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**SECTION: REGIONAL DEVELOPMENT STRATEGIES AND
POLICIES IN CENTRAL AND EASTERN EUROPE
SPECIAL SECTION**

CHINA, “AN ELEPHANT WHICH CAN NO LONGER BE IGNORED”

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Abstract

The present work approaches the problematic of world competition from the economic perspective, having as main actor a country which is at the same time modern and antique, communist and capitalist, rich and poor, reformed and resistant to change, homogenous and diverse, repressive and independent, conservative and revisionist, passive and aggressive, strong and weak – this is China.

As it is named by Martin Jacques, China, “an elephant which can no longer be ignored”, this country managed to combine what seemed to be impossible – one country, two systems – making its presence felt in the economic world order and being considered the world’s second economic superpower after the USA in 2007 and the world’s first superpower in 2015 taking into account the purchasing power and its quota of the world’s GDP. In 2016, China surpasses the USA in the area of scientific research as well, by publishing over 426000 scientific works.

The essay presents „The Economic Evolution of the Chinese Republic”, presenting the historical evolution of a culture and a civilisation, China’s involvement in the world’s economy, the strategic partnerships this country made with Russia, the EU and, of course, our country’s relationships with the Chinese Republic, since the latter represented until not long ago a model for the social organisation in Romania for the leaders of the political currents at that time.

JEL Code: F02

On 5th October 1949, Romania established diplomatic relationships with the People’s Republic of China immediately after its proclamation, being the third country in the world which recognised the new China. This event opened a new page in the chronicle of traditional friendship between the Chinese people and the Romanian people.

The cooperation relationships between Romania and China developed on a consistent and uninterrupted basis during this time and they withstood all trials and changes occurred, events that could have influenced the course of Chinese-Romanian relationships.

In the 60s the relationships between China and the U.S.S.R. were tensed and almost all the countries in Romania’s vicinity sided with the soviet part. In the 70s, the Cultural Revolution took place in China. And in the 80s, the European socialist side collapsed, and Romania, too, faced a radical change in that context. Related to all these facts, Romania has managed to maintain and continuously develop the relationship with China by consistently following the principles of mutual respect, non-interference in each other’s internal affairs and equality³.

Throughout the years, Romania has exported to China large quantities of equipment, including oil products, heavy trucks and technologies that helped China in its development.

In 1995, a strong earthquake took place in the province of Yunnan in China. The Romanian government at that time, in spite of having internal financial problems, did not hesitate to offer China a substantial financial aid.

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³ Communication held at the symposium *55 years since the establishment of diplomatic relationships between Romania and the People’s Republic of China*, University „Ovidius” Constanța, 3rd November 2004. Ambassador of People’s Republic of China in Bucharest

During the SARS epidemic, while many Heads of State or Government were reluctant to visit China, Mr. prime minister Adrian Năstase offered to go to China in order to express Romanian people's solidarity with the Chinese people.

Romania has always supported the cause of China's reunification by directly contributing to its recognition as a member of the UN, a process completed in 1971, and facilitated the establishment of direct dialogue between China and the United States.

At the same time, Romania too has received China's support. In 1968, when the independence of Romania was menaced during the invasion of Czechoslovakia by the troops of some member states of the Warsaw Pact (August 1968), the Chinese government sent messages of complete solidarity with the position taken by the government from Bucharest. In 1970, when there were severe floods in Romania, China offered important support, both morally and materially. After the Revolution in December 1989, China stated that it respected Romanian people's option and consistently acted in this direction ever since.

Other examples to illustrate the good Romanian – Chinese cooperation were the contacts and mutual visits, both at high level and at the other levels, many leaders from both countries paying visits to each other. Besides high level contacts, the exchange of visits at parliamentary level, between ministries, NGOs and those at local level are very intense as well. All these contacts have contributed to the strengthening of trust and the development of bilateral relationships.

As member of the European Union, Romania supports and acts intensively towards the development and the diversification of the strategic partnership between the EU and the PR of China in view of the achievement of the goals foreseen in the EU-China 2020 Strategic Agenda for Cooperation, adopted during the Beijing summit (23 November 2013).

The year 2013 included some hallmarks in the development of political dialogue through the visit of Romania's prime minister Victor Ponta to China (1st-3rd of July) and the Prime Minister of the State Council of the PR of China, Li Keqiang's visit to Bucharest (25th-28th November). In 2014 the 65th anniversary since the establishment of diplomatic relationships reached the highest level of our bilateral relationships through Romanian Prime Minister Victor Ponta's official visit to the P.R. of China (31st of August – 2nd of September 2014) and on the 16th of December 2014, the heads of Romanian and Chinese governments had a new round of talks in Belgrade in the margins of the 16+1 Cooperation Summit, attended by China and states from Central and Eastern Europe, whose previous edition had taken place in Bucharest in 2013 (Romanian Embassy in the Chinese Republic, 2015).

Over 200 treaties and agreements were signed between the two governments in the 55 years. On their grounds was institutionalised and developed an intense cooperation in the fields of politics, economy, culture, technique, science, education, sports, military, international and others. One could say that there are no fields where there is no cooperation between the two states.

The active and continuous political dialogue, connected to the priorities of national agendas and dedicated to the systematic update of bilateral programmes of exchange and cooperation had in the last two years an unprecedented evolution in the history of bilateral relationships, the heads of government of both countries having 4 official meetings in a time lapse of 18 months. The positive evolution at the political level was reflected in the development of economic and commercial cooperation, which recorded constant increases: compared to the level of the year 2000, when the total amount of trade was 258.7 million USD, at the end of the year 2014, the total amount of Romanian – Chinese trade recorded by the Chinese Republic's Customs Office was 4.75 billion USD (an increase of 17.8% compared to 31st of December 2013), out of which the Romanian export to the P.R. of China amounted to 1.52 billions USD (26% higher than at the end of the year 2013) and the

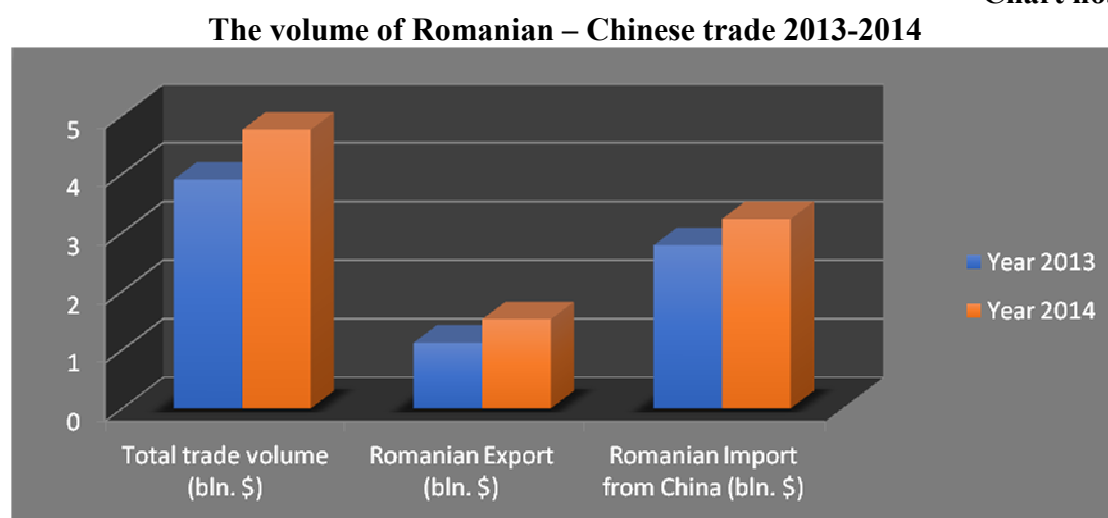
Romanian imports from China reached the value of 3.23 billion US dollars which is an increase of 14.3% compared to the similar period in 2013).

Table no 1.2.

The volume of Romanian – Chinese trade 2013-2014			
Year	Total trade volume (bln. \$)	Romanian Export (bln. \$)	Romanian Import from China (bln. \$)
2013	3.9	1.12	2.78
2014	4.75	1.52	3.23

Source: Office for Economic Promotion and Cooperation Beijing

Chart no. 1.1.



Source: Office for Economic Promotion and Cooperation, Beijing

Progress has been made towards the materialisation of large-scale investments in some objectives from Romania's energy sector (the thermal power plant from Rovinari and the Units 3 and 4 of the Nuclear Power Plant from Cernavodă) and some other projects in the fields of infrastructure, agriculture etc. are subject to advanced analysis.

In as far as the economic relationships are concerned, we can say that the People's Republic of China is Romania's first trading partner in Asia and holds the 16th place among foreign investors in Romania. Romania's interests are synthesized in the reduction of the trade deficit through the increase of exports. The Chinese involvement in large-scale projects (infrastructure, energy, agriculture etc.), identification of cooperation projects in "untraditional" fields like (IT, the bank sector, environment protection), the exploration and exploitation of cooperation possibilities on third markets (e.g. Mongolia, Iraq, Afghanistan).

The Chinese interests are integrated in the general orientation of promoting their own products on the European/EU market, identifying the point of penetration in other areas with consumption potential and getting involved in significant projects in strategic fields (energy and transportation infrastructure).

The economic relationships between the EU and China are defined by asymmetric aspects: China is the EU's second trade partner and its first source of imports while EU is China's first trading partner; there are major imbalances regarding the bilateral trade (the EU has imported over 3.15 times more than exported in 2008) and in the direct investments (4.5 billion Euros invested in China compared to under a billion Euros invested in the EU).

Table no. 1.3.

The structure of bilateral trade

Year	Region	TOTAL	EXPORT	IMPORT	SOLD
2004	PRC (HKSAR)	1.317,5 (58,7)	231,0 (35,7)	1.086,5 (23,0)	-855,5 (-12,7)
2005	PRC (HKSAR)	1.890,59 (50,19)	227,64 (20,26)	1.662,95 (29,93)	-1.435,31 (9,67)
2006	PRC (HKSAR)	2.471,30 (67,10)	248,08 (30,50)	2.223,22 (36,60)	-1.975,14 (-6,10)
2007	PRC (HKSAR)	2.541,55 (43,64)	230,08 (16,68)	2.311,47 (26,96)	-2.081,39 (-10,28)
2008	PRC (HKSAR)	3.805,45 (63,07)	270,17 (32,89)	3.535,28 (30,18)	-3.265,10 (2,71)
2009	PRC (HKSAR)	2942,62 (99,10)	296,54 (82,44)	2646,08 (16,66)	-2349,54 (65,78)
2010	PRC	3893,41	498,86	3394,55	-2895,69
2011	PRC	4201,86	659,28	3542,58	-2883,30

* HKSAR - Hong Kong Special Administrative Region

Structure of bilateral trade

- **Export:** electrolytic copper, copper concentrate and scrap, energy equipment (parts for hydro and thermal power plants), machine-tools, electrical equipments (transformers), beech timber and wood panels, plastic materials and articles, bearings, mill cylinders, common metals, cast iron waste and scrap, iron or steel, organic chemical products, fertilisers, clothing and knitted articles, optical devices, wines etc.
- **Import:** telecom equipment, machinery, metallurgical products and metal articles, organic chemical products, textile and clothing products, footwear, televisions, air conditioners, computing technique, optical instruments and devices, construction materials, toys.

According to the Romania's National Trade Register Office, until 30th of June 2012 a number of 10.441 Chinese and mixed Romanian - Chinese companies were established and the value of Chinese investments in Romania reached approximately 410.7 million USD, thus placing the People's Republic of China on the 18th place in the overall ranking of countries which invested in Romania.

Furthermore the economic cooperation relationships in the field of development are regulated by:

- the Economic and Trade Agreement (1994);
- the Agreement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion (1991);
- The Agreement for the Promotion and Mutual Protection of Investments (1997).

In as far as the cultural and scientific activities in the field of the development of current human resources are concerned, we can say that these have been defined by a series of important events among which we mentioned the most recent:

On the 8th of November 2007 within the University „Lucian Blaga” from Sibiu the Cultural Institute Confucius was opened. In 2009, a similar institute was opened within the University „Babeş-Bolyai” from Cluj Napoca and since March 2012 there is another Confucius Institute working in Braşov within the Transilvania University. On the 22nd of

November 2013, the fourth Confucius Institute was opened in Romania within the University of Bucharest.

The scientific cooperation takes place based on the cooperation convention between the Romanian Academy and the Academy of the People's Republic of China, signed on the 12th of July 1994, and on the agreement regarding scientific and technical cooperation signed in 1996.

On the 25th of November 2013 with the occasion of Prime Minister Li Keqiang's official visit to Romania, the „cultural programme for 2013 - 2016” and the Agreement between the Government of Romania and the Government of the People's Republic of China regarding the Establishment and Functioning of the Romanian Cultural Institute in Beijing and the Chinese Cultural Centre in Bucharest. In 2015, the Romanian Cultural Institute was opened in Beijing.

In the two countries there are lectureships of Chinese language and literature within the universities of Bucharest, Iași and Cluj-Napoca and a Romanian language lectureships within the University of Beijing.

In the time frame between 25th and 28th of November 2013, Romania hosted the **China-Central and Eastern European Countries Economic Forum** and Li Keqiang, the prime minister of the **State Council of the P. R. of China** paid an official visit to Romania.

The head of the government in Beijing came to Bucharest along with a delegation composed by numerous dignitaries and approximately 200 representatives of some important Chinese companies which were interested to invest in Romania and the surrounding states (Ziarul Financiarul, 2013).

The Bucharest forum approached five major topics: energy, agriculture, tourism, IT&C and infrastructure. Both countries wanted the intensification of trade and China really took measures towards this goal, the Chinese government encouraging the companies to import Romanian products and to participate to the trade fairs organised in Romania.

Following this summit, our country signed a **letter of intent with giant energy companies from China for the modernisation of the Energy Producing Complex Oltenia** as well as for the cooperation towards the realisation of the project of the thermal electrical plant in Rovinari and to the construction of the hydro power plant Tarnița-Lăpuștești in the county of Cluj. Still in the energy field, the Department for Energy and the National Administration from China signed a memorandum with our country for cooperation in the field of nuclear projects in view of the finalization of the 3rd and 4th reactor units of the power plant in Cernavoda.

Another level with massive development potential for the Romanian – Chinese bilateral relationship is the sector of IT and communication. As such, they signed the Memorandum of understanding for the support of telecom company Huawei Technologies in view of the establishment of a regional centre in Bucharest. There is as well a project for the establishment of a technological park in a Romanian - Chinese partnership.

The food sector has equally represented one of the intersection points of the cooperation between the two countries. With the occasion of the economic forum the ground was laid for the resumption of the export of ovine (potential of 4-5 million head), as well as pigs and bovine.

Least but not last China has announced its availability to support the development of infrastructure in Romania. During the China-Central and Eastern European Countries Economic Forum a project was presented, which targets the construction of a high-speed railway between Vienna, Bucharest and Constanța, an investment evaluated at 11 billion euros. In as far as the road infrastructure is concerned, a field where China is one of the world leaders, the Chinese investors expressed their interest to participate in our auctions for the construction of highways.

Within the 2015 edition of the **China-Central and Eastern European Countries Economic Forum** which took place in Suzhou (China), Romania did not want to engage in neither of the two projects proposed by China, O.B.O.R. and A.I.I.B., although its neighbours took important steps in signing agreements with China. Even though the meeting from September between Xi Jinping and Klaus Iohannis seemed to steer Romania towards the project *One Belt, One Road*, no further important steps have been taken towards the Chinese direction.

Although initially the former prime minister Victor Ponta announced that he would participate to the 16 + 1 Summit, the following Prime Minister Dacian Cioloș did not seem too interested to look towards East, towards a China that was eager to invest in energy, agriculture and infrastructure projects in Romania. As a consequence, Dacian Cioloș did not want to participate to the summit China - CEE from Suzhou, preferring to stay in Romania and take care of the budget. The Romanian emissaries to China were the minister of foreign affairs Lazăr Comănescu and the minister of economy Christian Borc, even though the meeting was dedicated to presidents or prime ministers of the States from the central and Eastern Europe. During a speech held by the minister Borc with the occasion of the summit, he underlined Romania's wish to become a hub of transport in the region through the development of water transport infrastructure in the harbour Constanța and on the Danube River. He also saluted China's initiative regarding the energy system development in the Central and Eastern European states. Nevertheless Romania didn't manage to sign important agreements related to the project O.B.O.R. and AIIB and the delegation of the Romanian state did not manage to return home with approvals on important projects.

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ASPECTS ON THE DEVELOPMENT OF COHESION POLICY IN THE EU

Dăianu Dana Codruța¹

Abstract:

EU Cohesion Policy is a solidarity-based policy, with job creation and increased competitiveness, providing support to less developed regions as well as those facing structural difficulties.

Since its creation, with the establishment of the two sectoral funds - the European Social Fund (ESF) and the European Agricultural Guidance and Guarantee Fund (EAGGF) - in 1958, Cohesion Policy has been the role of a payment mechanism, redistribution of budgetary contributions Member States to reduce disparities in regional development between them.

The main elements addressed are the current objectives of the Cohesion Policy, the evolution of budgetary allocations and the reform of this common policy. The paper also proposes a comparative analysis between the objectives of the new 2014-2020 Cohesion Policy framework and the financial allocations for 2007-2013, with a focus on the convergence of the objectives of this common policy with those of the Europe 2020 Strategy.

Key words: Cohesion Policy, European Union, Multiannual Financial Framework, Regional Development, Competitiveness

JEL Classification : O52, O18, R10,

1. Cohesion Policy considerations for 2007-2013

Cohesion policy in 2007-2013 has had three objectives, each benefiting from its own financial instruments.

The first objective was convergence, being funded by the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

The aim was to boost growth and encourage employment in the less developed regions of the European Union. The areas covered included innovation, the knowledge society, the quality of the environment, administrative efficiency and adaptability to economic change.

The second objective, Regional Competitiveness and Employment, was funded by the European Regional Development Fund and the European Social Fund, addressing regions that did not fall under the first objective.

This objective should lead to strengthening competitiveness, increasing the attractiveness of regions and stimulating employment.

The last objective, represented by European territorial cooperation, was to encourage cross-border, transnational and interregional cooperation, being funded by the European Regional Development Fund.

Common solutions have been promoted for the authorities in the different Member States for aspects of rural, urban and coastal development, the development of economic relations, the creation of relations between small and medium-sized enterprises (SMEs), as well as research, the information society, the environment, and risk prevention.

Allocations from the European Union budget for cohesion policy registered a steady increase of nominal values, amounting to 348.865 billion euros.

If in 2007 the budget allocation was around € 45 billion, by the end of the programming period (2013) it has risen to about € 54 billion.

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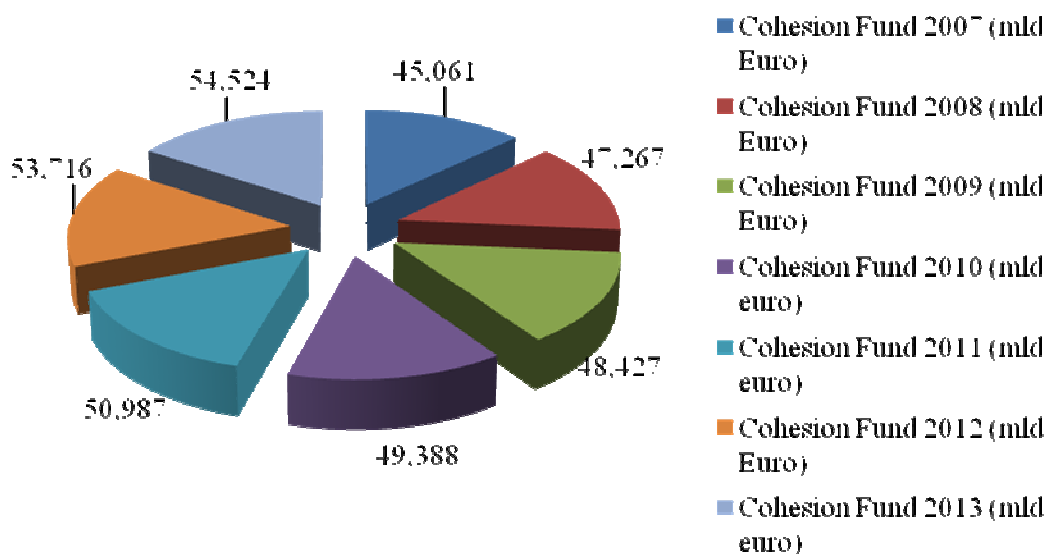


Figure no. 1: Financial allocations for cohesion policy 2007-2013

Source: https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-tailored-approach-regional-needs_ro.pdf

From the comparison, it emerged that despite the steady nominal growth, the amounts earmarked for cohesion policy (percentage of the total budget) declined during the period.

In 2007, cohesion policy received 36.21% of the total budget, and in 2008 the allocation fell to 35.59% of the budget. In 2009 there was an increase, and in 2010, the amounts decreased to 35,03% of the total budget.

In the next two years there was an increase, the level reaching 36.28% in 2012. In 2013, it resumed to a similar value to the 2009-2011 period (35.75%) (Hjerp, P., Medarova-Bergstrom, K., Cachia, F., 2011).

2. Lessons in the Financing Framework 2007 - 2013

In 2007-13, the Cohesion Policy, through the three financial instruments, the European Regional Development Fund (ERDF), the Cohesion Fund and the European Social Fund (ESF) addressed a number of objectives designed to contribute to the objectives of the Europe 2020 strategy.

In the following, we propose a comparative analysis that highlights the "weaknesses" of how these strategic goals have been achieved, as well as the synthesis of some "lessons learned" (see Table 3) that can lead to a better realization of in the new funding context.

In 2007-13, the most recent report of the Cohesion Policy (EC, 2014), Member States faced a number of obstacles during the management of project cycles and, although it has been extensively used JASPERS support and other technical assistance tools, the complexity of administrative procedures has generated a potential underpayment rate.

Some analysts (Shankar, 2009) pointed out that in the process of preparing, evaluating and implementing projects financed by structural instruments, especially infrastructure, it was reported that the specific national regulations but also those resulting from the transposition of the acquis Community action requires multiple project interventions by external institutions to the structural instruments management system in the form of issuing opinions and approvals,

which complicates the entire process and delays the preparation and implementation of projects.

Another issue raised by the Member States is related to the influence of the institutions and the external procedures of the structural instruments management system on the project evaluation and implementation process which has often led to delays in the contracting process.

The international economic and financial crisis has also contributed to hindering the funding process through the Cohesion Policy.

Thus, some analyzes (EC, 2010) show that one of the major problems faced by beneficiaries in the context of the economic and financial crisis was their ability to provide the necessary resources to finance the projects (be it the own contribution to the project, be it cash-flow insurance) for a number of public or public beneficiaries.

The institutional capacity deficit in structural instruments management was another key issue of the 2007-2013 funding period, both at the level of the institutions responsible for managing the operational programs and at the level of the beneficiaries, especially with regard to the implementation of major projects by the public authorities local.

Table no.1: Problems of Cohesion Policy funding during 2007-2013

<i>" Learned Lessons " from the perspective of management authorities</i>	<i>Harmonization of eligibility and sustainability rules</i>
The need to simplify system procedures and to outsource certain activities;	In the 2007-2013 period, there were situations where different eligibility rules were applied for similar types of projects;
Increasing project monitoring capacity	In the 2007-2013 period there were separate eligibility rules for the ESF and the ERDF, impinging on the planning
A better risk management of projects;	
The need to correlate the proposed projects with other local development strategies	

In order to contribute effectively to the achievement of Europe 2020 objectives, in the new 2014-2020 funding context, the Cohesion Policy will include the "lessons learned" within its funding directorates through three main headings: Harmonization of eligibility rules and sustainability, flexible programming of funds and single audit of projects below 100 000 euros.

In the period 2007-2013, any project, irrespective of its size, could be audited by the Audit Authority by the European Commission's auditors at any time during the course of the audit (as well as up to 10 years after its completion).

However, in the specialized literature (Böhme, 2013) it is shown that repeated audits may subject the beneficiaries to a considerable administrative burden.

In response to this issue, 2014-2020 changes bring a reduction in the number of audits by national audit authorities and by the European Commission. Operations for which the total eligible expenditure does not exceed EUR 100 000 will normally only be subject to a single audit by the audit authority along with the European Commission for their entire duration (unless there is evidence of a specific risk) .

This will eliminate the possibility for smaller project beneficiaries to face multiple audits that distract them from the main project activities.

3. Reforms of the cohesion policy for the period 2014-2020

It should be noted that cohesion policy will maintain its vital role in stimulating the development of regions and Member States and within the 2014-2020 programming period. In order to increase the consistency of European Union action, the European Commission has

put forward a series of legislative proposals which show that it is trying to facilitate smart, sustainable and inclusive growth.

Under the new programming period, there is a Common Strategic Framework (CSF) for all Structural Funds, which will promote the coordination of structural instruments, which will provide programming guidelines for all funds. Development Partnerships and Investment Partnerships (developed for each Member State) and negotiated with the European Commission will be signed. The agreements will be national strategic documents that will establish and substantiate the thematic development objectives as well as the allocation of funds for the period 2014-2020.

The Commission's legislative proposals also introduce a new classification of the regions. There will be three categories of regions: less developed regions with a GDP / share of less than 75% of the EU average of GDP, regions in transition whose GDP / GDP is between 75% and 90% of the EU average; and developed regions that have GDP / GDP values higher than 90% of EU GDP.

It is considered that for developed countries, access to structural instruments is necessary to encourage the transition to the knowledge economy and the transition to a low-carbon economy.

Another important aspect of the proposals is the introduction of new conditionality for the granting of funds, with ex-ante conditionalities, ex-post conditionalities and macroeconomic conditionality

Firstly, by imposing ex ante conditionality, the necessary conditions for the correct use of European funds will be ensured, eliminating the weaknesses of national and institutional policies. The role of ex-post conditionality's is to focus on the performance of Member States in order to achieve the objectives set out in the Europe 2020 Strategy.

There will be milestones related to the Europe 2020 targets to be achieved, with 5% of the national allocations being kept, which will be distributed, following an interim evaluation by the Member States, to the programs where the milestones have been achieved. Under the proposal, if the Member States fail to meet the targets, the funds will be suspended.

