STRATEGII MANAGERIALE

MANAGEMENT STRATEGIES

Revistă editată de
Universitatea „Constantin Brâncoveanu”
Piteşti

Anul XV, nr. IV (62) / 2023

Editura
Independența Economică

Piteşti, Calea Bascovului nr. 2A
Tel./Fax: 0248/21.64.27

Editură acreditată de către C.N.C.S.I.S.

ISSN 2392 – 8123
ISSN–L 1844 – 668X

CUPRINS

Lucrările științifice din acest număr al revistei au fost înscrise la Conferința Internațională "Knowledge Economy - Challenges of the 21th Century - "Europe under pressure", Pitești, 23 noiembrie 2023, Universitatea "Constantin Brâncoveanu"

WORK-LIFE BALANCE IN THE EU: LEGISLATIVE UPDATES AND COUNTRY COMPARISONS

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Abstract

The purpose of this paper is to examine work-life balance legislation within the European Union (EU), tracing its evolution and development from the initial proposal in 2019 to its obligatory enforcement by member states in 2022. We start our research with an analyze of the early stages of policy formulation (since 2017), revealing the key concepts and relevance of work-life balance in contemporary society. In this way, paper contributes to existing knowledge - by providing updates on the implementation status of the most recent Directive EU 2019/1158 in EU member states, based on the latest accessible information - and to a better understanding of the European Union's work-life balance legislation and its updated perspectives across all 27 EU member states.

***Key words**: work-life balance concepts, work-life balance legislation, European Union, human rights*

***Jel classification**: I30, I31, J08, J22, J28*

1. Introduction

In a rapidly developing society, managing career, family responsibilities, and personal life becomes increasingly significant challenges, especially for employed women (although also for men). This is why employees seek to successfully balance their professional commitments with family duties, such as caring for children, elderly, or disabled family members. As a result, there was need for adopting family-friendly measures and flexible work arrangements in EU in order to facilitate this balancing act. Achieving a work-life balance should include more than just household tasks and family care, but should manage some other life priorities like personal development and/or extracurricular activities either.

The proposal for such a directive originated in 2017 (COM/2017/0253) and encompassed several key aspects. These included the introduction of paternity leave, providing a minimum of 10 working days around the time of a child's birth. Additionally, the proposal introduced carers' leave, granting workers who offer personal care or support to a relative or cohabitant 5 days of leave per year. Another significant element was the extension of the existing right to request flexible working arrangements—such as reduced working hours, adaptable schedules, and changes in the place of work—to encompass all working parents of children up to at least 8 years old, as well as all caregivers (Eurostat, 2020).

The Directive on Work-Life Balance for Parents and Caregivers (Directive EU 2019/1158) was finally adopted in the EU after two years, in June/2019 and all the EU member states were required to implement it into their own legislation by August 2022. In 2027 Member States have to communicate to the Commission the stage of the Directive implementation necessary in drawing up a report.

2. Concepts and importance of work-life balance in modern society

Work-life balance refers to achieving a state where work and personal life coexist harmoniously. It means that usually job duties and responsibilities can be done without personal life neglecting which includes health, family, friends, hobbies, and cultural interests. Work-life balance doesn't necessarily mean giving equal attention to every aspect of life, but rather having the freedom to allocate the time and energy between work and personal life according to each individual preference.

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There isn't a single, universally agreed-upon definition or way to measure work-life balance in the existing literature. Kalliath & Brough (2008) examined six different conceptualizations about work-life balance, including: managing multiple roles, equity across these roles, satisfaction, fulfilling important roles, understanding the relationship between conflicts and facilitation, and having a sense of control over these roles. They also introduced a new definition: *"Work–life balance is the individual perception that work and non-work activities are compatible and promote growth in accordance with an individual's current life priorities".* Work-Life Balance (WLB) as was defined by Kirchmeyer (2000) represent the achievement of fulfilling experiences in the different aspects of life that require various resources like: energy, time and commitment and these resources are spread across all the domains (Khateeb, 2021).

Throughout the evolution of the discipline of work-life balance, various theories have been proposed to elucidate this phenomenon (Khateeb, 2021). These theories encompass:

Spillover Theory - Pleck (1995) introduced the concept of spillover, wherein the effects of one's work role spill over into their family role, and vice versa.

Conflict Theory - Greenhaus and Beutell (1985) formulated the conflict theory, which posits that work and personal life are inherently conflicting in terms of demands on an individual's time and effort, leading to competition for their attention.

Compensation Theory - Staines (1980) described the compensation theory, where individuals seek to compensate for deficiencies in one aspect of life (e.g., work or family) by investing more resources in the other aspect.

Enrichment Theory - Powell & Greenhaus (2006) developed the enrichment theory, which examines processes that connect work to family and family to work. Enrichment occurs when experiences in one role enhance the quality of life in another, or when psychological resources from one role spill over into another.

Facilitation Theory-Frone (2003) introduced facilitation theory, which explores how engagement in one role can lead to acquiring skills, experiences, and opportunities that make participation in another role easier.

Boundary Theory-The boundary theory, rooted in Nippert-Eng's sociological work (1996), delves into how individuals assign meaning to their work and home lives, and how they navigate the transition between the two.

Work/Life Border Theory-Clark (2000) proposed the work/life border theory, suggesting that individuals actively manage and negotiate the boundaries between their work and non-work domains to achieve a balance. This theory acknowledges that while "work domain" and "non-work domain" are distinct, they do influence each other.

These theories provide valuable perspectives for understanding the complex interplay between work and personal life (Khateeb, 2021)

According to number of authors (but also according to reality we live), work and family life often blend, and it is not always possible to draw clear boundaries between the two. Family responsibilities may spill to work hours, as much as the work demands might extend to personal time. As a result, trying to maintain a rigid balance between the two spheres might lead to frustration and disappointment. This is why, finding a way to combine the two aspects of life according to personal values and priorities can lead to a more realistic and advantageous approach. Both work and family are important elements of everybody's life, and can exist together, improving overall well-being and happiness.

3. Implementation of work-life directive in EU member countries

Actually, we present the actual stage of Directive implementation (August 2023) following these results and/or most recent data here below in the Diagram:

	Country	EU Directive 2019/1158 implementation stage, 2023	Source
1	Bulgaria	The Bulgarian National Assembly has passed a new law that modifies and adds to the Bulgarian Labor Code. This law was officially published in State Gazette No. 62/05 August 2022.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
2	Croatia	In Croatia, Directive 2019/1158 was incorporated into law through changes to the Maternal and Parental Benefits Act (Official Gazette no. 85/2022) on 1 August, 2022, and the new Maternal and Parental Benefits Act (Official Gazette No. 152/2022).	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
3	Czech Republic	The Directive of the European Parliament and of the Council (EU) 2019/1158 on work-life balance and Directive 2019/1152 on transparent and predictable working conditions will change Act No. 262/2006 Coll., Labour Code in 2023(DLA Piper, 2023). The amendment is projected to be enforced with a deadline of 1 January, 2024, at the latest (Deloitte, 2023).	• DLA Piper, 2023.Expected changes in the Czech Labor Law and Social Security Law • Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
4	Hungary	The amendment to the Hungarian Labor Code (Act I of 2012 on the Labor Code), which incorporates the Directive, has been approved by the Hungarian Parliament. This amendment became effective on January 1, 2023.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
5	Latvia	Parliament passed amendments to labor law in Latvia on 16 June, 2022. These amendments became effective on Aug.1, 2022.	European Commission, 2022.Flash Reports on Labor Law. Summary and country reports.
6	Lithuania	On 28 June 2022, the Lithuanian Parliament (Seimas) with Law No. XIV-1189, adopted an amendment to the Labour Code to promulgate nearly 30 provisions of the Code (Registry of Legal Acts, 2022, No. 15178) related to the transposition of various EU directives (Directive 2019/1152, Directive2019/1158 on work-life balance).	European Commission, 2022.Flash Reports on Labor Law. Summary and country reports
7	Poland	The amendment to the Labor Code in Poland which supports parents and employees was published in the Journal of Laws on April 4, 2023, and became effective on April 26, 2023.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).

	Country	EU Directive 2019/1158 implementation stage, 2023	Source
8	Romania	Emergency Ordinance No. 117/2022, which amends and completes the Law on Paternity Leave No. 210/1999, became effective on August 29, 2022. Law No. 283/2022, amending and completing Law No. 53/2003 on the Labor Code, along with Government Emergency Ordinance No. 57/2019 came into effect on October 22, 2022.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
9	Slovakia	The Slovak Labour Code now incorporates the Directive through an Amendment of the Labour Code approved by the National Council of the Slovak Republic on 4 October, 2022.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
10	Slovenia	The Act Amending Parental Protection and Family Benefits Act (Official Gazette of the. Republic of Slovenia No 97/01) has been adopted to implement in Slovenia the provisions of EU Directive 2019/1152.	Deloitte, 2023.Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable Working Conditions across Central Europe (Legal report).
11	Belgium	Through regulations dated 7 October, 2022, Belgium has successfully incorporated the European directive on transparent and predictable working conditions (Directive (EU) 2019/1152), while also partly integrating the European directive on work-life balance (Directive (EU/2019/1158).	Crowell,2022; New Belgian Labor and Employment Laws on Work-Life Balance and Transparent and Predictable Working Conditions.
12	Finland	The implementation of the Directive in Finland involved modifying various labor and parental laws.This includes amendments to the Employment Contracts Act 55/2001 regarding family leaves, effective from 1 August 2022, and a partial revision of the Non-Discrimination Act 21/2004.	• Lexology, 2023.The Work-life Balance Directive: Update on implementation. • Karanen & Vinnari,2023. Finland: Employment Law Update: Wrapping Up 2022 And Taking a Sneak Peek At 2023.
13	France	France has incorporated the provisions of the EU Directive on work-life balance for parents and caregivers (2019/1158) by means of Law 2023/171.	• Koenig, 2023.New French Law Incorporates EU Directives on Transparent and Predictable Working Conditions and on Work-Life Balance. • Legifrance,2023. Law 2023/171 of March 9, 2023 adapting various statutory provisions to EU Law.

	Country	EU Directive 2019/1158 implementation stage, 2023	Source
14	Germany	On 1 December, 2022, the German Parliament approved the adoption of the proposed law (Document 20/3447 dated September 19, 2022) to align with EU Directive 2019/1158. The proposed law introduces modifications to the Federal Parental Allowance and Parental Leave Act, the Caregiver Leave Act, the Family Care Leave Act, and the General Equal Treatment Act. Its potential implementation in 2024 remains uncertain.	Simmons & Simmons,2022. German Parliament decides against paternity leave for now.
15	Italy	The Italian legislation has integrated the EU Directive 2019/1158 concerning work-life balance for parents and caregivers through the enactment of Legislative Decree No. 105 on June 30, 2022.	L&E Global, 2023.Italy: 2023, Looking ahead.
16	Spain	The implementation of EU Directives 2019/1152 and 2019/1158 in Spain took place via the issuance of Royal Decree-law 5/2023 on June 28, 2023.	Global Compliance Desk – Spain, 2023.Spain: Introduces New Measures for Work-life Balance in accordance with EU Directives
17	Austria	Austria already has for longer time a legislation in place that provides conditions equivalent to, or more generous than, those in the EU Directive 2019/1158 (Amendment to Paternity Leave Act was approved by Austrian Parliament, since 2 July 2019).	• Lexology, 2022.The Work-life Balance Directive: Update on implementation. • Bhaumik., (Expatica), 2023.Work-life balance in Austria
18	Cyprus	Law No.216(I)/2022 concerning Leave (Paternity, Parental, Carer, Force Majeure) and Flexible Working Arrangements for Work-Life Balance were published in the Official Gazette on December 16, 2022, the	Elias Neocleous & Co LLC, 2023.Cyprus Introduces New Work-life Balance Legislation Providing Additional Rights for Working Parents and Caregivers.
19	Denmark	The Danish Parliament approved the changes to the parental leave act on March 3, 2022. Specific regulations are in place for self-employed parents.	NJORD,2022. New rules on parental leave in Denmark.
20	Estonia	The Estonian law incorporated the Directive from 1 August, 2022, by modifying the Employment Contracts Act	Lexology, 2023.The Work-life Balance Directive: Update on implementation.
21	Greece	In Greece, the implementation of Directive (EU)2019/1158 took place through the enactment of Law 4808/2021, which was published in Government Gazette A' 101 on June 19, 2021.	Industrial Relations and Labour Law, 2021.Greece: Greek Law 4808/2021 - Major reforms in employment legislation (newsletter)

	Country	EU Directive 2019/1158 implementation stage, 2023	Source
22	Ireland	In Ireland, the *Work Life Balance and Miscellaneous Provisions Act (Act 8 of 2023)* is currently being introduced, and specific aspects of this new law will take effect from July 2023 onwards.	Doris, 2023.What is the Work Life Balance and Miscellaneous Provisions Act?
23	Luxembourg	Two legislative proposals, known as Bill 8016 and Bill 8017, were officially introduced on 2 June 2022, by Luxembourg's Minister of Labor and the Minister of Family Affairs.	Hamma,M., 2023 (Delano). Three new types of leave introduced.
24	Malta	By means of Legal Notice 201 of 2022, the Work-Life Balance for Parents and Carers Regulations have been established in Malta and entered into force on August 2, 2022.	GTG, 2022.Work-Life Balance for Parents and Carers
25	Netherlands	In the Netherlands, the Directive has been put into effect through the enactment of the *Paid Parental Leave Act*, which became operative on August 2nd, 2022.	Toss, 2022.New Paid Parental Leave Act as of August 2, 2022.
26	Portugal	On 3 April 2023, Law No. 13/2023 was published in the Official Gazette, introducing changes to Portugal's Labor Code, Law No. 105/2009 (Labor Code Regulation), Decree-Law No. 66/2011, and the Social Security Contributions Code.	Garrigues, 2023.Decent Work Agenda in Portugal: Main changes to labor legislation come into force on May 1, 2023
27	Sweden	Sweden's *Parental Leave Act* and the *Act on the Right to Absence for Urgent Family Reasons* came into effect on August 2nd, 2022, while the regulations outlined in the *Care for Related Persons Act* had become effective starting from October 1st, 2022.	Clementson I., (Azets), 2022.Work-life balance for parents and carers

4. Conclusions

In the European Union, the work-life balance improved significantly as a result of the Work-Life Balance Directive's adoption (EU/2019/1158). The directive derives from the need for employees (especially parents and carers) to improve the balance between their professional and personal responsibilities. Its evolution derived from a good understanding of the fact that workers are not only productive contributors to the economy, but also have private lives, caring for children or other members of their families. The Work-Life Balance Directive (EU/2019/1158) mainly focuses on paternity leave, parental leave, and carers' leave, aiming to comprehensively promote a more supportive work environment. The inclusion of a 10 (ten) day paternity leave for fathers or equivalent second parents (Article 4), complemented by a remuneration framework set at a minimum sick pay level (Article 8, recommendation 30),

marks a noteworthy departure from the absence of paternity leave provisions in the previous law (2010/18/EU). Furthermore, the Directive ensures that each parent is entitled to at least 4(four) months of parental leave, with 2(two) months being exclusively non-transferable between parents (Article 5). As compared to the previous law of 2010 (2010/18/EU), through this extension of parental leave (EU/2019/1158) now it is legally recognized the significance of family time providing a foundation for a healthier work-life balance. The requirement for remuneration at a suitable level, determined by Member States (Article 8, recommendation 31), adds a critical dimension to ensuring the feasibility of such leaves. Additionally, the Directive introduces a minimum of five working days of leave per year for caregivers, coupled with enhanced flexibility in leave allocation (Article 6). Although specific remuneration details are absent at the EU level (Recommendation 32), this provision marks a significant leap from the previous law (2010/18/EU), which lacked legal provisions for caregiver leave. The Directive also refers to the right to request flexible working arrangements, such as more flexible working hours and/or a reduced working schedule underlining how the nature of work is constantly changing. Article 9 emphasizes that Member States should have the duty to establish measures to give workers with children up to eight years of age, as well as carers, the ability to seek flexible working arrangements (COFACE Families Europe, 2022).

There is a mixed picture of progress and challenges regarding the implementation of work-life directive by member states. Positive outcomes came from countries that have effectively adopted the Directive regarding the overpass of gender inequality, improved well-being, and a more engaged and productive workforce. But this directive's journey keeps far from complete. Its impact depends on continued efforts of member states to refine and adapt it to workers' evolving needs.

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BUILDING AN INCLUSIVE FUTURE: ENSURING QUALITY EDUCATION AND PROMOTING LIFELONG LEARNING OPPORTUNITIES

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Abstract

The article is based on a holistic approach to the educational process, focusing both on ensuring the quality of education and expanding learning opportunities at different stages of life. It explores strategies and initiatives aimed at improving the quality of education. This aspect may involve the evaluation and revision of study programs, the continuous training and development of teaching staff, the implementation of innovative educational technologies and the adoption of effective evaluation and monitoring methods. At the same time, the article addresses the ways in which education can transcend conventional boundaries, providing opportunities for lifelong learning: developing training and retraining programs for adults, facilitating access to online educational resources, as well as promoting a culture of continuous learning within communities. Another key aspect could be the development of educational policies and practices that support inclusiveness and equity in access to education. This could involve addressing disparities in access to educational resources, removing financial and geographic barriers, and creating an inclusive educational environment for all categories of students.

It also looks at the long-term impact of quality education and lifelong learning opportunities on society and the economy, which can reduce social inequalities, stimulate innovation and contribute to the development of a better-trained workforce and adaptable.

Keywords: *educational resources, education, learning, skills*

Jel Classification*: I21, I24, I25*

Introduction

In the contemporary era, building an inclusive and sustainable future is a fundamental concern for our globalized society. At the heart of this aspiration is quality education, which not only provides knowledge and skills, but also opens doors to inexhaustible opportunities for personal and professional development. So, ensuring quality education and continuously promoting lifelong learning opportunities becomes the essential imperative to build inclusive, equitable and progressive societies.

Education is the pillar on which social and economic progress rests, and an effective education system is the key to a prosperous and fair society. But to achieve this goal, it is essential to overcome the barriers and obstacles that prevent access to education for all members of society. Building an inclusive future means ensuring that no one is left behind and that all individuals have access to appropriate educational opportunities, regardless of gender, ethnicity, socio-economic status or other personal characteristics.

At the same time, promoting lifelong learning opportunities underlines the importance of adaptability and continuous updating of knowledge and skills. In a rapidly changing world where technology and the work environment are constantly evolving, lifelong learning becomes an imperative. This process is not only limited to the formal educational period, but extends throughout one's career and life, providing the opportunity to face emerging challenges and opportunities.

