement is justified by the barriers that make it difficult to intensify the process. The obstacles stated by public institutions regarding the GPP implementation, on a large scale are: the ecological products / services are perceived to be expensive; lack of political support; lack of experience in applying green procurement procedures; lack of training, of practical tools and of information; weak cooperation between authorities etc. Among these, the cost level is the most commonly indicated barrier.

The paper presents how EU Member States approach the European Commission's recommendations on green public procurement and the results they have achieved.

2. European actions to sustain GPP

The European Commission has encouraged Member States to behave environmentally responsible and, since 2003, has recommended the elaboration of National Action Plans (NAP) and the implementation of the concrete actions in order to sustain the green public

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procurement process. There are four criteria corresponding to which the progress made by the Member States in the GPP process can be assessed:

- 1. Policy framework – Ensuring the strategic context to implement green public procurement – refers to the extent to which, at national level, guidelines have been elaborated and promoted in order to guide the public actions regarding green procurement;
- 2. Implementation of the mandatory rules to sustain green public procurement within the public procurement documents - evaluates the extent to which, at national level, public procurement requirements / criteria correspond to the green procurement;
- 3. Capacity building – assesses the national interest for developing knowledge and good practices in the field of green procurement;
- 4. Monitoring the practice of green public procurement - evaluates the extent to which at the national level there are functional systems to supervise the practices related to public procurement and their results

In order to evaluate the extent to which the EU Member States meet and comply with the European Commission actions to support GPP, there been developed for each action, based on the public data, a series of indexes and an evaluation scale to assess performance. These is presented in the table below.

Table 1. Indexes to assess the extent to which EU states meet European Commission recommendation regarding GPP

Action	Indexes	Values
1. Policy framework	1.1. Presence of a national strategy or of a national action plan in relation to public procurement	- Designed in the first 4 years after EU directives (2003 – 2007) – 5 - Designed between 2008 – 2011 – 4 - Designed between 2012 – 2015 – 3 - Designed between 2016 – 2018 – 2 - No strategy or action plan – 1
	1.2. Presence of an updated national strategy or a national action plan in relation to public procurement	- A previous national strategy updated during 2016 – 2018 – 5 - A previous national strategy updated during 2012 – 2015 – 3 - The national strategy is not updated, - 1
	1.3. Green Public Procurement objectives included in the national action plans	- Green Public Procurement objectives for all public authorities - 5 - Green Public Procurement objectives just for national public authorities – 3 - Green Public Procurement objectives for certain product groups - 1
	1.4. Consistency of the national strategy or of the national action plan on public procurement with COM (2003) 302*	-National documents are in full agreement with COM (2003) 302 – 5 - National documents partly correspond to COM (2003) 302 – 3 - National documents do not correspond to COM (2003) 302 -1
2. Implementation of the mandatory rules to sustain GPP	2.1. The presence of a set of criteria which must be respected in the public procurement process	- National Green Public Procurement criteria are in full agreement with the European criteria -5 - National Green Public Procurement criteria comply to a certain extent with the European criteria - 3 - There are no national Green Public Procurement criteria - 1

Action	Indexes	Values
	2.2. Product groups for which green public procurement criteria are developed	- There are developed Green Public Procurement criteria for more than 15 product groups according to European criteria** - 5 - There are developed Green Public Procurement criteria for 10 -15 product groups - 4 - There are developed Green Public Procurement criteria for 5 -10 product groups – 3 - There are developed Green Public Procurement criteria for less than 5 product groups – 2 - There are not developed Green Public Procurement criteria or they are under development - 1
	2.3. Mandatory green procurement criteria for public institutions	- There is a legal obligation to include green procurement criteria in the procurement documents of the contracting authorities – 5 - There is not a legal obligation but a recommendation to include green procurement criteria in the procurement documents of the contracting authorities –3 - There is not a legal obligation or a recommendation to include green procurement criteria in the procurement documents of the contracting authorities – 1
	2.4. TCO*** (Total Cost of Ownership) or LLC* (Life-cycle costing) tools are developed and/or used to calculate the cost of public procurement	- TCO or LCC are calculated in the public procurement documents– 5 - There are used other life cycle assessment costing tools in the public procurement documents – 3 - There are not used TCO, LCC or other life cycle assessment costing tools in the public procurement documents – 1
3. Capacity building	3.1. Workshops, conferences, helpdesks, publications etc. to sustain capacity to implement GPP	- At national level, complex and diverse actions (workshops, conferences, publications etc) are organized to build the capacity to implement GPP processes – 5 - At national level, actions with a low level of complexity are organized to build the capacity to implement GPP processes – 3 - No actions are organized or they are accidentally organized in order to build the capacity to to implement GPP processes - 1
	3.2. National and international cooperation to improve the practices of green procurement	- There are both international and national cooperation to improve the practices of green procurement – 5 - There is only national cooperation to improve the practices of green