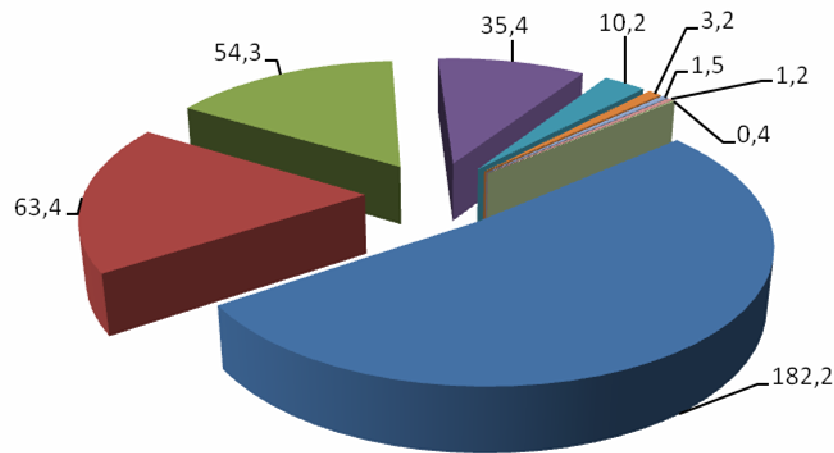
Macroeconomic conditions are designed to ensure secure macroeconomic policies. Funds will be able to be temporarily directed to solve existing economic problems in a Member State. If the Member State fails to take effective action in the economic governance process, the Commission has the right to suspend all or part of the payments and commitments.

The legislative proposal contains additional provisions on the limitation of "capping" allocations to 2.35% of GDP and the allocation for Member States will not exceed 110% of the total allocation for the current period. These measures also include others on employment, integrated programming and the use of financial instruments.

Financing economic, social and territorial cohesion in the European Union and Romania in 2014-2020 revealed the following situation:

- Increased the Community budget for cohesion policy to 376 billion euros;
- Funding will aim to increase solidarity towards less regions which will benefit from 162.6 billion Euros;
- The two cohesion policy objectives: Investment in growth and employment (€ 254.7bn) and European Territorial Cooperation (€ 11.7bn);
- Establishing a new chapter in the Cohesion Policy budget "Connecting Europe" to fund cross-border projects in the fields of transport, energy and information technology;
- Affirming a new position vis-à-vis the territories of the Outermost Regions, for which EUR 900 million has been allocated;
- Specification of the objectives pursued within the six Operational Programs, among which there are no sectoral programs.

• The analysis of the financing of the thematic objectives has highlighted a characteristic of these areas not only of Romania but of the whole of Europe, the allocation of about 60% of total investment (13.3 billion euros) to three objectives: moving to a low-carbon economy carbon dioxide; protecting the environment and increasing the efficiency of resource use and developing transport infrastructure.



- Less developed regions (mld Euro)
- Fondul de coeziune (mld Euro)
- Cohesion Fund (mld Euro)
- Transition regions (mld Euro)
- Territorial cooperation (mld Euro)
- The Youth Employment Initiative (top-up) (mld Euro)
- Specific allocation to outermost and sparsely populated regions (mld Euro)
- Technical support (mld Euro)
- Innovative actions in urban areas (mld Euro)

To increase the absorption rate of Structural and Cohesion Funds and the rate of reimbursement of funds from the European Union to Romania, it will be necessary:

- Enhance the authority and efficiency of Managing Authorities: MFE and MDRAP;
- Depoliticizing the management of the managing authorities and the ministries;
- Stabilizing the staff of the institutions that manage the operational programs and absorbing the community funds by establishing an appropriate remuneration;
 - Timely elaboration of programs and projects that wish to be funded from the community budget in order not to work under the pressure of time and to develop ineligible projects;
 - Simplifying procurement procedures and exercising control in time to avoid fraud;
 - Increasing the importance and role of local administrations not only in the process of project development but also in the timely provision of the co-financing;
 - Avoid delays in implementing programs to prevent suspension of funding and, more seriously, disengagement of funds;
 - Requiring Managing Authorities to approve in a timely and reasonable manner the projects issued in order to proceed with their implementation, while granting national co-financing.

4. Conclusions and proposals of the European Commission on the future MFF 2021-2028

The European Commission shows that the EU budget is facing a major challenge - to finance more actions with fewer resources.

Citizens in the Member States expect the European Union to play a more prominent role in new policy areas such as migration, internal and external security or defense.

The EU should also retain its leading role on the world stage as the largest donor of humanitarian aid and socio-economic development as well as leader in the fight against climate change. These targets will have to be met by having a Union budget that will be even smaller after the United Kingdom leaves the EU.

The reflection paper looks at this challenge and presents the main elements under discussion, structured around the five scenarios of the White Paper:

1. EU Member States will continue on the same path;
2. Will do less, together;
3. Will advance with different intensities;
4. Will do less, but more efficient;
5. They will do much more together.

For each of these illustrative scenarios, the implications are different, both in terms of the amounts allocated to each objective concerned and in terms of possible sources of funding. The proposed options go from reducing spending on existing policies to increasing EU revenue.

In addition, the reflection paper sets out the key features of the EU budget and outlines the main trends and developments in key policy areas such as agriculture and cohesion. It also addresses general issues such as the added value of EU funding or the correlation between EU funds and structural reforms in the Member States.

The revenue sources of the EU budget include contributions from EU Member States, import taxes applied to products from outside the EU and fines imposed on businesses that do not comply with European standards. EU Member States agree on the size of the budget and how it will be funded in the coming years.

The EU budget supports growth and job creation. Based on the principles of cohesion policy, it finances investments to mitigate major economic disparities between countries and regions in Europe.

The EU budget is based on the principle of the balance between expenditure and revenue and includes compensation mechanisms for certain EU countries. Approximately 80% of the EU budget is funded from national contributions based on gross national income (GNI) and VAT. GNI-based contributions are considered fair as they adequately reflect the relative "payment capacity" of the Member States.

Customs revenue is considered to be an authentic own resource, as it is revenue generated as a result of the common commercial policy, which feeds the EU budget.

However, a number of adjustments and "corrections" have been introduced over time, as some EU Member States considered their contributions to the EU budget to be excessive compared to the benefits they get from follow-up.

This is why the current EU funding system has become increasingly complex and opaque.

Thus, the European Commission considers that the way in which revenues can contribute to meeting EU priorities needs to be analyzed. Withdrawing the United Kingdom and removing budgetary corrections to it would remove some of the obstacles to reforming the revenue side of the EU budget.

At the European Council meeting of 23 February 2018, the leaders of the EU Member States discussed how they can ensure that the priorities they set (16 September 2016 in Bratislava and 25 March 2017 by the Rome Declaration) will be adequately funded, thus becoming a reality. The two elements - defining common priorities and providing the necessary resources for the Union to implement them - are regarded as indissociable.

On 14 February 2018, the European Commission presented various options - as well as their financial consequences - for a new and modern EU budget to ensure the achievement of the Union's priority objectives after 2020.

The European Commission contributes to this important debate for the future of the EU in three ways: by providing the necessary data on the EU budget and its benefits, achievements and added value, by developing scenarios illustrating the financial impact of the various policy options and highlighting the consequences which a possible delay in the adoption of the new EU budget could have on researchers, students, infrastructure projects and many other issues.

Thus, the European Commission considers that when discussing EU actions in areas such as: protecting the external borders, supporting a genuine defense unity, fostering Europe's digital transformation, or increasing the effectiveness of cohesion policy and agricultural policy, it is important that leaders have a clear idea of what would mean their EU-wide options in terms of funding.

These are not Commission proposals, but illustrations based on frequently advanced ideas during the public debate. Their purpose is to help focus on key issues, stimulate discussion, and provide a solid factual basis for making important decisions for the future.

For example, if leaders agree to comply with the often-articulated commitment to improve the protection of the EU's external borders, this would cost between 20 and 25 billion euros over a seven-year period, or up to 150 billion euros for a complete system management of EU borders. Likewise, any political priority - the European Union of Defense, supporting youth mobility, boosting Europe's digital transformation, stimulating research and innovation, or creating a genuine economic and monetary union - will need to be adequately funded to become reality.

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ANALYSIS OF THE EVOLUTION OF INNOVATION IN THE EUROPEAN UNION BASED ON THE INNOVATION UNION SCORED

Dăianu Dana Codruța¹

Abstract:

In order to cope with the fierce competition at international level, the European Union has become aware of the need to implement innovation in the fields of the creative economy and beyond. Thus, we can say that at the level of the European Union, innovation is considered to be the driving force for future growth and sustainable development, and is now associated with all types of activities and not just the recognized industries for the promotion of new ones such as software, electronics, biotechnology, telecommunications.

In order to enhance research and innovation, two strategies (one already completed and the other under implementation) have been implemented at Union level whereby Member States have focused their efforts on supporting, developing and promoting those activities that lead to sustained development, on an innovative basis.

In view of the above mentioned considerations, we have selected this issue of innovation as a research topic in the bachelor thesis. This research aims to present the role and importance of innovation in the Lisbon and Europe 2020 Strategies and to analyze the levels of innovation achieved by the Member States through the Innovation Index - a complex and modern tool for quantifying innovation at Union level.

Key words: *innovation degree, research and development, competitiveness, European Union, GDP, Pearson coefficient*

JEL Classification : O31, O52, O10

1. Measurement framework of the European Innovation Scoreboard 2017

For the European Innovation Scoreboard 2017, the measurement framework has been revised significantly. The European Innovation Scoreboard of 2016 largely followed the methodology of previous editions. The last major revision of the measurement framework was introduced in 2010 with the launch of the Innovation Union.

As a result of new developments in political priorities, economic theory and data availability, the measurement framework of last year needed adjustment. The framework review started in 2016 and has been discussed in various forums, including an expert workshop, various meetings of the Enterprise Policy Group Innovation Subgroup, a presentation in the Committee of the European Space for Research and Innovation European Research and Innovation Area Committee) in plenary and a workshop under its auspices. In particular, for the current edition of 2017, there were the following:

- Better align the dimensions of the European Innovation Scoreboard to changing policy priorities;
- Continually improve the quality, timeliness and analytical solidity of the indicators;
- Ensure that the European Innovation Scoreboard captures the increasingly important phenomena, including in areas such as digitization and entrepreneurship, and includes indicators on key areas such as human resources, competences and links between science and business;
- Provide a contextual analysis of the data presented, examining the effects of structural differences between Member States, to provide a reinforced evidence base for policy-making.

2. Evolution of components of the EU Innovation Index

In the following we aimed to analyze the situation of innovation in the European Union countries, with the main indicators, as well as Romania's position in the hierarchy. The state of innovation will be analyzed from 2009 to 2016.

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To achieve the objectives, we conducted a comparative analysis of the innovation situation, using the main innovation indicators, for the period 2009-2016.

As regards sources and availability of data, statistics on science, technology and innovation were used, which are based on Decision No 1608/2003 / EC of the European Parliament and of the Council on the production and development of Community statistics on science and technology. The decision was implemented by the European Commission as Regulation (EC) no. 753/2004 on statistics on science and technology, adopted in 2004. In 2012, a new European Commission (EU) Regulation no. 995/2012 on the development and development of Community statistics on science and technology.

Eurostat R & D expenditure statistics are compiled using the guidelines set out in the Frascati Manual, published in 2002 by the Organization for Economic Cooperation and Development (OECD). The Handbook has recently been updated through improved guidelines reflecting changes in how R & D is funded and realized in globalized economies, for example with new sections covering the different aspects of public R & D support (such as tax incentives).

Member States are classified into four performance groups based on their average performance scores.

Based on average performance scores, which are calculated by an indicator, the innovation index, Member States fall into four different performance groups (Figure 1). Denmark, Finland, Germany, the Netherlands, Sweden and the United Kingdom are part of the innovation leadership group, which has an advanced level of innovation performance well above the EU average. Austria, Belgium, France, Ireland, Luxembourg and Slovenia are among the strong innovators, with a level of performance above or close to the EU average. The performances of Croatia, Cyprus, Czech Republic, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Slovakia and Spain are below the EU average, these countries being part of the moderate innovation group. Romania and Bulgaria have recorded performances below the EU average, and they are among the modest innovators.

Performance has grown for the EU, but we can not say the same for Member States. Compared to 2010, the innovation performance of the European Union increased by 2 percentage points. There are different results at the level of each Member State, in 15 countries we are experiencing performance gains, and in 13 countries we have a decline in performance. Performance grew most in Lithuania, Malta, the Netherlands and the United Kingdom and fell just as much in Cyprus and Romania.

By comparing the Member States of the European Union with other European countries and neighboring countries, Switzerland remains the most innovative country in Europe. Iceland, Israel and Norway are powerful innovators that exceed the EU average, Serbia and Turkey are moderate innovators, and the former Yugoslav Republic of Macedonia and Ukraine are fashionable innovators.

Within 2 years, it is estimated that the European Union's innovation performance will increase by 2 percentage points. Last year's report introduced, for the first time, an analysis of the European Union's performance in innovation, discussing the latest developments, trends and changes expected. This exercise is repeated this year, using the revised measurement framework. The analysis shows the performance of EU trends on 19 indicators, for which a robust calculation of short-term changes proved possible.

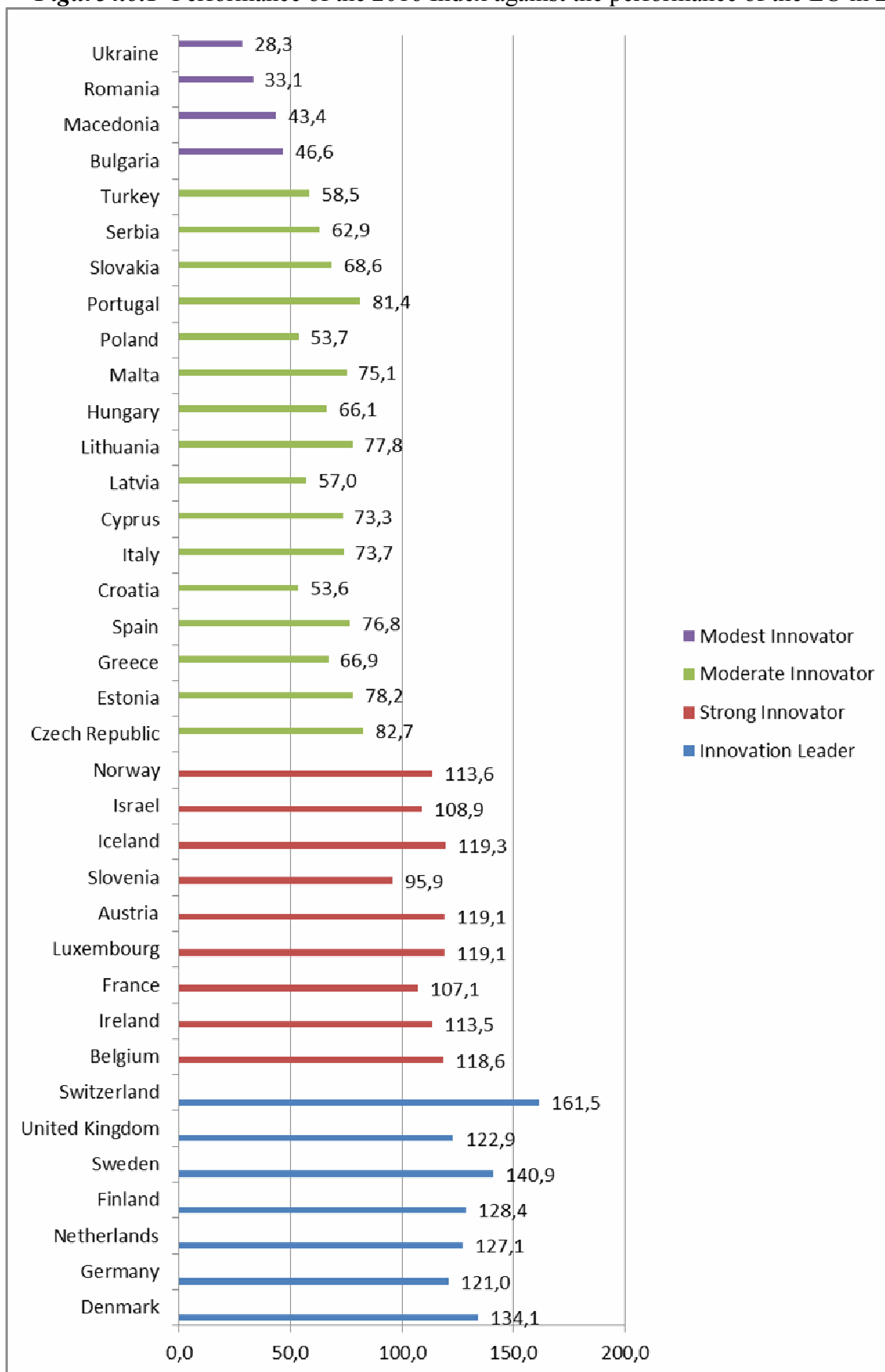
Performance improvement is expected for 12 of these indicators and performance drops for 6 indicators. Overall, the performance of EU innovation, relative to its 2020 performance, is expected to grow from 102% this year to 104% over the next two years. This analysis also includes a comparison of the EU's trends and its main competitors. Worldwide, the trends observed in recent years are expected to continue, while the EU performance gap with Japan and South Korea is rising and its leadership towards China further declining.

Table no. 1. Performance of the 2016 Index against the performance of the EU in 2016

Country	Innovation Score Performance in 2016 in relation to EU performance in 2016	Degree of innovation
EU	100,0	
Belgium	118,6	Strong innovators
Bulgaria	46,6	Modest innovators
Cech Republic	82,7	Moderate innovators
Denmark	134,1	Innovation Leaders
Germany	121,0	Innovation Leaders
Estonia	78,2	Moderate innovators
Irlanda	113,5	Strong innovators
Greece	66,9	Moderate innovators
Spain	76,8	Moderate innovators
Frace	107,1	Strong innovators
Croatia	53,6	Moderate innovators
Italy	73,7	Moderate innovators
Ciprus	73,3	Moderate innovators
Letonia	57,0	Moderate innovators
Lithuania	77,8	Moderate innovators
Luxemburg	119,1	Strong innovators
Hungary	66,1	Moderate innovators
Malta	75,1	Moderate innovators
Nederland	127,1	Innovation Leaders
Austria	119,1	Strong innovators
Poland	53,7	Moderate innovators
Portugalia	81,4	Moderate innovators
Romania	33,10	Modest innovators
Slovenia	95,9	Strong innovators
Slovacia	68,6	Moderate innovators
Finland	128,4	Innovation Leaders
Sweden	140,9	Innovation Leaders
United Kingdom	122,9	Innovation Leaders
Island	119,3	Strong innovators
Israel	108,9	Strong innovators
Macedonia	43,4	Modest innovators
Norway	113,6	Strong innovators
Serbia	62,9	Moderate innovators
Switzerland	161,5	Innovation Leaders
Ukraine	28,3	Modest innovators
Turkey	58,5	Moderate innovators

Source: Eurostat, 2018, <https://ec.europa.eu/docsroom/documents/24829>

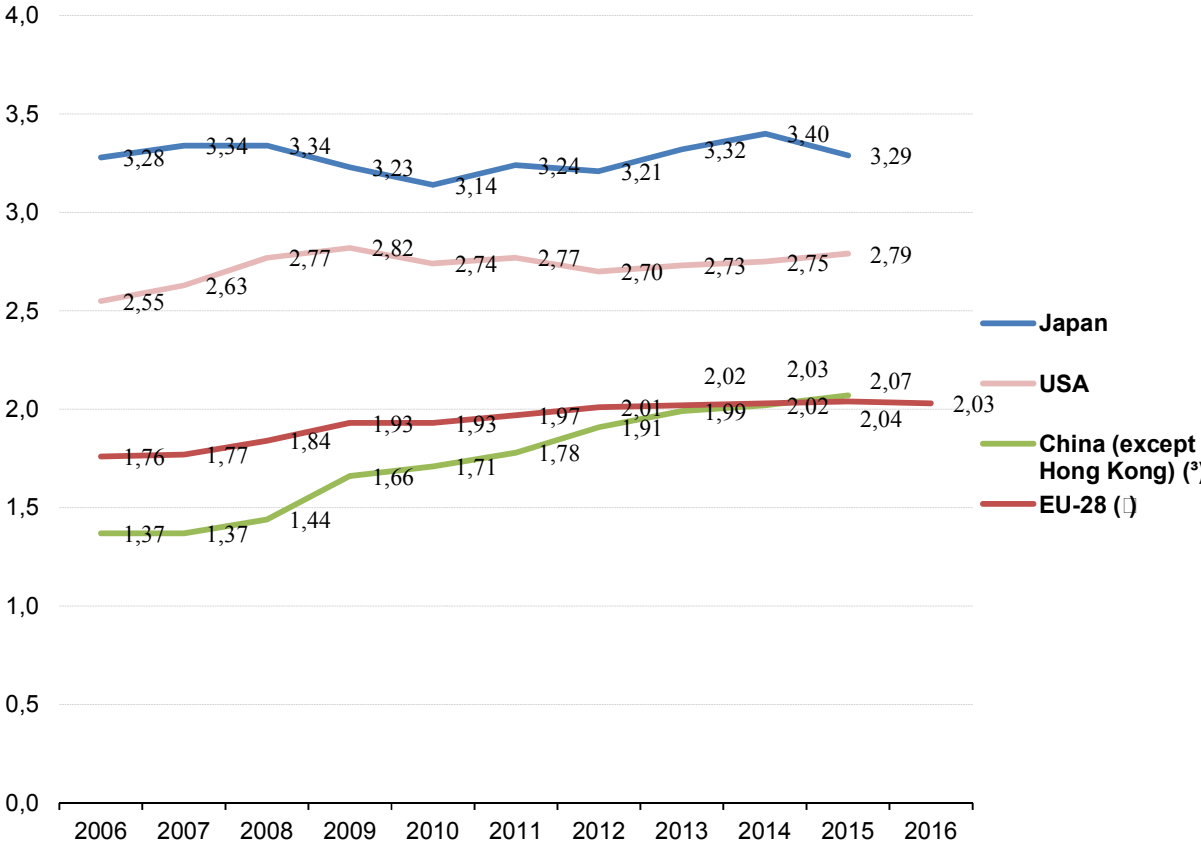
Figure no.1 Performance of the 2016 Index against the performance of the EU in 2016



Source: Eurostat, 2018, <https://ec.europa.eu/docsroom/documents/24829>

In 2015, R & D spending in the EU-28 was equivalent to two-thirds (66.6%) of those recorded by the United States, while EU R & D expenditure was 48.5% higher than in China, more than double the spending in Japan and more than five times higher than in South Korea. These figures are based on euro-denominated information and the depreciation of the euro (for example, against the dollar) can explain part of the movements of these reports over time. To make the figures comparable, gross domestic R & D expenditure is often expressed in terms of GDP or relative to the population.

Figure no.2. Share of R & D expenditures in GDP over 2006-2016



Source: Eurostat, 2018, http://ec.europa.eu/eurostat/statistics-explained/index.php/R%26_D_expenditure

The share of R & D expenditure in GDP, one of the five key indicators of the Europe 2020 strategy, is also used to quantify the intensity and level of R & D. This ratio increased modestly in the EU-28 over the period 2006-2012, rising from 1.76% to 2.01%. Between 2012 and 2016 it grew more slowly, fluctuating in the range of 2.01-2.04%. Despite these increases, EU-28 spending on R & D relative to GDP remained well below the corresponding rates in Japan (3.29%, 2015 data) and the United States (2.79% 2015) for a long time. In 2015, China's R & D intensity exceeded that of the EU-28, with Chinese R & D spending equivalent to 2.07% of GDP.

Between 2006 and 2015, there was a fluctuating pattern of R & D spending in the Japanese economy, as the R & D expenditure ratio was 3.14-3.40%. In the United States, the ratio of gross domestic R & D expenditure to GDP rose from 2.55% in 2006 to a peak of 2.82% in 2009, an increase of 0.27%. In 2010, research and development intensity in the United States fell to 2.74%, and in 2012 there was a further reduction; Subsequently, research and development intensity in the United States began to rise again, reaching 2.79% by 2015. China's R & D intensity grew faster than rates for the EU and other countries in the period presented in Figure no.2 , rising from 1.37% in 2006 to 2.07% by 2015, an increase of 0.70 percentage points.

Table no.2. Share of R & D expenditure in GDP in 2016 as compared to 2006
(percentage of GDP)

	2006	2016
EU-28	1,76	2,03
Euro Zone	1,80	2,13
Sweden	3,50	3,25
Austria	2,36	3,09
Germany	2,46	2,94
Denmark	2,40	2,87
Finland	3,34	2,75
Belgia	1,81	2,49
France	2,05	2,25
Netherlands	1,76	2,03
Slovenia	1,53	2,00
United Kingdom	1,59	1,69
Czech Republic	1,23	1,68
Italy	1,09	1,27
Estonia	1,12	1,28
Portugal	0,95	1,27
Luxembourg	1,67	1,24
Hungary	0,98	1,21
Spain	1,17	1,19
Irland	1,20	1,18
Greece	0,56	1,01
Poland	0,55	0,97
Croatia	0,74	0,85
Lithuania	0,79	0,85
Slovakia	0,48	0,79
Bulgaria	0,45	0,79
Malta	0,58	0,61
Ciprus	0,38	0,50
Romania	0,45	0,48
Latvia	0,65	0,44
Island	2,92	2,08
Switzerland	2,71	3,37
Norway	1,46	2,03
Serbia	na	0,89
Turkey	0,56	0,88
Macedonia	na	0,43
Montenegro	na	0,37
Bosnia and Herzegovina	na	0,26
South Coreea	2,83	4,23
Japan	3,28	3,29
USA	2,55	2,79
China (except Hong Kong)	1,37	2,07
Russia	1,01	1,10

Source: Eurostat, 2018, http://ec.europa.eu/eurostat/statistics-explained/index.php/R_%26_D_expenditure

Among the Member States of the European Union, the highest levels of R & D expenditure in GDP in 2016 were recorded in Sweden (3.25%) and Austria (3.09%). These were the only Member States that reported a level above 3.00% in 2016; Important weightings

were also recorded in Germany (2.94%), Denmark (2.87%) and Finland (2.75%). There were nine Member States reporting R & D expenditure below 1.00% of GDP in 2016, each of which were Member States that joined the European Union in 2004 or more recently with the lowest intensity of research - development in Cyprus (0.50%), Romania (0.48%) and Latvia (0.44%) (Tabel no.3.).

Most EU Member States reported a higher share of R & D expenditure in GDP in 2016 than in 2006: there were five exceptions, including two high-Finland (-0.59 percentage point) and Sweden (-0.25 percentage points), while the other three Member States registering decreases registered R & D intensity levels in GDP below the EU-28 average, Luxembourg (-0.43 points), Latvia (-0.21) and Ireland (where there was almost no change), -0.02 points). At the other end of the interval, the highest increases in R & D levels (in percentage points of GDP) between 2006 and 2016 were recorded in Austria (0.73 points), Belgium (0.68 points), Germany (0, 48 points), Denmark, Slovenia (both 0.47 points), the Czech Republic and Greece (both 0.45 points).