The article proposes to explore concrete strategies and solutions for ensuring quality education and promoting lifelong learning opportunities. We will analyze current challenges, identify good practices and suggest directions for policies and actions to help build an inclusive and sustainable future through education.

The OECD (OECD 2018) articulates a shared vision in which students are encouraged to move away from the concept that resources are infinite and must be exploited, and move towards

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promoting prosperity, sustainability and shared well-being. They are encouraged to adopt a responsible and empowered attitude, prioritizing collaboration over division and putting sustainability above short-term gain. According to the OECD, education should not only be about preparing young people to enter the world of work; instead, they should equip students with the skills to become active, responsible and engaged citizens. Given the context of an increasingly volatile, uncertain, complex and ambiguous world, education can make the difference between those who face challenges and those who remain passive in the face of them. In an era characterized by a continuous explosion of scientific knowledge and increasing complexity of societal problems, it is imperative that school curricula evolve consistently, possibly even radically. (https://www.oecd-ilibrary.org/education/education-at-a-glance-2018_eag-2018-en)

Research methodology

Adopting qualitative research methodology provides a detailed insight into the perceptions, experiences and values involved in ensuring sustainable education and promoting lifelong learning opportunities. By incorporating this methodology, the article proposes the analysis in context, taking into account the particularities and diversities of each educational environment. Thus, research becomes relevant and adapted to the specific needs of communities.

Direct observation is used as an effective method to capture authentic perspectives and understand interactions in the educational environment. Also, the analysis of relevant documents, such as educational policies and national strategies, specialized articles, international databases, completes the context.

Qualitative methodology allows the researcher to identify and explore deep themes, discover subtle connections and understand the motivations involved in providing quality education. Thematic analysis contributes to revealing not only the so-called "what" and "how", but also the "why" behind behaviors and perceptions. Adopting qualitative methods adds value by providing deep and relevant insights that may not be effectively captured by quantitative methods. This contextual and exploratory approach contributes to the formulation of more adapted solutions and to the identification of innovative ways to improve the educational system.

Choosing a qualitative research methodology for writing this article, offers not only a robust approach, but also the opportunity to give voice to all parties involved, thus contributing to shaping a more equitable and inclusive educational future.

Review of specialized literature

What is Education 2030 and the 2030 Agenda for Sustainable Development?

The 2030 Agenda for Sustainable Development is an intergovernmental commitment and "action plan for people, planet and prosperity". This plan includes 17 Sustainable Development Goals (SDGs) that integrate and combine the three dimensions of sustainable development: economic, social and environmental. This agenda, which reflects the breadth and ambition of the Universal Programme, has been adopted by all Member States, the entire United Nations system, experts, representatives of civil society, business and, most importantly, millions of people around the world who have committed to turn this vision into reality and promote the public good. (Odell, V.; Molthan-Hill, P.; Martin, S.; Sterling, S. 2020)

Education occupies a central role in the 2030 Agenda, represented by Sustainable Development Goal 4 (SDG 4), which has as its core the provision of quality, inclusive and equitable education, as well as the promotion of lifelong learning opportunities for all individuals. This autonomous goal (SDG 4) is accompanied by seven outcome targets and three means of implementation, thus outlining a complex and detailed framework for achieving this goal.

Education is not just limited to SDG 4; it is also mentioned in the targets of five other goals, being closely linked to almost all other SDGs, including good health and well-being (target 3.7). In the context of Education 2030, characterized by the challenges of a rapidly changing world and an explosion of scientific knowledge, it becomes a crucial tool for

preparing active, responsible and engaged citizens in building a peaceful, equitable and sustainable society.

The main features of SDG 4-Education 2030 include the fact that it is a universal agenda for all countries, framed in five major goals: eradicating poverty and hunger, fighting against the degradation of the planet, ensuring a prosperous and fulfilling life for all, promoting a just peace and inclusive and mobilizing the necessary means to implement this agenda through a revitalized Global Partnership for Sustainable Development. (Eneji, C.; Akpo, D.; Edung, E. 2017)

Sustainable development, with its three dimensions - economic, social and environmental - is the core of the 2030 Agenda. This shared concern for sustainability transcends national borders and levels of development, being a universal agenda relevant to all societies, regardless of their stage of development , income or level. The universality of this program can be understood through the lens of fundamental principles such as human rights, its broad scope of action focused on equity and inclusion, and its total geographical coverage.

Education 2030, under Sustainable Development Goal 4 (SDG 4), aims to provide lifelong learning opportunities in an equitable and holistic manner. This initiative is committed to ensuring universal access to pre-primary, primary and secondary education, contributing to effective and relevant learning outcomes for all individuals, regardless of age. In addition, SDG 4 aims to create equal opportunities in terms of access to additional lifelong learning opportunities for young people and adults.

A strengthened focus on inclusion, equity and gender equality characterizes SDG 4-Education 2030, evident through goal 4.5, which aims to eliminate gender inequalities and promote more equitable access to education and training at all levels for vulnerable populations, including people with disabilities and indigenous peoples. At the same time, SDG 4-Education 2030 emphasizes the importance of effective learning and the acquisition of useful knowledge, skills and competences, evident through the global objectives and indicators for primary and secondary education (target 4.1), as well as for youth and adult literacy (target 4.6) .

The novelty of this program lies in the emphasis on the relevance of learning, including the development of professional and technical skills necessary for decent work (target 4.4) and the promotion of "global citizenship" in a plural, interdependent and interconnected world (target 4.7).

The goals and commitments of SDG 4 aim to "ensure inclusive and equitable quality education for all and promote lifelong learning opportunities". To fully understand these goals, it is essential to refer to the Incheon Declaration and the Education 2030 Framework for Action, which provide concise statements of key policy commitments.

4.1 Primary and secondary education

Target 4.1: By 2030, all girls and boys must have equal access to a full cycle of free and quality primary and secondary education that leads to truly useful and relevant learning.

Understanding SDG 4 – Education 2030: fair access must be ensured, without any form of discrimination, to quality primary and secondary education, publicly financed, including and fair, with a duration of 12 years, of which at least 3 years are necessary.

4.2 Early childhood

Target 4.2: By 2030, ensure that all girls and boys have access to quality early childhood development and care and early childhood education, preparing them for primary education.

Promoting the provision of one year of quality, free and compulsory pre-primary education is encouraged, based on early education and protection provided by well-trained educators.

4.3 Technical, vocational and tertiary education and adult education

Target 4.3: By 2030, all women and men must have equal access to technical, vocational and tertiary education, including academic, quality and affordable. It is essential to remove barriers to skills development and access to technical, vocational and tertiary education from secondary to tertiary education. Higher education should gradually become free in line with existing international agreements, thereby providing lifelong learning opportunities for young people and adults.

4.4 Skills required for employment

Target 4.4: By 2030, significantly increase the number of young people and adults with employable skills, especially technical and vocational skills, to obtain decent work and engage in entrepreneurship. (EFA Global Monitoring Report. (2015))

1. Access: It is essential to expand fair access to Technical and Vocational Education (TVET), while guaranteeing the quality of education. Thus, it is imperative to develop and diversify learning offers through different education and training modalities, thus enabling everyone, especially women and girls, to acquire the knowledge, skills and competences needed for work and everyday life.
2. Skill acquisition: In addition to acquiring job-specific skills, the focus should also be on developing high-level cognitive and non-cognitive/transferable skills. These include problem-solving skills, critical thinking, creativity, teamwork, communication skills and conflict resolution. It is crucial to provide learners with opportunities to update their skills through lifelong learning.

4.5 Equity

Target 4.5: By 2030, eliminate gender inequalities in education and ensure equal access to all levels of education and training for vulnerable people, including those with disabilities, indigenous populations and children in vulnerable situations.

1. Inclusion and equity: All individuals, regardless of their characteristics such as sex, age, race, ethnicity, language, religion, political opinion, national or social origin, property or birth, as well as persons with disabilities, migrants, indigenous populations and children and young people, especially those in vulnerable situations, should have access to quality, inclusive and equitable education and lifelong learning opportunities. Vulnerable groups that require special attention and targeted strategies include people with disabilities, indigenous populations, ethnic minorities and the poor.
2. Gender equality: All girls and boys, all women and men, must be given the same opportunities to receive a quality education, achieve the same level of education and earn the same profit. Special attention is paid to adolescents and young women, who may be exposed to gender-based violence, early marriage and early pregnancy, especially in poor rural areas, requiring specific measures. In situations where boys are disadvantaged, specific measures must be applied. Effective strategies to correct these inequalities must be part of an integrated set of measures, including those related to health promotion, justice, good governance and the elimination of child labour.

4.6 Reading, writing and counting

Target 4.6: By 2030, ensure that all young people and a significant proportion of adults, both men and women, acquire literacy and numeracy skills. The principles, strategies and measures implemented in this regard are based on a modern conception of literacy, seen as a continuation of skills from one level to another, going beyond the simple dichotomy between "illiterate" and "illiterate". Action on this goal aims to ensure that, by 2030, all young people

and adults worldwide achieve relevant and recognized levels of mastery of functional literacy and numeracy skills equivalent to those required to achieve basic education in its entirety .

4.7 Sustainable development and global citizenship

Target 4.7: By 2030, ensure that all students acquire the knowledge and skills necessary to promote sustainable development, including through education for development and sustainable lifestyles, human rights, gender equality, promoting a culture of peace and non - violence, global citizenship and the appreciation of cultural diversity and the contribution of culture to sustainable development.

It is essential to give central attention to strengthening the contribution of education to the promotion of human rights, peace, responsible citizenship, gender equality, sustainable development and health, both locally and globally. The content of this teaching must be relevant and address both cognitive and non-cognitive aspects of learning. The knowledge, skills, values and behaviors needed to lead productive lives, make informed decisions and play an active role, both locally and globally, in addressing global challenges and seeking solutions can be acquired through education for sustainable development (ESD) and education for global citizenship (GCE). These include education for peace and human rights, as well as intercultural education and education for international understanding. (UNESCO. (2015a).)

Results

Means of implementation

4.A School facilities and learning environments

Target 4.A: Build school facilities that are suitable for children, persons with disabilities and both sexes, or adapt existing facilities for this purpose and provide an effective and safe learning environment, free from violence and accessible to all. This target addresses the need for adequate physical infrastructure and safe, inclusive environments that encourage learning for all, regardless of background or disability status.

4.B Grants

Target 4.B: By 2020, achieve a significant increase globally in the number of scholarships offered to developing countries, with particular emphasis on least developed countries, small island developing States and African countries, to finance higher education, including vocational training, IT, technical and scientific courses and engineering studies, in both developed and developing countries. Scholarship programs can play a crucial role in facilitating access to education for youth and adults who otherwise could not afford to continue their education. When developed countries offer scholarships to students from developing countries, they should be structured to strengthen the developing country's capabilities. In line with the focus on equity, inclusion and quality in SDG 4-Education 2030, scholarships should be transparently offered to young people from disadvantaged backgrounds.

4.C Teachers

Target 4.C: By 2030, achieve a significant increase in the number of qualified teachers, including through international cooperation for teacher training in developing countries, with a special focus on least developed and small island states development. Teachers are key to achieving all SDG 4 targets. It is therefore imperative to address this issue urgently by setting a more immediate deadline, given that the lack of equity in education is exacerbated by the deficiencies and uneven distribution of professionally trained teachers , especially in disadvantaged areas. Given that this is an essential condition for ensuring quality education, teachers should be empowered, recruited in sufficient numbers and adequately remunerated, motivated, professionally trained and supported within adequately funded, efficient and effective systems.

What does the implementation of SDG 4 mean?

Terms such as 'mainstreaming', 'streamlining', 'translation' and 'adaptation' are often used interchangeably to describe the process of implementing the Sustainable Development Goals for Education (SDG 4). This involves aligning and adapting education policies and plans at the national level to the global targets and policy priorities set out in the 2030 Agenda. The implementation of SDG 4 should not be treated as a separate effort, but integrated into national development efforts. the education sector.

There are important steps in the process of transposing the global objectives at the national level:

1. **1. Building a common understanding at the national level:** It is essential to generate a common understanding of the 2030 Agenda among all stakeholders. This process involves inclusive consultations in the education sector and other sectors to ensure the two-way integration of education and other SDGs. Building a common understanding is crucial for the buy-in of all stakeholders involved in the development of the national education system.
2. **2. Assessing the country's level of readiness:** After establishing a common understanding, it is necessary to assess the country's level of readiness for transposing SDG 4 commitments into national education systems. This involves an analysis of the context of the national education system in terms of policy, planning, monitoring and management. The aim is to identify gaps in relation to SDG 4 commitments and identify actions needed to strengthen, adjust and/or adapt policy and planning frameworks and procedures to reflect the 2030 targets and commitments.

Policy Context: Assessing the national legislative and political context in relation to the global commitments for 2030 requires an analysis of the legislative and policy frameworks, identifying potential gaps between national policy and global commitments.

Planning Context: Identify entry points that facilitate the incorporation or integration of 2030 commitments into the national planning context. Depending on specific national policies and planning cycles, this objective can be achieved through the development of sectoral or sub-sectoral plans, or by realigning/updating existing plans to better reflect SDG 4 commitments.

Monitoring and Evaluation: This stage involves revising the existing national evaluation and monitoring framework to comply with the requirements of the proposed global indicator framework for monitoring progress on SDG 4**.**

Management Context: Review existing sectoral coordination mechanisms and procedures to comply with the inclusion and transparency requirements specified in Education 2030. Organizing a dialogue with partners can facilitate coordinated efforts to contextualize SDG 4 commitments.

These initial steps in transposing the 2030 commitments at the national level must be led by countries, who must take responsibility. It is essential to integrate these efforts into national education policies and planning procedures and structures. Coordinating the efforts of partners in translating SDG 4 commitments at the national level requires commitment and collaboration between various stakeholders at the global, regional and national levels. The principles of mutual accountability, such as country ownership, focus on results, transparency and shared responsibility, should be applied by all partners, thereby contributing to the fulfillment of the shared responsibilities of SDG 4.

Coordination of Partners Achieving the aspirations and educational goals set out in the 2030 Agenda for Sustainable Development involves concerted efforts at all levels and requires effective coordination between all partners involved. In supporting governments in their efforts to provide quality, inclusive education and lifelong learning opportunities for all, partners are expected to clarify their commitments and support based on their own comparative advantage.

Coordination is crucial at national, regional and global levels, given the diversity of development partners and the support they can bring.

Coordination at National Level At national level, coordination can be ensured through various existing mechanisms or partnerships. The dynamics and nature of coordination mechanisms in the education sector vary across different national contexts. To meet SDG 4 commitments, existing mechanisms may need to be strengthened or adapted, ensuring that they are truly sectoral, inclusive and country-led. An example of this is the SDG 4-Education Coordinating Committee, a global multi-stakeholder governance mechanism convened by UNESCO. This committee provides strategic guidance, reviews progress, and makes recommendations to support national efforts.

Coordination at the Regional/Subregional Level Coordination at the regional and subregional level is essential to support national efforts and to harmonize these efforts with those at the global level. Regional coordination mechanisms should align with and strengthen existing structures, including broader UN coordination mechanisms. These regional mechanisms, integrated within Education 2030, are composed of representatives of Education 2030 co-organizing agencies, regional organizations and regional networks of civil society organizations. They are crucial for informing the Global Steering Committee and for ensuring an effective link between global guidance and the specific context of countries at the regional and subregional level.

We believe that in order to facilitate the implementation of SDG 4, which aims to ensure quality education, it is crucial to have effective coordination between all the partners involved at national, regional and global levels. This joint effort is essential to achieve the goals and targets set out in the 2030 Agenda for Sustainable Development.

At the national level, coordination can be achieved by strengthening and adapting existing mechanisms and partnerships in the education sector. A concrete example is the SDG 4-Education Steering Committee, which provides strategic guidance, reviews progress and makes recommendations to support national efforts.

Regional and sub-regional coordination is also essential to ensure cohesion and harmonization of national and global efforts. The Education 2030 regional coordination mechanisms, composed of representatives of the co-organizing agencies and regional organizations, have the role of supporting national efforts and facilitating the exchange of information between the regional and global levels.

These coordination efforts should be guided by principles such as national ownership, focus on results, transparency and shared responsibility. Therefore, it is essential that all partners clearly define their commitments and contribute concretely to the achievement of the educational goals for sustainable development.

Monitoring Progress As the primary responsibility for monitoring rests primarily with countries, they should develop effective monitoring and accountability mechanisms tailored to their national priorities in broad consultation with all stakeholders. The UNESCO Institute for Statistics (UIS) remains the official source of internationally comparable data on education and provides support to countries in strengthening their national data systems. The Global Education Monitoring (GEM) report is the global monitoring and reporting mechanism for SDG 4 and education under the other SDGs. It provides information on the implementation of strategies at national, regional and international levels, assisting all stakeholders in fulfilling their commitments in the overall monitoring and evaluation of the SDGs.

At international level, 11 global indicators are proposed for monitoring SDG 4. These 11 global indicators constitute the minimum set recommended to countries for global monitoring of SDG 4 targets. Also, an expanded set of 43 internationally comparable thematic indicators is being developed. This broader set is used to measure global progress and monitor SDG 4 education goals more comprehensively across countries. It offers the opportunity to

identify challenges associated with educational concepts that are not well covered and reflected by global indicators. The thematic indicator framework includes the global indicators as a subset of it and also provides an additional set of indicators that countries can use to monitor their own progress. The choice of additional indicators usable in each national context will be defined based on policy priorities, technical capacity and data availability. In addition, additional regional indicators can be developed to take into account specific regional contexts and relevant policy priorities, especially for concepts that are not easily comparable internationally. At the national level, each country will have additional indicators tailored to the specifics of its national context and in line with its education system, policy programmes, strategies and plans.

Conclusions

An inclusive future starts with ensuring equitable access to education for all. Removing socioeconomic, geographic and other barriers is crucial to creating an educational environment where every individual, regardless of their background, has the chance to develop and contribute to society.

The article emphasizes the importance of fostering a lifelong learning mindset. In the context of a constantly changing environment, education must evolve with individual needs and the demands of the labor market. Thus, a flexible and adaptable framework is proposed to encourage continuous learning and personal development.

Building an inclusive future requires extensive and coordinated collaboration between all actors involved in the educational process. Strong partnerships between governments, educational institutions, communities and non-governmental organizations are essential to maximize the impact of educational initiatives.

In the context of building an inclusive future, the importance of assuming responsibility and transparency is emphasized. Governments, educational institutions and all other stakeholders need to make clear commitments and provide transparency regarding the progress and results of educational initiatives.