Action	Indexes	Values
		procurement – 3 - There is not cooperation at national or international level to improve the practices of green procurement - 1
4. Monitoring the practice of GPP	4.1. Development of a system for monitoring green public procurement	- There is a complex monitoring system to collect data on the value / on the volume of green public procurement – 5 - There is a limited monitoring system to collect data on green public procurement – 3 - There is not a monitoring system for the green public procurement - 1
	4.2 Regularity of monitoring the green public procurement process	- Monitoring of green public procurement is carried out regularly – 5 - The green public procurement process is carried out but without a certain periodicity – 3 - The green public procurement process is not monitorized - 1

* COM (2003) 302 - *Communication from the Commission to the Council and the European Parliament - Integrated Product Policy - Building on Environmental Life-Cycle Thinking*

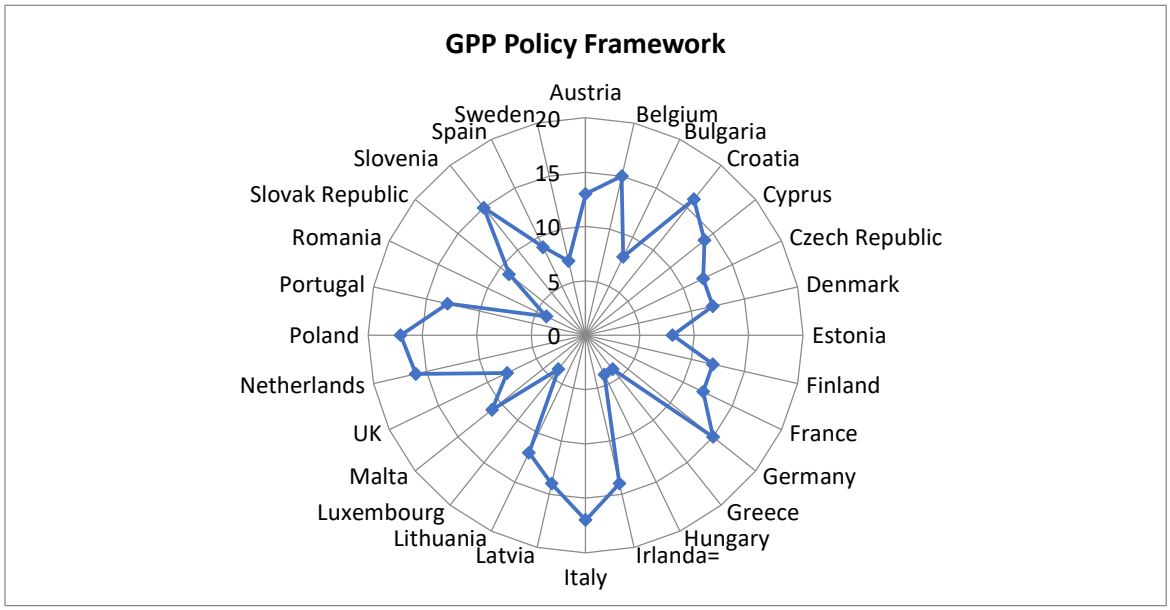
** At European level, have been devloped GPP criteria for 21 product groups (transport, gardening services, IT equipment, paper, cleaning products and services, catering products and services, textiles, furniture, construction, etc.)

*** TCO (Total Cost of Ownership)/LCC (Life-cycle costing) – the sum of all the costs generated by the purchase and use of a product during its entire life cycle. These may include: acquisition costs, operational costs, but also savings resulting from reduced energy, water, fuel, maintenance etc.

3. GPP process in the EU member states

The first analyzed criterion, *Policy framework* – refers to the presence of a national strategy or of a national action plan in relation to green public procurement according with European Comission recommendations. The scores of the EU countries according to this criterion are presented in the Chart 1.