3. Analyze the relationship between the Innovation Index and the percentage of GDP allocated to R & D in 2016 based on the Pearson coefficient

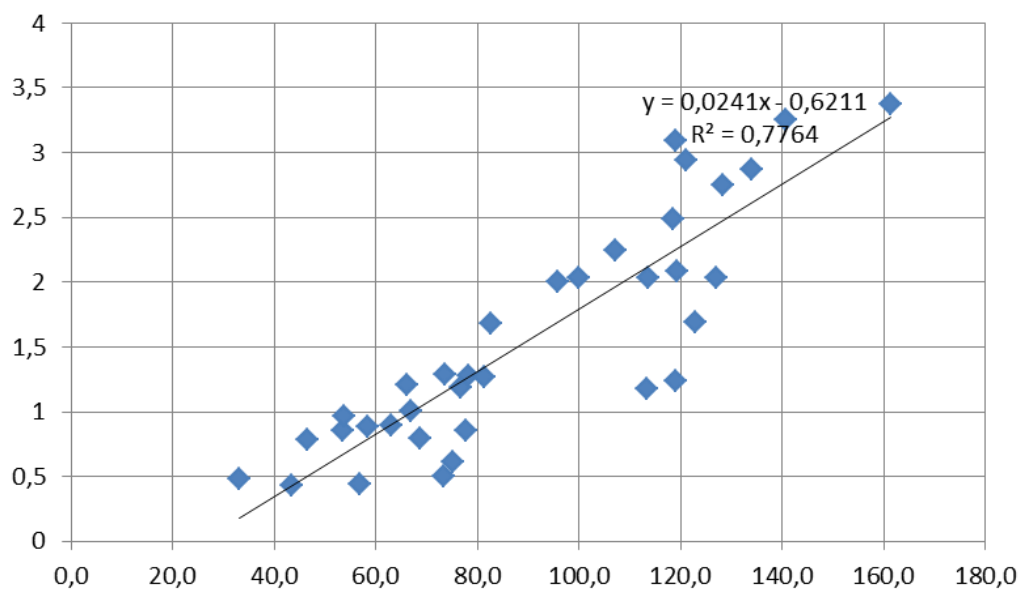
In our research we noticed that states allocate higher percentages of GDP for research - innovation, and they have higher results, ie they record higher values of the innovation index than those who spend little in this sector. This relationship of correspondence is represented in Figure no. 3.

Tabel nr.3. Comparative presentation Innovation Score (Index) vs. Procent of GDP allocated to research and development in 2016

Country	Innovation Score (Index) 2016	Procent of GDP allocated to R&D (2016)
EU	100,0	2,03
Belgium	118,6	2,49
Bulgaria	46,6	0,78
Czech Republic	82,7	1,68
Denmark	134,1	2,87
Germany	121,0	2,94
Estonia	78,2	1,28
Irland	113,5	1,18
Greece	66,9	1,01
Spania	76,8	1,19
France	107,1	2,25
Croatia	53,6	0,85
Italy	73,7	1,29
Ciprus	73,3	0,5
Letonia	57,0	0,44
Lithuania	77,8	0,85
Luxembourg	119,1	1,24
Hungary	66,1	1,21
Malta	75,1	0,61
Nederland	127,1	2,03
Austria	119,1	3,09

Country	Innovation Score (Index) 2016	Procent of GDP allocated to R&D (2016)
Poland	53,7	0,97
Portugal	81,4	1,27
Romania	33,1	0,48
Slovenia	95,9	2
Slovakia	68,6	0,79
Finland	128,4	2,75
Sweden	140,9	3,25
Great Britain	122,9	1,69
Macedonia	43,4	0,43
Serbia	62,9	0,89
Turkey	58,5	0,88
Island	119,3	2,08
Norway	113,6	2,03
Switzerland	161,5	3,37

Figura nr. 3. The relationship between the Innovation Index and the share of GDP allocated to research and development in 2016



	Pearson correlation coefficient
Innovation Index 2016 and Percentage of GDP allocated to R&D (2016)	0,881141585

From the figure and data presented above, it can be seen that for most of the EU Member States there is an obvious link between the research-innovation share and the value of the innovation index, but there are also some exceptions such as Ireland or the United Kingdom have high index values, with a lower GDP contribution.

To measure the intensity of the link between the share of GDP spent on R & D and the innovation index in the European Union, we calculated the Pearson correlation coefficient with SPSS for Windows.

The value of the Pearson correlation coefficient resulted in 0.881, which shows a strong link between the two variables analyzed - the percentage of GDP allocated to research and innovation and the innovation index. As the program indicates, the value obtained is statistically significant.

The results show that a country that allocates a higher percentage for research - development - innovation also gets a higher Innovation Index. Amounts allocated for this area can be used to increase other indicators that are taken into account in the innovation index.

4. Conclusions

Despite the economic crisis in recent years, the European Union and the Member States have managed to maintain their level of competitiveness in terms of knowledge. However, the European Union has strong international competition on research and technological production. This requires more effort to make the new ideas happen and thus materialize through new products and new technologies. With collaboration, many policies and funding programs can be made, alongside their own Member State policies.

The importance of innovation policy is widely recognized. It is also closely linked to other EU policies such as competitiveness, the environment, employment, industry and energy. The aim of innovation is to transform research results into new and better services and products to remain effective on the global market and to improve the quality of European citizens' lives.

The development of the European Union and individual Member States can not be done without scientific input and innovation, considered key elements by which the Union can ensure its upward trend and recover from the gap with the US and Japan as the main competitors on the market. EU policy and strategies implemented or underway clearly promote the importance of innovation in all areas of activity and calls on Member States to actively engage in providing financial, scientific and logistical support. It can be concluded that financial support is the basic element for scientific research and effective innovation for any state in the union.

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CONTEMPORARY THEORIES AND MODELS OF THE HOUSEHOLDS

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Abstract

The **household** is likely to base on one family structure – two spouses, sometimes together with a number of children. The latest are also likely to grow up, fulfil the age of majority, but sometimes stay further home, in the same old household with their parents while though they get some jobs around and earn some money in the labour market, as well as their parents. So, this might be the household restricted, versus extensive, but this actually isn't yet all about households – other kinds of human relationships than legal family might equally make it. And households of one or another kind are found to work similarly – notice that household is the typical area of non-formal human relationships within and its proper economy is quite informal as correspondingly. Moreover, given and besides all these above, household is unanimously admitted among economic entities – i.e. as manuals do explain that it is autonomous in its economic functions, never subordinated to anyone else, and enough influenced by its environment.

Key concepts: household, family, household models, household theories

JEL Classification: B31, B54, C00, D12, F00

1. Old approaches of the household. Natural economy and basics of economics

Actually it is about 'two doubles' when talking about the *household* – i.e. the one of the literature approaching and the other that is the household itself during human history. This is why the below lines will take it chronologically, namely first there will be about the 'old household' approached by corresponding references. This first chapter below will then belong to the *old household* approach that so accuses two concepts, i.e. the *natural economy* and *macroeconomics genesis*.

The 'natural' economy is the economy or economic system in which money is missing from all transfer between people and/or between entities – barter and self-consumption are here considered among alternatives. The Belgian historian economist Henri Pirenne (1936, pp. 103-104) here points to whom he calls 'German economists', who had invented their *Naturalwirtschaft*, which is, or more precisely was supposed to be that 'natural economy' of before the existence of money – of all precedents of the today market economy - - and lasting up to the early Middle Ages Europe, in eras and areas where money was so weak, sometimes even negligible presence. Significant in context here is that Karl Marx, the first classic of socialism-communism, with his *Grundrisse* or *Capital* was among them. He notes that what he calls 'social production' would play against all 'natural economy, economy of money and the one of credit...' Besides, it is not only about Marx, as communist ideologist in context, but about noticing a rather common view on all about economics between Marx (1975a, p.896; 898) and Lenin (1970) – e.g. several understandings of natural economy, of which the individual farm is actually the most important one. For both authors this is 'a production unit', for the previous especially self-sufficient, this feature actually identifying the separation line of this unit from the rest of the economy, while the latter sees especially 'the peasant patriarchal family' getting promotion up to the real 'rule of law' of its time. It is as clear as daylight that these classics were equally aware of the variety that the simple farm evolved into during the so long while between Neolithics and the of Europe's early Middle Ages: large lands, including pastures, forests and fishing areas, enough cattle breeding, but also weaving, carpentry, honey production, the same for wines, eggs, vegetable-fruits and building materials. Land renting by farmers wasn't alien to natural economy and to that

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ancient family farm either. Just figure out all these quite off modern industry times, but belonging to both ancient world and self-sufficient economy (Andrei 2011, p.33).

Or, these above might be viewed as just the beginning of what is called household by contemporary literature, e.g. Sen(1985), Alderman and co.(1995), plus some substantial foundation features seem already done: this is first family stuff; the family of all time, the same as the today family. This family economy is economic entity by definition; its evolution makes it able to reach larger economic areas. Such an economy always based on production, the same as the whole economy. As differently, the household economy was in its past as opposite to the rest of the economy as the current household appears opposite to the much larger market economy. On the contrary, the old ancient farm seems to have been stronger than the today household in the same contest, thanks' to the weakness of the today market economy's 'ancestors'. Concomitantly, production makes all household an economic entity – i.e. not subordinated to anyone, but very influenced by environment. The household's relationships with the last always was enough complicated as well.

But it is the time in this above little digressional debate context to notice that meanwhile – i.e. in this so long one and a half century while, as between the above old classics(then 18th century end) and the capital paper of JM Keynes(1936) – *households*<H> came up to replace the individuals-population classic option and so the old classics' slight imprecision of terms in this topic area. Keynes seems to have equally updated his contribution to his contemporary debate about the household's higher representativeness as economic entity – e.g. the Charlotte Perkins Gilman's book entitled "Women and Economics" (1898), in which this lady-author tries to argue about at least two aspects: (i) the sex based labour division and (ii) including some *household* works in the large market economy area. In other words, the Keynes' option for higher(than the individual's) representativeness of household, as economic entity was transparent.

Then, contray to the Marxian view the Keynes' Macromodel skips all ,confrontation' between households and the rest of the economy, but sees the households as part of the economy as a whole. Interesting is equally that households (i.e. no one else) receive the whole current gross national income, all money that firms, banks, Government and rest of the world are betting in the aftermath within same short term. Households *consume, save* money, *pay taxes* and even access the consumption part of *imports*. Plus, since even the Quesnay's model – not yet aggregate macro-flows -- households also appear as feeding labour market and firms' jobs with corresponding flow of labour. So, production and labour in the Keynes' ,Macromodel' stay off households, as opposite to all the author's precedent, contemporary and later theorists. In a word, these about production-labour, together with no ,opposition' between household and the market economy and the highest economic flows receiving by the same households are the main features of the JM Keynes' contribution to the *theory of households*. Besides, the firmer the Keynes' option for households against individuals, the more interesting the post-Keynes debate evolving, as below developed – e.g. in the neoclassic thinking, where the individual's position will be still in question.

The below Diagram tries a synthesis of the *household* specific items in the pre-contemporary literature and partly on the historical household structure. Concepts appear promoted by the two above literature areas.

Table 1. Household specific concepts in the pre-contemporary literature

No.	Concept	"Natural" economy *	Macroeconomics**
1	Economic entity	x	x
2	Family based entity	x	x
3	Production	x	
4	Labour (factor):
	4a/ inside the household	x	
	4b/ for the rest of economy		x
5	Consumption	x	x
6	Confronting with the rest of the economy	x	
7	Saving for investments		x
8	Imports		x
9	Paying taxes		x

* Contributions of: K Marx and V.I. Lenin

** Contributions of Fr. Quesnay and JM Keynes

2. Today approaches of the household

This new chapter below will shape a certain ‚passover’ from the old (see above) literature about households to the current literature as such which’s content will be searched for its appropriate understanding. This chapter might also be called the *conceptual approach* of the household by contemporary literature. Just noting from the above Diagram that household presents the two economic functions of *production* and *consumption* and the quality of *economic entity*. It is below that other issues will be added and debated – e.g. time, human and ‚humane-human’ capitals, household specific for its labour and goods.

2.1 Theory of the individual consumer

This ‚old’ *theory* is viewed in the literature as the starting point of all later and contemporary *neoclassic* developings in thinking. Its primary theoretical assumption is the *individual utility maximising* – e.g. corroborated with the subsequent one of the consumer fully informed (Matilla-Wiro 1999, p.33). *Utility*, as one of basic economic functions, does benefit from a quasi unanimously accepted definition that sees it as the individual consumer’s satisfaction provided by good’s consumption (Eastwood (1985, p.48). *Utility* comes out of good *consumed* and that immediately, automatically and as the *consumption function*. Consumer is so seen as *rational* in his/her good picked from a range of goods to (better) satisfy his/her utility expected.

Time isn’t part of the utility function, e.g. price does not change during the consumer’s corresponding goods/utilities option done. On the contrary, *price changing* induces changes to the individual’s options as correspondingly – i.e. see the utility function, once more – and this with direct impact on afferent policies influential in the same area. Or, consumer’s *income changing* is expected with similar effects (Varian 1990).

Shortly, *consumption optimizing* – in the consumer’s theory – keeps the exogenous of (1) individual preferences, (2) price level and (3) consumer’s income. The consumer’s decision draws the *demand* or *demand function* basing on these factors, then this function might see itself affected by goods’ price and consumer’s income (Matilla-Wiro 1999, p.9). *Utility* sees itself shaped by individual preferences – e.g. high utility for preferences at the same. There is no common utility measurement since the *plural* utility function – i.e. as well as utility measured in terms of the quantity of good. In practice such a measuring identifies/reduces to comparing, by the consumer subject, diverse goods packages (Estola 1996).

In a critical view, there could be striking limits for consumer's *rationality*, as assumed by this given theory – e.g. a number of authors doubt on both the *full information* about goods to be consumed and *utility maximizing*. Actually, utility maximizes and stabilizes itself along the *indifference curve* (Matilla-Wiro 1999, pp.7-8). The theory skips uncertainties related to market and technical goods' evolving – i.e. and both these always stay strongly influential factors for all consumer's options and for their changing during time(Gravelle & Rees 1981). As for the *household*, in particular – i.e. apart from general economics and corresponding judgments – other specific utilities are appropriate, plus, unlike the rest of economy, these household utilities might not devolve directly from resources allowance, e.g. leisure-recreation, friendships(Matilla-Wiro 1999, p.8). The same utilities are to be noticed as being even able to connect consumption to production.

Individual utility maximizing is admitted by the literature to be the household's imperative (Matilla-Wiro 1999, p.33). The *utility function* of household is seen as the *algebraic sum of individual utilities of the same household's members*(Sen 1985 and Alderman and co.1995), so neoclassics feel nearly forced to admit, or even notice the *uneven welfare distribution* within the household (Matilla-Wiro 1999, pp.7-8).

Similarly to cumulating individual utilities within household for the latest's proper *utility* accounted, the household's *welfare* refers to the one shared by its members either – i.e. and that in the *efficiency* related environment. Alderman and co.(1995) do not here exclude – i.e. they really consider – efficiency when *uneven welfare* within the household and Hannad&Kanbur (1990) do criticize those rigid policy decisions that ignore such circumstances, here and there dealing with some kind of *traditions* in the Third World. Though, these last authors also finally accuse welfare distribution within household – i.e. actually, its dysfunctions -- as responsible for the whole society's created needs of corresponding economic policy repairs.

Browning and co.(1994), in their turn, broadly admit that the consumer theory meets empirical verifying for the household cases, except for household behaving *like one single individual*. And this in the middle of critics' 'cross fire' – e.g. classics are criticized for limiting the household's need to the acquiring goods corresponding resources(Becker 1993). Hawrylyshyn (1977) argues that, despite the consumer theory's incomplete analysis or could be, on the contrary, just for such reason its appropriate reply was going to come up from not so far, namely from the(same) *neoclassic* thinking camp – i.e. the Gary Becker's and Kelvin Lancaster's distinct contribution models are seen by the literature as somehow shaping the 'Becker-Lancaster model' of the household.

In context, Lancaster (1975, p.9) adds assumptions to both *individual* and *household*. The *individual* is viewed as: (A) *traditionally* – i.e. goods are distinct parts ranking in the consumer's *preferences* system – and (B) in the system of *characteristics* – i.e. each presumable item of the latest is actually assumed to belong to several goods. Then, when *household*, in its turn, is taken like *the individual*, it is assumed that: (1) the individual stays efficient when the number of characteristics is lower than the one of goods ($R < M$) and so goods chosen will automatically be fewer than their total available number; (2) *substitution* predominates for the *consumption demand*, together with corresponding *budget constraint*, and so two further alternatives get equivalent: (a) *Slutsky matrix*, as symmetrical and *negative semi-definite*; (b) both the strong and weak *axioms of revealed preference*, as satisfied(Lancaster 1975, p.7).

In such a view, anyway and any-time the *household*: (i) is a number of individuals that is (ii) low enough and (iii) these individuals are 'close-knit'. The *aggregate consumption vector* in the household does result by cumulating the corresponding individual vectors of the household's members. The household's *aggregate consumption* vector is further assumed to correlate with the complementary one of *aggregate income* and separately with the

economy's *goods' prices vector* the way the above (1) and (2) assumptions would be satisfied and concomitantly the household is assumed to act like one single individual (Lancaster 1975, pp.7 and the following).

2.2 The household's production function

The household is assumed as *rational economic entity* – a unique objectives/goals set afferent to all members (Ellis 1988) and as such it is supposed to become a *production unit*, as all (production) firms working in the competitive market area. So, household is here assumed to have a proper *productions frontier* type function (Matilla-Wiro 1999, pp. 5 and the following). The same for *labour division* between household members – e.g. sex based – up to *specializing* – similarly to acting as nations, in the international trade area (Matilla-Wiro 1999, p.14), the example in which international *arrangements* are supposed to come out (Krugman 1991, p.11).

This *household-international market* topics comparison extends, in its turn, backwards in time to the early 19th century, when David Ricardo found the *comparative advantage* together with its basics leading to *labour productivity* (Matilla-Wiro 1999, p.14). *Specializing*, for household, works as such on labour distribution first between market and household, according to the comparative advantage rule, and when so household is chosen by the individual, its labour division is to be equally considered. Reservations to come on admitting such economic communication fully working between household and its outside market economy (Matilla-Wiro 1999, p.34). Plus, in the same contest of facts the 'old' sex based labour division might even be disadvantage for household members (Matilla-Wiro 1999, pp. 14-15).

The same as the above Lancaster's contribution to household on the consumption-consumer side, Gary Becker comes on this *production function* one. Simply, this production means acquiring market goods and combining them basing on the household's *time* resource to make specific *household goods* – e.g. children, healthcare, watching shows, other diverse pleasures and leisure (Bergstrom 1997). And this is a set of items that Manser & Brown (1980) do enrich by others that aren't material, like love and understanding – i.e. these last are supposed to be produced inside the household, where previously brought in by marriage and lastly made for strengthening the whole set of preferences.

The *Gary Becker's theory-model* on the household, that is called the 'new theory', is actually seen as achieving what previously had been the *individual consumer* theory and this through a new thinking phase – i.e. this new thinking phase doesn't aim any true reply to the old thinking in the area. The scholar uses an *economic* research tools approach to the household's behavioural understanding – i.e. assuming: (1) *maximizing behaviour*, (2) market equilibrium and (3) stable preferences. Besides, there is to talk once again about this above mentioned *production function* of the household that is rather similar to the one of the firm working in competition area, but concomitantly both basic and non-material goods (new examples: sleeping, children etc.) are produced by household.

Ironmonger (2001, p.3) is the one who makes it explicit that specific *household goods* are done by household members for *their own consumption* and this using the household's proper *capital* and *labour* resource that isn't rewarded – i.e. unlike the market economy specific circumstances – and once more market goods acquired, as *intermediary goods*, are here used to produce these *final* household goods.

At the next page the author deepens the household's specific productions classifying: (1) *subsistence* (part of) production – e.g. hunting, fishing, seeding, farming --, (2) *volunteer* production – i.e. unrewarded, as well – to the help of other households, (3) *public* production – e.g. army, healthcare, education, justice, road building (Ironmonger 2001, pp.4-5). And going on this into a sort of Marxian 'qualitative leap', the author suggests a Leontief (1941)

type table (Ironmonger 2001, p.7) afferent to household internal activities (productions or industries) – i.e. even here using one of his own previous studies (Ironmonger 1989), associated to Eisner (1989), with an idea of *national accounts* extending, concretely for a study on Australian households. As effectively, the approach result was an *input-output table* with *satellite accounts* proper to household and containing *six industries* (i.e. common to the household and the whole economy): accommodation, food production, clothing, transportation, leisure, care, whereas shopping and cleaning account apart, for subsequent activities.

And about here Eisner (1989), once more, draws attention about the opposite idea to that the household made goods would be basically specific and quite ‘different from market goods’ – i.e. there are equally those household made goods that are quite the same as market goods, e.g. food meals, as in restaurants and related places, transportation, like by common transport means, healthcare, like by special care centers. So, the author touches on the debate on ‘purely’ household, versus ‘purely’ market goods, together with the alternative of ‘mixed’ goods, as between these two (Ironmonger 2001, p.11, also citing Eisner 1989).

Moreover, Eisner (1989) equally adds his proposal for *gross households product (GHP)*, as cumulating *value added* of all households and so, once more, *households’ production* would be underlined as the result of its ‘specific’ factors: (i) labour (i.e. not rewarded) and (ii) capital – e.g. technical means, time, supermarket and other market goods sources accessed. All these, compulsorily related to the national economic structure.

Back to Ironmonger (2001, p.6), where this author goes as far backwards into the literature’s history as citing Margaret Reid (1934, p.11), he actually also goes on deepening the household *production* definition through the *production-consumption dichotomy*, e.g. the *third person criterion* – i.e. there is accepted as *productive*, in the *household*, that activity which is unpaid when made by members, but able to be assigned to somebody else from outside the household, as paid. Another criterion here in the same debate is the so called *market alternative* – i.e. an activity is taken as *productive*, in the household (as well), when it is able, as well as outside, in the economy, to hire labour and/or capital for its same productive aim (Ironmonger 2001, p.6).

Last, but not least, the author gets preoccupied by measuring/estimating the households’ production – i.e. naturally, such a preoccupation comes to be shared by other scholars, as well (ibidem, pp. 9-11). It is actually for long time already that statistics stay likely to keep pretty off households’ production(s) interest (Nordhaus & Tobin 1973 and Weinrub 1974). But there were also exceptions to be highlighted here and there -- i.e. it was before the last World War that some national statistics were providing such estimations, e.g. of Denmark, Norway and Sweden. In Norway, for instance, it started in 1912 and stopped in 1950, after the War, at the UN’s suggestions for methodology to be changed (Aslaksen & Koren 1996).

There is equally a third group of studies to talk about in context. Boulding (1972) was estimating household purchases at about 60% of GNP, plus most of the whole economy’s subsidies. Ironmonger (2001) cites names like Morgan and Baewaldt with a study made in and for 1971 seeing intra-household transfers, the year of publication, about three time higher than the US Government’s charity (similar) transfers. Burns (1977, p.8) highlighted that such intra-household transfers – i.e. that usually are as unpaid as works done and labour used in the household -- might be higher value than similar transfers within the neighbouring market economy – i.e. those, of course, are paid. Waring (1988a,b) adds to these a different view point, the one of the *unrewarded female activity* that is supposed to contribute not only to the economy and economic life.

The same household production measuring as *methodologies*, the last’s primary attempts were made just by multiplying costs of hiring individual servant by agricultural

profile household with the number of such existing households (Hawrylyshyn 1976). Vanek (1975) and Szalai (1972) were further highlighting a real turning point of such methodologies in the sixties, once more, together with using the *time resource* method -- i.e. this was coming to be in the very favour of international comparisons in such a way, e.g. see first a study of this type on 12 countries funded at that time by UNESCO and the Council of the International Institute for Social Studies, then the 'Szalai method' was coming to be extended on studies about other OECD member countries at least for time data collecting and households samples done. Later on, Goldsmidt-Clermont & Pagnossin-Aligisakis (1995) found in statistics of 12 OECD member countries on the 1985-1992 year interval an *average household work time* (i.e. unpaid work) of about 24-26 hours a week *per adult individual*.

And back to Ironmonger (2001, p.10), for the last time in this paragraph, he proposes, in his turn, other two alternative methods for households production estimating: (a) unearned wage/salary of the household member on the neighbouring labour market; (b) reward to craftsman of outside the household hired for some household activities. Even the author finds that both these might be criticized.

Not to end this paragraph without a reference representative for the opposite skepticism against the household's production function -- see Ruuskanen (1994) arguing that studying the household's production function rather makes things more complicate for market economy traditional analysis, than really helping economic policies, as so much expected.

II.3 The household's time factor

We are back to *time*, above considered, that in the household's case is attributed to Gary Becker (1993)'s contribution on both of the equally above described functions that are production and consumption (Matilla-Wiro 1999, pp. 11, 33-34). In such an order the household time breaks down into: (A) *work time* -- i.e. production, that is out of household -- and (B) *consumption time* -- that is inside the household. But, as the result it remains difficult to identify that part of *extra-time* -- off the *work time* -- that exactly matches the *household consumption time*.

One of consumption time assessment methods in the household could be its income that is 'forgone' or actually lost (Matilla-Wiro 1999, p.13). Or, might be just this way that the fundamental idea comes up -- according to Ruuskanen (1994) time finds its equivalent in *market goods*. But not only -- when 'time is income in the household' the same time actually becomes that (single) limited resource which is for household what the whole basic natural resources portfolio is for the 'great' economy. Also notice that market goods -- i.e. when statutorily compared with time -- are never limited fund. Moreover, *time* may see its value rising inside the household (Becker 1993) -- e.g. when leisure-recreation time in the household lowers, this might increase the household's access to market goods and services; on the contrary, the household time rise might equalize some 'forgone' income, resource and utility (Matilla-Wiro 1999, p.12). Such an idea comes to re-confirm the above theoretical option for the time equivalence into market goods since also observing concomitance of enlarging household time with real wage diminution.

Last, but not least, Becker further considers technological progress and improvements able to rise 'consumption time productivity' in the household -- new access to supermarkets, to telecommunication.