Overall, building an inclusive future through quality education and promoting lifelong learning opportunities requires not only sustained efforts, but also vision, innovation and commitment from all. It is a complex but essential process where every contribution counts in shaping a more equitable and inclusive educational future.

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DEVELOPMENT OF THE EDUCATIONAL ENVIRONMENT THROUGH COACHING IN TECHNOLOGICAL COLLEGES

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Abstract

Colleges of technology play an important role in the education and training of young people who want to specialize in a technological field. Currently, the educational environment of technological colleges faces various challenges and opportunities

To meet these challenges and take advantage of the opportunities offered by the development of technology and the digital economy, an innovative approach and close collaboration between educational institutions, companies and other stakeholders are needed.

Coaching can be effective in stimulating communication and personal development both of students from technological colleges, as well as of institutions, companies and other partners. Through coaching, students can be encouraged to develop communication skills and explore their potential, which can lead to increased confidence and motivation.

Student assistance by mentors and coaches can be essential in the educational environment of technology colleges, where students may have difficulty understanding and applying technical concepts. Mentors and coaches can provide individualized support and help identify and resolve learning issues. They can also provide guidance and recommendations to help students achieve their learning goals.

The current educational environment of technology colleges can be improved by stimulating communication and student assistance by mentors and trainers/coaches. They can provide support and direction to students in their professional and personal development, which can help improve the quality of learning and prepare them for their future careers in technology.

Keywords: Coaching, Development, Students, Teachers, Technological College

Jel Classification: I. Health, Education, and Welfare; I.21 Analysis of Education

1. Introduction

Coaching can play an important role in the development of the educational environment in technological colleges. These institutions focus on developing students' practical skills in technical and technological fields, as well as preparing them for careers in these fields.

Coaching can be used in colleges of technology to enhance the educational experience in the following ways (Blundel, R., Lockett, N. and Wang, C., 2017):

- **Career coaching** has the role of identifying the set of skills necessary to achieve the minimum information and knowledge requirements for integration into the labor market and the initiation of a professional path for the development of a career in the technical field.
- **Development of skills with applicative character**- in this case, coaching has the role of guiding students in highlighting their applied side of knowledge in practical activities, which lead to obtaining tangible results, in the form of material goods or services (Lancer, N ., Clutterbuck, D., & Megginson, D., 2016).
- **Developing psycho-emotional skills** – through coaching, students will be helped to manage their emotions and communicate effectively with peers and teachers (Armstrong, S. J., Allinson, C.W., & Hayes, J., 2002). This can help create a more enjoyable and productive learning environment for all involved.
- **Coaching for teachers and teaching staff** - Coaching can be used to help teachers and teaching staff develop their teaching skills and adapt to the different needs of students. Also, coaching can be used to improve teacher-student relationships and increase student involvement in the educational process (Anderson, A. R., 2016).

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- **Improving academic performance** - can be achieved through coaching. Coaching

can help students develop their learning skills and improve their academic performance by identifying and addressing their gaps in knowledge and skills. Ways in which coaching can be used to improve academic performance in colleges of technology (Brannback, M., and A. Carsrud., 2009) include:

- **Identifying individual needs** - Every student has different learning needs and styles.

Through coaching, teachers can identify students' individual needs and develop personalized learning strategies to help them develop their knowledge.

2. DEVELOPMENT OF THE EDUCATIONAL ENVIRONMENT THROUGH COACHING IN TECHNOLOGICAL COLLEGE

At the technical college level, understanding one's educational needs helps maximize potential and develop the skills needed to succeed in their fields of study. Coaching can be a valuable tool in identifying and addressing individual student needs (Bierema, L. L., & Merriam, S. B., 2002).

Here are some ways in which coaching can be used to identify individual needs in technology colleges: (Braun, V., & Clarke, V., 2006) like**:** assessing the level of knowledge and skills; identifying learning styles; identifying interests and passions; • assessment of motivation level; developing learning skills; development of communication skills; developing leadership skills development of practical skills; developing social-emotional skills; developing empathy.

In this article I will deal with the first two possibilities:

2.1. Assessing the level of knowledge and skills - Through coaching, teachers can assess the level of knowledge and skills of students. This can help identify gaps in knowledge and skills and develop customized strategies to address them (Peterson, D.B., Hicks, M.D., 2006).

Assessing the level of knowledge and skills in colleges of technology is essential to assess student/student progress and to identify gaps in knowledge and skills. It can help teachers develop learning strategies and provide personalized feedback to help students improve their performance.

Among the ways in which the level of knowledge and skills in technology colleges can be assessed, we identify:

- **Standardized tests and exams** – supporting the importance of acquiring a basic level of knowledge and general appreciation of it. Standardization did not highlight the personality and specificity of a student's knowledge. The thesis advocates for an education specific to the site, the personality, the level of understanding of each student in order to favor active integration on the labor market, the development of a career based on motivation and productivity, in order to increase the personal and social level of economic well-being.
- **Projects and practical works -** have the role of highlighting the accumulation specific knowledge of the student and their valorization through works which results are visible and contribute to the increase of the student's self-esteem (Moos, M., 2016).
- **Competence-based assessments** – assess the level of knowledge and skills in a broader and more integrated way, (Anderson, A. R., 2016). These assessments can establish the skills needed to be successful in technology fields, such as the ability to think critically, solve problems, communicate and work in a team.
- **Feedback and continuous evaluations** – support the student in the preparation process by assessing the level of knowledge accumulated in accordance with the proposed objective and the purpose of the learning process. By segmenting the process, the student develops his/her capacity for critical and analytical thinking in relation to the effort made to achieve the goal.

- **Self-assessment** - supports students in learning how to assess their own level of knowledge and skills and identify their own gaps. This can help develop self-regulation and self-management skills, as well as develop internal motivation to improve performance (Crossan and Apaydin, 2010).

2.2. Identifying learning styles - Each pupil/student has a unique and preferred learning style (Chell et al, 2010). Through coaching, teachers can identify students' learning styles and develop personalized learning strategies to suit their individual needs.

There are several learning styles in colleges of technology (Mukherjee, 2014) such as:

- **Learning through practice**: This method focuses on practical experience learning, where students apply their knowledge in practical projects and activities (Du Toit, Reissner 2012). Practical experience learning focuses on experiential learning where students apply their knowledge in a realistic environment. This may include hands-on projects, simulations, experiments, or other activities that allow students to test their critical thinking against their own accumulation of knowledge and skills.
- **Learning through theory and application**: This method combines theoretical learning with the practical application of knowledge in practical projects and activities (Leedham & Parsloe, 2016). This learning style begins by presenting the theory in a formal way, followed by its application in a realistic environment (Parsloe and Leedham, 2016). For example, a teacher can present a theory about a certain technological concept and then students can apply this theory in a project or practical activity. This method of learning can be effective for students who need a solid understanding of theory before starting practical application (Ramachandran et al, 2006). It can also help to consolidate theoretical knowledge and develop the skills to apply it in a real environment.
- **Collaborative learning**: This method is based on collaborative learning between students, where they work together to solve problems and learn from each other (Audet, J. and Cauteret, P. 2013). For example, a teacher can form groups of students who work together on a project or organize classroom discussion activities where students can share their ideas and knowledge (Chell et al, 2010). Collaborative learning can be effective because it allows students to enrich their knowledge by interacting with other students and sharing different ideas and perspectives. It can also help develop communication and teamwork skills, which are important for careers in technology (Mukherjee, 2014).
- **Independent Learning**: This method focuses on individual learning, where student develop their knowledge through independent and self-directed study (Western, 2012, Whitmore, 1992). This method may include the study of course materials, completing assignments and individual projects, participating in studies or learning online, which allows them to impose a certain pace of effort and concentration, adapting the learning program to other activities with compulsory character among the student's activities. It can also help develop self-directed skills and improve the ability to work effectively independently (Collins, 1992). Each of these learning styles can be effective depending on the subject and ability level of each student, so it is important for each student to determine their learning style and adapt their learning strategies accordingly (Audet, J. and Couteret, P. 2012).
- **Identifying interests and passions** - Through coaching, teachers can identify students' interests and passions, which helps improve motivation and interest in subjects and can lead to more effective and long lasting learning. Some ways students can identify their interests and passions in technology colleges include reflecting on past experiences and personal interests to identify subjects that most appeal to them (Kraus et al, 2011).

- **Exploring Course Options**: Students can explore the available course options and learn about the topics covered to identify those topics they are passionate about (Passmore, J., and Fillery-Travis, A., 2011). Learning in a way compatible with the exploration of one's own needs and interests, through the coach's discovery of the student's motivations and hobbies, enhances the student's personality and makes him aware of the benefits of increasing the level of knowledge.
- **Researching the college curriculum**: Students can research the college curriculum to see what courses are offered and what topics are covered (Narayanasamy, A., and Penney, V., 2014). Currently, the school in Romania does not allow the choice of subjects from the curriculum except for a small proportion, Curriculum at the school's disposal, which does not support the student's learning process in relation to his own personality and educational profile. Technological colleges, in particular, could diversify, experimentally, through a pilot project, the increase of subject options that students can choose in order to improve their skills and acquire new skills in relation to the demands of the labor market and towards an easy active integration on the labor market after graduation. At the same time, there is a need for the complementarity of theoretical training hours with specialized practice, more frequent and brought to the prototype level for students.
- In Romania, a factor of progress towards increasing the level of technical education of students is represented by the Practice Firms, an activity in which students participate to acquire the role of employee or employer/entrepreneur and test their ability to face competition in a dynamic and open economic environment.
- **Consultation with teachers and educational advisors**: Students can talk with teachers and educational advisors about available course options and how they align with their interests.
- **Attend information sessions**: Colleges of technology may offer information sessions or open lessons to allow students to learn more about courses and ask teachers about specific topics.
- **Studying Course Descriptions**: Students can read course descriptions to learn more about the content of each course and how it aligns with their interests. Exploring course options can help students identify courses they are passionate about and develop skills in specific areas (Kraus et al, 2011). This can help improve motivation and interest in learning and lead to a more fulfilling career in technology.
- **The way the curriculum is presented is particularly important**. In this way, colleges, through a school-wide marketing department, can involve students in presenting their school, describing from their own experience the success or failure in relation to a certain discipline, the way in which the discipline combines theory with practice, the role of a subject or discipline in developing categories of skills that the labor market values. This mode of presentation is an alternative to the presentation made by teachers and the principal, being integrative and not exclusive.
- **Working with educational advisers**: Educational advisers can help students identify their interests and passions through individual discussions and assessments, an effective way to identify student interests and passions in technology colleges (Narayanan et al, 2009). Educational counselors can help students by:

✓ **Assessing interests and abilities**: Advisers can assess students' interests and abilities to identify those courses or subjects that best align with them.

✓ **Discussing career options**: Educational advisers can talk with students about their career options and how certain courses or subjects can prepare students for careers (Cressy, 2006).

- ✓ **Help with curriculum planning**: Educational advisers can help students plan their curriculum so that it aligns with their interests and goals.
- ✓ **Providing resources**: Advisers can provide students with resources, such as reading materials or extracurricular activities, that can help improve understanding of specific topics (Analoui and Karami, 2003).

Conclusions

The article analyzes in general and in particular the various procedures that technological colleges can apply to create logistical, educational, emotional, social support from the transition from student status to employee or entrepreneur status.

The listed techniques are based on the fusion between the traditional way of learning and the current way, focused on technology and informatics, using modern educational platforms that allow connectivity and maintain students' interest in the visual element and character of modernity.

The peculiarity of technological colleges lies in the high degree of interference with the labor market, which makes the principals actively and continuously intervene in identifying development opportunities for students, teachers and the school in general. This fact attributes special and visible managerial qualities to the principal of the technological high school in managing large budgets for a series of activities that harmoniously interweave the theoretical training process with workshops, practical training rooms, business simulators, technological laboratories, work environments that, in addition to the opinions of qualified profile institutions, it must ensure a high ratio between the requirements of the future and the current needs in terms of financing.

The qualities of teachers specializing in training adapted to a certain type of industry were highlighted in the paper by ensuring the transfer of knowledge that has the role of developing general theoretical knowledge, with specific knowledge, depending on the product, but also a series of qualities of empathy, cooperation , social responsibility, communication, negotiation to be able to convey to the client confidence in the product offered for consumption or inclusion in the product strategy.

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CONSIDERATIONS ON THE CRIMINAL PROTECTION OF THE RIGHT TO LIFE IN ROMANIA

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Abstract

In Romanian criminal law, the life of the person is protected by criminalizing offences that infringe the right to life, offences regulated by the Criminal Code, Title I, Special Part, Chapter IV of the same title.

The current Criminal Code highlights the concern of the Romanian legislator to protect the right to life of the foetus as a social value, protection that intervenes from the moment of conception, but under certain conditions.

***Keywords**: right to life, crime, Criminal Code.*

***JEL classification:** K 14*

The present study aims to highlight the protection of personal life in Romanian criminal law. The offences that infringe the right to life are found in the Criminal Code, Title I, Special Part, Chapter IV of the same title.

The criminalisation of the offence of termination of pregnancy under Article 201 of the Criminal Code emphasises the protection of the life of the embryo. This protection is achieved under certain conditions. If the interests of the product of conception conflict with the interests of the mother, the mother is allowed to terminate the life of the embryo, that is to say to abort it up to and including 14 weeks.

During the period from the beginning of pregnancy until the embryo reaches 14 weeks of age, it becomes a foetus and its life and bodily integrity are protected by the offence of harm to the foetus under Article 202 of the Criminal Code.

The offence of foetal harm covers all conduct against the foetus from the beginning of pregnancy up to and including 14 weeks, whether committed intentionally or negligently.

In doctrine (Sergiu Bogdan, Doris Alina Șerban, George Zlati, 2014) it has been appreciated that the approach is an example of originality of the Romanian legislator, who created an "intermediate being", which is neither a person nor an unborn being, but a foetus in the course of birth. The interpretation of the notion of "living person" as found in almost all European legal systems would have been much more useful.

It is protected both during pregnancy, 3 months after con29aption, against the actions of third parties, and during the birth process until it is completed by detachment from the mother's body when the foetus becomes a newborn. The newborn becomes a "person" who is protected by criminal law through the criminalisation of other offences such as murder.

It should be noted that harming the foetus by the mother during pregnancy is criminalised by criminal law, that is, it constitutes a crime, but not punishable (Valentin Gheorghe Toduța, 2017). However, if the mother harms the foetus during birth, then this will be punishable by law.

In addition to these two incriminations, the Criminal Code also provides for the crime of killing or harming the newborn by the mother, an act provided for in Article 200 of the Criminal Code.

The protection of the right to life of a child who dies after birth as a result of an assault or culpable conduct committed against him/her during pregnancy or birth, that is to say before he/she has become a person within the meaning of the Romanian criminal law is noteworthy (Article 202(3) of the Criminal Code).

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The old Criminal Code did not protect these aspects because the criminal act was directed against a social value which did not exist at the time of the commission of the crime because there was no right to life. The consequence of such conduct was the death of the unborn child.

From the aspects analysed above, it follows that the product of conception, from embryo to foetus, is not considered a "person" enjoying all legal rights, like the newborn. The legislator regards it as an incipient phase of human life which must also be protected by criminal law.

In fact, the traditional solution of the Romanian criminal law, according to which the right to life begins to be protected at the end of the birth process, is maintained.

Following an analysis of the provisions of the Romanian Criminal Code, it is noted that they are in line with the case-law of the European Court of Human Rights with regard to Article 2 of the European Convention on Human Rights. The Romanian legislator tried to strike a balance between the interests of the mother and the interests of society and the unborn child (Valentin Gheorghe Toduța, 2017).

The Romanian legislator has set a standard of protection of human rights even higher than the European Convention on Human Rights, at least in the matter of unborn children, by criminalising unlawful acts that can be committed against the products of human conception, from embryo to newborn.

Romanian criminal law, like most criminal laws, does not criminalise suicide, that is to say the taking of life by the subject himself, even in the case of an unsuccessful act of suicide.

Instead, the offence of determining or facilitating suicide is criminalised (Article 191 of the Criminal Code), and anyone who determines or facilitates the suicide of a person, if the suicide or attempted suicide has taken place, is punished.

In doctrine (Alexandru Boroi, 1998) it has been considered that what is incriminated is not so much the action of a person who directly and directly suppresses the life of another person, since suicide does not constitute a violation of the right to life, but what is in fact incriminated is a contribution to homicide, considering that such acts are prejudicial to the right to life of another person.

With regard to coercion to suicide, the High Court of Cassation and Justice held that: "In the case of coercion to suicide there can be no determination or facilitation, since the victim is not free to decide. Therefore, the act of the defendant who forced his wife to throw herself from the fourth floor, with the consequence of her death, constitutes the offence of aggravated murder provided for in Article 174 in conjunction with Article 175 pargraph (1) letter c) of the Criminal Code, and not the offence of causing suicide" (High Court of Cassation and Justice, Criminal Division, Decision No 6567/2004, available at www.scj.ro).

We emphasise that the death penalty in our country was abolished by Decree-Law No 6 of 7 January 1990 and was replaced by life imprisonment.

The original version of the European Convention on Human Rights did not exclude the death penalty, provided that the principle of legality was respected. Death could only be caused intentionally in execution of a death sentence passed by a court of law for an offence punishable by law by such a penalty.

The death penalty was also not prohibited because at the time – the date of the signing and entry into force of the European Convention on Human Rights – the death penalty was stipulated in most Council of Europe member states' domestic criminal legislation.

Following Protocol No 6 to the European Convention on Human Rights (Article 1), concluded in Strasbourg on 28 April 1983, the death penalty was abolished. The Protocol fully and irrevocably enshrines the right to life and removes the possibility for signatory states to continue to provide for capital punishment in their law enforcement systems. Thus, no person may be sentenced to such a penalty, no person may be executed.

As of 1 December 2007, this protocol had been ratified by 45 Council of Europe member states. The Russian Federation was the only member country which had not ratified the Protocol

by that date. Subsequently, they ratified the protocol and last year they applied to leave the Council of Europe (which was approved) to introduce the death penalty into their legislation.

Doctrine (Mihail Udroiu, Ovidiu Predescu, 2008) has noted a quote from 1764 by Cesare Beccaria, a statement that has become famous with the passage of time: "(...) the death penalty is not a right (...), but is a war of the nation against a citizen, because it considers it necessary or useful to eliminate his/her being. If I succeed in proving that death is neither useful nor necessary, I will be able to consider myself victorious in pleading the cause of humanity."