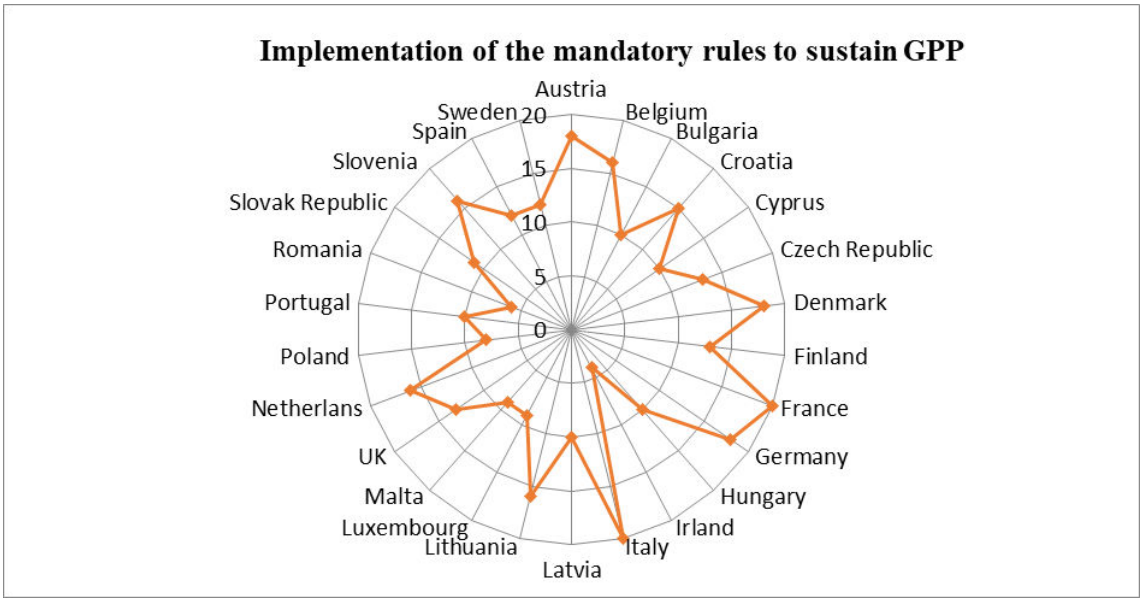
Chart 1. Scores of the EU countries



The highest scores were achieved by Italy, Poland (17 points), Netherlands (16 points), Belgium, Germany, Slovenia (15 points). The highest scores were achieved by Greece, Hungary, Luxembourg, Romania (4 points). The high values achieved for this criterion denote a rapid reaction of the states in order to develop a strategic framework to support green public procurement process, in accordance with the European Union guidelines.

The second analyzed criterion, *Implementation of the mandatory rules to sustain GPP*, highlights the extent to which GPP requirements are effectively implemented by the contracting authorities in EU countries. The results are presented in the Chart 2.

Chart 2. Scores of the EU countries

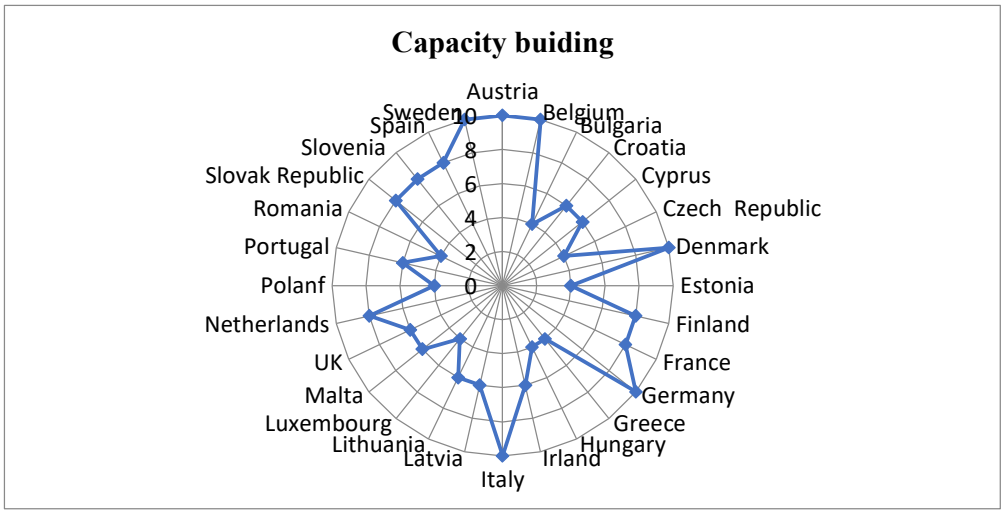


The highest scores were achieved by Italy, France (20 points), Austria, Denmark, Germany (18 points), Belgium Lithuania, Netherlands, Slovenia (16 points), and the lowest scores were achieved by Irland (4 points), Romania (6 points), Poland (8 points). As regarding Estonia and Greece there were not available information to calculate the score. The high values for this criterion denote the concern for establishing concrete, measurable criteria, to assess if the public procurement are ecological or not .