II.4 Others on the household

Ironmonger (1996) introduces the household's good/service of *care* and here accuses the *feminist* literature's responsibility for the care's novelty in studying and new inclusion in the household specific theories-models -- they here see a sort of *maintenance* for the *human capital* and, of course, *care* would be equally viewed as a good produced with the help of the

household's *labour* – i.e. unpaid, once more -- and *capital* – viewed in all means and spaces detained by. More deeply viewed, *care* would be of two kinds: (a) *physical* – exercises, healthcare, sleeping, food providing and feeding – and (b) *psychological* – education, recreation, dialogue.

What is '*humane human capital*' and even counteracts the old(just) 'human capital' concept – that, of course, isn't any about capital, but on the contrary, about its opposite labour – is finally something that belongs to the household only – i.e. and never to the economy beyond. Or, this is also why the neoclassic thinking perceives it as really 'strange' stuff. For both theory and practice *humane human capital* contains what all 'purely economic' approach won't ever be able to comprise – and this while the same concept stays undeniable source/factor of performance and productivity for the household. What is more than human capital in the 'humane human' capital includes linkages and all interactions among people – e.g. real networks shaped as such --, together with promoting these, plus ideas that so move around between people and always regard either economic substrate, unhindered decisions, here including about maximizing utility, or comparative advantage and so on (Matilla-Wiro (1999, p.17; 19). Even earlier Mattila(1992) was here giving the example of Tanzania, where women were shaping such kind of relationship networks, primarily with relatives, but further on also with other people, as extensively and this was even helping the labour market, besides households, with capabilities renewed. *Humane human capital*, despite its undeniable support to both the households' production function and market economy, never meets any market equivalent, not even for labour market (Matilla-Wiro 1999, p.19).

In another development let us recall that the *unequal welfare distribution* within the household is a reality recognized by all theories-models in the area – i.e. it is nearly about a kind of 'universal household rule'(Bourguignon et co. 1993). The authors so get preoccupied of finding all rules with this kind of influence and impact – i.e. such an approach comes up the same as above, namely in favour of policy making – e.g. fiscal and direct transfers policies. Unfortunately, such examples are yet here expected.

Last, but not least, let us equally have in this end at least one of those that might be the most significant conclusions of Matilla-Wiro (1999, pp. 32 and the following). The Finish author finds that, despite its importance, even the *household* term – i.e. here in the center of debate -- isn't unanimously viewed at least by theories-models which's basics will be explained in the next chapter, be they all the same neoclassic matter.

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REAL CONVERGENCE IN ROMANIA AND THE REGIONS OF DEVELOPMENT

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Abstract: Romania has made considerable progress in the economic transition and integration in the European Union during the last decades. Over the last years, Romania has managed to meet the nominal criteria imposed by the Maastricht Treaty. In this context, the next step would be entering the Euro Area. The Euro objective continues to be debated by economics and academics questioning whether our economy is ready, or the right moment. There were several deadlines estimated and finally they were all postponed. The new estimated deadline is 2024, and a National Commission has been established with the main purpose of creating a National Plan for the Euro-zone Accession. In this context, the challenges of real convergence will be relevant at least on medium term. The present paper intends to analyse real convergence along with regional development in Romania, and find a possible answer to the question where do we really stand. The paper will be based on desk research by using data provided by EUROSTAT, the National Bank of Romania and the National Institute of Statistics from Romania.

Key words: real convergence, nominal convergence, GDP per capita, economic development

JEL classifications: E66

1. Introduction

Romania is celebrating, in 2018, its centenary as a sovereign state and a decade and a bit over as member state of the European Union. It is an important moment to have a framework of Romania's position regarding its real convergence and its statute as member-state.

The European Union has a rich history of its own already. What started as a small Community is now a model of multilevel governance, a unique economic, social, and political union. Its power to promote peace and diplomatic negotiation as solution to conflicts is acknowledged at world level. The main evidence is the period of about 70 years of peace on the Continent.

At the beginning, it was about putting together the resources of six countries in order to rebuild and develop their economy after the disaster left behind by The World War Two. As years passed, other different stages of its enlargement took place (Denmark, Ireland and United Kingdom in 1973; Greece in 1981; Spain and Portugal in 1986; Austria, Finland and Sweden in 1995). However, the most important one was the one realized in 2004 when eight countries of Central and Eastern Europe, former communist states, joined the EU along with Cyprus and Malta. They were followed by Romania and Bulgaria in 2007, and the latest newcomer is Croatia in 2013. Currently, there are four candidate states applying for EU accession: Albania, Montenegro, Serbia, and Turkey. It is important to mention that Turkey is a candidate state since 1999.

There were certain objectives established initially needed to be reviewed as the enlargement progressed. The most important ones are the Maastricht Treaty's criteria for nominal convergence as foundation for the European Economic and Monetary Union (EMU). Moreover, important policies were implemented in order to reduce economic and social disparities among the member states.

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Nevertheless, the European Union is facing now a world characterised by multipolarity, with economies (China, India, Brazil) that have quickly advanced in overthrowing the top economies of the world, while some are also regarded from the concerning perspective of real threats to global peace, due to the policies conducted in certain areas, including economic activity and trade practices. The world moves fast and the impact of globalization is deepening. The evolution on the IT market with its exponential growing e-commerce component, and the labour force and labour skills' mobility create pressure regarding the EU's objectives, respectively higher competitiveness, more jobs, deeper integration. Nevertheless, the threats represented by neighbourhood insecurities, the economic, financial, political, and social crisis of the last ten years, all added to the pressure.

Romania joined the EU in 2007 along with Bulgaria. There is more than a decade since. Was there any progress made by Romania in the meantime? There are researchers, decision-makers, and academicians that would answer yes, incontestably yes. Still, there are some negatives consequences that Romania has to face while finding solutions for the marked migration phenomenon, the challenges of a huge single market, and the major steps required throughout the transition period, etc.

In this context, the present paper aims to realise a framework of the actual study of Romania's economy, from the real convergence perspective. The paper will be based on desk research using data provided by EUROSTAT, The National Institute of Statistics from Romania and The National Bank of Romania. The next section will contain a critical review of scientific literature regarding real convergence, followed by the section regarding the nominal and real convergence of our country's economy, in order to draw some concluding remarks.

2. Literature review

The 1992 Maastricht Treaty set a number of criteria for achieving macroeconomic convergence prior to the accession to the monetary union. The criteria were clearly outlined leaving no place for interpretation. However, after the last economic and financial crisis, the question "Are the Maastricht criteria enough to reach economic convergence?" was more and more debated.

The studies regarding real convergence have been covered by the economic scientific literature for a long time by now. Nevertheless, a clear definition of the term does not exist yet. Almost every economist interested in analysing the long-term economic development had different approaches regarding issues of real convergence.

As starting moment for the systematic academic debates on real convergence is considered Solow's neoclassical growth model of 1956, which predicts that as each economy is getting close to its balanced growth path on long term, the disparities in per capita real income diminish, as long as there is technological homogeneity.

On the other hand, Land Pritchett (1987) mentions that the "divergence in relative productivity levels and living standards is the dominant feature of modern economic history", observing that "in the last century, incomes in the "less developed" or euphemistically, the "developing" countries have fallen far behind those in the "developed" countries, both proportionately and absolutely."

Azariadis (1996) promoted the club convergence hypothesis. Using Solow's neoclassical growth model he showed that "nations with identical economic structures need not converge to the same steady state or balanced growth path", as some may face the poverty trap while some are converging to a high steady-state income level.

The most applied concepts regarding economic convergence are β -convergence (Baumol, 1986) and σ -convergence (Quah, 1990). The β -convergence concept is related to growth regression models that showed the tendency of low-developed economies to grow

faster than developed economies. The σ -convergence is the key concept of studies about the distributional dynamics of per capita income levels, focusing on the cross-sectional dispersion of per capita income across different countries or regions, along with its evolution in time.

Another approach reveals the relative convergence concept versus absolute convergence concept. Absolute convergence is related to economies that are converging to the same steady-state income level, while the relative convergence focuses on the economies with the same rate in the steady-state level of income. (Barro and Sala-i-Martin, 1992)

Focusing on our academic research regarding real convergence Academician Aurel Iancu distinguishes three categories of the real convergence approaches, as base for his research:

- real convergence as a natural process deriving from the market forces, according to which the faster, less distorted, and more functional the market becomes, the more certain is the convergence process;
- the one according to which there is no real convergence between low-developed countries and the developed ones in the presence of a competitive market, and the natural process that takes place is the tendency of deeper divergence;
- finally, the last category is about the possibility of real convergence in a competitive market, but only if the negative effects are compensated by adequate economic policies, till the economic system of the country is able to “reach maturity to the so-called critical mass” in order to consider that the economy reached its real convergence.

The Academician’s conclusions are that: “the issue of real convergence should be paid special attention” due to its complexity; “real convergence is the crucial point of economic growth and enables the researcher to set objectives, resources and mechanisms”; and “it signals the transition of the countries from the periphery/poor group to the rich one” (Iancu, 2009).

Other studies conducted are about the CEEC (Central and Eastern European Countries) block and its accession to the euro area or its countries convergence. For instance, we mention the Szeles and Marinescu findings in their paper “Real convergence in the CEECs, euro area accession and the role of Romania”. They studied the absolute and conditional convergence in the CEECs, as the countries have same roots. They concluded that in CEECs, there is “both unconditional and conditional convergence” and Romania has an economic gap vs. the other CEE countries but its presence in the group “enhances the regional economic convergence.” They also observed that the CEE countries “have experienced convergent economic growth in the last decade, which was mainly driven by labour productivity and participation to the international trade”. (Szeles and Marinescu, 2010)

In her paper, “How does economic crisis change the landscape of real convergence for Central and Eastern Europe?” Ileana Alexe (2012) aimed to analyse the impact of economic and financial crisis on real convergence with the euro-area average, for ten countries from the CEE block: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovenia, and Slovakia. Using Euclidian distance and the indicator per capita GDP, the study revealed that regarding the expected general decreasing path due to the economic and financial crisis, Poland and Slovakia are two exceptions that improved their real convergence to the euro-area average despite the crisis.

Goschin (2017) explores special economic convergence in Romania, using per capita real GDP. In the study, “the empirical results provided support for both absolute and relative beta divergence in per capita GDP, as well as sigma divergence among Romanian counties on the long run.” The main conclusion is “this is the consequence of the two-speed regional development, with the capital region and some large cities thriving by attracting human capital and FDIs, while the lagging regions are systematically left behind.” The results rather support the divergence theory “based on polarization and centre-periphery inequality.”

In his speech held at the conference on European Economic Integration 2018 “How to finance cohesion in Europe?” Mugur Isărescu, The National Bank of Romania’s Governor, highlights that “the Maastricht Treaty also explicitly stipulates that “a high degree of sustainable convergence” is needed. Yet, this requirement seems to have been overlooked sometimes. Second, practical experience with euro adoption so far has proved that real convergence is also critical for success. Even in the absence of a clear definition and a consensus on a numerical benchmark, it became clear that a high-enough level of real convergence is a prerequisite for minimising the costs associated with losing monetary policy independence after euro adoption. Recent years have shown that the euro area is not a cosy place for economies with lagging competitiveness or rigid markets.” (Isărescu, November 2018)

3. Nominal convergence versus real convergence, Romania case study

Real convergence is a complex process still lacking a clear definition and consensus regarding its measurement indicators. Nevertheless, there is agreement regarding the fact that nominal convergence sustains real convergence. Based on this consideration, we are going to present first the framework of Romania’s nominal convergence.

Looking at nominal convergence Romania met the Maastricht criteria since July 2015 up to November 2017, “yet without being part of the exchange rate mechanism” (Isărescu, November 2018). A framework of Romania’s nominal convergence indicators compared with EU-28 and the Euro-area (19) is presented below, for the period 2007-2017.

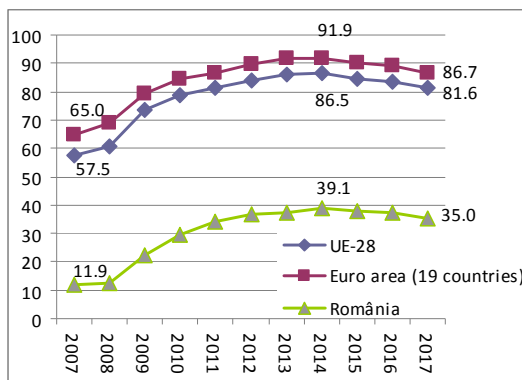


Figure 1 dept-to-GDP ratio

Source: EUROSTAT data base, sgd_17_40Flag, tec00097

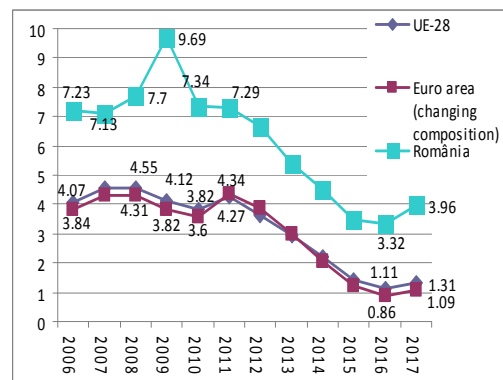


Figure 2 Long-term interest rate

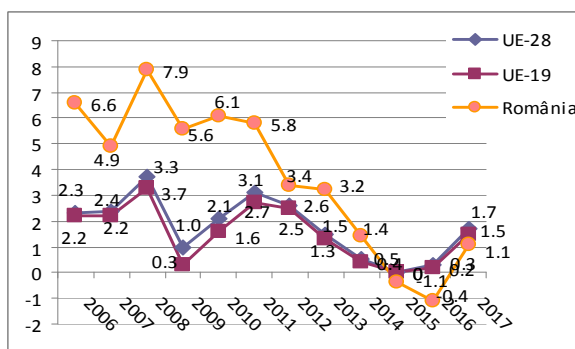


Figure 3 HICP Inflation rate
(Annual average rate of change %)

Source: EUROSTAT data base, tec00118, tec00127

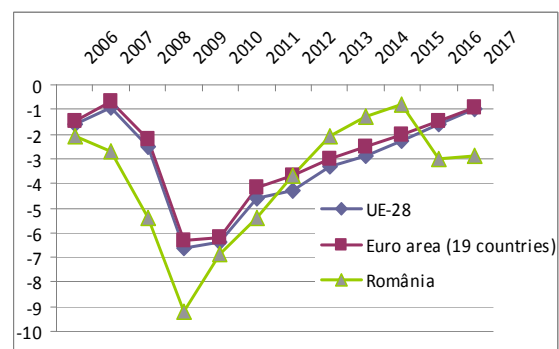


Figure 4 General government deficit/surplus
(Percentage of gross domestic product)

The dept-to-GDP ratio for Romania has been below the target all along the period, but if we compare the value of the indicator to its highest value of the period, it more than triples (11.9% in

2007 up to 39.1% in the year 2014). In 2017, the level drops down to 35.0%, respectively about 2.34 lower than for EU-28 and 2.48 lower than for the Euro-area (19). (fig. no. 1)

The long-term interest rate has in general a decreasing dynamic over the period, with two exceptions, the first years of the last economic and financial crisis. In 2008, the long-term interest rate increased from 7.13, which is the value for 2007, up to 7.77, and in 2009, it reached the 9.69 value. In 2016, the long-term interest rate reaches the lowest value of the period 3.32, and increases to 3.96 in 2017. (Figure 2) The indicator is easy above the reference value, as it will be shown further below. (Table no.1)

In the next table, we present an overview of nominal convergence indicators for Romania compared to the reference values.

Table 1 Overview of economic indicators of convergence for Romania and their reference values

	Price Stability	Government budgetary development			Exchange rate		Long-term interest rate
	HICP inflation	Country in excessive deficit	General government surplus(+) deficit(-)	General government debt	Currency participating in ERM II	Exchange rate vis-à-vis euro	
2016	-1.1	No	-3	37.4	No	-1.0	3.3
2017	1.1	No	-2.9	35.0	No	-1.7	4.0
2018	1.9	No	-3.4	35.3	No	-1.9	4.1
Reference value	1.9		-3.0	60.0			3.2

Source: European Central Bank, convergence report, may 2018

<https://www.ecb.europa.eu/pub/convergence/html/ecb.cr201805.en.html#toc1>

The policy set in place regarding inflation has shaped the dynamics of the indicator during the last decade. As of 2005, NBR initiated a policy centred on inflation-targeting combined with the managed floating exchange rate. The indicator fluctuated in the early years of the analysed period (2006-2010), between 0.5 pp and 3.0 pp, but thereafter follows a decreasing evolution in the period 2010-2016, reaching a -0.4 value in 2016 from 6.1 % in 2010. Regarding its evolution compared to the evolution of the indicator for EU-28 and the Euro-area (19), in the period 2006-2014, the level for Romania was above the EU-28 and EU-29 level, and below for the subsequent three years.

The highest general government deficit for Romania, in the given period, was the 2009 deficit, and the lowest deficit was the one of 2015. In 2016 and 2017 it was around the target, and for the 2018 Romania's general government deficit is estimated to be 3.4 a bit higher than the reference value. (Table no.1)

Romania still has to lead stability orientated economic policies and extensive structural reforms. Romania still has to improve its public administration and its juridical system. According to the convergence report of the European Central Bank "Romanian law does not comply with all the requirements for central bank independence, the monetary financing prohibition and legal integration into the EUROSYSTEM. Romania is an EU Member State with derogation and must therefore comply with all adaptation requirements under Article 131 of the Treaty." (ECB, May 2018)

There are other warning statistics regarding Romania. Its external total debt for the period January- September 2018 increases to 634 million euro. In the structure of the indicator, the long-term external debt represents at the end of September 69.5% out of total external debt (68129 millions euro), down 0.6 pp against December 2017. The short-term external debt is increasing to 29866 million euro by 3.6 pp more than in December 2017. Moreover, the short-term external debt coverage, calculated at the residual value, with the

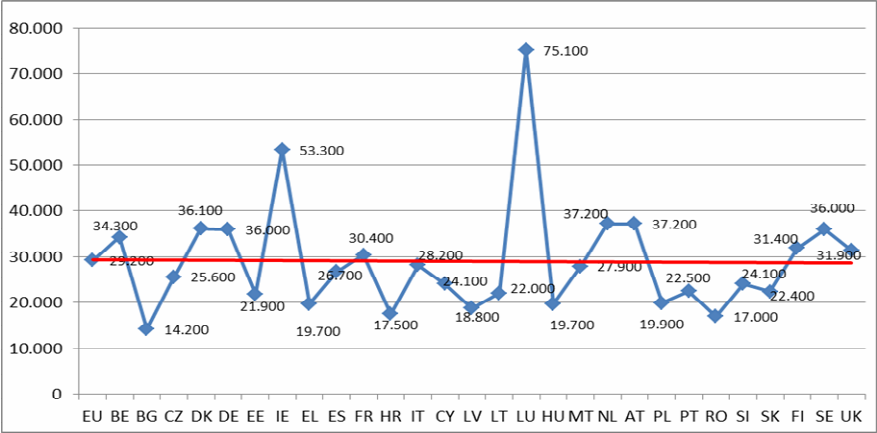
foreign exchange reserves at the NBR on 30 September 2018 was 72.6 percent versus 79 percent at 31 December 2017. (NBR, 2018)

In his speech held at the conference on European Economic Integration 2018 “How to finance cohesion in Europe?” Isărescu highlights that “the fact that currently the reference values for the long-term interest rate and inflation are no longer being met is a warning that efforts should be made to achieve nominal convergence in a lasting, rather than coincidental or transitory manner” and the two types of convergence need to sustain each other.

Regarding the real convergence in Romania, we are going to present some indicators at national, as well as regional level.

Per capita GDP at PPS is the most used indicator when it comes to analyse the gap that still exists regarding real convergence. Firstly, we are going to present the level of per capita GDP at PPS in 2016 for all EU-28 member states compared with the EU-28 average.

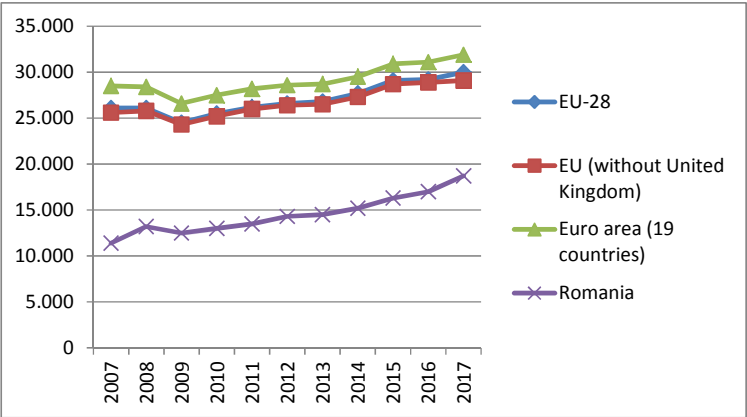
Figure 5: GDP per capita at PPS in 2016, member states versus EU’s level



Source: EUROSTAT, name_10r_2gdp

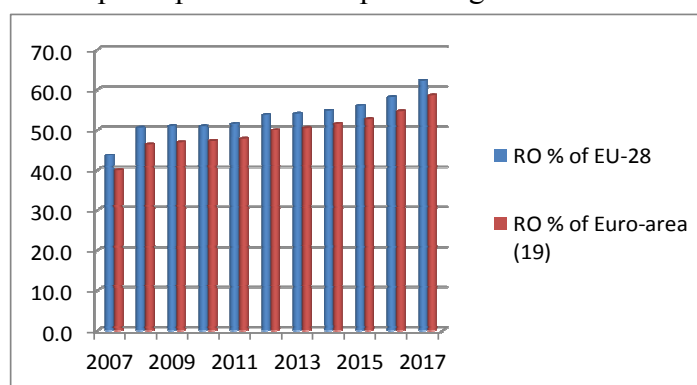
Narrowing down to the situation in Romania, we present the per capita GDP at PPS based on the comparative evolution for the period 2007-2017 between our country and EU-28, EU without the United Kingdom and the Euro-area (19), along with the level of Romania’s per capita GDP, as a percentage of EU-28 per capita GDP, and Euro-area per capita GDP.

Figure 6: Per capita GDP at PPS, for Romania, EU-28, Euro-area and EU (without UK)



Source: EUROSTAT data base, nama_10_pc

Figure 7: Romania per capita GDP as a percentage of EU-28 and Euro-area (19)



Source: EUROSTAT data base, nama_10_pc, own calculations

It is obvious that regarding per capita GDP at PPS, Romania has an important gap to catch-up against the EU-28 average and even a greater one against the Euro-area average. It can be observed, as well, that the level for EU-27 without the United Kingdom expressed, as per capita GDP at PPS, is slightly lower than EU-28 level. (Figure 6)

On the other hand the second graphic shows us the steps made forward by Romania, regarding the above-mentioned indicator. Compared against the EU-28 and the Euro-area, Romania has a better convergence against EU-28. In 2017, per capita GDP at PPS for Romania represented about 62.3 percentages out of the EU-28 average, and 58.6 percentages out of the Euro-area.

There are other indicators associated to measuring the real convergence (the degree of openness of the economy, labour productivity, unemployment rate, the real growth of per capita GDP, etc.) and there are indexes that enhance the power of key indicators, in several sectors of an economy, and that obviously are important for the real convergence perspective. Such an example is the Global Competitiveness Index that includes indicators for 12 important pillars of an economy: institutions, infrastructure, macroeconomic environment, health and primary education, higher education and trainings, goods market efficiency, financial market development, technological readiness, market size, business sophistication, and innovation.

Table 2 Global Competitiveness Index for Romania

Edition	2013-13	2013-14	2014-15	2015-16	2016-17	2017-18
Rank	78/144	76/148	29/144	53/140	62/138	68/137
Score	4.10	4.10	4.30	4.30	4.30	4.27

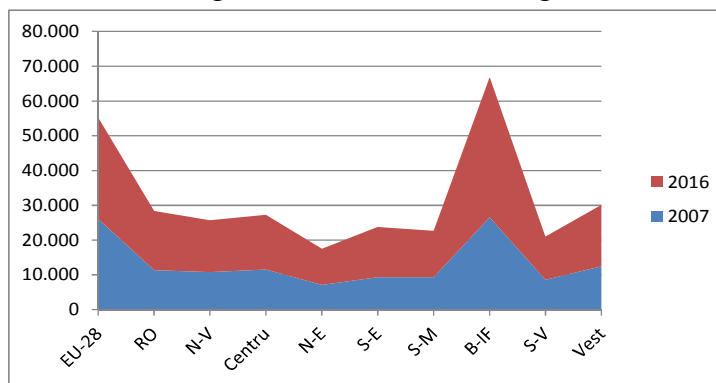
Source: The Global Competitiveness Index Report 2016-2017 and 2017-2018 editions, <https://www.weforum.org/>

According to the Global Competitiveness Index Report 2016-2017 the most problematic factors for doing business in 2016, in descending order are: access to finance (16.6 score), inefficient government bureaucracy (15.9), tax rates (14.7), inadequately educated workforce (10.4), corruption (10.1), Tax regulations (7.4), inadequate supply of infrastructure (7.3), poor work ethic in national labour force (4.7) and policy instability (3.5).

“Not only across countries; reducing development gaps within countries is also essential to mitigate the trade-offs challenging the policies confronted with asymmetric shocks. In Romania, for instance, one can find areas that are comparable, in terms of development and living standards”, says Isărescu.

Looking at the regional real convergence for Romania's regions we are going to observe that there is an enormous gap between the Bucharest-Ilfov region and the rest of the NUTS2 regions of Romania.

Figure 8 Per capita GDP at PPS in 2016 versus 2007 for Romania's regions, comparative to Romania average level end EU-28 average value



Source: EUROSTAT data base, nama_10r_2gdp

The ranks for Romania's regions at national level, regarding per capita GDP related to the PPS indicator are: 1 –Bucharest-Ilfov with a per capita GDP at PPP in 2016 by 40400, followed by the West region (17600), 3 –Center region (15800), 4 –North-West (14900), 5 – South-East (14500), 6 –South region (13400), 7 –South -West (12400) and 8 –North-East (10400). Only two of them are above the national level and only one above the EU-28 average. However, the second ranked, respectively the West region has a huge gap against Bucharest-Ilfov, as its per capita GDP at PPS represents 44% out of the Bucharest-Ilfov level, but 61% out of the EU-28 average.

Regarding the empirical research in the field of measuring the real convergence at regional level, we emphasise the relevance of the Regional Innovation Scoreboard and the Regional Competitiveness Index.