It should be noted that Protocol No. 6 prohibits the death penalty in peacetime and Protocol No. 13 signed in Vilnius in 2002 and entered into force on 1 July 2003 provides for the abolition of the death penalty in all circumstances.

Protocol No 13 was adopted against the background of the trend of opinion in Council of Europe member states in the early 1990s calling for the abolition of the death penalty in all circumstances.

As far as our legislation is concerned, this hypothesis of limiting the protection of life is no longer relevant to our legislation, which abolished the death penalty and replaced it with life imprisonment (Decree-Law No 6/1990).

The prohibition of the death penalty was subsequently regulated in Art. 22 paragraph (3) of the Romanian Constitution (The Romanian Constitution was revised by Law No 429/2003, approved by national referendum of 18-19 October 2003, confirmed by Constitutional Court decision No 3 of 22 October 2003. The revised text of the Romanian Constitution was published in the Official Gazette no. 767 of 31 October 2003) of 1991 and was included among the fundamental principles of the rule of law in Romania.

Article 2 paragraph 2 of the European Convention on Human Rights provides for three other hypotheses in which death is not considered to have been caused in violation of this article, namely:

- Recourse to force considered as absolutely necessary – to ensure the defence of the person against any unlawful violence;
- Use of force absolutely necessary to effect a lawful arrest or to prevent the escape of a detained person;
- Use of force absolutely necessary to suppress, in accordance with the law, a riot or insurrection.

The European Convention on Human Rights strictly and restrictively lists the situations in which state organs may use lethal force, namely: to defend a person against unlawful violence; to make an arrest under the law or to prevent the escape of a person lawfully detained; to suppress violent disturbances in accordance with the law.

With regard to the correspondence of Article 2 letter © of the European Convention on Human Rights in domestic criminal law, it is noted that there is no special law providing for the possibility of intervention by State organs in the form of the use of lethal means to suppress, in accordance with the law, an uprising or insurrection.

Our country's legislation explicitly provides for the possibility of using lethal means. Such examples are: the immobilisation of criminals who, after committing crimes, attempt to flee; the immobilisation or detention of persons in respect of whom there is evidence or strong indications that they have committed a crime and who retaliate or attempt to retaliate with a weapon or other objects that may endanger the life or physical integrity of the person; to prevent escape from escort or escape of those who are legally detained and who do not respond to summons.

Law 17/1996 on the regime of firearms and ammunition also stipulates that the use of a firearm shall be done in such a way as to immobilise the person against whom the firearm is used, by firing as far as possible, at their feet, in order to avoid their death (article 51).

With regard to Article 15 paragraph 2, the European Convention on Human Rights authorises death resulting from lawful acts of war. This exception is part of a system that allows states, in the event of war or other public danger threatening the existence of the nation, to depart

from and even override the text of the Convention and take derogatory measures. This provision refers to the rules of humanitarian law. We can say that humanitarian law humanises war. Humanitarian law is developed in the four Geneva Conventions of August 1949 and their protocols.

Conclusions

Analyzing the current society in Romania, we notice that since 1990, the crime against life in our country has causes and motivations closely related to the crisis period we are still going through.

The first of these causes is specific to revolutionary events in general and lies in the triggering of an abnormal overall state, with consequences that are difficult to assess in the medium and long term.

The state of social abnormality caused by major crises leads to a devaluation of the system of norms and values which seem to belong to a bygone era.

Another cause was the lack of reaction of the power factors related to some social, political and economic tensions, a fact that allowed the initiation, unfolding and amplification of major conflicts, resulting in deaths and injuries. These include the political conflicts in the streets, the inter-ethnic ones as well as the serious economic conflicts (the miners' strikes).

The post-revolutionary social fabric is also characterised by the emergence of an increasingly pronounced economic causality, driven on the one hand by the "devastating fury" of the rush for rapid enrichment and, on the other hand, by the actual lack of livelihood in certain cases.

Other causes of violent crimes are of individual nature (such as alcoholism, interpersonal conflicts, etc.).

In the future, much more attention should be paid to legal means in combating anti-social crimes, especially those against life, as our criminal law is an effective means of protecting the legitimate interests of personal security.

In the resolution of cases, it is necessary to clarify all aspects related to the concrete content of the offence committed and the circumstances of its commission, on the one hand, as well as the consequences and the purpose pursued, and, on the other hand, to examine more thoroughly the person of the perpetrator, which is likely to help establish penalties that correspond to the needs of the defendant.

Murder, as defined in Article 188 of the Criminal Code, consists in the killing of a person, a way of expression which is nothing more than a more precise explanation of the marginal name of the offence (murder), without representing an explicit description of all the constituent elements of the offence.

The material element of the offence of murder is objectively achieved by the killing of a person, namely any material activity resulting in the death of a person. The material element may consist of an act (commission) or an inaction (omission); in either case, these relate to the offence and not to the specific act, since the act must possess a certain destructive force, that is to say it must be objectively capable of causing the death of a person in the given circumstances. Such destructive force exerted on the victim may take the form of physical-mechanical actions (strangulation, beating, cutting, shooting, pricking, electrocution, etc.), chemical actions (poisoning), mental actions (mental shock), etc.

The question of the distinction between the crime of murder and assaults or injuries causing death, where the death of the victim is attributable to the perpetrator on the basis of intent, is frequently encountered in legal practice. The main elements of differentiation between the two offences relate to: the area of the body where the blows are applied, in the sense of whether it is a vital area or not; the instrument used in committing the offence, in the sense of whether it has the capacity to produce that result; the number and intensity of the blows inflicted on the victim; the attitude of the perpetrator after committing the offence; any pre-existing relationships between the perpetrator and the victim.

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MEASURING THE IMPACT OF A WRITER'S INFLUENCE ON OTHERS

Georgiana Mîndreci[1]

Abstract

Writers have always had influences on other writers regardless of the time frame, geographical, political or historical contexts in which they have written their works with clear consequence of such influences on generating wholly new creations, new styles or new techniques. The example in point chosen for discussion is that of J. D. Salinger and his influence on writers in general, and on Romanian writers in particular, with reference to important Romanian writers, such as Mircea Cărtărescu. Another aim of this paper is to offer some insight on the social and cultural contexts from the USA and Romania from the period of the novel's publication and respectively of the first Romanian translation in ordered to get a bigger picture of all the elements that contributed to the creation and perception of Salinger's novel as it is today.

Keywords: J. D. Salinger; influence; translation; impact; social and cultural contexts.

***JEL Classification*:** KO

Introduction

Writers have always had influences on other writers regardless of the time frame, geographical, political or historical contexts in which they have written their works with clear consequence of such influences on generating wholly new creations, new styles or new techniques.

This article mainly focuses on one particular example of such influence in literature, namely the impact of Jerome David Salinger on other writers, both nationally and internationally. J. D. Salinger has inspired many authors, writers, film producers; he and especially Holden Caulfield have been abundantly quoted in many books, songs, poems, and movies throughout the world, ever since the publication of his novel, "The Catcher in the Rye," until nowadays. Salinger's obvious impact on Romanian readership is also evident by referring to the number of sold copies of Cristian Ionescu's translation of the book "De Veghe în Lanul de Secară," published in 2005. Salinger's influence on Romanian writers is also mentioned with reference to important Romanian writers, such as Mircea Cărtărescu.

This paper focuses mainly on presenting facts and data on the popularity of Salinger's novel, the conclusion being that, despite its numerous negative reactions, the novel sold more than 60 million copies in the USA, and still continues to do so. The novel's high popularity started quite early, not long after its publication in 1951, and by 1970 it had already been translated into thirty languages. Nowadays it still sells a quarter of a million copies worldwide and it is present in polls all around the world, in top positions. We find the same situation in Romania, especially since the publication of C. Ionescu's retranslation of Salinger's novel. This is a clear indication that the novel is continuously discovered by new readers every year, readers who identify themselves with Holden Caulfield, thus turning him into a universal and immortal hero, and at the same time keeping Salinger on top positions, especially after his much regretted death.

Another aim of this paper is to offer some insight on the social and cultural contexts from the USA and Romania from the period of the novel's publication and respectively of the first Romanian translation in ordered to get a bigger picture of all the elements that contributed to the creation and perception of Salinger's novel as it is today.

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"The Catcher in the Rye" in the Polls in the USA and Romania

Altogether, even though the American and the British reviews were either in favour or contrary to the novel, "The Catcher in the Rye" reached high popularity in a very short period of time. Nevertheless, in spite of all the banning, censorship, removal from reading lists and controversy the novel sold more than 60 million copies, as shown by Internet data. "Surveying material on the Internet shows that *Catcher* continues to be discovered by new readers every year, many of whom want to testify to the significance of the novel written before their parents were born" (Graham xii). I. Hamilton mentioned that the novel was declared in 1968 "one of America's twenty-five leading best sellers since the year 1895. Today it is still clocking up annual sales worldwide of some quarter of a million copies" (122). By 1954, the novel was published in France, Israel, Italy, Japan, the Netherlands, Sweden, and Switzerland, although its climax as a worldwide best seller had come in the early to mid-sixties. By 1970, the book was translated into thirty languages (Hamilton 136).

Jack Salzman said about Salinger's novel: "Yet, removed from reading lists, banned from libraries, and increasingly ignored by critics who seem uneasy with both its technique and its subject matter in a postmodern literary world (…) the novel remains one of the most popular, and more importantly one of the most read, of all works of modern fiction" (2). Sarah Graham mentioned in the *Introduction* of her book that Salinger's novel was indeed one of the most popular novels of the twentieth century and that "[i]t has never been out of print, has sold millions of copies worldwide and has been translated into more than thirty languages" (xi). Mentioning the results of the polls concerning the position of the novel in different tops since its publication until nowadays at this point seems the natural thing to do since it is highly relevant to the aforementioned. To this end, Sarah Graham's research is extremely useful: "A 1998 poll by Board of Modern Library places *Catcher* at Number 64 in its list of the 100 best novels in English, while its companion readers' poll places the novel at Number 19. In 2003 the BBC 'Big Read' campaign ranked *Catcher* at number 15 in a nationwide poll of favourite novels" (xi).

In Romania the polls show almost the same good results, especially after the publication of the second translation of Salinger's novel in 2005, as it can be seen from the weekly positions posted on Polirom's website (the Romanian Publishing House). Casiana Ioniţă in an article called "Cititul Dăunează Grav Sănătăţii. La Fel şi Cenzura" ("Reading Seriously Harms Health. So Does Censorship") starts by saying that many writers have been banned throughout literary history and she mentions that during the period of 24 September – 1 October 2005 there was an opportunity for bookshops to start selling a selection of censored books and to organize events and debates aiming to determine readers not to be afraid of such books but, on the contrary, to get to know them and to make their own opinion. Thus, the main idea of the article dealing with the most controversial writers of 2004 was that nine out of the first ten such writers on the list write or wrote books for children or for teenagers. The only exception was Toni Morrison (she was awarded the Nobel Prize in 1993). In this list we can also find J.D. Salinger, placed on the eighth position with his novel. Casiana Ioniţă also mentions in her article that "[b]etween 1990 and 2000, Office for Intellectual Freedom registered 6,364 complaints, out of which the majority were connected to 'explicitly sexual' materials," then to texts whose language was considered 'offensive' and to books 'inappropriate for a certain age group'" (4). It is thus, once again, very easy to understand why Salinger's novel has been on such list ever since its first publication (4) [my translation and adaptation].

The book has also appeared on Polirom's website positioned either first or second in their weekly sales tops, and it has stayed there for 127 weeks so far. The results of the polls do not have to stop here, but these are the most convincing details.

J. D. Salinger's Impact on Contemporary Writers

At the age of 90, just one year before his death, Salinger was still one of the most famous recluse writers in the world, and he was still present in the literary world although, unfortunately, not with new publications, but with a new legal dispute. *Timesonline* published an article by Jenny Booth, called "JD Salinger sues over unauthorised sequel to Catcher in the Rye" in which the author of the article says that J. D. Salinger "has gone to court to try to block the publication of an unauthorised sequel written by a fan calling himself John David California. The reclusive 90-year-old writer claims that *60 Years Later: Coming through the Rye* infringes his copyright, and is suing for damages from its author and publishers." The Wikipedia website mentions that John David California is the pseudonym used by the Swedish book publisher Fredrik Colting. J. D. California's recently published book, dedicated to J. D. Salinger, portrays Mr. C as the main character, a character apparently based on Holden Caulfield, "as a 76-year-old escapee from an old people's home" (Booth).

Jenny Booth mentions that "the book also includes Salinger himself as a character, and depicts him agonising over whether to continue Caulfield's story." After the last publication in 1965 and after the last interview in 1980, J. D. Salinger always used law and justice to protect his own privacy and that of his characters, being always surrounded by lawyers, lawsuits, fans and journalists endlessly trying to chase him with a view to get the slightest piece of information, but with no success. Jenny Booth states in her article that "[t]he lawsuit says that only Salinger has the right to use the character Holden Caulfield and to create a sequel, and that he has 'decidedly chosen not to exercise that right.'" The author of the article mentions that there are many "similarities in story and language and alleges: 'The Sequel is not a parody and it does not comment upon or criticise the original. It is a ripoff pure and simple.'"

J. D. Salinger inspired many authors, writers, film producers; he and especially Holden Caulfield have been profusely quoted in many books, songs, poems, and movies throughout the world, ever since the publication of his novel until nowadays, as for example the case of the film called "Chasing Holden," directed by Malcome Clarke in 2001 in which the plot starts from a teenager's similar story to Holden Caulfield's. In short, the main protagonist, Neil Lawrence, is sent by his father to a boarding school. Here he quickly falls in love with T. J., a beautiful girl, but after he gets a school assignment to write a report on Holden Caulfield himself, he decides to start looking for J. D. Salinger—hence the title of the movie. Thus, Salinger's impact on his readers is constant and allows him to be a never-ending source of inspiration, although sometimes he opposes this with the help of the law. Jenny Booth mentions that "[i]n 2003, Salinger stopped the BBC from staging a television production of *Catcher*. His court papers state that he has turned down requests from Steven Spielberg and Harvey Weinstein to acquire film rights." There is ambiguity and uncertainty concerning the real author of "The Catcher's" sequel, as no real data is provided about him and only suppositions are made about his identity. At least this is the impression created by Jenny Booth's article. The above-mentioned article also states that J. D. California declared that the legal action was "'a little bit insane' and said that while Salinger had control over the names of his characters, he did not over his style or perspective." The result of this lawsuit is apparently still to come, although some sources have already announced the final result as being in favor of Salinger. However the main idea, in my opinion, is that J. D. Salinger, six decades after he ceased to publish, still managed to draw attention, to inspire, and to create controversy.

Another good example of Salinger's influence on contemporary writers is the novel "Prep," considered very often and in many book reviews the feminine version of "The Catcher." The novel was written by Elizabeth Curtis Sittenfeld. She studied at Stanford University, and then she made a career in journalism, writing for prestigious publications such as *People Weekly*, *New York Times* or *Washington Post*. Her novel was also chosen by many newspapers among the most important titles from the Top of the Best Ten Books of 2005. The novel is her

debut novel and it has been translated into over 30 languages since its publication in 2005, it has been nominated to the Orange Prize, it has been optioned by and it is in the course of screening by Paramount Pictures (as mentioned in an article on the Relatitatea.net website). The main character is a 14-year old girl, called Lee Fiore, who was accepted with a scholarship by a prestigious boarding school in Massachusetts. Her arrival at the high school represents only the beginning of her transition from a familiar space into a small community, in which she must learn her role. Her inability to integrate into the new environment turns her into an excellent observer of details, from those concerning the social behavior to those concerning her own evolution [my translation and adaptation from Realitatea.net]. After reading the novel the inevitable comparisons with J. D. Salinger's novel become obvious, but "Prep" as a novel in itself detaches itself from "The Catcher," being a marvelous teenage narrative that is firmly aimed at adults, most likely inspired by J. D. Salinger.

J. D. Salinger's presence in the Romanian literary circles is not limited to his being mentioned in recent newspaper or magazine articles; he is also present in the work of one of the most important contemporary Romanian poets and writers, Mircea Cărtărescu. The Romanian writer reminds his Romanian readers about the influence Salinger had on him in the novel called "De Ce Iubim Femeile," published in 2004:

> Nici nu-mi imaginez, de pildă, paginile de faţă fără cuvintele lui Salinger la-nceput—scriitorul pe care îl iubesc şi-l admir cel mai mult—, de parcă restul articolului ar consta din câteva mici vagoane de cale ferată, iar citatul ar fi locomotiva. Simt că nu pot vorbi despre stil, despre ce înseamnă o fiinţă stilată, nu încep exact cum voi începe.
>
> Crezusem iniţial că micul fragment face parte din *Pentru Esmé, cu dragoste şi abjecţie*, dar am avut surpriza să-l găsesc în *Omul care râde*. Iată ce zice Salinger, întrerupând o poveste cu nişte copii duşi la joacă de un şofer de autobuz care le spunea istorii fără sfârşit, ca-n benzile desenate americane cu Spiderman sau Batman: […]. (Cărărescu 8-9)
>
> I don't even imagine, for example, these pages without Salinger's words in the beginning—the writer that I love and admire the most—, as if the rest of the article consisted of several small railway wagons, and the quotation were the locomotive. I feel I can't talk about style, about what it means to be a stylish human being, if I don't begin exactly as I shall begin.
>
> I had initially thought that the extract was part of *For Esmé—with Love and Squalor*, but I was surprised to find it in *The Laughing Man*. Here's what Salinger says, interrupting a story with some kids taken to play by a bus driver who told them endless stories, as in the American comic books with Spiderman or Batman: […]. [my translation and adaptation]

The quotation given by M. Cărtărescu in Romanian continues with Salinger's description of the three women who impressed him at first sight with their unbelievable beauty. M. Cărtărescu's references to Salinger, as well as to other important writers, continue throughout the chapters of the book. Thus, it is obvious that such an important author and his work cannot go unnoticed and the translation of J. D. Salinger's most important and only novel deserves great attention, especially through analysis.

These were only a few examples of the influence Salinger had on different writers or film producers, but I strongly believe that many others are yet to become known to the world given that the writer's inborn pencraft is "catching" and it seems to have the power to make other people's talent flourish and thus create new forms of art, which is essentially the purpose and the legacy of fiction.