The third criterion, *Capacity building*, assess the interest of the Member States towards the development of the skills and the competencies of human resources involved in the GPP process. The results are presented in the Chart 3.

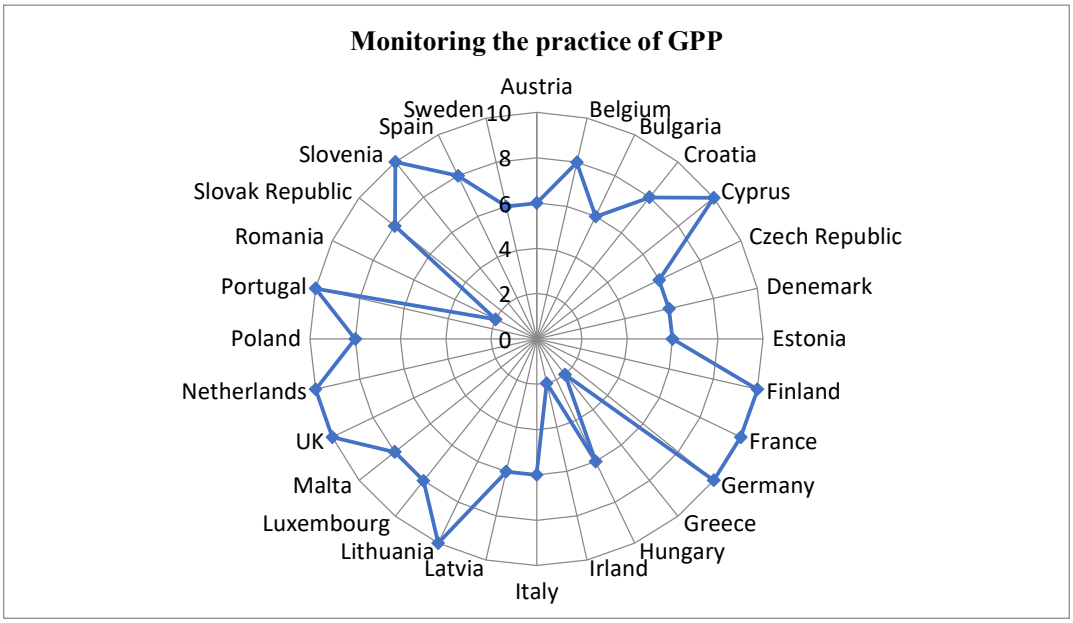
The highest scores were achieved by Austria, Belgium, Denmark, Germany, Italy, Sweden (10 points), and the lowest values were achived by Bulgaria, Czech Republic, Estonia, Greece, Hungary, Luxembourg, Poland, Romania (4 points). The scores obtained under this criterion reflect the interest of the national bodies in organizing events, courses, different forms of cooperation etc that contribute to the development of the human resources capacity to implement and to carry out green public procurement.

Chart 3. Scores of the EU countries



The fourth criterion, *Monitoring the practice of GPP*, evaluates the extent to which, within EU countries, there are systems and practices for monitoring GPP in order to identify the positive aspects and to integrate them into the procurement process as well as the negative aspects in order to correct them. The results are presented in the Chart 4.

Chart 4. Monitoring the practice of GPP



The highest scores were achieved by Cyprus, Finland, France, Germany, Lithuania, UK, Netherlands, Portugal, Slovenia (10 points), and the lowest scores were achieved by Ireland an Romania (2 points).

Considering the place occupied by each of the countries corresponding of each of the four criteria, three groups of countries can be formed. The scale used to categorize the countries was determined by summing the places occupied by the EU states according to the 4 criteria, as follows: the best score (corresponds to the firs place) was 6 points; the lowest score (corresponds to the last place) was 28 points.

- Group A (6 – 13 points): Austria, Belgium, Croatia, Denmark, France, Germany, Italy, Lituania, Netherlands, Slovenia, Finland;

- Group B (14 – 20 points): Cyprus, Czech Republic, Letonia, UK, Poland, Portugal, Slovacia, Spain, Sweden
- Group C (21 – 28 points): Bulgaria, Hungary, Ireland, Malta, Romania.

It should be noted that, for three countries: Estonia, Greece, Luxembourg, the existing data were insufficient to integrate them in this analysis.

The scores were compared with the evolution of two indicators defining air pollution, respectively GHG emissions and Exposure to PM 2,5. This comparison was made because the purpose of GPP implementation is to reduce the level of pollution generated by the economic growth. The evolution of the two indicators was analyzed, according to the OECD data, for the period 2010 - 2017 (2010 represents the year in which the implementation of GPP practices within the EU states became effective and extended).