Table 3 The Regional Innovation Scoreboard of Romania's regions

	RII2009	RII2011	RII2013	RII2015	RII2017	Performance group
EU28	97,3	100,0	101,5	101,9	102,6	--
Romania	--	--	--	--	--	--
North-West	42,9	44,2	40,9	29,2	29,1	Modest -
Center	36,8	39,1	37,1	29,3	31,5	Modest -
North-East	44,0	44,3	41,6	31,1	23,7	Modest -
South-East	52,7	45,0	38,0	31,3	27,1	Modest -
South	35,5	38,6	40,1	29,3	27,6	Modest -
Bucharest-IF	62,6	62,1	60,5	48,0	48,5	Modest +
South-West	34,2	34,2	34,3	22,8	23,9	Modest -
West	41,0	46,5	39,9	31,1	35,9	Modest -

Source: http://ec.europa.eu/growth/industry/innovation/facts-figures/regional_ro

The table above shows us that Romania's regions are at moderate level regarding innovation, as the other levels of performance for the innovation group are innovation leaders, and strong innovators. Moreover, the scoreboard is decreasing for all regions.

Table 4 Regional Competitiveness Index 2016 for Romania's regions

GEO	N-W	Center	N-E	S-E	South	B-IF	S-W	West
Rank –RCI 2016	241	246	251	262	254	161	255	240
Score	11.9	8.2	6.4	0.1	5.7	45.4	5.6	13.2
Rank –GDP per capita (PPS)	249	241	260	247	254	38	257	231
Score–GDP per capita (PPS)	47	51	34	48	42	128	40	57
Stage of development 1-5	1	2	1	1	1	5	1	2

Source: <http://ec.europa.eu/>

The Regional Competitiveness Index also highlights the gap between the Bucharest-Ilfov region and the rest. It is the only region of Romania showing a high level of development.

4. Conclusion

Real convergence is a complex process still lacking a clear definition and a consensus regarding its measurement indicators. There is a consensus regarding the fact that nominal convergence sustains real convergence. Romania made important progress over the last decade. However, Romania still has to conduct stability orientated economic policies and extensive structural reforms. Romania still has to improve its public administration and its legal system.

There are some warning statistics regarding Romania in 2018. The long-term interest rate is slightly above the reference value. Its external total debt for the period January-September 2018 increases. Moreover, the short-term external debt coverage on 30 September 2018 was 72.6% versus 79% at 31 December 2017. (NBR, 2018)

All the indicators considered at regional levels show a low regional real convergence against national level and a poor regional real convergence against other NUTS2 regions of the EU-28.

There is no surprise that according to the Global Competitiveness Index Report 2016-2017 several problematic factors for doing business were identified in 2016: access to finance, inefficient government bureaucracy, tax rates, inadequately educated workforce, corruption, tax regulations, inadequate supply of infrastructure, poor work ethic in national labour force and policy instability. These are the same problematic factors regarding real convergence.

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THE ROLE OF THE REGIONAL FINANCIAL POLICY IN PROMOTING SUSTAINABLE DEVELOPMENT OF PRIVATE PUBLIC PARTNERSHIP IN THE REPUBLIC OF MOLDOVA

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Abstract

In the context of increasing interregional competition and the impact of globalization processes, central and regional authorities are confronted with the issue of improving the regional management system aimed at identifying effective mechanisms and methods for regulating territories that will contribute to their competitiveness. The basis for efficient regional management should be implemented in line with the special regional policy aimed at transforming the region's competitive potential into a sustainable development factor capable of ensuring the transition of the economic system to a new, high-quality operation.

Keywords: regional financial policy, regional fiscal policy, regional investment policy, public private partnership

JEL Classification: R11, A11

1. Introduction.

Regional development policy is one of the most important and most complex policies of the European Union, which stems from the fact that, through its objective of reducing the existing economic and social disparities between the different regions of Europe, it is active in areas of significant development such as economic growth and the SME sector, transport, agriculture, urban development, environmental protection, employment and training, education, gender equality, etc. [1] Conceived as a policy of solidarity at European level, regional policy is based mainly on financial solidarity, i.e. redistribution of part of the Community budget made by contributing to less prosperous regions and social groups.

Regional development policy can be defined as a set of governmental measures aimed at supporting economic growth and improving living conditions by making effective use of regional and local potential. Regional development also called the Economic and Social Cohesion Policy is one of the current fundamental objectives of the European Union and is thus defined in the Treaty on the Functioning of the EU (Title XVIII): Cohesion is necessary to promote overall harmonious development, the overall objective of reducing existing disparities between levels the development of the various regions and the backwardness of less developed regions or islands, including rural areas.

The objectives of regional development policy can be defined as follows:

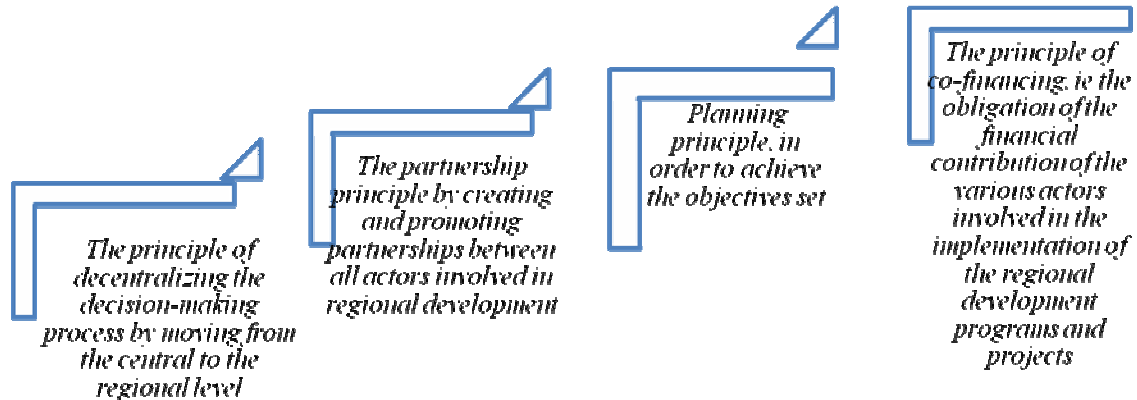
- A. Reducing existing regional imbalances, with a focus on stimulating balanced development and revitalizing depressed areas (with delayed development) and preventing new imbalances;
- B. Preparing the institutional framework to meet the criteria for integration into EU structures and access to the Structural and Cohesion Funds;
- C. Integration of sectoral policies at regional level and stimulation of interregional cooperation (internal and international) for sustainable economic and social development.

At the basis of the development and implementation of the regional development policy there are several principles listed in figure 1.

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Figure 1. Principles of development and implementation of regional development policy

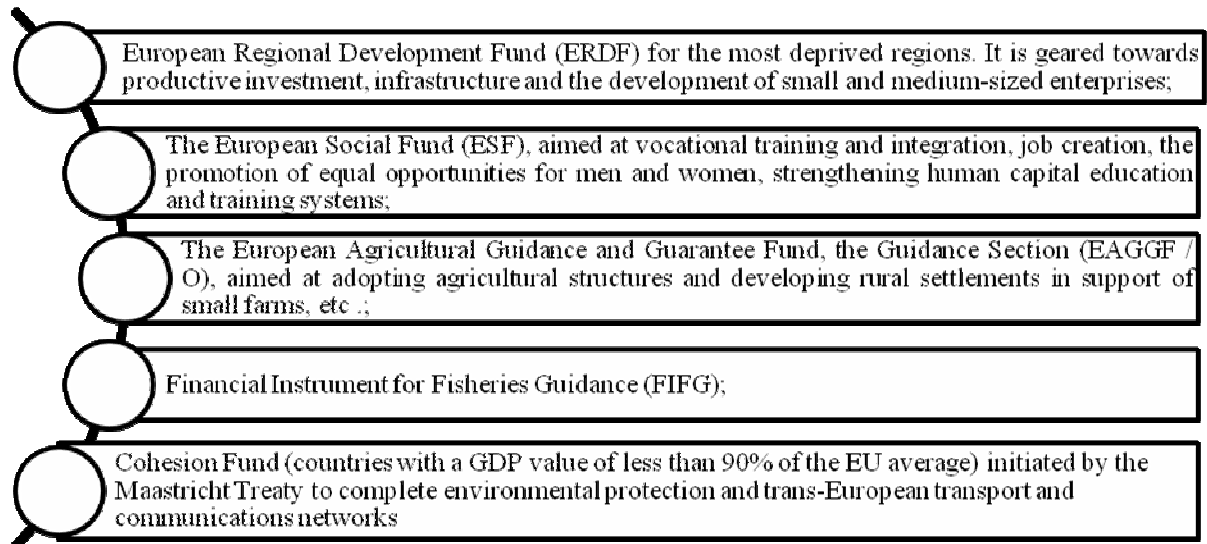


Source: elaborated by the author

2. Description of the problem

From the perspective of developing a competitive economy, it is necessary to harmonize the rigors of macroeconomic stability with the objective of sustainable growth through financial policy. Financial policy must be addressed from the perspective of fiscal policy and budgetary policy. In the next period, both fiscal policy and budgetary policy must be subordinated to the central economic policy objective set out in the Governance Program, to relaunch economic growth, to achieve the convergence criteria, to continue and accelerate the economic and financial development process of the Republic of Moldova. Financial instruments are sources of funding through the so-called structural funds, shown in figure 2.

Figure 2. The tools of the regional development financial policy



Source: written by the author on 22, p. 96

The funds come from agricultural import taxes, customs duties, VAT, percentage contributions of each Member State, according to the Gross National Product and loans granted by the European Investment Bank and the European Bank for Reconstruction and Development.

One of the primary objectives of regional development policies is to increase the economic competitiveness of the regions and thus to stimulate economic and social development in the regions. In relation to economic issues, it is another principal objective, namely to ensure the social cohesion of the population and institutions. The third indispensable objective of the two is to ensure territorial cohesion. All three primary elements contribute to reducing disparities and development gaps, within regions and between regions.

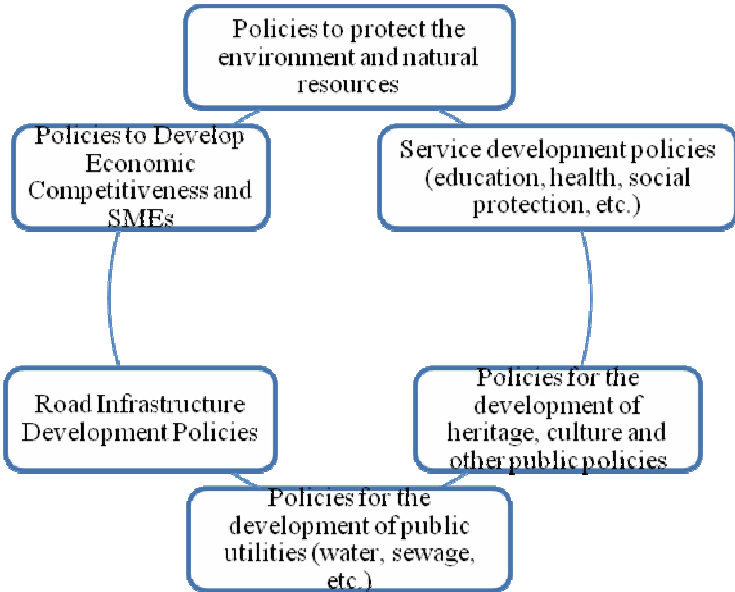
From the above mentioned, it is observed that in the Republic of Moldova there are currently all necessary legal, institutional and support premises to ensure a sustainable and effective process of regional development in line with the European requirements and approaches in the field, namely:

- the necessary legal and normative framework is approved;
- is the institutional framework at different levels of administration;
- the conceptual strategic and programming framework is approved and implemented;
- there is established a financing mechanism and a cooperation framework for external financial support for regional development projects and programs.

Under the current conditions, the Moldovan leadership has implemented in the regional development policy program budgeting, focusing on the main areas where improvements are needed.

Thus, according to the National Regional Development Strategy 2016 - 2020 at the level of regional development, regional development policies have been identified included in figure 3.

Figure no.3. The main components of regional development policy



Source: adapted by the author

3. Methodology

The region's financial strategy is based on the efficient use of own funds, loans and transfers from the central budget. The main purpose of the strategy is to ensure the quality of life of the population, as well as access to financial autonomy. Thus, the financial policy of the region is the basis for the implementation of economic policy and the basis for improving the quality of life of the population - the main objective of any public policy.

In this context, we note that, depending on the nature of each type of financial policy, we need to identify the main objectives of regional financial policy according to its types. The objectives of the regional financial policy are presented in table 1.

The European Union's assistance to the Republic of Moldova is largely in the form of Annual Action Programs under the European Neighborhood Policy Instrument (ENPI). Other sources of funding are thematic assistance programs, such as human rights or civil society.

Table 1

The aims of regional financial policy according to its types

Types of financial policy	Objectives
Regional tax policy	Ensuring the balance between centralized and decentralized financial resources. Creating the conditions for the use of decentralized financial resources for the social and economic development of the region
Regional budget policy	Identify rational distribution and use of centralized financial resources
Regional investment policy	Organizing regulation and stimulating investment activity, creating conditions for increased investment attractiveness
Regional tariff policy	Organization of tariff regulation taking into account the specificity of the region
Regional policy of state property management	Ensure conditions for effective use of state property

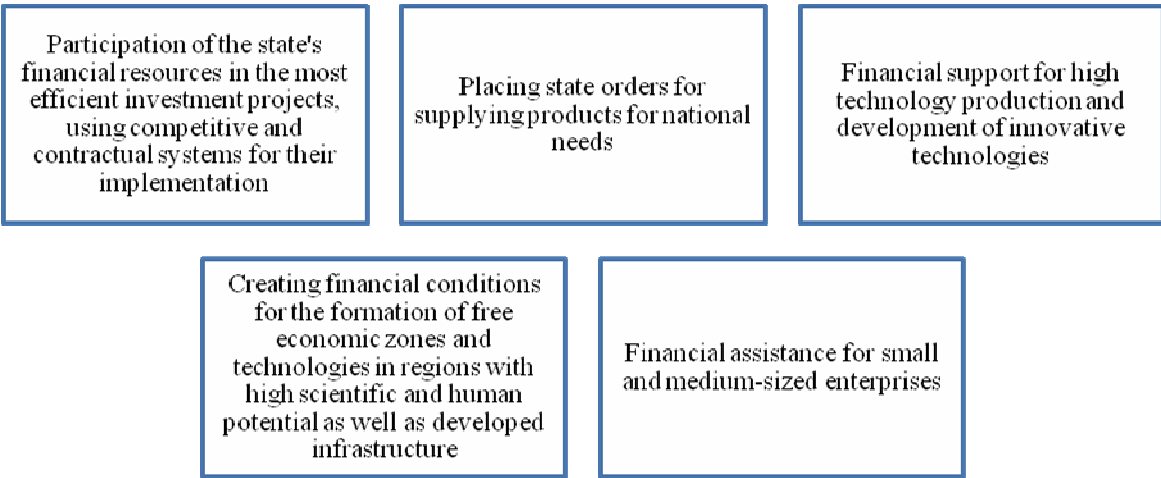
Source: elaborated by the author

The Neighborhood Investment Facility (NIF) provides additional investment funds. The main objective of EU assistance to Moldova is to support the development of EU and Moldova relations in the context of the European Neighborhood Policy and the Eastern Partnership.

Through the National Regional Development Strategy for the years 2016-2020, the regional development policy in the Republic of Moldova will be achieved through an integrated and unitary planning, management and coordination intersectorial process, and the regional development process will be intercorrelated with the provisions of the Association Republic of Moldova - European Union, with the Government Program and Sectoral Policy Documents.

The main forms of implementation of regional financial policy are reflected in figure 4.

Figure no.4. Methods of implementing regional financial policy



Source: elaborated by the author

The main challenge of regional policies in the Republic of Moldova is to ensure a sustainable and balanced development at a sub-national level, as well as to solve problems related to regional disparities. For these reasons, sustainable regional development is an imperative commitment assumed by the Government, which has also confirmed its commitment to equally and equitably distribute opportunities for regional development across the country. In this respect, these activities can only be achieved in the presence of reliable and good regional statistics to provide an adequate basis both for the analysis of regional development and for the well-informed elaboration of economic and policy decisions in the field. Taking into account the European integration aspirations, it is very important that the regional statistics, relevant for the country, be compiled in accordance with the standards and good practices of the European Union, taking into account the peculiarities of the Republic of Moldova. The basis for compiling relevant and comparable statistics is provided by the application of appropriate classifications, including the classification of territorial statistical units in accordance with the provisions of Regulation (EC) No. No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics. These activities are decisive both for ensuring the spatial and temporal comparability of the Republic of Moldova's sub-national statistical data with EU statistics during the country's integration into the European Community and for providing reliable evidence in the process of financing regional development, especially from EU sources .

The prospects for the implementation of regional financial policy are first and foremost the formulation of the tools used for its successful implementation. Thus, the tools presented in table 2 have been determined from those studied so far.

Table 2

Regional financial policy instruments

Types of financial policy	Instruments
Regional tax policy	<ul style="list-style-type: none"> - introduction of regional taxes; - establishing differentiated rates; - establishing additional benefits for regional taxes; - setting deadlines for paying regional taxes; - the change in the payment term of taxes
Regional budget policy	<ol style="list-style-type: none"> 1) the determination of the spending direction of the budgetary funds; 2) allocation of financial assistance in the form of grants; 3) identifying additional standards for income tax deductions for regional budgets; 4) offering state guarantees; 5) attracting budget credits, loans from credit institutions; 6) the issue of securities
Regional investment policy	<ol style="list-style-type: none"> 1) granting tax incentives to investors; 2) the provision of state guarantees; 3) implementation of capital expenditures; 4) allocation of subsidies
Regional tariff policy	<ol style="list-style-type: none"> 1) allocation of subsidies; 2) establishing additional benefits; 3) tariff regulation
Regional policy of state property management	<ol style="list-style-type: none"> 1) privatization; 2) granting budget credits; 3) granting state guarantees; 4) introduction of paid services; 5) regulation of prices and tariffs; 6) establishing additional benefits

Source: elaborated by the author

The country's regional division aims to provide a unique and coherent territorial distribution for the collection and compilation of regional statistics, harmonized with EU standards. Moreover, from an economic point of view, this will ensure eligibility for assistance from the European funds for regional development of the Republic of Moldova.

Improving financial and fiscal relations between the center and districts, as well as between state authorities and local self-government aims to increase the level of budgetary sufficiency of regions and municipalities. To this end, in our view, it is necessary to strengthen the permanent financial sources and, above all, the sources of taxation for state subjects to create budgets independently. This will reduce unnecessary financial flows between different levels of budgets, reduce the financial support granted by the state to regions that are able to self-finance.

4. Results obtained

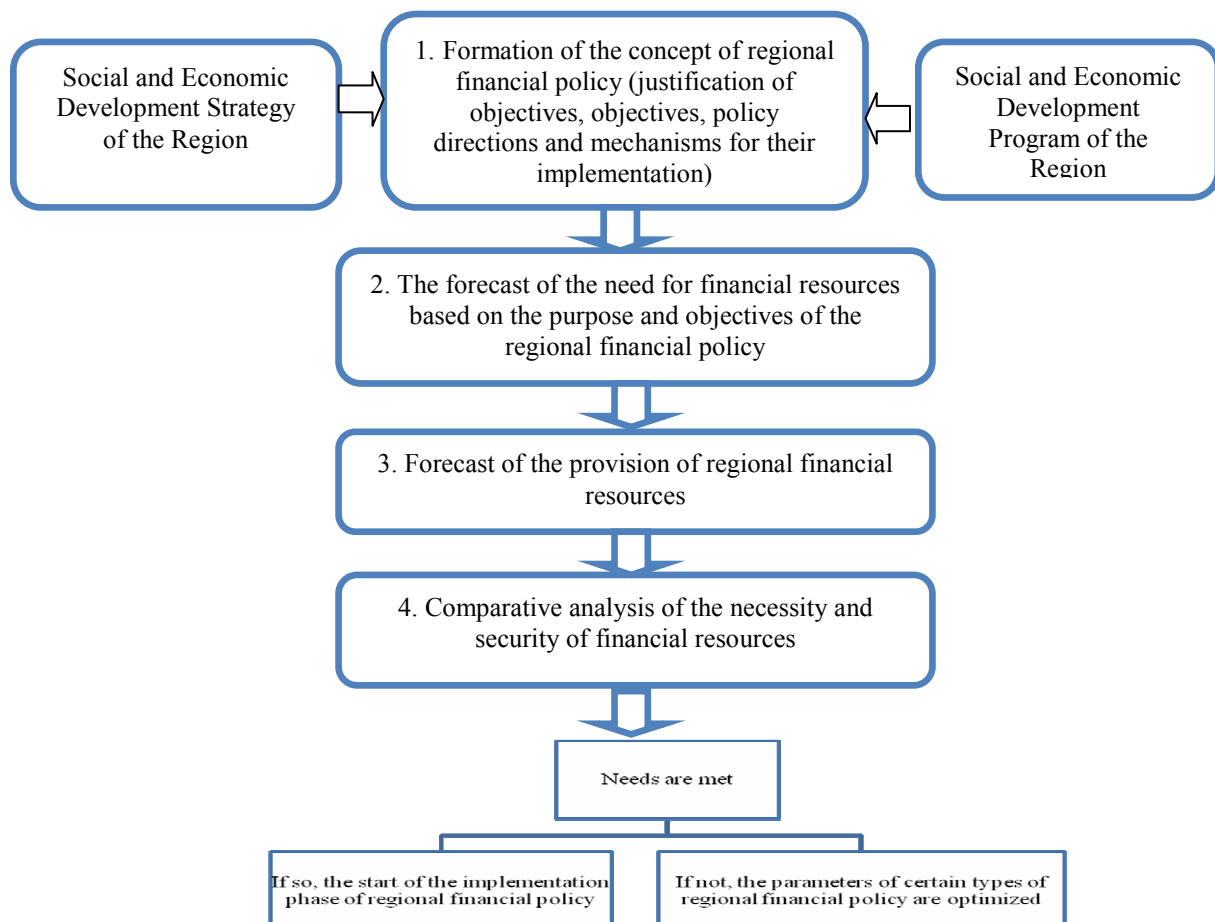
The formation of a regional financial policy should be based on a certain methodology, which will determine its further realization. The logic of the formation of any kind of regional policy can be represented by the following steps:

1. Identification of public issues and policy objectives (policy initiation);
2. Development and regulation of public policy (policy-making);
3. Public policy implementation and monitoring (policy implementation);
4. Public policy assessment and adjustment (feedback).

Regional financial policy should, first of all, logically integrate into the region's strategic planning system and, secondly, it is called upon to form the financial basis for the implementation of medium-term strategic plans for social and economic development.

The formation of a regional financial policy can be represented in the form of the conceptual scheme in figure 5.

Figure no.5. Staging of regional financial policy formation



Source: elaborated by the author

The development of a regional financial policy should be based on the region's social and economic development strategy and program. These documents should primarily reflect the tasks of regional financial policy. The first step in the formation of regional financial policy is to develop a policy concept whose main sections are: the reasoning of objectives, goals, policies and policy implementation mechanisms.

The concept formulated allows for the definition of the need for regional financial resources (Phase 2) and the provision of regional financial resources (Phase 3). In the fourth stage, a comparative analysis of the needs and availability of regional financial resources is required. If the demand is satisfied, the implementation phase of the regional financial policy begins, taking into account the attributes indicated in the concept. If there is a shortage of regional financial resources, then it is necessary to adjust the policy concept. Adjustment is possible due to a review of the objective or objectives (especially of their quantitative characteristics), revision of the applied policy instruments (changes in tax rates, benefits, the value of certain types of budget expenditures, etc.).

The need for feedback in the conduct of regional financial policy activities is conditioned by changes in both external and internal circumstances. In the course of implementation, the results obtained must be monitored and possible changes to the target parameters of the concept may be possible.

The main objective of the regional financial policy is to provide financial support for the socio-economic economic growth of the regions of the Republic of Moldova and to increase the standard of living of the population through the optimal and efficient distribution and redistribution of regional financial resources.

At the core of regional financial policy there should be a holistic and clear concept to elaborate it. In such a concept it is necessary to reflect the main tools, the areas of impact and the expected results. The concept would answer the following questions:

- how and with what financial instruments central government may influence territorial development;
- what is the degree of regulation of the regional economy and of the social sphere, the intensity of the influence of the state, the degree and possibilities of self-regulation of the financial sphere;
- what are the financial levers and incentives for public influence and how to use them;
- which regions will be able to implement the proposed financial policy.

Infrastructure of the region is a very complex category, for its presentation we can use the following two approaches:

1) the region's infrastructure can be considered as a set of sub-industries, business units, institutions and organizations that ensure the free movement of goods and services on the market in the region;

2) the region's infrastructure is defined as an economic system that ensures the sustainable development of the entire economic system in the region. In this case, the infrastructure in the region comprises, on the one hand, its economic potential and a set of economic relations related to the activities of the market participants.

It should be noted that market infrastructure contributes significantly to the development of the company's productive forces by improving the efficiency of the goods circulation processes in the economy and providing complex market services to the economic entities in order to create favorable conditions for the development of the industry and sectors of the economy regional. The state of the regional infrastructure should correspond to the level of production development in the region at all stages of its development.

With the help of private-public partnerships, local private sector representatives, non-governmental organizations, leaders of other informal associations or just active citizens can cooperate with local authorities to promote and implement all relevant initiatives for the

region's inhabitants. The partnership activities typically aim at tackling economic and employment policy issues, supporting socially vulnerable groups, strengthening regional identity, ensuring long-term development and reasonable consumption of natural resources, developing local production and promoting products in the markets foreign. This form of cooperation increases the responsibility of citizens to improve the living conditions in the region, ensures maximum participation of the inhabitants in the processes of self-government.

It should be noted that traditional management spheres barely perceive and adapt the managerial, technological, technical, social, and cultural innovations introduced. The success of regional development depends on the extent to which it was possible to reconcile the idea of development with management technology, i.e. the effectiveness of communication between stakeholders.

A major role in achieving the long-term economic growth of the region is played by infrastructure investments, which are the most important instrument for creating the conditions for the economic development of the territories. Infrastructure investments are an ideal route for redistributing resources and labor from stagnant sectors of the economy that can ensure long-term stable economic growth. Regional development management tools can be divided into several groups, each being geared to its impact on a particular area.

Current tools for regional infrastructure development are shown in figure 6.