Conclusions

A notable contribution of this paper was the presentation of the information received (via email) from Oana Boca (Promotion and PR Manager at Polirom Publishing House) who kindly answered my inquiries about data on Salinger's sales in Romania. The conclusion is that Salinger has a great impact on Romanian readers, as reflected in the following figures: Cristian

Ionescu's retranslation sold more than 40,000 copies since its publication in 2005, which situates the novel on a very high position in Romania, the average number of copies sold being between 2,500 - 3,000. The translation of *Nine Stories* sold approximately 20,000 copies, while those of *Raise High the Roof Beam, Carpenters and Seymour: An Introduction* and *Franny and Zooey* sold approximately 10,000 copies.

In this paper I have pointed out that Salinger influenced and inspired many authors, writers, and even film producers (although he did not want to give the copyrights for turning Holden Caulfield's story into a movie), and he also was abundantly quoted in many books, songs, poems and movies worldwide. This proves that Salinger is still a modern writer and that the impact on his readers is constant and allows him to be a never-ending source of inspiration. Closely connected to this was the idea discussed in relation to Salinger's presence in the Romanian literary circles which extends to his being present in the work of a contemporary poet and writer, Mircea Cărtărescu, who quotes Salinger and declares his love and admiration for him in his writings.

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THEORETICAL AND PRACTICAL CONSIDERATIONS ON THE NEW REGULATIONS FOR STRENGTHENING FINANCIAL DISCIPLINE ON CASH RECEIPTS AND PAYMENTS IN THE FIELD OF VIRTUAL CURRENCIES

Popescu, Alina[1]

Summary:

Europe and other countries around the world are under pressure from financial and social problems: inflation, rising commodity prices, energy crisis, climate crisis, armed conflicts, terrorist attacks, migration crisis. At the same time, the COVID - 19 pandemic has caused countries to incur unforeseen expenditure at very high levels, also not estimated.

At European level, a Recovery and Resilience Mechanism was adopted as a temporary tool to implement reforms and investments at national level by each Member State. In this context, Romania had to adopt some fiscal-budgetary measures to ensure Romania's long-term financial sustainability. These new legislative provisions also include some measures to strengthen financial discipline on cash receipts and payments.

The study aims to analyse how these new legislative regulations affect the virtual currencies market and how these legal rules should be related to the existing ones.

Keywords**:** *financial discipline, cashless payment means, cryptoassets, virtual currency and fiat currency exchange service providers,*

JEL Classification: K10

1. General Considerations

In the current international context, burdened by various financial, social, climatic or conflict pressures, Romania found itself unable to fit into the main macroeconomic indicators previously estimated and, as a result, had to readjust them. As a consequence, Law No. 296 of October 26th, 2023 on some fiscal-budgetary measures to ensure Romania's long-term financial sustainability was adopted[2] .

According to the explanatory memorandum[3], the legislative act aims, in addition to fiscal budgetary consolidation, at measures to combat tax evasion, i.e. strengthening financial discipline on cash receipts and payments.

The whole legislative construction is based on the triggering of the excessive deficit procedure, as Romania has exceeded the ESA[4] threshold of 3% since 2019[5]. It was also taken into account that funding through the National Recovery and Resilience Plan (NRRP) could be put at risk if the structural deficit targets are not met.

The Recovery and Resilience Mechanism (RRM) was adopted at European level as a temporary plan "to help the Union emerge stronger and more resilient from the current crisis". The funds are made available to Member States so as to carry out reforms aimed at: green transition, smart, sustainable and inclusive growth, social and territorial cohesion, health and economic, social and institutional resilience, digital transformation, policies for the next generation.

The NRRP for Romania targets the country's specific challenges, and the envisaged reforms aim at sustainable growth, "in particular through sustainable transport, buildings renovation, biodiversity protection, industry decarbonisation and use of renewable sources". The plan "also includes measures to digitise public administration and public services and improve the health and

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[2]Published in the Official Gazzette No. 977 of October 27th, 2023

[3]https://www.cdep.ro/proiecte/2023/500/40/6/em546.pdf

[4]European System of Accounts (ESA 2010) - see "*European system of accounts - ESA 2010*"
https://ec.europa.eu/eurostat/documents/3859598/5925693/KS-02-13-269-EN.PDF/44cd9d01-bc64-40e5-bd40-d17df0c69334

[5]"*Manual on Government Deficit and Debt - IMPLEMENTATION OF ESA 2010*", 2019 edition,
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education sectors, in an approach that takes account of regional disparities. Important reforms and investments are aimed at improving the quality and sustainability of public finances and the pension system, the effectiveness of public administration, including state-owned enterprises, public procurement, the judiciary system and the fight against corruption, as well as support for the business environment and research and innovation"[1] .

In addition to tax measures (changes to corporate income tax, microenterprise income tax, income tax and compulsory social security contributions, VAT, excise duties and other special taxes, additional taxes on high value real estate and movable property) and tax compliance measures, the new legislation also covers economic and financial discipline measures, including changes to legislation governing cash receipts and payments and the introduction of modern payment systems.

As regards the legislative process for the adoption of Law 296/2023, the Economic and Social Council issued an unfavourable opinion[2], citing among other things the fact that "the lack of a broad public debate may lead to the adoption of measures that will have a serious economic and social impact". This observation has been confirmed by the public discussion generated by the abolition of cash and the uncertainty regarding the application of these legislative provisions in practice.

The Legislative Council issued a favourable opinion with comments on the draft Law No. 296/2023[3], but these comments did not concern the text of Article LXIV, which is the subject of this study, and the Supreme Council of National Defence only approved the draft, without making any comments[4] .

Given the general and impersonal nature of the legal rules, the new regulation on some fiscal-budgetary measures to ensure Romania's long-term financial sustainability does not specify how the provisions will be applied in particular areas, such as virtual currencies.

"Virtual currency means a digital representation of value that is not issued or guaranteed by a central bank or public authority, is not necessarily linked to a legally established currency and does not have the legal status of money or currency, but is accepted by individuals or legal entities as a means of exchange and can be transferred, stored and traded electronically"[5].

In practice, a question arises as to the interpretation of the legal rules on financial discipline in the case of these virtual currencies, i.e. whether the amounts traded through digital wallets are considered cash, currency on account or non-cash payment instruments.

By cash we mean "monetary value in coins or paper money, which can be used directly for payment; liquidity, physical money"[6], i.e. money in physical form, in the form of banknotes and coins.

Virtual currencies are traded through digital wallets (private cryptographic keys for holding, storing and transferring virtual currency[7]), with operations being conducted exclusively online.

2. Addressing the Issue at European and International Level

The European Central Bank believes that the use of cash has important functions and advantages, such as: it ensures freedom and autonomy, it ensures privacy, it is inclusive, it helps you keep track of your spending, it is fast, it is safe, it is a means of saving8. The European

[1] https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/romanias-recovery-and-resilience-plan_ro
[2] No. 6398/25.09.2023, https://www.cdep.ro/proiecte/2023/500/40/6/ces546.pdf
[3] https://www.cdep.ro/proiecte/2023/500/40/6/cl546.pdf
[4] https://www.cdep.ro/proiecte/2023/500/40/6/csat546_2023.pdf
[5] Art. 180, para. 4 Penal Code
[6] According to the Explanatory Dictionary of the Romanian Language
[7] Article 2, letter t[2] of Law no. 129/2019 on preventing and combating money laundering and terrorist financing, as well as amending and supplementing certain legislative acts, published in the Official Gazette of Romania, Part I, no. 589 of July 18th, 2019
[8] https://www.ecb.europa.eu/euro/cash_strategy/cash_role/html/index.ro.html

Commission has recommended since 2010 a common definition of legal means of payment, including cash1.

However, with virtual currencies, we are using Distributed Ledger Technologies (DLT), so the rules are different from those for the use of cash.

At EU level, Regulation 858/2022[2] has been adopted, which states in recitals 1 and 2: "(1)...Cryptoassets are one of the main applications of distributed ledger technology in the financial sector.

(2) Most cryptoassets fall outside the scope of Union financial services legislation and present challenges in terms of, inter alia, investor protection, market integrity, energy consumption and financial stability. Such cryptoassets therefore require a specific regulatory framework at Union level...".

While the Regulation recognises the need for legal norms to keep pace with technological developments, recital 3 states that "the success of token-based systems will depend, at least temporarily, on the extent to which they are able to interact with traditional accounting-based systems".

At the same time, in Article 2, the Regulation defines:

"1. '*distributed ledger technology*' or 'DLT' means a technology that enables the operation and use of distributed ledgers;

2. '*distributed ledger*' means an information ledger that keeps track of transactions and that is shared among and synchronised between a set of nodes of the DLT network using a consensus mechanism'.

The definition of the two terms is also taken up in EU Regulation 1114/2023[3] , which in Art. 3, para.1, point 5 defines "*cryptoasset*" as "a digital representation of a value or a right that can be transferred and stored electronically using distributed ledger technology or similar technology".

It also defines in point 8: "'*official currency*' means an official currency of a country that is issued by a central bank or other monetary authority". In point 15, it defines: "'*cryptoasset service provider*" means a legal person or other undertaking whose occupation or business is the provision of one or more cryptoasset services to customers on a professional basis and which is authorised to provide cryptoasset services in accordance with Article 59'.

Cryptoasset services are defined in point 16. Article 3:

"*Cryptoasset Service*" means any of the following services and activities relating to any cryptoasset:

(a) providing custody and administration of cryptoassets on behalf of clients;

(b) operating a trading platform for cryptoassets;

(c) exchanging cryptoassets for funds;

(d) exchanging cryptoassets for other cryptoassets;

(e) executing cryptoasset orders on behalf of clients;

(f) placing cryptoassets;

(g) receiving and transmitting orders for cryptoassets on behalf of clients;

(h) providing advice on cryptoassets;

(i) providing the management of cryptoasset portfolios;

(j) providing cryptoasset transfer services on behalf of customers".

In order to better understand the mechanisms of the cryptoasset markets, Regulation 1114/2023 defines:

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[1]Commission Recommendation of March 22nd, 2010 on the scope and effects of legal tender status of euro banknotes and coins https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32010H0191

[2]Regulation (EU) 2022/858 of the European Parliament and of the Council of May 30th, 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU (Text with EEA relevance), published in the Official Journal of the European Union L151/1/02.06.2022, p.1-33

[3]Regulation (EU) 2023/1114 of the European Parliament and of the Council of May 31st , 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (Text with EEA relevance), published in the Official Journal of the European Union L150, 9.6.2023, p. 40-205

At point 18, the "*operation of a trading platform for cryptoassets*" means the operation of one or more multilateral systems, which brings together or facilitates the bringing together of multiple third parties buying and selling interests in cryptoassets, within its system and in accordance with its rules, in a manner that results in a contract, either by exchanging cryptoassets for funds or by exchanging cryptoassets for other cryptoassets".

At point 19, the "*exchange of cryptoassets for funds*" means entering into contracts with customers to buy or sell cryptoassets for funds using own capital."

At point 20, the "*exchange of cryptoassets for other cryptoassets*" means entering into contracts with customers to buy or sell cryptoassets for other cryptoassets using own capital".

3. Applicable National Law

In order to interpret the provisions of Law no. 296 of October 26th, 2023 on some fiscal-budgetary measures to ensure the long-term financial sustainability of Romania, Article LXIV and their applicability to the field of virtual currencies, we specify that this rule establishes that Law no. 70/2015 on strengthening financial discipline on cash collection and payment operations and amending and supplementing Government Emergency Ordinance no. 193/2002 on the introduction of modern payment systems, with subsequent amendments and additions, is amended and supplemented.

In practice, the term "company" or "legal person" is used generically in common parlance for several legal entities including "legal persons, authorised natural persons, sole proprietorships, family businesses, professionals, self-employed natural persons, partnerships and other entities with or without legal personality"[1], which are referred to as entities below.

Thus, when discussing the operations of collections and payments made by various entities, we will note that the law provides that these operations will be carried out only by non-cash payment instruments, defined according to the law[2]. Therefore, any transactions carried out by entities, with virtual currencies must be made through non-cash payment instruments. As an exception to these provisions, the entities in question may make cash payments up to 1000 lei and the difference with non-cash payment instruments, as amended by Law No 296/2023[3].

For the definition of non-cash payment instruments we will take into account the provisions of Article 180 of the Criminal Code[4] , which defines:

"Cashless means of payment

(1) A *non-cash payment instrument* means a device, object or record, whether protected or not, whether tangible or intangible, or a combination thereof, other than a currency of circulating value, which, alone or together with a procedure or set of procedures, enables the holder or user to transfer money or monetary value, including by electronic currency or virtual currency. ..."

Law No. 129/2019 defines in Article 2, letter t[1], "*virtual currency* means a digital representation of value that is not issued or guaranteed by a central bank or public authority, is not necessarily linked to a legally established currency and does not have the legal status of money or currency, but is accepted by natural or legal persons as a means of exchange and can be transferred, stored and traded electronically".

4. Conclusions

Analysing the legal provisions, we see that domestic legislation needs to be amended to bring it in line with the new European regulations in the field of cryptoassets and DLT.

[1]Art. 1, para. 1 of Law no. 70/2015 on strengthening financial discipline on cash receipts and payments, as amended and supplemented
[2]Art. 1, para. 1 of Law no. 70/2015 on strengthening financial discipline on cash receipts and payments, as amended and supplemented
[3]Article 3 of Law no. 70/2015 on strengthening financial discipline on cash receipts and payments, as amended and supplemented
[4]Law No. 207/2021 of July 21st, 2021 on amending and supplementing Law No. 286/2009 on the Criminal Code and on measures transposing Directive 2019/713/EC of the European Parliament and of the Council of April 17th, 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA, published in Official Gazette No. 720 of July 22nd, 2021

In conclusion, however, transactions made on virtual currency exchange platforms are considered to be cashless payment instruments, and not cash or currency in a bank account. Transactions, irrespective of their value, therefore comply with the provisions of Article 1(1) of Law no. 70/2015, falling within the definition of Art. 180 of the Penal Code.

We believe that this interpretation applies to all values traded on a platform, whether virtual currency or fiat/ fiduciary currency (regardless of currency - Ron, Euro, US Dollar, Pound sterling, etc.).

We will also take into account the provisions, already in force, in the field of preventing and combating money laundering which establish a governance framework to ensure customer knowledge and traceability of transactions made with virtual currencies. In support of this view, it could also be argued that the cryptoasset trading platform ensures the traceability of transactions and complies with the rules on preventing and combating money laundering.

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Penal Code

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Law no. 70/2015 on strengthening financial discipline on cash receipts and payments, with subsequent amendments and additions, published in the Official Gazette of Romania, Part I, no. 242 of April 9th, 2015

INTEGRATION OF DATA ANALYTICS IN EXTERNAL AUDIT PROCEDURES

Anca Daniela Şenchea[1]

Abstract

The article explores the impact and benefits of using data analytics in external audits. In the context of rapid technological evolution, traditional audit procedures are being revised and improved to adapt to today's business environment. The author points out that Big Data and Data Analytics are bringing about a significant change in the way companies collect, store, and manage financial information. The use of data analytics tools in external audits offers significant opportunities for efficiency, improving the accuracy and relevance of financial assessments. By integrating data analytics into audit processes, auditors can identify relevant patterns and trends across extensive data sets. This not only increases the ability to detect errors or fraud but also enables a deeper understanding of the risks and opportunities associated with an organization's financial activities. The article also highlights the potential challenges of this transition to Data Analytics in the audit field. The need for adequate training of auditors to use these advanced technologies and to interpret the results obtained is emphasized. The intelligent use of Data Analytics in auditing not only improves operational efficiency but also increases the quality and relevance of financial assessments, thus helping to strengthen the integrity and trust of the external audit field.

Keywords: *Data Analytics, audit, productivity, innovation*

Jel classification: *M42*

Introduction

At the beginning of the information age, data was mainly generated by humans and generally had a clear and well-defined structure. This data belonged entirely to the individuals or entities that generated it, and managing it was relatively simple and intuitive. However, with the rapid technological advances of recent decades, the data landscape has changed significantly.

Today, in addition to traditional human-generated and managed data, we are witnessing exponential growth in unstructured data and an expansion in the amounts of machine-generated data. The phenomenon known as "Big Data" describes this massive and continuous production of information, which exceeds the usual storage and processing capacities.

The concept of Big Data does not only refer to the volume of data but also to the variety and speed with which it is generated. Unstructured data, such as social media posts, video messages, or texts, have now joined traditional data, creating a complex and interconnected information landscape.

Many experts and professionals believe that Big Data has the potential to revolutionize the way businesses, governments, and society as a whole manage information. Big Data analysis is anticipated to bring significant benefits in improving productivity, decision-making, increasing profits, and managing risks.

However, it is important to emphasize that the real value of Big Data becomes apparent only when it is subjected to detailed analysis using Data Analytics techniques and tools. Data Analytics is the process of examining, interpreting, and extracting valuable information from data sets, thereby providing deep insights and strategic direction.

Big Data represents a significant change in the way we generate and manage information, providing significant opportunities for innovation and progress. However, the full value of Big Data can only be realized through advanced analysis and intelligent use of Data Analytics technologies. (EY, 2015).

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Research Methodology

Integrating Data Analytics into External Audit Procedures is an emerging and essential area in the continuous evolution of audit practices in the digital age. Qualitative research methodology is a strategic and informed choice for approaching this complex and rapidly changing subject. In a context where the volume and diversity of data is increasing exponentially, qualitative methods make a significant contribution to the in-depth understanding of the implications and challenges associated with this transition in external audit.

A fundamental aspect of qualitative research methodology in this context consists of the comprehensive approach to human and organizational factors that influence the adoption and implementation of Data Analytics technology in audit processes. Through case studies, structured interviews, and the analysis of contextual details, qualitative research highlights how factors such as organizational culture, auditor skills, and ethical issues influence the success or failure of technology integration within audit organizations.

Also, the qualitative method allows for in-depth exploration of auditors' experiences and perceptions, providing essential information on how they adapt and interact with Data Analytics tools. Through the qualitative analysis, good practices can be identified, but also significant obstacles in the implementation of the technology, thus providing a solid basis for practical recommendations and optimization strategies.

Since the use of Data Analytics in auditing involves not only a technical transformation but also a cultural and behavioral change within audit organizations, the qualitative methodology allows for the investigation of these subtle and interconnected aspects. Detailed analysis of the interactions between auditors, technology, and the organizational context reveals nuances and essential details that might go unnoticed in quantitative approaches.

Literature review

What is Data Analytics?

Data Analytics is a process of analyzing data sets to derive information using specialized technologies and software. With the increase in the volume of data generated by modern businesses, Data Analytics is becoming an essential auditing technique, allowing the understanding and detailed analysis of these significant amounts of information (De Bonhomme et al., 2018). Specifically, the application of Data Analytics in the audit of financial statements can substantially improve the quality of the audit process.