Regarding GHG emissions, the first five countries, from the ones previously grouped, in order of the percentage with which this indicator decreased during 2010 - 2017, are: Malta (-46.77%), Denmark, Finland, UK, Sweden (-24.49%); and with regard to the Exposure to PM 2.5 indicator, the most drastic reductions were registered in: Poland (-2.76%), Czech Republic, Germany, Lithuania, the Netherlands (-19.77%). Thus, the largest reductions in GHG emissions were recorded in 2 countries in group A, 2 countries in group B, 1 country in group C. The largest decreases in Exposure to PM 2.5 were recorded in 3 countries in group A and 2 countries in group B.

The smallest decreases in air pollution were as follows:

- GHG emissions: Portugal (+ 8.89%), Bulgaria (+ 1.67%), Hungary, Poland, Romania (- 2.7%),
- Exposure to PM 2,5: Cyprus (-13.5%), Italy, Bulgaria, Croatia, Slovenia (-14.52%).

Thus, the smallest reductions in GHG emissions were recorded in 1 country in group B, 4 countries in group C. The smallest decreases in Exposure to PM 2.5 were recorded in 3 countries in group A, 1 country in group B, 1 country in group C.

Conclusions

GPP implementation in the EU countries is a beneficial process from the perspective of environmental effects. Given that the actual implementation of the process is difficult and costly, this process is not fully implemented in any of the European countries. As a result, no statistically substantiated conclusions can be drawn regarding the correlation between GPP process and overall pollution. However, these correlations can be sensed and highlighted by observations of the evolution of the environmental indicators.

Research in the field of GPP should continue in the direction of identifying measures to facilitate the effective implementation of GPP and to highlight the correlation between them and the quality of life, which could eliminate the apprehensions about the costs incurred by implementation.

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REFLECTIONS ON THE PAST AND THE PERSPECTIVES OF THE ROMANIAN PUBLIC ADMINISTRATION

Isabela Stancea[1]

Abstract.

The Romanian legislation find several laws governing the conduct of civil servants in order to increase the quality of administrative and citizen satisfaction, respect the right to good administration laid down in art. 41 of the Charter of Fundamental Rights.

Just to encourage the right to good administration, increase citizen satisfaction was created on 6 September 2001 European Code of Good Administrative Behaviour which European citizens and address.

After the appearance of this Code and the context in which future we want for Romania a European administration, and in our felt the need to adopt a similar code, for which to Law no. 7/ 2004 on civil servants code of conduct governing rules of professional conduct for civil servants, its contents being found in a form identical or similar principles of the European Code of Good Administrative Behaviour.

Keywords: *good administration, Code, civil servants, citizens' satisfaction.*

Jel Cl\asification: K0 K3 K30

Defined in a broad sense, the public service represents an assembly of persons and things created in order to satisfy public needs by a public community, subject to its authority and control (Popescu Petrovszki, 2011).

Therefore, satisfying the daily needs of a community, of the individual living in an organized grouping, is the only justification for the existence of the public administration, its essential purpose.

Therefore, invested with a civil service is a natural person who, by law, has the capacity to act in the realization of the competence of a state body. Therefore, it is called a "civil servant" and has a complex of powers, powers and competences established by law, within a public service, which can be elected or appointed, with the purpose of satisfying the general interests of the company.

In Romania, civil servants are obliged, according to their status, to fulfill their professional duties, loyalty, fairness and conscientiously and to refrain from any fact that could harm the public authority or institution in which they operate. activity[2]. They are responsible, according to the law, for the fulfillment of the tasks that they have from the public function that they hold, as well as of the tasks that are delegated to them; the civil servant is obliged to act only in the public interest. In the Romanian legislation we find several laws that regulate the conduct of civil servants in order to increase the quality of the administrative act and the degree of citizen satisfaction, to respect the right to good administration provided in art. 41 of the Charter of Fundamental Rights of the European Union. Thus, according to article 41 of the Charter of Fundamental Rights of the European Union: "Everyone has the right to benefit, in respect of his problems, of an impartial, fair and reasonable treatment within the institutions, bodies, offices and agencies of the Union.

Everyone has the right to compensation by the Union of the damage caused by its institutions or agencies in the exercise of their functions, in accordance with the general principles common to the laws of the Member States.