Figure no.6. Regional Infrastructure Development Tools

Modern tools for regional infrastructure development		
Financial and investment tools for the development of regional infrastructure	Organizational and regulatory tools for regional infrastructure development	Instruments for the modernization and transformation of regional infrastructure

Source: elaborated by the author

5. Conclusions

Modernization of the regional infrastructure is necessary both for the growth of the economies of the underdeveloped regions and for the needs of the developed regions. There is the opportunity to implement the innovations, the information and the presence of the scientific factor in the formation of the necessary level of infrastructure support at the regional level.

The successful achievement of the aforementioned ones is also in keeping with the principles on which the optimization of regional financial policy is based:

1. Objectivity - in documents that are methodological support for regional financial policy, the objective of a policy that has a quantitative dimension needs to be clearly defined. In addition to the overall objective, it is necessary to develop a system of quantitative targets, the implementation of which must be implemented at different stages of the implementation of regional financial policy;
2. Systematically - all the implemented directions of the regional financial policy must be coordinated with each other and according to the declared purpose;
3. Complexity - regional financial policy must be implemented in all directions of its formation;
4. Sufficient information - developed policy should be based on a qualitative analysis of the socio-economic situation of the region, its problems and its prospects;
5. Transparency - the main policy provisions should be open to all interested groups; in addition, these stakeholders (business environment, population) can be involved in policy-making;
6. Feedback principle - during the implementation of regional funding, its main provisions (the system of measures) can be adjusted based on the analysis and monitoring of

policy implementation. In this respect, the transition to the developed methodological support phase must be a prerequisite.

Thus, it is necessary to emphasize the special importance of the processes of formation and implementation of the financial policy at regional level as a link between other types of economic policy in the region. This correlation, firstly, is due to the fiscal function of financial policy. At the same time, in the conditions of limited powers, the implementation of this type of policy is associated with significant difficulties in ensuring the equilibrium of financial resources.

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TRANSPORTS AND ROUMANIAN PROVINCE'S LINKS WITH THE EUROPEAN SPACE. THE DEVELOPMENT OF THE TRADE AND THE FORMATION OF THE ROMANIAN NATIONAL MARKET (1821 – 1877)

Ion Gr. Ionescu¹

Abstract

The study is the fruit of some in-depth research on an extremely interesting period, which should carry the reader on several different plans at the same time. I refer to the fact that the whole content interferes with the judgments of the study, having as informational support, such as: history, economic thinking, history of economic thinking, entrepreneurship, economic policies, strategies, sociology elements etc., specific to the period of transition, , to capitalism, by the more cumbersome renunciation, to the means of production of evuluimediu and to the adaptation to the new ideas and currents, specific to capitalism, which created serious prerequisites for the development of the south-eastern part of Europe, where the Romanian principalities were. We have used as sources of information - - published papers, periodicals, general and special works, and is intended to be a synthesis of the most important legislative, economic, financial, social measures that have been necessary to restructure the romanian society and not only,

Key words: *transport, navigation, rail way, trade*

JEL Classification: N2, N4, N7

1. Introduction

Between 1821 and 1878, the modern infrastructure was lacking and the precariousness amplified the inefficiency of means and transport routes, representing a real brake on the development of the economy. After the opening of the trade to the western markets, in all the Romanian historical provinces, as well as between the regions, the transport problem was put, for the first time, in modern terms. The emergence, the maturity and the penetration into the Romanian space, of the modern economic ideas and trends, had created solid convictions of material prosperity and hurried the adaptation to the modern era, more than the local entrepreneurs expected, with the open mind, eager for what was new and especially, profitable.

2. Timid beginnings on the first transport modernization projects

At the end of the eighteenth century and the first half of the nineteenth century, were usually arranged roads, with the help of the corvee work and robot work. Interestingly, in 1848, at least, in some areas, such as Dolj, there was "the abolition of the six days of work at roads and the payment with money for the work done, during the revolution." [Bodin 1959, p. 944] Although the transport of persons and goods did not escape the concern of the authorities, in practice, the carriage consisted of an activity belonging to individuals.

There have been modernization projects for both at road as well water transport, but in practice, none has been applied. Of the many causes, lack of capital was in the forefront.

Some successes have been achieved, along with the development of the some roads, in Moldova (about 300 km of paved roads, in 1848) and Transylvania.

On this general background, freight and passenger transport started be carried to out by specialized transport organizations employing paid work.

3. Formation of the mail and courier service

In 1827, some Romanian merchants from Braşov formed a collective company, organizing an office for the expedition of goods, and in 1848 Franz Kerner (Braşov) set up a fast-track race, Braşov - Ploieşti - Bucharest, to which was added a service, with foreign

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capital, organized by the Austrians. A system for transporting people and messengers, called the "fast mail system", was created.

This postal service also links the appearance of the first Romanian postage stamps. They had printed a aurochs head and the Romanian postal insignia. The initial issue was very small, and 5% of the letters were taxed. For this reason, philatelic head marks are one of the largest but most rare philatelic values, in the world.

4. The appearance of the first steam vessels

The transport of materials was running, also, by the means of the rafts on the inner rivers of Transylvania and Banat: Sebeş, Mureş, Bega, etc., the number of raft workers, in 1847, amounted to 20,000-22,000, their employment being "paid" [Constantinescu 1998, p. 242-243]. In the same context, the rafting, on the Bistrita and Siret rivers, was practiced, to Moldova, until the port of Galati.

The year 1829 marked the beginning of the steam navigation on the Upper Danube, due to foreign capital. The first initiative to introduce the expansion machine was in England. In the same year, Austria, also, encouraged the establishment of the first shipping company* on the Danube to carry passengers and goods [Atanasiu 2003, p. 25. Popescu 1929, p. 5]. In exchange for support from the Austrian state capital, the company was obliged to set up two lines of navigation: one for the Romanian ports from the Lower Danube to the mouth of the river and the other, between the mouths of the Danube and Constantinople or ports of Asia Minor. [Baicoianu 1917, p. 27]

The transport on water by Romanian ships, met a certain development, only after 1834, when Wallachia obtained the freedom of navigation on the Danube and in 1837, together with Moldova, when they will obtain the same rights and on the sea The declaration of the ports of Braila and Galati, in 1836, as free ports (porto franco), led to the increased traffic and implicitly, to the need for transport, the ports starting to receive, in addition, river ships and maritime ships.

In 1834, Alexandru Vilara started in Giurgiu, the construction of a ship, under the Romanian, which, after launching on water, carried out goods and passenger races in Constantinople. Gradually, other ships, though not many, began to appear under the "Romanian Flag". In 1838, a ship was built in Braila, for the benefit of a sardinian merchant and in Galati, in 1839, seven ships were also, built and the following year, ten. In 1847, of the total of 964 entered ships in this port, 28 were Romanian (20 Wallachians and 8 Moldovans).

On the Danube, there is still the practice of transporting goods with caics**, the most, foreign property. In 1846, a transport company with two tugs, the grain on the Danube, was set up in Craiova, until Braila. Having privilege for navigation on the Prut, a young boyars' society (1844), headed by Vasile Alecsandri, carried with dozens of workers, oriental merchandise, from Galati. to Sculeni.

On the Nistru, the transport of goods was facilitated by rafts and galleys, these reaching, in 1846, at a number of 380, some of them with steam. From 1840, yet, from Cetatea Alba port, began steam racing to carry out activities in the ports of Reni, Ismail and Chilia, where the import of wood played an important role.

The water transport benefited, only of minor improvements. In 1858, the first steamed ship, the Siret, was used to tow up, to five barges for transport of salt. This ship, subsequently, became the first military ship of Romania.

5. The emergence and evolution of rail transport

Rail transport has developed slower compared to the shipbuildings. The real modernization of this type of transport took place when the Iron Route System was built on Baziaş - Oraviţa distance, in 1856, which served the interests of S.T.E.G. society. In Transylvania came into operation, the first line on the Arad-Alba Iulia route, in December

1868. This experience will continue to the south of the Carpathians, by building the Cernavodă-Constanța iron road, in 1860.

In Romania, the construction of railway lines was granted to foreign firms. In 1865, an agreement was concluded with J. Staniforth and J. Barclay in London, for the construction of the Bucharest-Giurgiu railway, inaugurated in October 1869. To an Anglo-Austrian group, was concessioned, in 1867, to build the Roman- Ițcani railway, with the Pascani-Iasi and Veresti-Botosani branches, all 225 km long.

In 1868, a Berlin-based company, headed by Strusberg, obtained the right to concession- for 50 years- a nine19-kilometer-long railroad line starting from Roman on to Marasesti, to Tecuci. From here, a branch headed for Barlad, went further to Galati, then connected the cities of Braila, Buzau, Ploiesti, Bucharest. This line was opened in 1870, when Railway Station -North Bucharest, entered into operation. In 1872, the Bucharest-Ploiesti line was opened and in the following years the construction of the Pitești-Vârciorova line, continued.

The Romanian entrepreneur Grigore Heliade built the Iasi-Ungheni line between 1870-1874, connecting it, with the Russian railways. Also, the railway lines Ploiesti-Predeal and Adjud-Targu Ocna were concessioned in 1875, to the English company Grawley Company in London, which due to the war of independence, could not be terminated until 1897, this time under the guidance of a French company, represented by the engineers Gouilloux and Bresson.

6. The trade hastened the formation of the Romanian national market

In the general context, in a careful analysis, we can say that in England, with the great agriculture, the big industry has grown. In fact, the industrial revolution was not a political revolution, but there was a transformation of the economy, first slow, then between 1760 and 1815, much faster. In this way, the development of the capitalism, ie the exploitation by a contractor, of collective labor, has begun. For example, this trend towards a large enterprise, has been stimulated by increasing the number of consumers and implicitly, by the opening up of new markets and by mechanical [Maurois, 1987, p. 539.] interventions. This is how England became the "world factory".

This pattern was followed everywhere, because the same principles applied the same laws, and consequently, were the same effects. This great leap of Western European production forces, was extended later in other countries, and will generate a gradual economic growth process.

7. The first forms of modern economic unity in the Romanian space

In the Romanian countries, the consolidation of the internal market was based on the increase and diversification of production, stimulated by the growth of the population, in general, and of the urban population in particular. Also of particular importance was the achievement of the customs union, between Muntenia and Moldova, from January 1, 1848, which was an additional premise for the creation of a unitary market before the achievement of the 1859 political union.

The permanent, ancient links between Transylvania and the United Principalities has continued with increased intensity, placing beyond the political impediments, the economic unit that underpinned the national unity of the Romanians in all the provinces of the country. The economic links of Transylvania were and remained, until 1918, stemming from the organic and complementary character of the Romanian territory. Even when the Vienna government introduced Transylvania (since 1850) into the customs system of the empire, these links could not even be limited.

8. Free trade policy and the need to strengthen domestic markets

The decreeing of the free trade, as the only system of exchanges, in the United Principalities (decided on 6 December 1859), was another very courageous measure to support the national market, but the action was blocked by the guarantor powers. [Zane 1980, p. 173]

The process of consolidating of the internal market has been further emphasized by other factors of economic nature: transport modernization, abolition of the domestic customs, the achievement of the national monetary system.

On this background of market consolidation, the gradual transition to modern forms of internal trade took place. Thus, the chambers of commerce (in Transylvania - after 1850, in Small Romania - 1864), a commercial code was adopted and the delimitation, between the wholesale and the retail trade, increased and the need for to move to stable forms of trade.

Although the forms of periodical commerce, practiced in fairs, continued to maintain the economic importance and towards the end of the period the new forms of modern trade based on samples, began to manifest through the organization of the first national exhibitions, in Iasi and Bucharest. Also, the participation of our country, at the first international exhibitions, in London (1851) and Paris (1867), made the country's resources better known abroad at that time. [Puia 1991, p. 123-124.]

9. Foreign trade

Foreign trade has been an essential link, both in the process of capital formation and in the changes in agrarian structure. In the conditions favorable to the sale of cereals, in the last decade of the eighteenth century and the first fifteen years of the next century, the prices increased de 6.4 times and for this reason, in Banat and other areas it grew to such a kind trade.

In the second decade of the nineteenth century a favorable conjuncture appeared for wool, which reached significant quotas, so that the people of Brasov exported to Western Europe at least one million funt* wool blanks of about 560,000 of florins.

The trade balance was active as imports remained relatively low.

A profitable export item, from the areas that had access to waterways, was the wood. Then the cattle traders from Transylvania, were famous abroad. The shepherds in Transylvania dominated the prices of horses in Arad and Timisoara, but also. in Szeged and Debrecen. In Brasov there was a large trafficking with cattles and sheep bought from Wallachia.

The trade balance was active, as imports remained relatively low.

Foreign trade of Wallachia and Moldova until 1867 (lei – 1867)

Years	Export	Import	Balance
1832	21 155 777	17 975 092	+ 3 180 685
1833	24 573 881	18 831 011	+ 5 742 870
1834	24 648 433	36 064 205	- 11 415 772
1835	15 874 655	17 794 889	- 1 920 234
1836	27 842 774	20 741 568	+ 7 101 206
1837	23 020 972	15 925 161	+ 7 095 811
1840	35 413 299	19 673 176	+ 15 740 123
1850	47 151 889	28 262 614	+ 18 889 275

Source - [Constantinescu 1991, p. 208].

10. Conclusions

Until the achievement of state independence in 1877, can not speak of a specific infrastructure policy or a commercial one, own, unitary and coherent, because Romania was not sovereign and the general framework of economic and financial conditions were too early, the stage of the development of the means of production, being precarious. However, during this period there was a constant effort of Romania to distinguish itself from the economy and the customs system of the Ottoman Empire through the endeavour of the bourgeois class in order, to acquire technical means, compatible with those in the center and west of Europe and the attempts of Prince Alexandru Ioan Cuza, to modernize the institutions and impose different customs duties through the Customs Act of 1860, which established a 5% ad valorem duty, but which ultimately, did not was successful due to the opposition of the great powers.

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* The society was called "Erste Donau Dampfschiffahrt Gesellschaft"

** caic - narrow boat, with two masts, with sails, with sharp prorate and stern, higher than the rest of the shell; Light, long and narrow boats, bent at the ends (used in the Orient).

*** funt - English and American unit of measurement, equal to 0.453592 kg.

COMPLEMENTARITIES REGARDING INTERVENTIONS ACCORDING TO THE REGIONAL DEVELOPMENT AREA IN ROMANIA

Mircea NĂSTASE^{*1}

Abstract

The year 2013 marks a key milestone for the regional development of Romania, being at the same time the final year of the first programming period of the nonreimbursable assistance received by Romania as a fully-fledged member of the European Union and also a decisive year for the preparations for the future 2014 – 2020 programming period. This is the moment when both accomplishments and obstacles encountered in the last seven years should be analyzed in order to identify the lessons learned and to improve the future regional development process of Romania. In this context, this paper focuses on the concept of complementarity in the field of regional development. The purpose of the paper is to propose a theoretical model for identifying the complementarity links among regional development interventions, introducing a definition and a typology of this concept, along with some implementation means.

Keywords: *complementarity, regional development, e-cohesion, structural instruments, double financing*

Introduction

At a first glance, the concept of complementarity seems easy to understand, but finding a comprehensive definition for it, in the context of regional development is a challenging task, taking us back to the year 1975 and forward to the year 2020. In this paper, we will follow this path in time, starting from the relevant literature in the field, in order to build a theoretical model for defining the complementarity links among regional development interventions in Romania.

Due to the fact that the concept of complementarity is a requirement of the European Union regulations in the field of regional development, the first step will be to analyze how this concept is approached and used in these regulations. The evolution of the different meanings that were associated to it and the other related concepts will be scrutinized. The second step will be to identify the views on this subject of other European Union member states and national institutions, by analyzing several documents and studies covering this topic.

Finally, on the basis of the findings from the previous steps, the paper will introduce a definition of the complementarity concept in the field of regional development and a classification of the main types of the complementarity links identified, with examples of Romanian projects.

Complementarity – requirement of the European Union regulations in the field of regional development

The concept of complementarity has been mentioned since the very first European regulations establishing the funds that the European Community was setting up for promoting a balanced development of the European regions. As such, Council Regulation no. 724/75 of 18th March 1975, setting up the European Regional Development Funds (ERDF), mentions in the preamble that "the Fund's assistance should not lead Member States to reduce their own regional development efforts but should complement these efforts" (The Council of the European Communities 1975, page 2). This type of complementarity is explained in the first annual report for ERDF by the fact that the amounts provided by the European Community

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were meant to be added to the ones the member states would have allocated in the absence of the Community assistance. As such, the report equals complementarity with additionality, the section dedicated to the complementary character of the ERDF and of the national measures focusing exclusively on additionality and topping-up.

Council Regulation no. 2052/1988 includes for the first time the term complementarity in the title of a separate article, article 4 – *Complementarity, partnership, technical assistance*. This article mentions that „Community operations shall be such as to complement or contribute to corresponding national contributions” (The Council of the European Communities 1988, page 12). In this context and related to the aspects of complementarity, the regulation introduces the partnership principle, according to which the Community interventions must be made following consultations between the European Commission, the member state and other national, regional and local authorities, acting as partners in this process. Mentioning complementarity and partnership together in the same article is not accidental, given that the partnership plays an important role in ensuring that the different interventions financed by national or European funding sources complement each other, because it implies large consultations, involving many actors relevant for the setting-up and the implementation of the programmes financed by the European funds.

Council Regulation no. 1260/2006 separates for the first time the concepts of complementarity and additionality, dedicating a separate article for each concept. Article 8 – *Complementarity and partnership* mentions that „Community actions shall complement or contribute to corresponding national operations”, while article 11 – *Additionality* introduces the requirement that „the appropriations of the Funds may not replace public or other equivalent structural expenditure by the Member State” (The Council of the European Union 1999, pages 12, 14).

As far as the current programming period 2007 – 2013 is concerned, Council Regulation no. 1083/2006 continues to approach complementarity and additionality in a distinctive manner. As opposed to the previous regulation, the complementarity concept is included this time together with notions such as consistency, coordination and compliance, the partnership principle being presented in a separate article. As such, article 9, named *Complementarity, consistency, coordination and compliance* mentions the fact that „the Funds shall provide assistance which complements national actions, including actions at the regional and local levels, integrating into them the priorities of the Community” (The Council of the European Union 2006, page 38). Also article 9 includes the obligation of the European Commission and of the member states to ensure the coordination of the financial assistance provided by the EU funds, namely the European Regional Development Funds (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF) and other existing financial instruments. Commission Regulation no. 1828/2006 mentions complementarity with other financial instruments as a dedicated chapter within the annual implementation report, requiring the member states to briefly present the procedural and institutional measures taken in order to ensure the „ demarcation and coordination between the assistance from the ERDF, the ESF, the Cohesion Fund, the EAFRD, the EFF, and the interventions of the EIB and other existing financial instruments” (European Commission 2006, page 90). This is the first time the notion of demarcation is mentioned in the context of complementarity, in the sense of avoiding the overlap between the investments made by these funds.

The complementarity concept is mentioned also by the draft regulations covering the future programming period 2014-2020. The general principles mentioned in article 4 still include the requirement that „the Funds shall provide support, through multi-annual programmes, which complements national, regional and local intervention” and that both the European Commission and the member states must ensure that the support from the

Funds „is consistent with the policies and priorities of the Union and complementary to other instruments of the Union.” (European Commission 2012, page 32). In Annex 1 of this regulation, the concept of complementarity is widely approached, being mentioned for the first time together with the notion of synergy. As such, in the section dedicated to the coordination mechanisms of the funds, the regulation stipulates that the member states and the managing authorities have to identify „areas of intervention where the CSF Funds can be combined in a complementary manner to achieve the thematic objectives”. Also, as far as the coordination of the EU funds with other Community policies and instruments is concerned, member states have to „identify and exploit complementarities among different Union instruments at national and regional level, both in the planning phase and during implementation” (European Commission 2012, pages 124 -125).

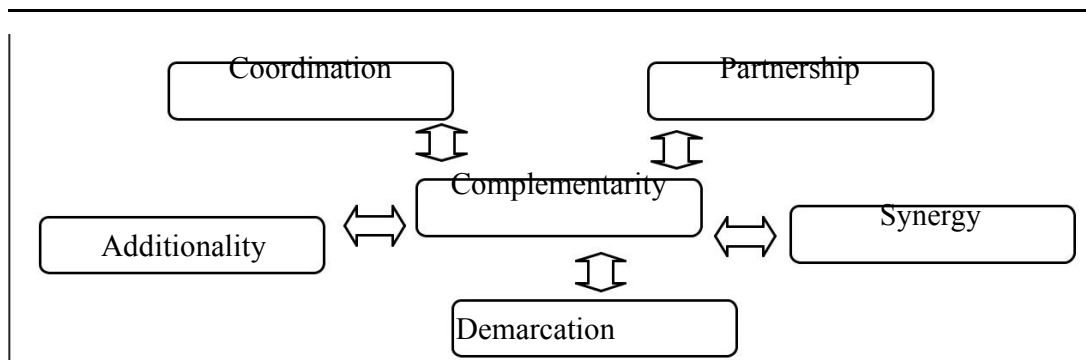
Some conclusions can be drawn from the analysis of the way the EU regulations approach the concept of complementarity (see the synthetic presentation in Table 1). First of all, it is important to notice that these regulations do not provide a clear definition of complementarity, although it is mentioned as a requirement for both the European Commission and the member states. Secondly, there are other concepts related to the concept of complementarity (see Fig. 1), such as additionality, seen initially as an equivalent for complementarity, coordination with other financial instruments, partnership, potential means of ensuring the complementarity of the funding sources, demarcation, to avoid the double financing, and synergy in order to multiply the effects of the financial instruments.

Table 1. Synthetic presentation of the way the EU regulations approach the concept of complementarity

Timeframe	Reference to complementarity	Regulation
1975 - 1987	Ensuring complementarity of Community and national resources. <i>Complementarity = Additionality</i>	Council Regulation no. 724/75 of 18 March 1975
1988 - 2006	The concept of complementarity appears in a separate article (article 4 – Complementarity, partnership, technical assistance). The partnership principle is introduced next to complementarity.	Council Regulation no. 2052/1988 Council Regulation no. 2081/1993
2007 - 2013	Distinction is made between complementarity and additionality, each one being the subject of a different article. In the context of complementarity, appears the notion of demarcation.	Council Regulation no. 1260/2006
2014 - 2020	Special attention is granted to the concept of complementarity. The notion of synergy is introduced. Combining funds in a complementary manner. Complementarity among activities.	Proposal of regulation of the European Parliament and the Council COM(2012) 496 Final

Source: Authors' adaptation

Fig. 1 Notions related to the concept of complementarity



Source: Authors' adaptation

The concept of complementarity in other documents and studies prepared on this topic at national and international level

The concept of complementarity has been approached by several studies and documents at the national and internal level. As such, according to a study elaborated by the Polish Ministry of Regional Development regarding the complementarity and synergy among the projects financed by the structural and cohesion funds and the ones financed by the European Agricultural Fund for Rural Development, the concept of complementarity can be approached on 3 different levels: that of policies, of programmes and of projects. Focusing on the last two, the study defines complementarity as "mutual complementing or completing of types of projects or projects" (EGO 2010, page 20). At the programme level, the study analyzes the possible complementarities among the different types of projects. At project level, taking into consideration their specificities, the study suggests 3 features of projects that could generate complementarities: project location (**spatial complementarity**), thematic scope of the projects (**thematic complementarity**) and the process of preparation and implementation (**process or institutional complementarity**) (EGO 2010, page 20). Trying to define complementarity, the study uses a basic economic concept – the complementary goods. As such, 3 types of complementarity links can be identified between projects (EGO 2010, page 20):

- type A – two projects thematically or spatially complementary that can achieve their results independently from one another;
- type B – two projects thematically or spatially complementary out of which only one can achieve its results independently from the other;
- type – two projects thematically or spatially complementary out of which none can achieve its results independently from the other.

Another study approaching the complementarity concept, this time from a sectoral perspective, focused on the transport infrastructure projects from Poland. The study aimed at verifying the level of the **internal complementarity** (i.e. among road infrastructure projects financed from the Integrated Regional Operational Programme) and of the **external complementarity** (i.e. among the road infrastructure projects financed from the Integrated Regional Operational Programme and the projects finalized or in implementation financed from other financial sources, such as the pre-accession assistance – PHARE, ISPA and SAPARD, the post-accession assistance – Transport Operational Programme, Interreg or the ones financed exclusively from the national budget).

The definition of complementarity used by this study is specific to the road infrastructure field: „Complementarity is a feature that is revealed by the coexistence of roads

in the same area. Particular attention should be paid to whether the road projects are linked or otherwise form a coherent road network” (KANTOR Management Consultants 2008, page 20). The study identifies 3 components of complementarity: **functional complementarity** – given by the positioning of the roads in relation to the passenger and freight flows from a given region; **geographical complementarity** – given by the proximity of the roads; **operational complementarity** – given by the category that the roads belong to.

Another study approaching the concept of complementarity, also from a sectoral perspective, focuses on the social infrastructure projects from Poland. The study defines complementarity as a link between projects or activities, which generates, in most cases, synergy effects, approaching the concept both at the level of individual projects by means of case studies and at the level of 840 projects by means of a quantitative analysis. The study identifies 3 types of complementarity links that can occur between two social infrastructure projects (Policy & Action Group Uniconsult 2009, pages 100-102): **operational complementarity**, regarding the implementation process of projects; **functional complementarity**, regarding the results of the projects and **network complementarity**, between projects that are operationally and functionally independent but cover uncovered areas in a network of services, completing the available services.

Also, within the 2007-2013 National Strategic Reference Framework of Romania, there is a dedicated chapter to implementation and complementarity which highlights the importance and necessity of setting up clear criteria for demarcation and complementarity in order to ensure the successful implementation of the programmes financed by the European Union both by the structural instruments (ERDF, ESF and CF) and by the funds dedicated to the fisheries and rural development. Within this document, the concept of complementarity is approached in 3 ways: among the programmes financed by the structural instruments, among the programmes financed by the structural instruments and the ones financed by EAFRD and EFF, and among the programmes financed by the structural instruments and the funds provided by the European Investments Bank or other financial institutions. Several demarcation/complementary principles are mentioned, such as the relevance for the national or regional development (for instance national or regional roads), the purpose of the intervention (infrastructure, services, etc.), the economic sector concerned (support for companies in a specific economic field completed by the training of the workforce) (Government of Romania 2007, pages 163-164). Just to mention a few examples: the national roads and the motorways are financed by the Sectoral Operational Programme Transport, while the county roads are financed by the Regional Operational Programme. The business infrastructure (other than the scientific and technological parks) of national and international level is financed by the Sectoral Operational Programme Increase of Economic Competitiveness whereas the infrastructure of regional or local interest is financed by the Regional Operational Programme.