Data Analytics helps analyze patterns, identify deviations, and extract useful information from data sets through analysis, modeling, and visualization, thereby facilitating audit planning and execution (Trumpeber, 2020). The enhancement of the auditor's professional judgment and skepticism is evident when the auditor has a deep understanding of the entity and the environment in which it operates. In an environment characterized by increasing data complexity, the use of new technologies, including Data Analytics, allows for a more efficient and in-depth understanding of the audited entity and its context, contributing to a more accurate risk assessment and the development of an appropriate response to these (IAASB, 2016).

Companies are showing increased interest in the revolutionary potential of Data Analytics in audit, adapting their administrative services to the digital age and integrating the technology into their operational processes (KPMG, 2015). The use of Data Analytics in auditing has many advantages, such as:

- Obtaining extensive knowledge of the entity and its environment, providing additional information for risk assessment;
- Improving audit quality by testing larger data populations;
- Increasing the auditor's ability to collect evidence from the analysis of larger data populations, facilitating a more accurate selection of them;

- Automating the audit process, allowing the auditor to focus on more complex issues and higher risks;
- Supporting a valuable engagement and dialogue with those responsible for governance within the audited entity;
- Identification of high-risk and potentially fraudulent transactions;
- Consolidation of confidence in the audit through the comprehensive analysis of all data;
- Ensuring an increased level of procedural precision.

Data Analytics adds value to the audit process, thereby strengthening the credibility and relevance of audits conducted in the context of an ever-changing digital world.

Data Analytics is transforming the audit process

With increasing pressure on boards and audit committees, driven by a crisis of confidence in the business model, expectations for the value provided by audits have grown significantly in recent years (KPMG, 2015). Traditionally, auditors began the audit with an interview with the client, discussing issues such as recent organizational changes, the previous year's performance, or the implementation of current strategies. However, when the audit is conducted using Data Analytics, the approach becomes different according to Lefrancq (2020). In this context, auditors are more likely to interact with the IT team at an early stage of the process to gain access to the information system of the audited entity. After extracting and grouping raw customer data, it is transferred to Data Analytics software. This type of software can generate reports that audited firms would have traditionally had to provide. To achieve this, they are implemented: looking for transactions with suppliers or new customers, isolating large or unusual transactions, and investigating risk aspects that may raise concerns for the audit committee, such as those related to management estimates. After applying these actions, the audit team determines which aspects can be investigated in more detail through more precise algorithms in areas where anomalies may indicate internal control weaknesses or potential fraud. This approach allows the integration of structured external data such as changes in interest rates and non-financial data. Although proactive analysis methods may raise independence questions, Lefrancq (2020) points out that the added value represents an evolution of the auditor's traditional role, which consists of expressing an opinion that the financial statements, taken as a whole, do not contain significant distortions.

Auditors, now having more sophisticated techniques at their disposal, provide a much deeper understanding of the audited entity's data, bringing intrinsic added value through the results obtained during the audit process. In essence, auditors do not provide companies with advice on improving productivity or managing risks more effectively; instead, they conduct an audit where data analysis can provide insights into these issues – insights that smart companies can (and should) apply to improve their business (KPMG, 2015).

Data analysis and audit quality

Data Analytics was designed to improve audit quality, but the essence of quality lies not only in the tool but also in the quality of the analysis and reasoning promoted. In the words of Lefrancq (2020), “Data analytics is a matter of audit quality. We can perform certain procedures at a higher level and much faster than before. We can do things that wouldn't have been possible before." However, Lefrancq (2020) points out that efficiency is not only about "saving time" but about "faster processing of important aspects and the possibility to allocate more time to analyze significant aspects instead of reviewing a large number of random samples that often do not provide relevant information." Moreover, data analytics tools "reduce the population at risk, meaning we're fishing in a smaller pond and often have direct access to high-risk areas" (Lefrancq, 2020).

If used properly, Data Analytics features can significantly improve audit quality (International Accounting, Auditing & Ethics, 2016):

• The ability to graphically visualize the results;
• Sophistication and breadth of query possibilities;
• Ease of use by non-specialists;
• Scale and speed of data processing.

With Data Analytics, auditors can navigate large data sets faster than before, thanks to recent technological advances in systems, software, and the interface between client data and the auditor. In other words, interfaces that facilitate data extraction allow auditors not only to perform routines such as substantive analytical procedures as in the past, but also to assess risks, understand the process, and perform routines in the early stages of the audit process (International Accounting, Auditing & Ethics, 2016). Although many of the analyses performed are not fundamentally different from those performed in the past, they are now more detailed and more widely used. For example, the risks highlighted by the dashboard could allow auditors to drill down into the data analysis in detail within substantive analytical procedures by performing user and general ledger analysis routines (International Accounting, Auditing & Ethics, 2016).

As the amount of accumulated data increases, companies' internal benchmarking capacity will experience significant growth. These firms will therefore be able to use external data to make more in-depth comparisons between similar organizations, analyzing industry trends and thus gaining a better understanding of the dynamics of their customers' data. In addition, audit committees' interest in these possibilities is growing as they want to understand how their peers approach the risks associated with the external environment and how they can exercise appropriate governance while demonstrating an appropriate level of accountability. (KPMG, 2015).

Regarding customer relations, i.e. the audited entities, the results of the interviews show that there is a correlation between the maturity of an entity's IT systems and managers' responsiveness to new technologies. According to Lefrancq (2020), data analysis seems to provide better results when a customer has gone through a digital transformation process. He mentions that "the more the client automates their processes, the more flexible the audit procedures become, as we gain an increased level of comfort". It is essential to focus on the audit of the future, a field rich in opportunities for both auditors and clients. This transition requires, on the one hand, a re-evaluation of how audits are carried out and customer relations, and, on the other hand, an increased commitment to the digitization of activities, together with the development of the corresponding skills.

Result

Innovative technological tools have been developed to monitor the evolution of the current audit process and to facilitate comprehensive analyses of the entire audited population. In addition to major technological transformations, Data Analytics exerts a significant influence on various stages of auditing (IAASB, 2016).

In general, the audit went through four distinct stages (Bender, 2017; De Bonhomme et al., 2018):

- The first stage involves planning the audit mission and identifying risks. In this initial phase, the auditor must obtain a thorough understanding of the audited entity, identify the associated risks, and decide on the measures necessary to provide reasonable assurance that the financial statements are free from material misstatement.
- The second stage focuses on the assessment of the control environment of the audited entity, within which the auditors must be able to assess the effectiveness and design of internal controls.
- The third stage involves the implementation of audit procedures. Auditors carry out corroboration procedures, and tests aimed at verifying the veracity of the information contained in the financial statements and identifying any significant anomalies.

- The fourth stage involves the evaluation of the anomalies identified during the audit. Once the auditor has detected these anomalies, it is necessary to investigate them to understand their nature and cause, assessing the impact on the financial statements. Data Analytics can be applied in all these stages of the audit process, including (De Bonhomme et al., 2018):
- Audit planning;
- Carrying out tests of the operational effectiveness of the control;
- Implementation of corroboration procedures;
- Evaluation of results.

However, according to the study by Cao et al. (2015), Data Analytics is expected to bring the greatest benefit, especially in the first two stages of the audit process. The authors argue that as the data becomes less reliable, the application of Data Analytics in the third and fourth stages becomes more difficult. Compared to the initial phases, considered exploratory, the final ones are more sensitive to data quality. Since in these two stages the auditor identifies and evaluates potential material anomalies, it is preferable to use traditional audit procedures when the data is not reliable (Cao et al., 2015).

Big data sets contain a significant amount of unstructured data, considered confusing and less reliable. This diminishes the reliability of the data analysis results. In this situation, it is more useful to focus on causality between the data rather than correlation. Data analysis applied in the first two stages of the audit process helps to identify patterns and trends, which depend more on correlation than causation (Cao et al., 2015).

Obstacles to implementation

With all the advantages that Data Analytics offers, there are certain challenges to the implementation of this technology in the audit field, although they are not insurmountable:

- The first obstacle is the data entry process. The use of Data Analytics in audits is contingent upon the auditors' ability to capture data from the audited entity efficiently and cost-effectively. Companies invest heavily in securing their data, implementing rigorous approval processes and technological safeguards at every level. For this reason, obtaining the necessary approvals from clients to provide data to auditors can be difficult, and in some situations, auditors can be denied access to data citing security concerns (EY, 2015);
- Second, data mining is not a core audit skill, and not all companies have this skill. Auditors are faced with the diversity of accounting systems in use, even within the same company. This aspect leads to multiple data extraction attempts and numerous interactions between the company and the audit firm to obtain the information needed for analysis (EY, 2015). In addition to general ledger data, additional information such as revenue or supply cycles must be obtained to perform more relevant analyses. Thus, the complexity of the data extraction process and the large volumes of information to be processed are increasing (EY, 2015);
- Thirdly, there is the problem of information overload. Previous studies have found that information overload can impair the listener's ability to make predictions, thereby limiting information processing (Brown-Liburd et al., 2015). Effective use of big data software can help solve this problem by providing accurate and relevant information. In contrast, a suboptimal approach could exacerbate the problem of information overload. Tang and Khondkar (2017) point out that with the easy possibility of collecting and integrating Big Data, international auditing standards should give importance to testing more extensive data populations to improve audit quality;
- Fourth, because the operation of Data Analytics is highly dependent on algorithms and decision rules used to transform data and generate analytical reports, using it to develop compelling conclusions and respond to identified risks is a significant

challenge. Auditors must strike an appropriate balance between the application of professional judgment and reliance on the results of these analyses (EY, 2015);

- Another important aspect is the cost of the audit software, which must be able to efficiently manage both the volume and the analysis of the data. According to Kumar and Rohit (2013), the high price of external devices used for continuous data storage may discourage many audit firms from adopting Data Analytics in their procedures. Tang and Khondkar (2017) point out that the use of expensive analytical tools may not be as cost-effective in audit services, which could affect audit quality;
- The sixth possible obstacle is adjustment time. Even experienced IT professionals need time to adapt to new IT systems. It is therefore obvious that auditors will need time to get used to new data analysis tools and techniques.

In the case of high staff turnover in audit firms, the implementation of Data Analytics systems can become very expensive due to the expenses associated with training new employees.

The Impact of Data Analytics on External Auditing

Whether it is structured or unstructured data, external data, or internal data, auditors will always need to collect, extract, and process information relevant to the audit of financial statements. This therefore means that auditors will be working in a completely new environment and will face challenges related to:

- collecting, extracting, and processing information;
- reliability and relevance of information;
- saving information;
- information overload;
- analyzing and forecasting trends
- security and privacy.

Collection, extraction, and processing of information

Although the potential of Big Data may seem attractive to audit firms, its integration into the audit process is not yet effective, involving several important factors. Introducing Big Data into auditing begins with the collection of data, both internal and external, of the audited entity. The two sources of information are essential to audit procedures because they provide varied types of information. While traditional data is mainly structured financial data, Big Data also includes non-financial and unstructured data, thus providing additional evidence and detailed information. Tang and Khondkar (2017) point out that the collection of non-financial and unstructured data contributes to the adequacy, reliability, and relevance of audit evidence, thereby improving audit quality.

Until now, auditors have mainly relied on internally generated structured financial data, i.e. all information available in the ERP system of the audited entity. However, due to technological advances, audit firms are increasingly motivated to integrate external, non-financial, and unstructured data into their audit procedures. For example, in confirmation procedures, auditors could obtain bank statements directly from banks, rather than relying solely on information provided by their clients. This approach allows access to external data, although the integration of unstructured data can be more challenging, as it has increased importance in fraud assessment (Vanbutsele, 2018).

A significant challenge related to Big Data is the processing of external data. With the expansion of Big Data, extracting this data from the audited entity has become relatively easy. When issuing an opinion on audited financial statements, auditors focus primarily on structured, internally generated financial data. Whether internal or external data, auditors may face difficulties in distinguishing between relevant and irrelevant data (B Brown-Liburd et al., 2015). While external data may be easier to obtain, collecting internal data can sometimes be more difficult because some entities do not allow auditors to extract information from their databases.

In addition, entities invest heavily in approval processes and technical safeguards to protect their data. This makes it difficult to efficiently obtain data from the audited entity within an acceptable time frame. Thus, the process of extracting and processing information becomes more complex (Earley, 2015; EY, 2015). Each audit firm adopts its data extraction methods. Some perform data extraction personally using in-house tools that download information directly from the audited entity's computers, while others install read-only tools on the client's ERP system. Extracting directly from the client's data server is considered the most optimal method, with a lower risk of data corruption. However, this is not always feasible given the complexity of the ERP system or the customer's reluctance to cooperate. Thus, auditors must contact the IT department of the audited entity and request copies of the data required for their audit. At KPMG, for example, auditors use online platforms that allow clients to download and keep a copy of the requested data. However, providing a copy of the data carries additional risks, and in the next point, we will explore the requirements necessary to ensure the reliability and relevance of the data. (Thyrion V. 2020)

Reliability and relevance of information

After collecting data, auditors are faced with the challenge of transforming this data into a reliable and relevant source of information. Although external data provide a considerable amount of new information, their reliability and relevance are questioned. In its booklet on the use of new technologies in auditing, the IAASB (2016) argues that auditors cannot guarantee the completeness and accuracy of data obtained from third parties. In the past, in the age of paper evidence, external sources were considered extremely reliable. However, with the advance of computerized auditing and the expansion of Big Data, this reliability has been called into question, as has the veracity and origin of the data (Appelbaum et al., 2017). Auditors should ensure that the following requirements are met during external data collection (IAASB, 2016):

- Evidence obtained is correct and complete.
- The information obtained is sufficiently accurate and detailed to meet the needs of the audit team.

The information used by auditors in their audits is called entity-produced information (IPE). "Information generated by the entity (IPE) is any information created by the company and provided as audit evidence, either for tests of controls or for substantive analytical procedures performed in an external audit" (Turrubiartes, 2018). IPE includes both information produced with the help of IT tools such as Microsoft Access, and Excel, and information prepared manually. Turrubiartes (2018) recommends that auditors verify the accuracy of this internal data through external sources to ensure the reliability of this information.

Backing up information

After ensuring the reliability and relevance of external data collected, it becomes imperative to protect the source of this data and ensure that it remains unaltered. Although Data Analytics systems allow auditors to obtain a wider range of information than was previously possible, it must be recognized that analyses based on irrelevant, corrupt, and therefore unreliable data can negatively affect audit quality (IAASB, 2016). To ensure data integrity, Appelbaum et al. (2017) suggest that digital signatures can be an effective solution. However, it is noted that this method is not yet fully implemented in organizations. Kostic and Tang (2017) propose blockchain technology as a means to ensure data provenance.

Information overload

Data Analytics tools enable the extraction and analysis of significant amounts of data. Although this technology opens up new opportunities, processing and analyzing large volumes of information can be challenging (Brown-Liburd et al., 2015). The inability to effectively manage all collected data can ultimately lead to information overload, an obstacle that can affect auditors' ability to track every detected anomaly and thus complicate the assessment of the likelihood of fraud occurring (Appelbaum et al., 2017).

Although information overload can give auditors a complete picture of the audited entity, Thyrion (2020) suggests that the inability to analyze all information in detail can involve risks. If problems arise later, the auditors should justify why they did not investigate certain matters more thoroughly. To manage this problem, it appears that internally generated tools already help reduce information overload by selecting only the relevant data for auditors. When such tools are not available, the challenge lies with the client. Oftentimes, clients lack the knowledge to properly extract data from their databases, according to Thyrion (2020). This is why auditors communicate the need for clear information to the "data cups" in the audited firm, who will transform the information into specific data and sources and pass it on to the CFO. The CFO, in turn, provides the requested information to the IT department of the audited entity. Thus, auditors avoid information overload.

Trend analysis and forecasting

According to Brown-Liburd et al. (2015), Data Analytics and the increased volume of data give auditors the ability to identify trends that cannot be observed using small data sets or samples. Auditors may have difficulty distinguishing between significant and non-significant trends, thus generating a large number of meaningless trends. This situation stems from auditors' inability to identify trend patterns, given that they have always looked at structured and financial data. As a result, auditors may spend considerable time investigating information that is not relevant to their audits. The IAASB (2016) argues that identifying trends can become problematic when applied to all available data, suggesting that data selection would make the process easier.

Security and privacy

With the massive explosion of digital data, concerns about the security and privacy of this information have increased. Because large volumes of data may include sensitive information, auditors must pay close attention to confidentiality. Auditors must ensure the security of their client's data and prevent breaches of confidentiality. Sensitive information that needs protection includes customer complaints, information shared in the supply chain, personal identification data of customers and/or employees, medical records, etc. (Alles and Gray, 2016). The IAASB (2016) points out that certain laws and regulations may prohibit the transfer of data outside the entity's jurisdiction, thus creating problems in situations where the auditor needs to access a database from another jurisdiction. Kostic et al. (2017) recommend establishing rigorous internal policies to keep data secure, including encrypting sensitive information before transmission and using secure channels to communicate this information.

Kostic et al. (2017) also suggest hiring professionals who specialize in installing attack detection software and assessing security and privacy risks in real-time. Additionally, due to the rise of Big Data, audit firms are aware of the many challenges associated with privacy and security protection. Therefore, most audit firms adopt a "privacy by design" approach, asking clients only for information that does not compromise their confidentiality (Lefrancq, 2020). Auditors also have an obligation of confidentiality, which must be respected for both regular and Big Data. Collecting, extracting, and processing data in a Big Data environment creates new challenges, including ensuring the reliability and relevance of information. The auditing profession also recognizes issues related to data acquisition, data backup, information overload, trend analysis, and prediction, security, and privacy. To meet these challenges, audit firms have developed various tools to extract data independently, screen data in advance, integrate privacy principles, and use secure servers. While this can benefit clients, some audit firms encounter restrictions, such as incompatible software preventing the use of Data Analytics technology. All phases of the audit are influenced by the use of Big Data, and every audit firm has a department dedicated to this type of data. The auditors of these firms face the challenge of reconciling the world of IT auditing with that of traditional auditing in the future.

Conclusions

Data Analytics can be applied at all stages of the audit, including planning it, performing operational control effectiveness tests, conducting corroboration procedures, and evaluating the results. Audit firms are showing increasing interest in the revolutionary potential that Data Analytics brings to the audit. As we highlighted, this revolution offers auditors the opportunity to gain a more effective and comprehensive understanding of the audited entity and its environment, thus improving the quality of risk assessment and responses to these identified risks. However, despite its many opportunities, Data Analytics also brings major challenges that need to be addressed to fully benefit from this technological advancement. Therefore, the integration of Big Data and artificial intelligence in auditing will only occur when auditors use it to influence the scope, nature, and extent of their audits.