Any person may address the institutions of the Union in writing in one of the languages of the Treaties and must receive an answer in the same language. "

The first regulation in this regard was the Statute instituted by A.I. Cuza in 1864. By this it was adopted the principle that a person was appointed to constitute an executive body, but also to

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[2] Law no. 188/1999 regarding the Statute of civil servants, published in the M.O. no. 600 of December 8, 1999, art. 41

act on his behalf. Thus, at that time, the head of state was the one who appointed the members of these executive bodies. The constitution of 1866 enshrined the principle according to which the king appointed and dismissed the ministers of the Government and had the right to appoint persons with public functions. The specialized doctrine subsequently regulated the legislative aspects by which the public function in the state administration was carried out by the Treaty of administrative law of Professor Paul Negulescu in 1904 (Chirtes, 2011).

In 1923, the Law on the Statute of the civil servant was adopted which regulated the way in which this professional category could carry out specific activities. Among other things, the obligation of the civil servant to take the oath of loyalty to the king was also instituted.

The year 1944 marked the emergence of a new regulation that related to the constitutional principles specific to the normative acts of that period. Thus appears Law no. 746/1946 regarding the Statute of civil servants, law regulating the conditions of employment, the rights and duties of civil servants, etc. This normative act brings to the present time aspects related to the specialization of civil servants, as an absolutely mandatory condition for holding a civil service (Unglean, 2007).

After 1989 the first specialized regulations were H.G. no.667 / 1991 regarding the prestige of civil servants and Law 69/1991 on local public administration.

Other normative acts with an impact on the public administration in our country, such as:

- Law no. 188/1999, regarding the Statute of civil servants, republished in the Official Gazette, Part I no. 365 of 29/05/2007, updated in 2009. The provisions of this law include the liability of the civil servant, but this new normative act did not solve the problem of elaborating a deontological code applicable to the civil servant.

- Law no. 215/2001 regarding the local public administration published in the Official Gazette no. 204 of April 23, 2001, as amended and supplemented.

Precisely for the purpose of encouraging the right to good administration, increasing the satisfaction of the citizen was created on September 6, 2001 the European Code of Good Administrative Behavior that is addressed to European citizens and officials, with the purpose, on the one hand, to inform citizens about the what to expect from the public administration, what rights and obligations they have in relation to it, and on the other hand to inform the European institutions and bodies, their administrations and officials about the principles they must respect in their activity. .

After the appearance of this Code and in the context in which we wish for Romania for the future a European administration, and in our country the need to adopt a similar code was felt, for which Law no. 7/2004 regarding the Code of conduct of civil servants, which regulates the rules of professional conduct of civil servants, in its content being found, in an identical or similar form, the principles of the European Code of Good Administrative Conduct.

The objectives of the Code of Conduct are aimed at ensuring the increase of the quality of the public service, good administration in achieving the public interest, as well as contributing to the elimination of bureaucracy and corruption in the public administration, by:

a) regulating the rules of professional conduct necessary for the realization of social and professional relations corresponding to the creation and maintenance at high level of the prestige of the institution of the public function and of the civil servants;

b) informing the public about the professional conduct to which it is entitled to expect from public officials in the exercise of public functions;

c) creating a climate of mutual trust and respect between citizens and civil servants, on the one hand, and between citizens and public administration authorities, on the other.

The principles that govern the professional conduct of civil servants are as follows:

a) the supremacy of the Constitution and the law, a principle according to which civil servants have the duty to respect the Constitution and the laws of the country. According to

this principle, civil servants have the obligation, in their acts and deeds, to respect the Constitution, the laws of the country and to act for the implementation of the legal provisions, in accordance with their responsibilities and with respect for professional ethics.

They must comply with the legal provisions regarding the restriction of the exercise of rights, due to the nature of the public functions held. We can say that this principle is not specific to the civil service and to the civil servant, its applicability being found mainly in the legal field and, in general, in all spheres of social life. This principle coordinates and guides the civil servant in the performance of his duties and represents a transposition of the principle of legality regulated by the European Code of Good Administrative Conduct, which stipulates that the Civil servant will act in accordance with the law and will apply the rules and procedures established by the Community legislation. In particular, the official shall ensure that decisions affecting the rights or interests of persons have a legal basis and their content is in accordance with the law[1]. This principle also implies that the laws are applied in the interests of the citizens and in order to ensure the general interest for which they were drafted. For example, if the administrative procedures or methodological norms of different normative acts are in conflict, the civil servant must make the rule regarding the rights of the citizen applicable.

b) the priority of the public interest, a principle according to which the civil servants have the duty to consider the public interest above the personal interest, in the exercise of the public function. In other words, civil servants must fulfill the civil service by giving priority to the interest of the citizen, excluding any other interests.

c) ensuring equal treatment of citizens before public authorities and institutions, a principle according to which civil servants have the duty to apply the same legal regime in the same or similar situations. Civil servants must adopt an impartial and justified attitude in order to solve clear and efficient problems of citizens. Officials have the obligation to respect the principle of equality of citizens before the law and public authorities, by:

a) promoting similar or identical solutions related to the same category of facts;

b) elimination of any form of discrimination based on aspects regarding nationality, religious and political beliefs, material status, health, age, sex or other aspects.