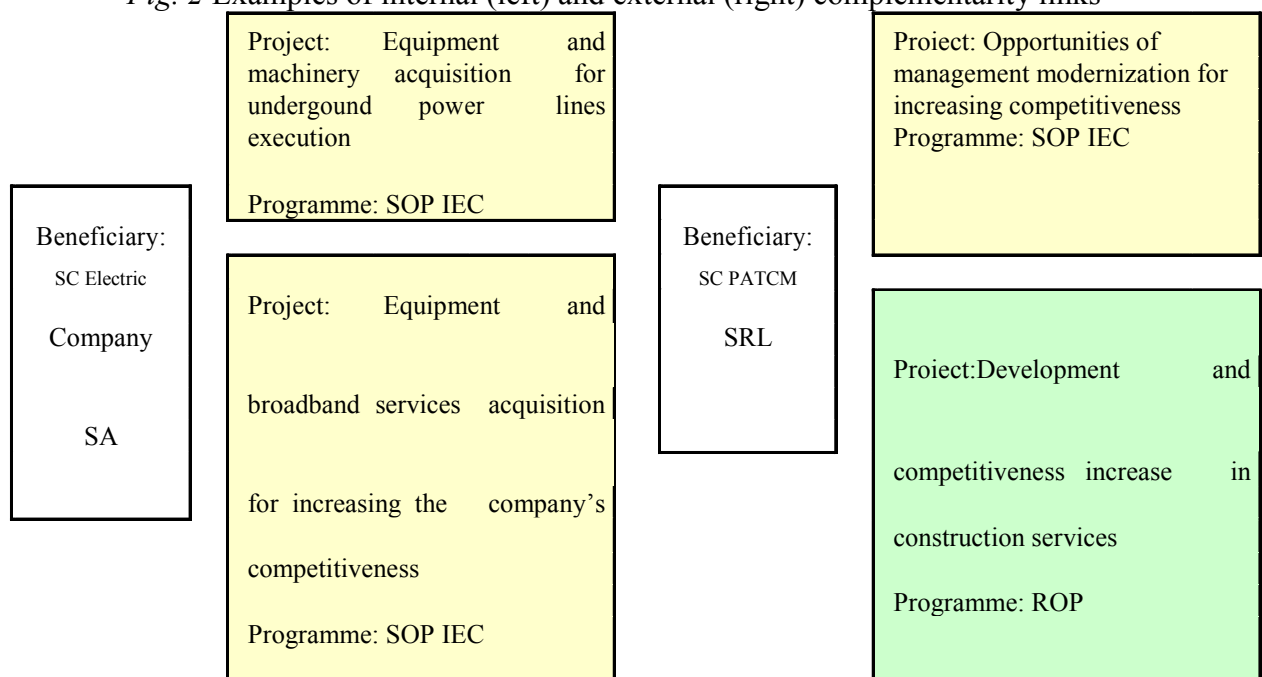
A theoretical model for defining complementarity links among the regional development interventions from Romania

On the basis of all the aspects mentioned above, we propose the following definition of complementarity among the regional development interventions: *complementarity represents a characteristic of the interventions having an impact on regional development, implemented in a given location or geographical area, which, regardless of their funding source and without overlapping, either cannot achieve their expected results if they are not both implemented or the result of implementing them both is higher than when only one is implemented.* This definition implies that the more the complementarity links between projects are identified and promoted, from as many

financial sources as possible (national, regional, local, European etc.), the more impact they will have on the development of the regions of Romania.

The complementarity links can be identified at different levels, between funds, programmes, types of interventions, projects and activities. These links can be classified according to several criteria. A first such criterion is the funding source, depending on which we can distinguish between internal complementarity, among projects financed by the same programme or financial instrument, and external complementarity, among projects financed by different programmes or financial instruments (see examples in Fig. 2). The internal complementarity is easier to identify as in most cases a programme or a funding opportunity is managed by a single authority. Identifying the links of external complementarity is more challenging as it implies an efficient collaboration and communication among several institutions and authorities, responsible for those programmes or financial instruments.

Fig. 2 Examples of internal (left) and external (right) complementarity links



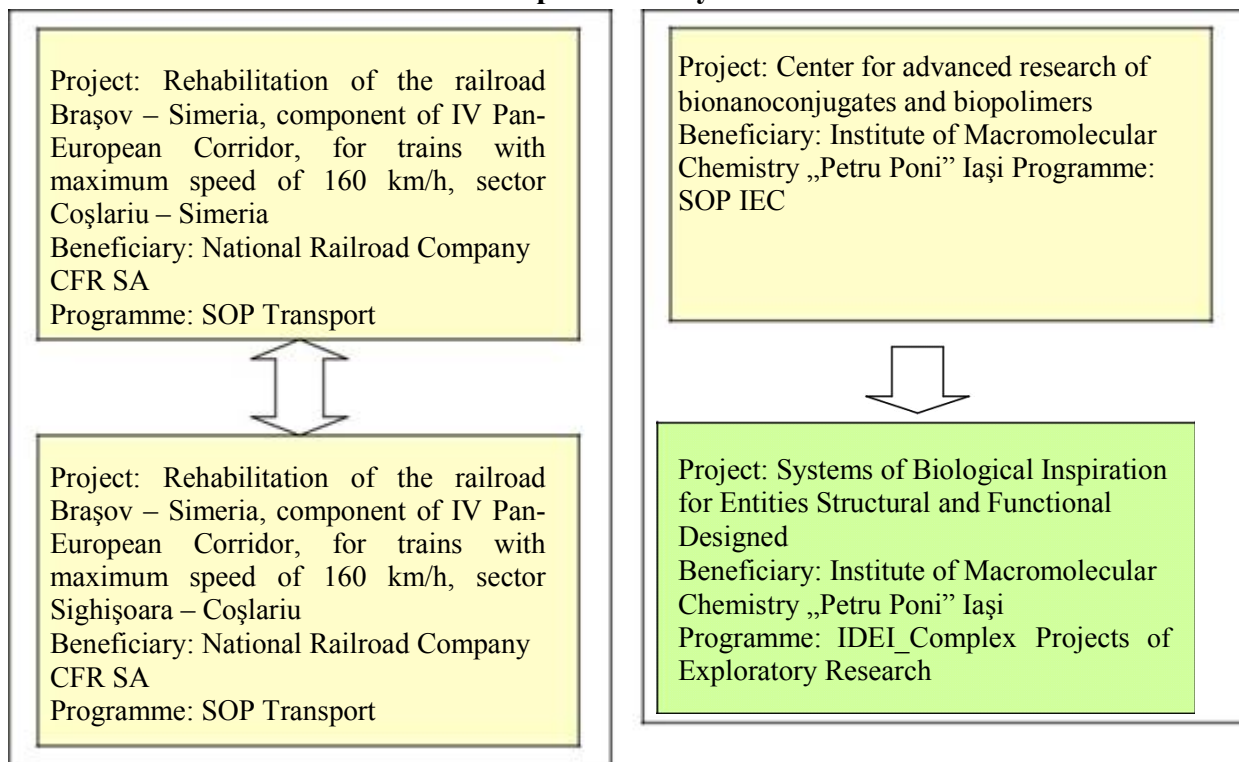
Source: www.fonduri-ue.ro (section List of contracted projects 31 July 2013) accessed on 24.08.2013

Another criterion is the intensity of the complementarity links, depending on which we can distinguish between general complementarity (between types of projects) and specific complementarity (between individual projects). As such, general complementarity links can be identified among strategies, programmes etc., as for instance among the training projects for the small and medium size enterprises financed by the Sectoral Operational Programme Human Resources Development and the productive investments made for these enterprises by the Sectoral Operational Programme Increase of Economic Competitiveness in the same activity fields. The specific complementarity can be identified at the level of a specific project.

Another classification criterion is the impact of the complementarity relation on the expected results of the interventions, depending on which we can identify 3 types of links: bilateral conditional complementarity, when none of the projects can achieve its results independently (for instance when financing via separate projects a complex investment

objective), unilateral conditional complementarity, when one of the projects in question cannot achieve its results if the other project is not implemented (for example the extension of an investment) and unconditional complementarity, when both projects can achieve their expected results independently but the overall result is higher than the results obtained if only one project was implemented. Examples of bilateral and unilateral conditional complementarity are presented in Fig. 3.

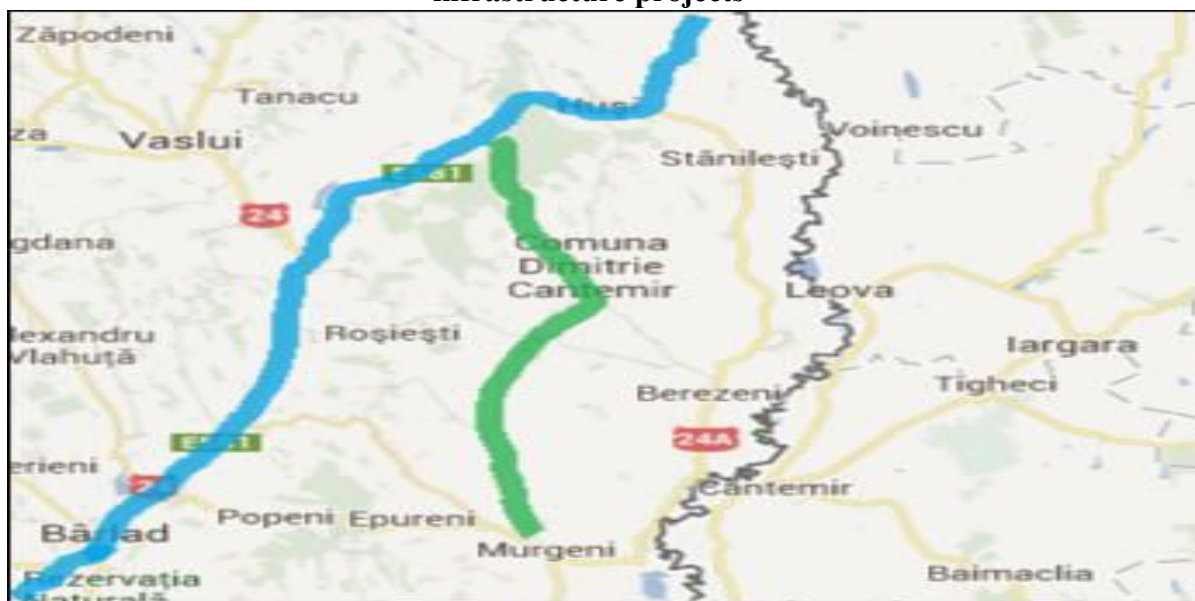
Fig. 3 Examples of links of bilateral (left) and unilateral (right) conditional complementarity



Source: www.fonduri-ue.ro (section List of contracted projects 31 July 2013) and www.intelcentru.ro, accessed on 24.08.2013

Another classification criterion is the content of the interventions, depending on which we can establish spatial complementarity, based on the geographical location of projects (for example between transport infrastructure projects from the national, regional and local levels – see example in Fig. 4), thematic complementarity based on the content of the projects – objectives, activities, expected results (for instance between equipment acquisition projects and training projects) and process complementarity, generated by the fact that the projects are implemented by the same beneficiary.

Fig. 4 Example of a spatial complementarity link between two road infrastructure projects



Source: Authors' adaptation of information available at www.proiecte.inforegionordest.ro/ and www.infrastructura-rutiera.ro, accessed on 24.08.2013

The complementarity links between projects can be also classified by the effect of the complementarity relation on projects. As such, we can distinguish direct complementarity, when projects are directly affected by and indirect complementarity, when projects are indirectly influenced. For instance, the transport infrastructure projects implemented in an area have an indirect positive effect on the other projects implemented in that area. The different types of complementarity links among the interventions that have an impact on regional development are synthetically presented in Table 2.

Table 2 Typology of complementarity links

Classification criterion	Type of complementarity link	Explanation
1. the funding source	internal complementarity	among projects financed by the same programme or fund
	external complementarity	among projects financed by different programmes or funds
2. intensity	general complementarity	among types of projects
	specific complementarity	among specific projects
3. impact on expected results	bilateral conditional complementarity	none of the projects can achieve its results independently
	unilateral conditional complementarity	one of the projects cannot achieve its results if the other project is not implemented
	unconditional complementarity	both projects can achieve their expected results independently but the overall result is higher if both implemented

Classification criterion	Type of complementarity link	Explanation
4. content	spatial complementarity	based on the geographical location of the projects
	thematic complementarity	based on the content of the projects: objectives, activities, expected results etc.
	process complementarity	generated by the fact that the projects are implemented by the same beneficiary
5. effect	direct complementarity	with a direct effect on projects
	indirect complementarity	with an indirect effect on projects

Source: Authors adaptation

Conclusions

The theoretical model for defining complementarity links among regional development interventions presented above can be used for a double purpose. First, it allows a better identification of possible cases of double financing (requesting and financing an item of expenditure from more than one funding source – EU budget, national, regional or local funds), especially at the level of the appraisal of financing proposals, by highlighting the potential overlap of interventions. This kind of verification could be added to the ones performed on the expenditures declared by beneficiaries. Going further than just avoiding double financing, by identifying the links among the projects, synergy effects could be obtained, which would increase the impact of interventions on the development of the regions. The implementation of projects that do not complement each other, although justifiable by existing needs or by the necessity of ensuring a minimum level of investments in all regions and areas of a country, could be progressively replaced by the implementation of projects that are linked to one another, creating a more consistent impact.

Nevertheless, the applicability of the model depends on the availability of accurate and complete information about regional development interventions, financed by the different existing financial sources (structural instruments, national budget, local budget, etc.). An important step in gathering this kind of information in a format that allows processing will be most certainly made in the future 2014-2020 programming period, for which the proposed regulations include the so-called “e-cohesion” requirement, according to which the member states have to provide to the beneficiaries the possibility of exchanging all information with the authorities responsible for managing the structural instruments solely by electronic means.

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CIRCULAR ECONOMY IN THE EUROPEAN CONTEXT

Cosmin Viziniuc¹
Alexandru Taşnadi²

Abstract:

The authors start from the present status of the linear development model that leads towards a deficit of resources, prices volatility, a growing volume of waste, pollution, and, in the end, climate changes. It is shown that the Europe 2020 Strategy regarding intelligent, sustainable and inclusive growth needs a transition towards a circular economy. This is based on the industrial system of recovery, waste disposal and obtaining subsidiary material resources. In the authors' vision, stimulating transition towards circular economy will increase the global competitiveness of E.U., will support sustainable economic development and will generate new jobs. In the end of the article there are highlighted the main elements of the European Union action plan regarding circular economy, as well as the implementing measures.

Key words: circular economy, linear development model, sustainable economic growth, secondary material resources, waste

JEL Classification: A12.

1. Let's leave the linear model.

The economies of the developed countries in the West, as well as the global economy in general, are based on the consumer consumption current supported by the **linear growth model**. In such a model, the primary resources are taken over, processed, sold (consumed, used and then discarded). The residues that take the form of **waste** are stored or incinerated. In other words, this linear growth model involves large quantities of processed raw materials and **a lot of energy**. Symbolically, such a linear pattern can be represented as in Fig. 1:

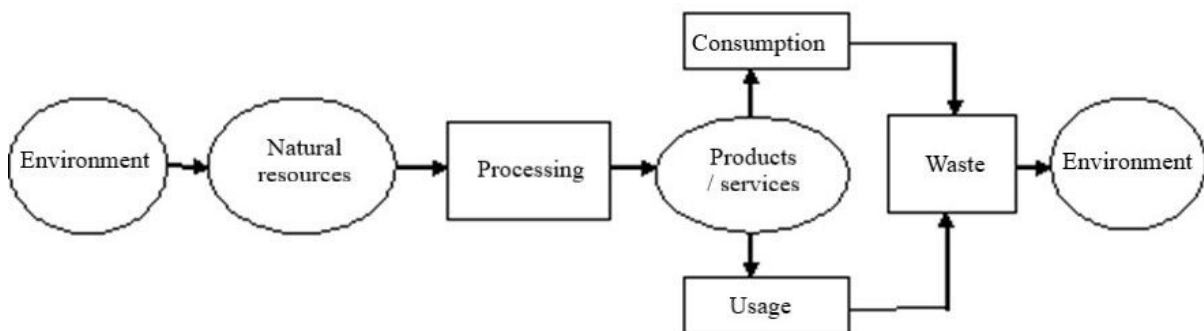


Fig 1. The linear model

In a resource wasting awareness video³, it is shown that after processing, there is left very little useful material in the finished product. Some papers show that over 90% of natural resources become waste in the manufacturing industry. Moreover, as a result of **the planned wear and tear**, almost 80% of the finished products are thrown into the first six months of their **life cycle**. As a result, such a model is not sustainable in the foreseeable future of the world's **population**, the intense **demand** for natural resources and energy as well as the environmental degradation (as a result of pollution and usage of technologies by **the consumer society**). There is a need for a production-consumption binomial responsible for

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³ ovestea lucrurilor (bunurilor de consum) - Story of stuff - Annie Leonard - Romanian subtitles, <https://www.youtube.com/watch?v=nhEKMf7FFOk>

the sustainable development. The economists in dialogue with ecologists and politicians increasingly highlight the unsustainability of the **linear model** and its **negative** effects:

- resource shortage
- the price volatility of these resources;
- the waste generation;
- the environmental pollution;
- the degradation of the health of the living whole (Popescu and Tasnadi, 2009);
- the climate changes.

The studies on the European economy, especially of the EU countries, show their significant dependence on the **import** of natural resources. EUROSTAT data show, in the last decade (2008-2018), a significant **trade deficit** of around 1000 million tonnes.

Resources are becoming less accessible and more expensive. All companies in the EU economy are facing a **strong competition** (in terms of access to resources) being ultimately affected by the **competitiveness** of the European economy.

2. The need for a new model. Change of mentality.

"We cannot solve problems using the same type of thinking we used when we created them" – Einstein said.

Therefore, **mitigating**, even **limiting**, those negative effects of the linear model implies a new approach, a change of mentality. By **recycling** (The Circular Economy Engine), **secondary resources** can be obtained in order to reduce the **resource** and **environmental** stress.

The transition to a circular economy model can lead to an increase in the **competitiveness of the EU economy**. It is the opinion of the experts of the European Commission.

Those products at the end of their life cycle are to be **recycled** or **dismantled**. They can then be reused by turning them into secondary resources. Because the circular economy is based on the "loop closure" principle, its construction implies:

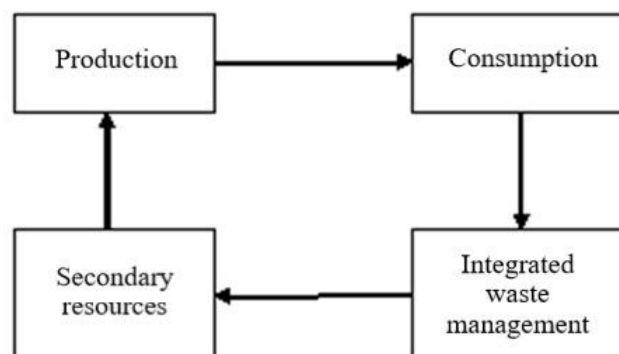
- the repair and reuse;
- the waste and secondary raw materials management;
- dismantling and reuse.

This will **increase the value** obtained on the production-consumption binomial. Switching to this model will contribute to:

- waste reduction;
- Decreasing environmental degradation;
- Lower production costs.

At the same time, the **circular economy** facilitates the retention in the economy of a longer duration, the value of products, the value of resources and materials. It helps to minimize the production of new waste. The process could be illustrated in a simple way as in Fig. 2:

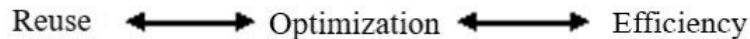
Fig. 2. Running the product life cycle



The Ellen MacArthur Foundation (Circular Economy Overview, 2016) shows that the circular economy model contributes to reducing the **carbon emissions** and **protecting the environment**. Keep in mind that this model is the basis for the green, smart and inclusive economic growth. Such a growth is generating jobs.

The assimilation of this model also involves several risks. Firstly, investments in machinery and technology for integrated systems can have an impact on short-term profits. Secondly, there is a relatively small market for products resulting from recycling, dismantling, repair or reprocessing.

The principles underlying the circular pattern form a triad:

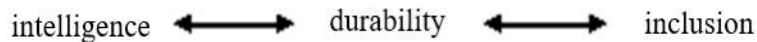


Within this it is reused the natural resources transformed by the waste processing. Thus, there is obtained the protection of the **natural capital**. The organic household waste follows the **biological cycles** that turn them into compost. The materials coming from recycling follow a **technical cycle**. The efficiency in the use of primary resources generates positive effects. This leads to the reduction of pollution, to health, to the release of toxic substances and to the mitigation of climate change.

3. Thinking about the future generations.

The implementation of the circular model in the EU Member States' economy also takes into consideration the transition to a new type of growth: **smart, sustainable** and **inclusive**. As a result, more and more emphasis will be placed on the key development directions in the 2020 Strategy for future generations mentioned in the **concept of sustainability** as well as in the creation of new industries and new **jobs**.

The model of circular economic development envisages the triad:



These three directions, implemented through concrete actions of **economic policy** (at both Community and national level) aim at:

- A. **Smart Growth** – which focuses on Knowledge, Innovation, Education and the Information Society (including Artificial Intelligence).
- B. **Sustainable Growth** – which takes into account the resource efficiency in connection with increasing competitiveness, expressed by the symbolic relationship:

where: e – resource efficiency

Q – production (output)

R – resources (input)

c – the competitiveness factor.

Such a policy alleviates the scarcity of resources (saving for future generations).

- C. **Inclusive growth** – which refers to (directly or indirectly) future requirements:

- participation in the labor market (employability);
- assimilation of new skills;
- identifying new ways to reduce poverty.

The actions of the 2020 Strategy, through their implementation, are aimed at the **recovery of the European economy**. The 2008 economic crisis has highlighted unsustainable trends (such as the linear growth model). These tendencies cannot be ignored in the future because their proliferation will lead to the downfall of the living for the future generations.

During the crisis, Europe has experienced a **development deficit** that needs to be recovered.

In this sense, it is necessary to exploit the benefits that we have (for example, waste recycling technologies) through the Community and the national **economic policies**. Since 2012, after the crisis, the World Economic Forum in Davos (Switzerland) put the problem of "The Great Transformation" and, within it, adopting new models based on knowledge, low carbon emissions and new jobs generators. It is actually a "battle" of all the significant actors of Europe, to move to a new **paradigm of development**.

Let's go back to Einstein's thought: "The world we have created is a process of our thinking. It cannot be changed without changing the thought." In this sense, we can adopt "ecology", a new way of thinking and living (Popescu, 2017). Of course, this is a **global, holistic** approach. No EU Member State can find on its own effective solutions to respond to the global challenges. All 27 savings are interconnected. Everybody must learn lessons from the economic and financial crisis.

At the same time, this is the **synergistic effect** of the community economy, as a result of the collaboration, of working together. Only by **coordinating the economic policies** the effects can be positive. A failure of the 2020 Strategy may mean the "lost decade", which has as its ingredients: the unsustainable growth, the environmental and human health degradation, the decline in the living standards and the permanent rise of the unemployment.

The economic development promoted by the mentioned triad (intelligent, sustainable, inclusive) takes place parallel to the realization and support of social and territorial cohesion. The 2020 strategy requires bringing **social responsibility** to a higher level.

It is up to the Heads of State and Government to assume and support the programs and packages of measures adopted by the European Commission. The commitments made by each country are translated into concrete actions that are monitored by the European Commission. Looking ahead, actions under the Europe 2020 strategy and the Growth and Stability Pact will lead to a change of mentality, a change of dialogue between politicians, economists and ecologists, towards ever more significant harmonization of the connections between the economic system and the natural system.

4. Hope for tangible results.

Europe's transition to a circular economy is based on the "closing the loop" principle. This takes into account the product life cycles through increased recycling and reuse of production waste. The actions carried out in this process will influence the interference between the natural system and the economic system. The community and national programs built on this will lead to:

- the maximum use of raw materials and waste;
- saving energy;
- reducing the carbon emissions.

"Closing the loop" involves co-ordinating the whole life cycle:

production → consumption → waste generation → secondary raw materials

This package of actions (measures) monitored by the European Commission is funded from three sources:

- a) Horizon 2020 (EU funding and innovation program) – 650 million euro;
- b) Structural Funds for waste management – 5,5 billion euro;
- c) National investments in the circular economy.

The packages adopted by the European Commission in December 2015 and May 2018 focus primarily on **general policies** regarding the climate change and the productive system pressure on the **environment**. The measures adopted, correlated with the ones at national level, will produce **tangible effects** on: the economic growth, the investments, the labor market, the social equity.

Our planet (as a provider of natural resources) and the world economy will not survive if it continues with the **linear development model** (Wijkman and Rockström, 2013).

In order to preserve the **natural capital** as long as possible, it is necessary to make the best possible use of its economic value. The circular economy implies a profound **transformation** of the economic system. The adopted measures set the trajectory for a good waste management in the European economy, taking into account the "closing the loop" principle. It is a **synergistic effect** generated by the binomial: regulations - incentives, which will determine that profound transformation of the economic system. Of course, the implementation throughout these measures is done with the help of national and local authorities.

Through the action of the regulations – incentives binomial, signals are sent to the productive economic actors to invest in the **circular economy**. Thus, Europe is becoming an attractive location for **sustainable** and **environmentally friendly** businesses.

The measures adopted by the European Commission, the incentives used generate innovative and efficient ways for the production-consumption complex. The rules adopted in May 2018 are the most modern legislation on waste management. Referring to the municipal waste, the evolution of the recycling rate is as follows:

By 2020	By 2025	By 2030
55%	60%	65%

Estimating the recycling rates of these wastes helps to better measure and monitor the tangible progress achieved in the evolution towards the circular economy. Regarding recycling of the main waste, we have the following objectives:

Waste type	By 2025	By 2030
Plastic materials	50%	55%
Wood	25%	30%
Ferrous materials	70%	80%
Aluminum	50%	60%
Glass	70%	75%
Paper and cardboard	75%	85%
All	65%	70%

Therefore, the basic idea is **recycling** and **not** the waste **storage**. In this respect, the provisions of the new norms aim at storing up to 10% of the municipal waste. In the transition to the circular economy, manufacturers play a significant role. They become more and more responsible with their products and the ways in which they become waste (European Commission, 2018).