The process of integrating Big Data into the audit begins with the collection of data from the audited entity. After collection, auditors must transform this data into a source of reliable and relevant information and ensure that it does not change storage. Although this technology offers new opportunities, processing and analyzing large amounts of information can become difficult. The inability to process all the collected data can lead to information overload. To counter this challenge, internally generated tools help reduce information overload by selecting only data relevant to auditors. In addition, Data Analytics and the increased volume of data allow auditors to identify trends that cannot be observed using small data sets or samples. Auditors' inability to establish trend patterns can lead to investigating irrelevant information and thus underutilizing this advantage. With the explosion of digital data, concerns about the security and privacy of this information have increased. To meet this challenge, audit firms have developed secure tools to independently extract data while respecting the principle of privacy. In addition, they began developing tools to test 100% of the audited entity's transactions, thereby facilitating detailed audits and more precisely identifying risks by inspecting each account.

We believe that the transition to the audit of the future will be an evolutionary process rather than a revolutionary one. However, the pace of development remains essential. International auditing standards should keep pace with rapid technological progress to effectively respond to the increasing complexity in the audit field.

Project co-financed from the European Social Fund through the Human Capital Operational Program 2014 – 2020
Priority axis 6: "Education and skills"
Project title: "Accessibility of advanced research for sustainable economic development - ACADEMIKA"
Cod SMIS 2014+: 153770

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DIGITALIZATION OF LOCAL PUBLIC ADMINISTRATION

Isabela Stancea[1]

Abstract

To ensure the fastest and most efficient implementation of the digitization process a public administration in Romania, by Government Decision no. 89/2020, the Authority for the Digitization of Romania was organized and operates.

The Authority for the Digitization of Romania[2], (ADR), is organized and functions as a structure with legal personality within the working apparatus of the Government and under the coordination of the Prime Minister, having the role of realizing and coordinating the implementation of strategies and public policies in the field of digital transformation and the information society.

Keywords: *digitization, information technology, public administration.*

Jel Classification: **K0, K1**

Introduction

ADR exercises, in its field of competence, the following functions:

a) of strategy, through which it strategically plans and ensures the development and implementation of policies in the field of digital transformation and the information society;

b) regulatory, by which it regulates the participation in the development of the normative and institutional framework in the field of digital transformation and the information society, including regarding the interoperability of the IT systems of public institutions;

c) of approval;

d) of representation, by which it ensures, on behalf of the Government, representation in national, regional, European and international bodies and organizations, as a state authority, for its field of activity, in accordance with the normative framework in force;

e) by state authority, which ensures the follow-up and control of compliance with the regulations in its field of competence;

f) administration and management;

g) to promote, coordinate, monitor, control and evaluate the implementation of policies in its field of competence, as well as the national interoperability framework;

h) communication, through which communication is ensured both with the other structures of the public sector, as well as with the private sector and civil society;

i) implementation and management of projects financed from European funds, as well as programs and projects financed from national funds and other legally constituted sources;

j) of an intermediate body, which ensures the implementation of the measures from the Sectoral Operational Program for "Increasing Economic Competitiveness" and the "Competitiveness" Operational Program under the conditions of the delegation agreement concluded with the management authority according to art. 15 of Government Decision no. 398/2015 for establishing the institutional framework for coordination and management of European structural and investment funds and for ensuring the continuity of the institutional framework for coordination and management of structural instruments 2007-2013, with subsequent amendments and additions, including regarding other programs with European funding[3].

ADR has the following objectives:

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[2] Decision no. 89 of January 28, 2020 regarding the organization and functioning of the Authority for the Digitization of Romania Published in the OFFICIAL GAZETTE no. 113 of February 13, 2020.

[3]Decision no. 89 of January 28, 2020 regarding the organization and functioning of the Authority for the Digitization of Romania Published in the OFFICIAL GAZETTE no. 113 of February 13, 2020.

a) contributes to the digital transformation of the Romanian economy and society; b) achieves electronic government at the level of public administration in Romania, by operationalizing the standardization and technical and semantic interoperability of IT systems in the central public administration and implementing the principles of the Tallinn Ministerial Declaration on electronic government from 2017;

c) contributes to the fulfillment of the objectives for Romania of the financial assistance programs of the European Union in its field of competence[1].

In the matter of digitization, the legislative field is vast, but among the more representative normative acts, we can mention:

-Law 242 of 2022 regarding the exchange of data between IT systems and the creation of the National Interoperability Platform, published in the OFFICIAL GAZETTE NO. 752 of July 27, 2022;

- Law 455 of 2001 on electronic signature;

- GEO 89 of 2022 regarding the establishment, administration and development of infrastructures and cloud IT services used by public authorities and institutions;

- GEO 38 of 2020 regarding the use of documents in electronic form at the level of the authorities and public institutions;

- GEO 30 of 2022 regarding some measures to strengthen institutional capacity andadministrative measures of the Ministry of Research, Innovation and Digitization and the Authority for Digitization of Romania necessary to implement component C7 – Digital transformation from the National Recovery and Resilience Plan, as well as other categories of measures.

As for Law 242 of 2022 regarding the exchange of data between IT systems and the creation of the National Interoperability Platform, its objective is to increase the quality of public services by facilitating the exchange of data between IT systems, reducing the bureaucratic and administrative burdens of natural and legal persons and increasing transparency on the use of data by public authorities and institutions and applies through voluntary participation, based on a data exchange contract, to legal entities under private law, respectively to individuals who exercise regulated liberal professions, to those who own computer systems and have data that present interest for public authorities and institutions[2].

The facilities and novelties that this law brings are[3]:

a) facilitating the provision of quality public services, permanently available, designed in accordance with the needs of the beneficiaries of these services;

b) promoting the widespread use of information and communication technology (ICT) within the public administration;

c) increasing the degree of traceability and transparency of the administrative act, by offering the data holder the possibility of knowing the access and processing of his personal data;

d) increasing the efficiency and effectiveness of the administrative act, by increasing the degree of interconnection of the IT systems of the authorities and public institutions and facilitating the exchange of data between public institutions;

e) the implementation of the "only once" principle, as described in Regulation (EU) 2018/1.724 of the European Parliament and of the Council of October 2, 2018 regarding the establishment of a single digital portal (gateway) to provide access to information, at procedures and assistance and problem-solving services and amendment of Regulation (EU) no. 1.024/2012, for the elimination of the exchange of data in written format and the bureaucracy;

[1] Decision no. 89 of January 28, 2020 regarding the organization and functioning of the Authority for the Digitization of Romania Published in the OFFICIAL GAZETTE no. 113 of February 13, 2020.

[2] Art. 1 of Law 242 of 2022 regarding the exchange of data between IT systems and the creation of the National Interoperability Platform, published in the OFFICIAL GAZETTE NO. 752 of July 27, 2022.

[3] Art. 2 of Law 242 of 2022 regarding the exchange of data between IT systems and the creation of the National Interoperability Platform, published in the OFFICIAL GAZETTE NO. 752 of July 27, 2022.

f) increasing the confidence of the public and the business environment in the use of information and communication technology;

g) promoting interoperability in the central public administration, between the local administration and the central administration and between the local public administrations;

h) facilitating the access of private institutions to the data held by public institutions and vice versa;

i) ensuring the security and confidentiality of data exchanges;

j) creation and annual updating of a permanent register of IT applications used by public authorities and institutions;

k) identification and definition of primary data providers;

l) facilitating integration into the single European digital market;

m) ensuring that the implementation of functionalities involves the alignment of national identification and authorization infrastructures with the member states of the European Union in a transnational scheme, in accordance with the rules established in Regulation (EU) no. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions on the internal market and repealing Directive 1999/93/EC.

The advantages of digitization of local public administration

In public administration, digitization generates a multitude of advantages that should be found in the institutional strategic approach and promoted by its leaders.

On the one hand, digitization makes institutional activity more efficient, leading to the efficient use of resources, cost reduction and the institution's contribution to technological and socio-economic progress. On the other hand, digitization generates new opportunities by activating institutional capacities and capabilities that can deliver innovative services and products to citizens and public administration stakeholders.

The digitization of local public administration involves the use of information and communication technologies by the public sector with the aim of improving the provision of information and services, encouraging citizens' participation in the decision-making process and the accountability of the institutional partner in a transparent and efficient manner.

The objectives of a digitization project, depending on existing needs and available resources, may be similar to the following:

-Improving access to information and services offered by public administration authorities through fast and efficient service;

-Reorganization and restructuring of administrative processes or even elimination of some processes;

-Improving the exchange of information and services between central and subordinate public authorities;

-Improving the quality of public services by the central public administration;

-Promoting the responsibility, efficiency and transparency of the public services offered.

The digital transformation of public administrations is a way to provide faster, cheaper and better services. E-government leads to improved efficiency and increases ease of use and accessibility. It also contributes to the promotion of ethical practices and reduces the risks of corruption.

E-government has a strong inter-ministerial component because it requires a general simplification of administrative processes at the level of all services, in order to respond to the needs of citizens. Implementing robust e-government is a central element of e-government development. After the establishment of decision-making and oversight bodies, EU Member States can define their necessary strategies, architectures and frameworks and proceed with their implementation.

The current global economic-social context shows us more and more the benefits of technology and the digitization of public services, and the development priorities of all states in the near future should also include this essential aspect. For Romania, the digitization of public services proved extremely useful during the state of emergency, and the expansion of this practice at the level of institutions has already become a priority on Romania's strategic development agenda.

Digitization is a tool of the future that offers efficiency and predictability, including in the case of Romania.

Digitization involves reducing the number of interactions with officials from public institutions and optimizing the citizen's interaction with representatives of public institutions.

The digitization of public institutions brings with it an increased level of efficiency and transparency and should be one of the development pillars of any intelligent community. Through digitization, the entire activity of public institutions is made more efficient, on all three levels: internally, intra-institutionally and externally, in the relationship with citizens and the rest of the institutions.

So, digitization represents the total integration of processes and workflows in the electronic environment, so that all routine or repetitive tasks (from filling in forms and registering requests to confirming payments) are done automatically or semi-automated by the computer.

Some of the benefits of the digitization process, in addition to the reduction of human interaction, which we have already mentioned:

-Providing fast and quality services to citizens; the possibility of supervision, improvement and streamlining of work processes, without additional effort.

-Notifications in real time regarding deadlines that must be respected according to public administration laws.

-Eliminating the risks of loss or destruction of documents by implementing electronic archiving processes.

Cartographic digitization of objectives of strategic interest (transport and access infrastructure, utilities, real estate and territorial assets).

There are already many UATs that have successfully transitioned to the digitization of their activity and work processes. The beneficial results of these approaches are very clear in practice and have already been studied, and based on them, certain conclusions can be drawn regarding the degree of improvement of services.

For the town halls that have already started digitizing a part, the minimum results of this process fall within the following parameters:

- Possibility of real-time verification of activities and service statuses - 100% improvement.
- The capacity to monitor the activity of the staff in the town hall - minimum 90% improvement.
- Eliminating the risks of document loss or destruction by implementing electronic archiving processes - minimum 92% improvement.
-Facilitating direct communication between citizens and specialized departments, respectively between local public administration departments - minimum 82% improvement.

It is a strategic objective that the digital transformation strategies developed and implemented in the public sector are convergent with the policies, programs and digitalization strategy of the European Commission. The first level of convergence is with the Digital Single Market. The Digital Single Market represents the strategic approach of the European Commission for the access of individuals and businesses to digital online environments. In essence, the Digital Single Market means ensuring the free movement of people, services and capital, accessing and using online services under conditions of fair competition. The three basic pillars of the Digital Single Market are access, the digital environment, the economy and society.

A strategic objective of the European Commission, which significantly influences the degree of adoption and use of digital public services, is to facilitate citizens' access to digital

environments and services. The European Commission is taking steps to increase the number of citizens with access to digital media, to develop digitization skills, but also to exploit to a greater extent the strategic potential of institutions for digital transformation. To be successfully implemented, the process of change and transformation must be accompanied by an extensive process of developing digital skills and abilities in public sector institutions.

The European Commission promotes various initiatives with the main aim of developing digital skills and competences for the workforce, citizens and modernizing education at the level of the European Union. The digitization of public services and their migration exclusively to digital environments requires, as a precondition, the development of digital skills so that citizens and stakeholders of public institutions can access and use these services. The digital economy and society are strategic objectives of the European Commission, as they represent preconditions for a context conducive to innovation, growth and competitiveness.

From 2021, the digital skills strategy has a new dimension and orientation. Given that most lucrative fields and interaction with digital environments require digital skills, the European Commission will implement the new Digital Europe Programme. This program is essential for the development of digital skills, but, above all, for increasing the degree of capitalization of the institutional strategic potential. To develop these digital skills, the European Commission established the coalition for digital skills and jobs. This coalition brings together member countries, companies, social partners, NGOs and educational institutions to train digital skills in Europe.

The Coalition for Digital Skills and Jobs promotes excellence by supporting digital education initiatives, and at the European Union level there is a repository of digital skills training projects that can be applied at any time in any country. As a strategic objective, the coalition considers digital skills for: citizens, workforce, professionals in the ICT field and in the educational field.

The objectives of digitization to increase the efficiency of public administration

The trust that citizens have in public administration is particularly important, as it legitimizes and provides stability. If the trust in public institutions is decreasing, then the acceptance of public decisions will be under the sign of distrust. The more citizens trust the integrity of the political, administrative and legal processes, the more involved and open they will be to accept the results of the administrative process. Increasing citizens' trust in the administrative process must be a basic concern of the leaders who coordinate the governance process of the public administration.

There are two mechanisms that can be used to generate and maintain trust in public administration. On the one hand, trust in the administrative process is created and maintained through an iterative process that involves repeated exchanges and interactions between citizens and local public administration. For example, the positive experiences of citizens in the relationship with the public administration are an effect of the openness, accessibility and responsiveness of the public administration.

In general, any type of interaction with public administration will influence citizens' perception of the quality of public management, trust, competence, benevolence, honesty and predictability of public institutions. On the other hand, trust in institutions is a general judgment that often depends on the image or reputation of the institutions, and these are not always based on direct interaction with the citizen. Through information technology and digitization, public administration can be convergent with society's expectations, and this process is based on mutual trust.

The strategic objective of the digitization of public administration is to transform the relationship between public administration and society so that citizens perceive the administrative act as responsive, accessible, transparent, responsible, participatory, efficient, effective and adapted to the digital paradigm in which we find ourselves. The digital

transformation of public administration also proposes other secondary strategic objectives. On the one hand, information technology represents the support for public and administrative decisions and for the direct promotion of participatory e-democracy. This perspective has the role of revitalizing trust in the administrative process through transparency, responsibility and the co-creation of contexts in which citizens and stakeholders will find themselves. On the other hand, from the perspective of public service innovation, digital administration is closely related to the digitization and modernization of public services.

The digitization process must be accompanied and favored by an organizational configuration characterized by flexibility, agility and decentralization, but also by an institutional culture that facilitates and enhances all of this. A digitization process that follows a decentralized organizational structure is easier to implement. Decentralized, flattened structures also facilitate governance, as tasks are accompanied by accountability, ownership, and resource allocation. Again, there is an inverse effect, as digitization leads to the decentralization of organizational structures, but the interaction within the institutional or organizational structure follows the process and not the hierarchical structure. The most important characteristic of a digital organization is flexibility; a flexible organizational structure encourages and sustains change and its transformative effects, giving the institution agility.

Conclusions

The digital transformation of public institutions has not been an option for a long time, but an obligation and necessity. We are on a one-way street; the administrative performance of any public institution is currently and will continue to be judged also according to the level of digitization.

According to recent data, Romania registers the lowest score in terms of the digitization of public services. It should be mentioned that Romania registered a decrease if we consider the top from 2015, when it occupied a more honorable position. This fact highlights the fact that Romania has not properly capitalized, from a strategic point of view, on its digitization potential.

However, from the point of view of the number of users of online services, Romania is above the European average, being included in the group of countries where the number of citizens using digital services has increased to send forms to the authorities in which they address various requests or provide evidence of certain activities .

The willingness of citizens to use online services is an encouraging fact, and this trend represents an additional reason for public administration to migrate citizen services to the digital environment. This reorientation towards digital services must be complementary with other actions. An example of this is the availability of a wide variety of information about citizens, and this information to be retrieved automatically according to their profile. Compared to other countries in Europe, Romania is in last place in terms of automatic retrieval of information from online portals and forms. This fact is caused by a multitude of factors, the most important being the interconnection of platforms and open data.

Although Romania is one of the member countries of the European Union with the best communications infrastructure, the citizens do not have the necessary skills to exploit these resources on a larger scale. In terms of advanced digital skills, specific to professionals working in the IT&C field, Romania is close to the European average. From the point of view of exploiting the digitization potential, courses for the use of Internet applications, but also of applications specific to a digitization portfolio, are a key element. Digital transformation presupposes, first of all, the existence of fundamental and transversal skills both in IT&C, and skills specific to an organizational culture oriented towards change through digitalization.

Access to digital services largely depends on the available technical infrastructure, communication and telecommunication networks, but above all, how citizens and institutions access digital services online via the Internet. Romania has an ultra-fast communications network, comparable to other countries in the European Union. Also, mobile communications

and their availability offer citizens access to digital public services regardless of location, increasing the possibility of accessing them through mobile devices.

In Romania, the increase in the availability of communication services can be observed, and the increase in the share of mobile communication services increases Romania's convergence with the trends of the leading countries in the European Union. We can conclude that in Romania the communication infrastructure is favorable to facilitate citizens' access to digital public services. The global Internet has become the medium that mediates the digital interaction between citizens and public administration. The degree of use of the network, the level of activities carried out in the online environment as well as the level of transactions are important indicators for the public administration in order to digitize services for citizens; however, Romania ranks last in terms of the level of use of the Internet and the number of transactions carried out online.

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REAL ESTATE BROKERAGE AND THE EFFECTS OF THE BROKERAGE CONTRACT

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Abstract

The Civil Code stipulates in art. 2096 that intermediation is the contract by which the intermediary undertakes to put the client in touch with a third party, in order to conclude a contract. Therefore, the mediation contract is an independent contract with its own specific rules, although it is similar to the mandate contract and the agency contract. The intermediary is not subordinate to the intermediated parties and is independent from them in the execution of his obligations. The intermediary is an intermediary between his client and the contracting third party, he does not actually participate in the conclusion of the contract.

The intermediary can represent the intermediated parties at the conclusion of the intermediated contract or other acts of its execution only if he has been expressly empowered in this regard.