This principle is similar to the principle of non-discrimination governed by the European Code of Good Administrative Conduct, which provides in Article 5 the obligation of non-discrimination and states that "in processing public requests and in making decisions, the official will ensure that the principle of equal treatment is respected. People who are in the same situation will be treated in a similar way. In the case of a differentiation of the treatment, the official will ensure that this fact is justified by the relevant objective characteristics of the particular case.

The official shall in particular avoid any unjustified discrimination between members of the public, based on nationality, sex, race, color, ethnic or social origin, genetic traits, language, religion or belief, political or other opinions, belonging to a national minority, property , birth, disability, age or sexual orientation ", and in the case of a differentiated treatment, the official must justify it by sound arguments, detached from the relevant objective characteristics of the treated case.

c) professionalism, a principle according to which civil servants have the obligation to fulfill the duties of the service with responsibility, competence, efficiency, fairness and conscientiousness. This principle is also found in the European Code of Good Administrative Behavior according to which the professionalism of civil servants can be defined as the set of values that must compose their conduct in the exercise of the public function: loyalty, fairness, objectivity, neutrality, transparency, punctuality, conscientiousness, efficiency, impartiality, to which country-specific values can be added.

[1] European Code of Good Administrative Behavior art. 4, Office for Official Publications of the European Communities, 2015.

d) impartiality and independence, a principle according to which civil servants are obliged to have an objective, neutral attitude towards any political, economic, religious or other interest in the exercise of the public function. Impartiality represents the ethical value that civil servants must use in their actions, judgments and opinions and in respect of equality.

Also, in accordance with the provisions of Article 8 paragraph 1 of the European Code of good administrative conduct, the official of the European Union "is impartial and independent. He refrains from any arbitrary action that would injure members of the public, as well as from any preferential treatment, regardless of reason. ” Further, paragraph 2 of the same article stipulates that "The conduct of the official will never be guided by personal, family or national interests or political pressure. The official will not participate in the adoption of any decision in which he or she, or any close member of his family has a financial interest ”.

g) moral integrity, a principle according to which civil servants are forbidden to request or accept, directly or indirectly, for themselves or others, any advantage or benefit in the consideration of the public function they hold, or to abuse in any way this function. In accordance with this principle, civil servants should not request or accept gifts, services, favors, invitations or any other advantage, which are intended for them personally, family, parents, friends or persons with whom they have had business or other relationships. , which can influence their impartiality in the exercise of the public functions held or may constitute a reward in relation to these functions.

h) freedom of thought and expression, a principle according to which civil servants can express and base their opinions with respect for the order of law and good manners. We also find this principle in the revised Constitution, within the framework of art. 30, which prohibits any kind of censorship. However, in art. 13 of the Code of Conduct states that in relations with representatives of other states, civil servants are forbidden to express personal opinions on national issues or international disputes. Civil servants representing the public authority or institution within international organizations, educational institutions, conferences, seminars and other international activities are required to promote a favorable image of the country and the public authority or institution that it represents.

In foreign travel, civil servants are obliged to conduct themselves in accordance with the protocol rules and are prohibited from violating the laws and customs of the host country.

i) honesty and fairness, a principle according to which in the exercise of the civil service and in the performance of the duties of the civil servants, the civil servants must be of good faith.

In the relations with the personnel within the public authority or institution in which they operate, as well as with the natural or legal persons, the civil servants are obliged to have a behavior based on respect, good faith, fairness and kindness.

Civil servants have the obligation not to affect the honor, reputation and dignity of persons within the public authority or institution in which they operate, as well as the persons with whom they come into contact in the exercise of the public function, by:

a) use of offensive expressions;

b) disclosure of some aspects of privacy;

c) making slanderous complaints or complaints.

i) openness and transparency, a principle according to which the activities carried out by civil servants in the exercise of their function are public and may be subject to citizen monitoring.

There are three essential requirements for reforming the relationship between the administration and the citizen and for institutionalizing transparency: access to information; consulting; civic participation. These requirements can be found both in the rules of international organizations (European Union, Council of Europe, OSCE, OECD) and in the practice of democratic countries (Mitrică, 2011).