Key words*: intermediere, contract, client*

The Civil Code defines the mediation contract in art. 2096 as follows,

The parties to the contract

The parties to the contract are the intermediary and the client.

The intermediary can be a natural person or a legal person (a company).

The intermediary is not subordinate to the intermediated parties and is independent from them in the execution of his obligations[2].

The intermediary deals with mediating the conclusion of a contract between two partners, his client and a third party.

The intermediary is not the client's representative, he does not conclude the contract in his name or on behalf of the parties and on their account, he does not buy the goods that are the subject of the contract nor does he sell them to another, but through the actions he will take towards a third party he guarantees the conclusion of the contract between his client and the respective third party, conclusion that gives him the right to receive the established remuneration.

The intermediary is an intermediary between his client and the contracting third party, he does not actually participate in the conclusion of the contract.

The intermediary can represent the intermediated parties at the conclusion of the intermediated contract or other acts of its execution only if he has been expressly empowered in this regard. In such situations, the intermediary also acquires the capacity of agent, accumulating both the capacity of intermediary and that of agent, obtaining the remunerations, both as intermediary and agent.

We meet intermediaries in various fields such as: transport, sale of goods, insurance, advertising, etc.

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[2] The Civil Code defines the term principal and subject, so that, in art. 1373 paragraph 2, it is stipulated that the principal is the one who, by virtue of a contract or under the law, exercises the direction, supervision and control over the person who performs certain functions or tasks in his or another's interest.

The basic elements in terms of defining the quality of concurrent and that of presumptive is the "subordination relationship" that must exist between the two persons.

The subordination relationship (subordination) results, as a rule, from an individual employment contract concluded between the client and the subordinate.

.The Civil Code defines the notions of principal and subject, so that in para. 2, article 1373 states that the principal is the person who, according to a contract or according to the provisions of the law, carries out the management, supervision and control over the person who performs certain functions and tasks for his or others' benefit. The basic factor involved in determining the position of concurrent and subordinate is the "relationship of subordination" that must exist between the two. In principle, the subordinate relationship (subordination) is the result of an individual employment contract concluded between the client and the subordinate.

The client is the person who benefits from the services of the intermediary, in order to find partners with whom to conclude contracts regarding his business.

Ordinance no. 21/1992 on consumer protection defines real estate brokerage as the activity of mediating the sale-purchase or rental of real estate transactions. Real estate services mean one or more of the following activities: promotion for the purpose of selling, buying or renting real estate; consultancy in order to sell, buy or rent real estate; real estate brokerage; real estate management, and the real estate agency is represented by that economic operator, real estate service provider, who acts on behalf and in the interest of third parties.

According to Ordinance no. 21/1992, in the case of real estate brokerage services, the consumer will be informed in writing, correctly, completely and precisely, from the pre-contractual phase, regarding:

- the market prices for the type of real estate to be the subject of real estate brokerage, according to the information in the real estate agency's database;
- deficiencies and other inconveniences known to the real estate agency or that it could reasonably be aware of, including sources of noise, moisture, pollution, odor, danger of flooding or surprises, the organization of periodic popular events nearby, the history of the land or the building, possible disadvantages of the neighborhoods;
- the level of the commission charged by the real estate agency;
- the legal situation of the building;
- the estimated level of the costs to be borne by the consumer, for obtaining the documents and drawing up the documents necessary to conclude the contract.

The real estate brokerage contract must include at least the following elements:

- identification data of the parties;
- object of the contract/nature of the service provided;
- the price requested by the owner/which the buyer is willing to pay;
- the term of validity of the contract;
- the conditions under which the contract can be terminated unilaterally;
- the conditions under which the contract can be terminated;
- the maximum level of commission owed by the consumer to the real estate agency for the contract to be concluded;
- the exclusivity clause, if it was accepted by the parties;
- specifying the situations in which the consumer owes a commission to the real estate agency;
- the rights and obligations of the parties;
- situations of force majeure;
- date of conclusion of the contract.

An intermediary contract is consensual when it is formed by a simple agreement of the parties. There is no law that imposes the valid conclusion of a certain form of contract, that is, it is considered valid effectively concluded by simple agreement of the parties.

Brokerage contracts are concluded in writing. Unless the law provides otherwise, the document is only necessary to prove the contract, i.e. the form ad probationem, and not to prove the validity of the contract.

An arbitration agreement is valid even if it has not been signed in writing to prove the agreement between the parties. After signing, the contract will give rise to rights and obligations for both parties, thus having the synalagmatic nature of the contract. A contract is bilateral in nature when the obligations arising from it are mutual and interdependent.

The mediation contract is a contract with onerous title. A contract in which each party seeks to obtain an advantage in exchange for undertaking obligations is an onerous contract. The intermediary aims to receive compensation, and the customer is contacted by the third party to enter into a contract with him.

An intermediary contract cannot be free, even if the parties do not stipulate in the contract the level of remuneration of the intermediary, the contract is considered risky because the intermediary carries out intermediary activities with specialization capacity.

An intermediary contract is a commutative contract in which, at the time of its conclusion, the definite existence of the rights and obligations of the parties and their extent are determined or can be determined.

The validity conditions of the contract

The capacity of the parties to contract

Any person who is not declared incapable by law or stopped from concluding certain contracts can contract.

The client must have full exercise capacity, the ability to conclude the contracts that the intermediary, through the steps he takes towards a third party, guarantees the conclusion of the contract between the client and the respective third party, a conclusion that gives him the right to receive remuneration.

The customer can be a natural person or a person carrying out an activity with a professional title.

The intermediary carries out activity in a constant manner, with a professional title. The intermediary must be professional, having full exercise capacity.

Any person who is not declared by law to be incompetent or prevented from entering into certain contracts may enter into contracts. The client must have full exercise capacity and the ability to conclude a contract so that the intermediary, through the steps taken towards the third party, ensures the conclusion of the contract between the client and the respective third party, conclusion which gives rise to the right to remuneration.

The customer can be a natural person or a person carrying out an activity professionally. An intermediary carries out an activity on a regular basis as a specialist. The intermediary must be professional and have full implementation capacity[1].

If he is an authorized natural person, or acts within an individual enterprise or family enterprise, the agent will have to be authorized under the conditions of OG no. 44/2008 or Law no. 31/1990 on companies[2].

Representation of intermediate parties

An intermediary can only represent the mediated parties at the conclusion of an intermediary contract or other acts of contractual execution if he is expressly authorized to do so. In such cases, the intermediary also acquires the status of trustee, acquires both the status of intermediary and the status of trustee, receives remuneration and is both intermediary and trustee.

Consent of the parties

Consent is an expression of the will of the parties, which must be freely expressed and not affected by defects of consent. According to Article 1204 of the Civil Code, the consent of the parties must be serious, free and expressed in full knowledge of the case[3].

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[1] According to the provisions of art. 8 of Law no. 71/2011 for the implementation of Law no. 287/2009 on the Civil Code, the notion of "professional" provided for in art. 3 of the Civil Code includes the categories of merchant, entrepreneur, economic operator, as well as any other persons authorized to carry out economic or professional activities, as these notions are provided by law, on the date of entry into force of the Civil Code.
According to art.3 of the Civil Code, the provisions of the code also apply to relations between professionals, as well as to relations between them and any other subjects of civil law.
All those who operate an enterprise are considered professionals.
The exploitation of an enterprise constitutes the systematic exercise, by one or more persons, of an organized activity consisting in the production, administration or disposal of goods or in the provision of services, regardless of whether or not it has a profit-making purpose.

[2] OG no. 44/2008 regarding the conduct of economic activities by authorized natural persons, individual businesses and family businesses, published in M.Of. no. 328/25.04.2008, amended by GEO no. 46/2011 published in M.Of. no. 350/19.05.2011.

[3] To come from a discerning person.

According to the provisions of art. 1206 of the Civil Code, consent is vitiated when it is given by mistake, surprised by deceit, or snatched by violence. Likewise, consent is vitiated in case of injury.

The will to contract can be expressed verbally or in writing.

The will can also be manifested through a behavior that, according to the law, the agreement of the parties, established practices between them or customs, leaves no doubt about the intention to produce the corresponding legal effects.

The written document confirming the conclusion of the contract can be signed privately or authentically, having the probative force provided by law.

According to the provisions of art. 1206 of the Civil Code, consent is vitiated when it is given by mistake, taken by surprise by deception or taken by force. Consent will also be void in case of injury. The desire to conclude a contract can be expressed orally or in writing. The act confirming the conclusion of the contract can be signed under a private signature or an authentic signature, with authentication value according to the provisions of the law.

Subject of the contract

The object of the contract has two elements, the performance of the intermediary and the remuneration that the client must pay. The intermediary undertakes to find for his client a third party with whom the client is interested in concluding a contract.

This obligation of the intermediary is a consequential obligation, not a diligent (means) obligation, because the intermediary can receive remuneration from the client only if the intermediary contract is signed following his mediation. The intermediary undertakes to ensure the conclusion of a contract between the client and the respective third party through the steps he takes with the third party, allowing him to receive the determined remuneration. At the conclusion of the contract, the duties of the intermediary cease, the client and the third party with whom he concluded the contract are responsible for the implementation of this contract concluded at the conclusion of the mediation. The concluded contract does not create a legal relationship with the intermediary, but only creates a legal relationship with the contracting parties, i.e. the client and the third party negotiated by the intermediary.

An intermediary can only represent the mediated parties at the conclusion of an intermediary contract or other acts of contractual execution if he is expressly authorized to do so. In such cases, the intermediary also acquires the status of trustee, acquires both the status of intermediary and the status of trustee, receives remuneration and is both intermediary and trustee.

Pay

These provisions apply both if the plurality of intermediaries results from separate mediation contracts, and if they result from the same mediation contract.

The intermediary is entitled to remuneration from the client only if the mediation contract is concluded as a result of his mediation. The level of remuneration is established by the parties in the form of a fixed amount or the level of remuneration is established based on the value of the negotiated contract or other essential elements of the contract.

In cases where the parties do not have a specific agreement or legal provision, the intermediary is entitled to remuneration according to the previous practices established between the parties or existing practices between experts for that contract. The client will pay remuneration regardless of the execution of the contract concluded through the mediation of the intermediary. If the intermediation is carried out by several intermediaries, each party is

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Art.5 Law no. 487/2002, the law on mental health and the protection of people with mental disorders, republished in M. Of. no. 652/13.09.2012.

k) by discernment is meant the component of mental capacity, which refers to a specific deed and from which the possibility of the respective person to appreciate the content and consequences of this deed arises.

entitled to an equal share of the globally established remuneration, unless otherwise stipulated in the contract. These provisions apply even if several intermediaries are the result of separate mediation contracts, as well as in the cay in which they result from the same mediation contract.

Cause

The cause or purpose of the contract must exist, be real, lawful and moral. Cause is the reason that motivates each party to enter into a contract. In order to be valid, the conditions set forth in the common law articles art. 1235-1239 of the Civil Code. The cause is illegal when it violates law and public order. The cause is immoral when it is contrary to good morals. The contract is valid even if the cause is not clearly stated. The existence of a valid reason is presumed until proven otherwise.

Effects of the contract

Customer obligations

a) Reimbursement of the costs incurred by the intermediary in carrying out the mediation, if this is clearly stipulated in the contract.

b) To pay the remuneration established by the parties, at the place and under the conditions specified in the contract. The intermediary is entitled to remuneration from the client only if the negotiated contract is validly concluded as a result of his mediation.

If the intermediation was carried out by several intermediaries, each one has the right to an equal share of the globally established remuneration, unless otherwise stipulated by the contract.

These provisions apply both if the plurality of intermediaries results from separate mediation contracts, and if they result from the same mediation contract.

If the intermediation is carried out by several intermediaries, each party is entitled to an equal share of the globally established remuneration, unless otherwise stipulated in the contract. These provisions apply even if several intermediaries are the result of separate brokerage contracts, as if they were the result of the same brokerage contract.

According to art. 2010 paragraph 3 of the Civil Code, the right to action for establishing the amount of remuneration is prescribed together with the right to action for its payment.

c) to notify the intermediary of the conclusion of the contract that was mediated. Thus, according to art. 2101 of the Civil Code, the client has the obligation to notify the intermediary if the intermediary contract has been concluded, within 15 days at most from the date of its conclusion, under the penalty of doubling the remuneration, if the contract does not provide otherwise.

Also, if the remuneration is determined according to the value of the brokered contract or other essential elements thereof, the client is obliged to communicate them under the indicated conditions, i.e. within 15 days from the date of its conclusion.

Obligations of the intermediary

a) to execute the brokerage contract according to his obligations, that is, to find a co-contractor for the client to sign the contract. In order to execute the power of attorney received, the intermediary must act in good faith and with professional diligence. The intermediary is obliged to find for his client a third party with whom the client is interested in concluding a contract.

This obligation of the intermediary is a consequential obligation, not a diligent (means) obligation, because the intermediary can receive remuneration from the client only if the brokerage contract is concluded as a result of his mediation.

The intermediary is obliged to ensure the conclusion of the contract between the client and the respective third party through the steps he will take with the third party, allowing him to receive the established remuneration. An intermediary may represent the intermediary parties at the conclusion of an intermediary contract or other acts of contractual execution only if he is expressly authorized to do so. In such cases, the intermediary also acquires the status of trustee,

acquires both the status of intermediary and the status of trustee, receives remuneration and is both intermediary and trustee.

b) the obligation to inform. The intermediary is obliged to inform the client about the identity of the other contractor and all the data necessary to conclude a certain contract. The intermediary is obliged to provide the third party with all information related to the interests and possibilities of concluding an intermediary contract, provided that it does not significantly harm the interests of the client and is liable for concluding a contract that does not exist, thus causing damage to clients.

The rights of the intermediary

a) The intermediary is entitled to reimbursement of expenses incurred for mediation, if expressly stipulated in the contract (2098 of the Civil Code).

b) The intermediary has the right to be notified, by the client, of the conclusion of the intermediary contract. The client is obliged to notify the intermediary if an intermediary contract has been concluded, within a maximum of 15 days from the date of conclusion, with a penalty of doubling the remuneration amount, if there are no other regulations in the contract.

c) the right to receive the remuneration agreed in the contract.

According to art. 2519 paragraph 2 of the Civil Code, the right to action regarding the payment of the remuneration due to the intermediaries for the services provided under the mediation contract is prescribed within 2 years.

According to art. 2010 paragraph 3 of the Civil Code, the right to action for establishing the amount of remuneration is prescribed together with the right to action for its payment.

According to art. 2523 of the Civil Code, regarding the prescription of the right to action for the payment of remuneration and compensation owed by the client, we consider that the prescription begins to run on the date on which the intermediary knew or, depending on the circumstances, should have known the conclusion of the brokered contract.

Termination of the brokerage contract

According to art. 1321 of the Civil Code, the contract is terminated, under the law, by execution, voluntary agreement of the parties, unilateral denunciation, expiration of the term, fulfillment or, as the case may be, non-fulfillment of the condition, accidental impossibility of execution, as well as any other causes provided by law.

Real estate agencies

Art. 2 point. 28 of OG no. 21/1992 on consumer protection, defines the notion of real estate brokerage - the activity of mediating sales-purchase or rental transactions of real estate[1].

These entities that carry out such real estate agency activities are companies established on the basis of Law no. 31/1990 or authorized natural persons[2].

According to art. 9 of OG no. 21/1992, in the case of real estate brokerage services, the consumer will be informed in writing, correctly, completely and precisely, from the pre-contractual phase, regarding:

a) the market prices for the type of property to be the subject of real estate brokerage, according to the information available in the database of the real estate agency;

b) deficiencies and other inconveniences known to the real estate agency or that it could reasonably be aware of, including sources of noise, moisture, pollution, smell, danger of

[1] OG no. 21/1992 on consumer protection, republished in M. Of. no. 208/28.03.2007.

[2] OG no. 44/2008 regarding the conduct of economic activities by authorized natural persons, individual businesses and family businesses, published in M.Of. no. 328/25.04.2008, amended by GEO no. 46/2011 published in M.Of. no. 350/19.05.2011, Law no. 4/2014 published in M. Of. no. 15/10.01.2014.

flooding or surprises, the organization of periodic popular events nearby, the history of the land or of the building, possible disadvantages of the neighborhoods;

c) the level of commission charged by the real estate agency;

d) the legal situation of the building;

e) the estimated level of the costs to be borne by the consumer, for obtaining the documents and drawing up the documents necessary to conclude the contract.

The real estate brokerage contract will include at least the following elements:

a) identification data of the parties;

b) object of the contract/nature of the service provided;

c) the price requested by the owner/which the buyer is willing to pay;

d) the term of validity of the contract;

e) the conditions under which the contract can be terminated unilaterally;

f) the conditions under which the contract can be terminated;

g) the maximum level of commission owed by the consumer to the real estate agency for the contract to be concluded;

h) the exclusivity clause, if it was accepted by the parties;

i) specifying the situations in which the consumer owes commission to the real estate agency;

j) the rights and obligations of the parties;

k) situations of force majeure;

l) date of conclusion of the contract.

Real estate brokerage contracts in which the consumer is a potential buyer will contain, in addition to those provided for in art. 94, the following elements:

1. the general characteristics of the building, which can influence the purchase decision, including the level of finishing, dimensions, age and positioning in relation to the cardinal points;

2. the rates for the services provided.

A real estate transaction is considered completed when the seller and buyer have signed the purchase and sale deeds. The real estate brokerage contract or other possible ancillary contracts concluded between the consumer and the real estate agent must not contain criminal provisions that oblige the consumer to not comply with the commitment in the contract to pay an amount greater than the costs that he would have paid, in the event the conclusion of the transaction.

Real estate agencies cannot ask consumers to pay commissions in one of the following cases:

a) when an intermediary contract is not concluded between the consumer and the real estate agency;

b) when the sale-purchase/rental contract has not been concluded;

c) when the contract does not stipulate the exclusivity clause, and the transaction was carried out without the participation of the real estate agency.

Advance payment of commissions, in whole or in part, is not permitted, except with the written consent of the consumer and with a clear indication of the circumstances in which the real estate agency must return the amount received in advance.

Based on the real estate brokerage contract between the real estate agency and the buyer, the agency must ensure that the properties viewed correspond to the consumer's preferences before signing a sales contract.

Bibliography:

1. Law no. 287/2009 on the Civil Code

2. OG no. 44/2008 regarding the conduct of economic activities by authorized natural persons, individual businesses and family businesses

3. Law no. 487/2002, the law on mental health and the protection of people with mental disorders

4. OG no. 21/1992 on consumer protection