In recent years, in Romania, a series of regulations have been adopted aimed at increasing transparency in public administration. Access to information, electronic auctions,

declaring assets, incompatibilities and conflicts of interest, the code of civil servants and decision-making transparency in public administration - are the key regulations that reconfigure the normative space of institutional reform. Transparency of public authorities is a dynamic process, as these laws are increasingly applied, public administration authorities are becoming more transparent as a result of the experience gained (Mitrică, 2011).

If in the case of the Code of Conduct of Civil Servants in Romania the role of coordinating, monitoring and controlling the application of the rules of conduct rests with the National Agency of Civil Servants, as far as the European Code of Good Administrative Conduct is concerned, it is up to the European Ombudsman[1].

The European Ombudsman investigates possible cases of inappropriate administrative behavior in the actions of the institutions and bodies of the Union in accordance with Article 195 of the Treaty of the European Community and the Statute of the European Ombudsman. Although this Code of Conduct lays down clear obligations for civil servants, it cannot solve the problems of preparation and, especially, of their attitude. The adoption of this normative act represents an important step in the reform of the public administration in Romania, but it does not interfere with the mentalities. In order to change the mindsets and attitudes, it should start with the selection of civil servants; this must exclude the principle of nepotism, but it must receive the level of knowledge and experience.

The general principles set out in the preamble to any code of ethics have the role of constituting the rule where the rules of coding prescribed by the legislator are not specifically regulated[2].

Directions and perspectives in public administration. For the Government of Romania, increasing the efficiency of the public administration is a priority objective, which is subordinated to a number of key reforms, such as the restructuring and modernization of central and local public administration, increasing the efficiency of government spending, increasing the quality and access to public services[3]. The 2020-2023 governance program envisages a set of directions of action which aims, in particular, to increase the efficiency and transparency in the activity of public administration institutions, to ensure administrative decentralization, to improve the management of human resources and to increase the efficiency of the local public administration[4].

Therefore, given the importance of ensuring an efficient and transparent public administration, as a way of fully respecting the citizens' right to good administration, it is necessary to approach a strategic priority from the perspective of seven major directions of action that contained measures with an impact on the development of administrative capacity. between 2020-2023:

a) implementation of the strategic reform to improve the efficiency of the public administration, based on the functional analysis of the World Bank. Through the steps taken, the six institutions subject to World Bank evaluation - the General Secretariat of the Government, the Ministry of Public Finance, the Ministry of Transport and Infrastructure, the Ministry of Agriculture and Rural Development, the Ministry of Education, Research, Youth and Sport, the Competition Council - aim to support to implement a strategic reform, which will substantially improve the public administration, in terms of its effectiveness[5].

[1] Decision of the European Parliament on the issue of general provisions and conditions governing the exercise of the function by the European Ombudsman, Monitoring of Laws L 113/15 of 4.05.1994.
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b) the continuation of the measures aimed at better regulation at the administration level central public. The general objectives of this strategic document are: improving the impact of regulations, reducing administrative burdens for the business environment, facilitating interaction between the economic sector and central public administration, improving the regulatory process at the level of agencies and regulatory and control authorities, simplifying national legislation and applying effective Community law[1].

c) professionalization of civil servants. In order to achieve this objective, in the period 2020-2023, the National Agency of Civil Servants will give particular priority to those reform measures that have a major impact on the legislative, strategic and institutional framework specific to public functions and civil servants, giving them a framework. unitary and coherent.

d) standardization of administrative procedures. This project intends to develop the Administrative Code of Romania, a very useful and necessary tool for ensuring the uniformity of administrative structures and substructures.

e) increasing the degree of absorption of the structural and cohesion funds;

f) use of ICT for the modernization of public administration. In order to ensure, by modern means, and in a unitary way, of all categories of data relating to the person (birth, events related to name changes, domiciles, issued identity documents, external migration, death, etc.), MIA and MCSI coordinate the implementation of the System integrated national for the introduction and updating of information related to the records of persons (SNIEP). The objective of the new computer system for the S.N.I.E.P. is to provide accurate, complete and timely information to all internal and external users[2].

g) territorial development. The strategy of territorial development of Romania (SDTR) to be elaborated in June 2020 will present the vision of development of Romania and will ensure the coherence of the national policies by setting strategic objectives of the territory (axes, poles, corridors, concentrations, areas polarize, etc). The strategy is to base national investment programs and Romania's position on European territorial development programs[3].

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