Every European citizen consumes an average of 14 tons of raw materials per year. At the same time, he produces 5 tons of waste in a year. These products, waste and materials could be repaired, recycled and reused. This involves the transition to the **circular economy** where the product life is expanded (European Parliament, 2017).

In order to increase the economic, social and environmental benefits resulting from the better management of municipal waste, the Romanian legislation is considering the development of **secondary raw materials market** (of a high quality) is envisaged. At the

same time, consideration is given to the assessment of the added value of the criteria for determining the termination of waste, applicable to different materials (Kipper, 2015).

The European Parliament proposes combating the planned wear, meaning designing a product so that it is no longer usable after a certain period of time.

Conclusions:

The package of measures adopted by the European Commission to accelerate the transition to the circular economy could lead to savings (in EU companies) of about 600 billion euros. This accounts for almost 8% of their turnover. It would also reduce the greenhouse gas emissions by 4%. The effects of these measures are multiple: reducing the environmental pressure, increasing competitiveness, reducing the import of natural resources (especially rare materials), stimulating innovation and investment in "green" sectors, moving to a green growth, creating new jobs. At a European level, about 600 thousand new jobs would be created on the labor market. This would influence the unemployment rate. Consumers will benefit from more sustainable and innovative products. All those listed will lead for the European citizens to an increase in the quality of their lives.

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STRUCTURAL FUNDS - IMPLICATIONS ON ACCESSION IN THE MEMBER STATES OF THE EUROPEAN UNION

Mihaela ȚIFUI¹

Abstract

Every country, regardless of the economic and social development is facing problems with the balanced economic development of the territory, determined by a number of objective and subjective factors that determine the uneven development of economic zones. This paper is an extensive analysis of the degree of accessing structural funds in the period 2007 - 2013 in the Member States of the European Union. Importance of the analysis is that the success of implementation of structural funds for Romania in the next programming period (2014 - 2020) is conditional on a thorough analysis of the current programming period (2013 - 2020), to assess the strengths, weaknesses, opportunities and, not least of which constraints faced by all actors involved in the management of these funds.

Keywords: structural funds, European Union, gaps.

INTRODUCTION

Every country, regardless of the economic and social problems is facing the problems in balanced economic development of the territory, determined by a number of objective and subjective factors that determine the uneven development of economic zones. Inequalities between the development levels of regions within a country are due mainly to the action of the following factors:

- Changing economic conditions by developing new economic sectors or declining entry of old;
- Concentration of economic growth in some regions;
- The existence of sparsely populated areas or production arising largely from primary sectors;
- Population migration to developed areas.

In the reform of cohesion policy were established five principles underlying the allocation and management of financial support for the development of regions lagging behind in terms of socio-economic concentration, programming, partnership, additionally and monitoring.

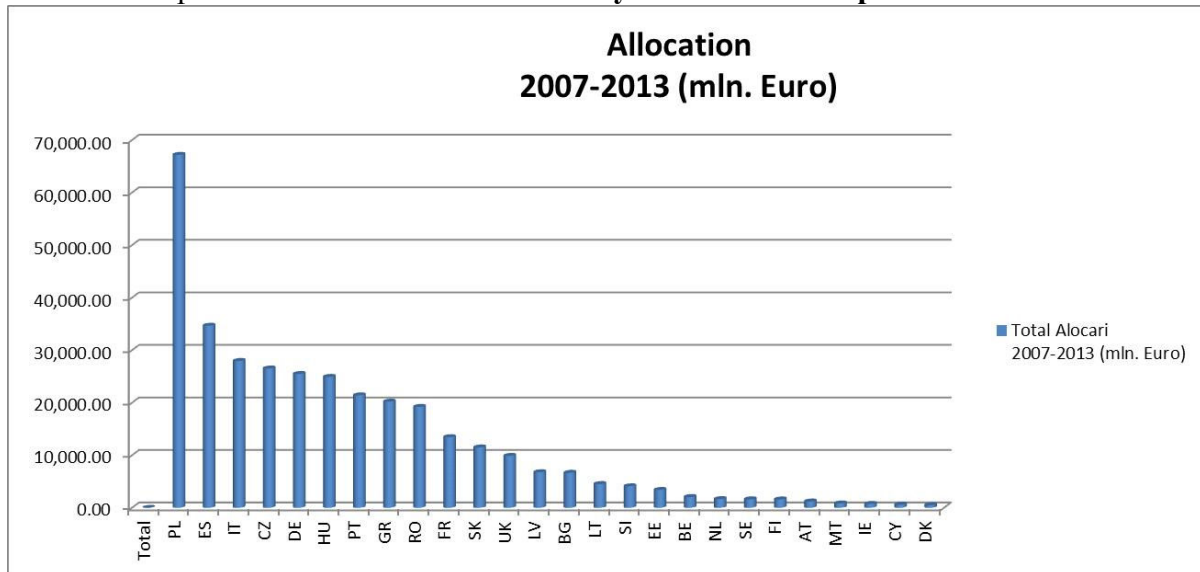
In order to reduce the gaps between countries and regions, the EU allocates significant funds over the period 2007-2013, totaling 338 billion. Romania has available structural funds totaling 19.2 billion euros or 81 billion (representing 5.6% of the EU total), amounts that should attract no later than 2015 (this amount does not include funds agriculture).

Functional Structural Funds in the European Union have contributed and contribute to economic and social development of member countries are: the European Regional Development Fund (ERDF), European Social Fund (ESF), the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF), the Cohesion Fund (CF).

The main purpose of the Structural Funds is to achieve social and economic cohesion within the European Union. Financial resources are directed towards activities aimed at reducing disparities between the more developed regions and less developed to promote equal employment opportunities between different social groups.

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Graph no. 1 - Total EU allocations by countries in the period 2007-2013



Source: European Commission

Structural Funds actions are focused in particular on the following three priority objectives:

- *Objective 1* – development and structural adjustment of regions whose development is delayed, these regions have a GDP per capita below 75 % of the same indicator registered in EU countries (it is said that there are very few such areas in EU 15).
- *Objective 2* – aims at economic and social conversion of areas experiencing structural difficulties. Covering a total of 18 % of the European population is considering four areas: industrial, rural, urban and fisheries dependent areas.
- *Objective 3* – covers the whole European Union, which is outside the Objective 1 areas. It refers to the adaptation and modernization of national policies and systems of education, training and employment, taking into account the European strategy in the field of employment.

European Union allocates significant funds, in the period 2007-2013, totaling 338 billion. Romania has available structural funds totaling 19.2 billion Euro or 81 billion lei (representing 5.6% of the EU total and placing Romania on the 9-th rank), amounts that should be used no later than 2015 (this amount does not include funds agriculture). The highest amounts are allocated to Poland, namely 67.18 billion euros, representing about 19.8% of the EU total.

Table no. 1 - Allocation and absorption of structural funds in EU member states
– June 2013

	Total Alocari 2007-2013 (mln. Euro)	Total plati intermediare ale CE pana la 01.06.2013 (mln. euro)	Rata absorbtie %
Austria	1,204.48	601.60	49.95%
Belgium	2,063.50	982.50	47.61%
Bulgaria	6,673.63	1,952.30	29.25%
Cyprus	612.43	243.10	39.69%
Czech Republic	26,526.38	7,925.30	29.88%
Germany	25,488.62	13,407.20	52.60%
Denmark	509.58	216.30	42.45%
Estonia	3,403.46	2,002.80	58.85%
Spain	34,657.73	17,735.60	51.17%
Finland	1,595.97	808.50	50.66%
France	13,449.22	5,909.00	43.94%
Greece	20,210.26	9,950.40	49.23%
Hungary	24,921.15	9,044.20	36.29%
Ireland	750.72	450.80	60.05%
Italy	27,957.85	9,091.60	32.52%
Latvia	4,530.45	3,606.70	79.61%
Luxembourg	50.49	23.30	46.15%
Lithuania	6,775.49	2,127.00	31.39%
Malta	840.12	263.40	31.35%
Netherlands	1,660.00	766.70	46.19%
Poland	67,185.55	32,931.00	49.02%
Portugal	21,411.56	12,847.00	60.00%
Romania	19,213.04	2,927.10	15.23%
Slovenia	4,101.05	1738.6	42.39%
Sweden	1,626.09	895.60	55.08%
Slovakia	11,498.33	4,067.10	35.37%
United Kingdom	9,890.94	4,494.40	45.44%
	338,808.09	147,009.10	

Source: European Commission

Regarding the degree of absorption of these funds, the EU average stands at 44.87%, Latvia being the first place (79.61%), followed by Ireland (60.05%) and Portugal (60%). In contrast, the last places are countries like Bulgaria with a grade of 29% and Romania, which recorded the lowest of all Member States, only 15.23% until 1 June 2013.

At this moment Romania has effectively attracted almost 2.9 billion euros. In order to spend the entire amount would be required by 2015 to make payments worth about 17 billion euros (ie two and a half years remaining until the completion of payments, 2.5 times more than I realized since 2007).

In the period 2007 – 2013, Romania benefits for almost 19,2 bil. Euro at which is added almost 5,6 bil. Euro representing the national co-financing. Within the convergence objective, Romania has to implement 7 Operational Programmes, as follows:

Regional Operational Programme (POR), Environment Operational Programme (POS Mediu); Transport Operational Programme (POS Transport); Increasing the Economical Competitively Operational Programme (POSCCE); Human Resources Development Programme (POSDRU); Administrative Capacity Development Programme (PODCA); Technical Assistance (POS Asistenta tehnica). These 7 operational programs are financed by 3 European Funds with the following allocations:

European Found for Regional Development – 8,976 mld. Euro European Social Found – 3,684 mld. Euro Coehsion Found – 6,552 mld. Euro

Tabel no. 2 - **Allocation and absorption of structural funds in Romania by operational programs - June 2013**

Programe operationale	Alocari financiare	Grad de absorție - contractare %	Grad de absorți - plăți către beneficiari %	Grad de absorție - rambursari UE
POR	3,726,021,762	106.47	41.68	29.56
POS Mediu	4,512,470,138	102.03	25.23	15.7
Pos Transport	4,565,937,295	79.56	9.83	6.46
POS CCE	2,554,222,109	75.84	25.58	6.77
POSDRU	3,476,144,996	83.14	40.85	16.62
PODCA	208,002,622	114.05	33.17	24.63
POS asistenta tehnica	170,237,790	67.32	20.24	18.93
TOTAL	19,213,036,712	90.47	27.67	15.3

Source: Ministry of European Funds, Romania

Regarding the absorption degree by operational programs in Romania, transportation sector is has the absorption of only 6.77%, which in absolute mean that they were actually paid in the amount of 295 million euros, while allocations are 4, 5 billion.

On the other hand, in terms of absorption by the amounts repaid by the European Union, the best program stands for financing sustainable development policies of the eight regions (absorption rate of 29.56% about 1.1 billion of the 3.7 billion euros made available by the European Union) and the Operational Programme Building Administrative Capacity with a percentage of 24.63% (I had about 51 million euros from 208 million euros). However, in Romania, if we analyze the degree of absorption by contracts, we note that the rate is good and is at 90.47%.

Conclusions

Among the most important causes that led to the low level of accessing structural funds in Romania compared to other Member States are:

- Sharp and prolonged economic crisis in our country;
- The length of the evaluation process and selection;
- Lack of qualified staff in the local authorities;
- Procurement system involving long due to cumbersome procedures;
- Fluctuations in the euro-lei exchange rate;
- Long activities of control and audit;
- Responsibility of beneficiary of the funds;
- Fudamentation and preparation of the projects;
- Additional costs for project applications (approvals, certificates) etc.

Among the measures aimed at increasing access to structural funds, we believe that the most important are:

- ensure public funds from the national budget for project implementation;
- providing state guarantees for loans taken by public authorities to implement projects;

- increase accountability of organizations specializing in consulting in the field to handle not only the project design, but also the implementation, to the final phase of projects;
- expedite the implementation of technical assistance projects focus, especially on the training that will contribute to enhancing the expertise of personnel involved in such projects;
- revision of the eligible costs;
- improving the budgetary legislation;
- minimizing project evaluation period, accompanied by continuous monitoring of the implementation status of projects etc.

Public authorities managing Structural Funds are designed to ensure the equitable distribution of these funds to contribute to the balanced development of Romania and pursue their efficiency so as to achieve impact indicators as specified in the program. The success of the implementation of EU funds for Romania in the next programming period (2014 - 2020), is conditional on a thorough analysis of the current programming period (2013 - 2020), to determine the strengths, weaknesses, opportunities and not least of which constraints faced all actors involved in the management of these funds. Consulting firms must substantiate with maximum responsibility investment projects to help increase their success and project beneficiaries consider very carefully whether any investments to increase economic efficiency and to raise living standards in Romania.

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CONFRONTATIONS BETWEEN TRANSNATIONAL CORPORATIONS – THE EUROPEAN UNION MARKET

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Abstract:

Transnational corporations are known as large firms that have verified competitiveness capabilities, that can, not only deal with the common competition, but also with the global one, which is, in fact, triggered by them. They have developed from national firms into global companies that use foreign capital investments in order to exploit their own competitive advantages. A deepening of competition on the global market takes place, new forms being added to the old ones. The competition takes place not only at the finished product level, but increasingly at the level of production factors.

The fight for competition between transnational corporations is intensifying, and European integration has prompted these firms to intensify their investments on the territory of the member countries. With a big sales market, the European Union continues to be one of the most attractive areas for the foreign investors.

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

JEL Classification: *F15, F21*

1. Introduction

Attracting direct foreign investments has become a growing challenge for the European Union. The main attraction for the foreign investors is represented by the perspective that this big market offers, especially after the last enlargements. Foreign investments are a way of bypassing tariff and non-tariff barriers installed at the border of the community. Foreign capital does not face significant opposition from local governments. Freedom to repatriate capital and benefits is guaranteed in each member state. Even so, the taxes are high, rigid rules of the Labor Code and very little funding resources.

2. Evolution of IED at a global level

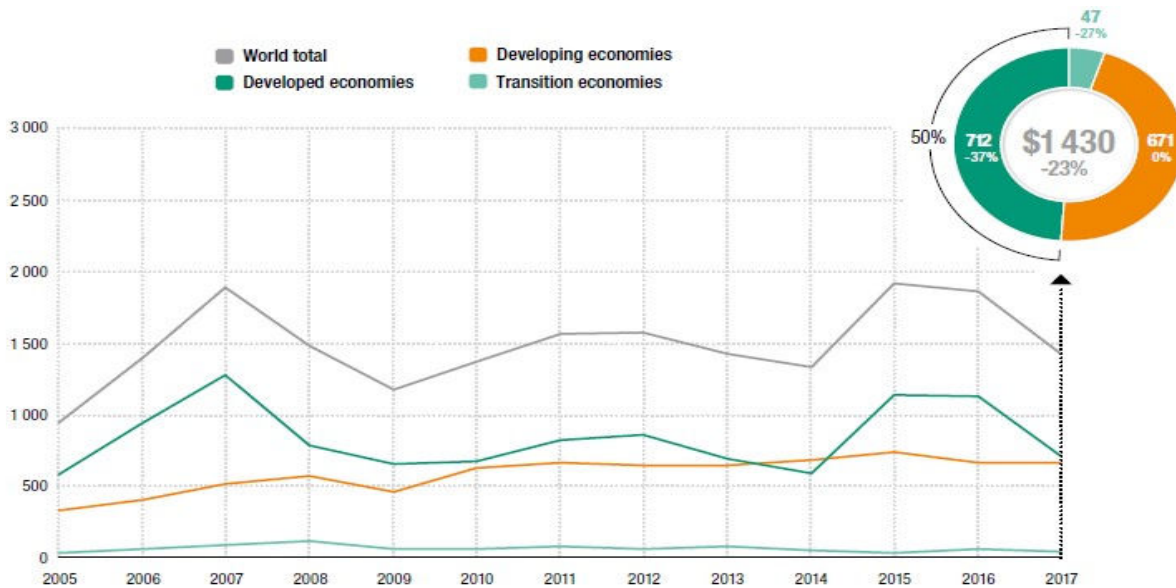
Global investments have decreased by 23% in 2017, to 1.43 trillion dollars from 1,87 trillion dollars in 2016. The decline is in strong contrast with other macroeconomic variables such as GDP and trade that have had a substantial improvement in 2017. A decline in the value of net cross-border mergers and acquisitions to \$694 billion dollars, from \$887 billion dollars in 2016, contributing to the decline. Developing economies have attracted an increasing share of IED in 2017, absorbing 47% of the total, compared to 36% in 2016. Investment flows attracted by developed countries have decreased by 37% compared to 2016, reaching \$721 billion dollars.

IED inflows directed towards developing countries remained close to the level they were in 2016, at \$671 billion dollars.

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Figure no. 1
Foreign direct investment inflows, global and by group of economies, 2005–2017
 (Billions of dollars and per cent)



Source: <https://unctad.org/en/pages/PressRelease.aspx?OriginalVersionID=458>
 [accessed on 14 November 2018]

IED flows towards developing Asia have reached \$476 billion dollars. The modest growth in Latin America and the Caribbean (8%), up to \$151 billion dollars, has compensated the decline in Africa (-21%), up to \$42 billion dollars. The decline in IED flows towards Africa has been largely determined by the low oil price. Asia regained its position as largest region that benefits from the IED. In the context of worldwide decline of IED, its share in global flows increased from 25% in 2016 to 33% in 2017.. The three largest recipients were China, Hong Kong (China) and Singapore. China continued to be the largest IED beneficiary among countries in development and second in the world, after USA.

3. Competition in the E.U

Transnational societies have developed over the last decades, internationally exploiting their competitive advantages. These advantages come from scale economies, from superior management techniques and/or worldwide sales networks

In order to attract transnational societies in the European Union emphasis was placed on:

- Expanding and strengthening the single market;
- Always ensuring an open and competitive market inside and outside Europe;
- Improving european and national regulations;
- Expanding and modernizing the european infrastructure and its scientific base.

Foreign direct investment flows are an essential element towards consolidating the single market. In 2017, IED flows towards the EU fell to \$303 billion dollars, compared to 2016, when an extremely high volume of investment flows was registered (\$524 billion dollars). However, the level reached in 2007 (aproximately \$870 billion dollars) remains a difficult objective. The expected exit in 2019 of Great Britain from the integrationist organization has generated a dramatic reduction in investitional flows towards EU and to that country.

According to UNCTAD, foreign direct investment outflows from European Union countries towards the rest of the world have decreased with almost 9% in 2017, compared to 2016.

The Netherlands, France, Germany and Ireland were the main beneficiaries of direct foreign investments, in 2017. Britain, however, recorded the largest decline, from \$196 billion dollars in 2016, to approximately \$15 billion dollars in 2017, consequence of the decision made by the country to leave the European Union. This is the lowest level recorded by Britain over the last years. In addition, according to experts, Ireland will be an even more attractive destination for foreign investments, especially for those outside the EU that are looking for flexible, ready-to-use, english speaking workforce.

The European Union has begun to coordinate its economies and national markets in order to increase product competitiveness over US and Japanese goods.

On the european market, which is particulary fierce, there is competition between subsidiaries of foreign firms, especially american and japanese and local firms, the first category trying to gain a position on the market and the second are trying to defend the old one.

US subsidiaries operating in Europe benefit from advantageous competitive conditions: the huge financial potential of the parent company, technological advance and, above all, the managerial level. They have superior chances to obtain a higher profit rate, therefore having increased opportunities for development. US firms are in a favorable position in the top countries in the European Union.

Japan has a visible ascendant in its relationship with the European Union, as the investments held by the japanese corporations in E.U are much higher than those of western europeans in Japan.

Over many decades no region or country has attracted more foreign american investments than the European Union. Since the beginning of this century, Europe has attracted 56% of the total worldwide investments made by the US.

Even so, data from 2017 shows a withdrawal of american companies from the EU market. EU investors have also reduced their net purchases on the american market, although less significant.

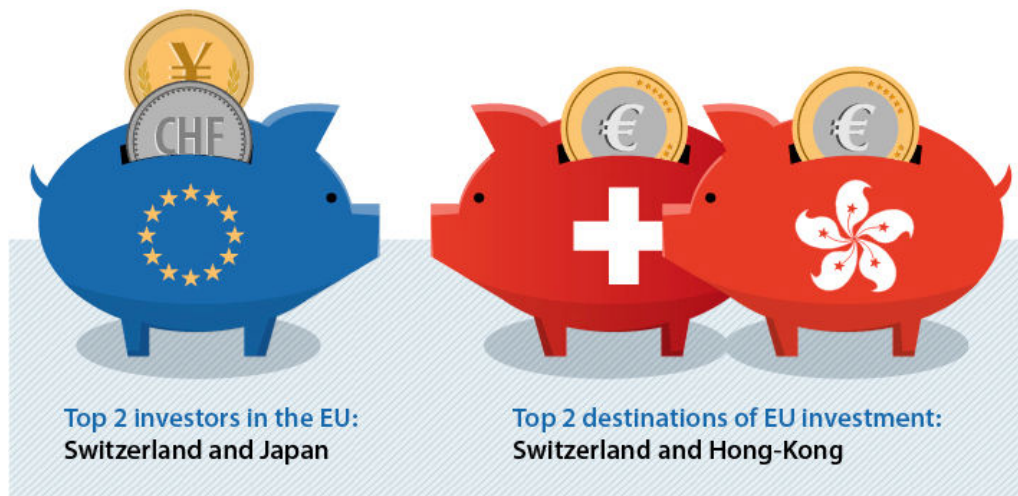
Switzerland was the main direct investor on the EU market. We saw Japan on the second place, their investments on the EU market are on the rise because japanese companies are eager to grow their businesses outside their own over-saturated market. Japanese corporations buy european firms in order to have access to the market.

The European Union and Japan have both signed an ambitious agreement for free trade, called jefta (the EU-Japan Free Trade Agreement), in July 2018, which now represents a third of the world's gross domestic product. This economic partnership agreement will stimulate trade in goods and services and will open up new investment opportunities.

The Japanese have obtained their free access to the European automotive market, but only after a transition period over several years.

Production and labor costs are higher in the EU than in other regions, but the japanese prefer legislative and economic stability provided by the single market.

Figure no. 2 EU foreign investment, 2017



Source: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180713-1?inheritRedirect=true>
[accessed on 14 November 2018]

Even since its establishment in the Treaty of Rome in 1957, European Union competition policy has been an extremely important part of the EU's activity.

The competition law in the European Union consists of Articles 101 (formerly known as Article 81 of the Treaty of Rome) and 102 (formerly Article 81 of the Treaty of Rome) of the Treaty of Operation and the national competition laws from the member states. These articles manage those activities that are considered as the essence of antitrust policy: a set of practices in the private business domain that can be interpreted as anticompetitive. With the EU's extensions some reforms of competition policy in the EU came into force. Within the European Commission, executive competences in the field are primarily the Directorate General for Competition.

The European Union's competition policies focus on four main areas of action:

- Elimination of restrictive agreements on competition and abuses of dominant position. Agreements done between firms meant to establish market prices are forbidden (the EU Commission has started to punish these „cartel” type arrangements in some industries). Also worth mentioning is the fact that on 20 March 2004, European Commission members decided to impose a fine of almost half a billion euros on Microsoft's US concern for breach of competition rules, namely „abuse of dominant position”. The cartel of the elevator manufacturers, fined by the European Commission of almost 1 billion euros or the cartel of car windows manufacturers, also fined by the communitar authority with over 1.3 billion euros, are just a few recent examples of huge sums charged to companies for anti-competitive behavior;
- Control of the merger of firms – any concentration starting from a specific level has to be approved by the European Commission. It is very important to note that, regardless of the country in which they have their headquarters, if the companies together have a turnover of more than 250 million euros within the European Union and over 5 million euros globally, then the purchase or merger must be analyzed by the European Commission. On this principle, the Commission has blocked a series of acquisitions between large firms in the USA;
- The liberalization of the economic sectors in the form of monopoly, opening of competition for the telecommunications, gas and electricity, rail transport sectors;
- Monitoring the subsidies given out by the state.

European competition policy is addressed equally to firms and governments and is „perhaps unique regarding the organization of EU policies because it has developed together with national policies”. Community law seeks to protect the common market and stimulate competition inside this vast economic space.

The EU has one of the most open investment regimes in the world, in this context, the European Commission has presented in September 2017, proposals to create an European framework in order to examine direct foreign investments in the European Union.

The Commission proposes a new legal framework that lets Europe keep its essential interests. It includes:

- ✓ An European framework for the examination of direct foreign investments by the member states for safety or public order reasons; it also handles transparency obligations, the principle of equal treatment with regard to foreign investment of different origins and the obligation to assure different ways to approach adopted decisions under these review mechanisms;

- ✓ A mechanism for cooperation between the state members and the Commission. This mechanism can be activated when a particular foreign investment in one or more member states may prejudice the safety or public order of another member state;

- ✓ An examination done by the European Commission for safety or public order reasons in cases where direct foreign investment in member states may affect projects or programs of interest for the Union. Among these research projects and programs (Horizon 2020), from the space domain (Galileo), transport (Trans European transport networks – TEN-T), energy (TEN-E) and telecommunication.

Competition, known also as open confrontation, a dispute over the opportunities between firms for the most advantageous position in the market, is a crucial element for both the European Union and the member states.

4. Conclusions

A solid increase of the IED still remains a long-term objective. The economic outlook for overall developments in the global economy remains modest, currency and commodity volatility, increased geopolitical risks will negatively influence the IED flows.

Projections for global foreign direct investments in 2018 show a frail growth. It is estimated that the global flows will increase up to 10%, but will remain well below the average of the past 10 years. The current situation in the European Union will stay in the global trend, with a slight increase and, the year 2019, the Brexit year, of Britain’s departure from the EU will not produce surprises in terms of attracting foreign investors.. It is certain that, future IED developments will demonstrate that the single market continues to be one of the most secure and stable worldwide in terms of investment.

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

STUDY ON CORPORATE GOVERNANCE AT ROMANIAN BANKING INSTITUTIONS

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Abstract:

The credit institutions have a very important role in the economy of a country. The investors' interests are protected by the system of corporate governance. The authorities have made efforts to implement the principles on corporate governance issued internationally. Based on these considerations, this study aims to analyze the stage of implementation of these recommendations to the credit institutions from Romania, at 31.12.2017. The results of the study show that the entities which made the subject of the research have partly implemented the international corporate governance recommendations and practices.

Keywords:

Governance, credit institutions, Board of Directors, diversity

JEL Classification: H21, H25, G38

1. Introduction

The present study aims to determine the level of compliance with the principles of corporate governance in banking entities in Romania, and in particular those regarding the transparency of policies for the appointment of its governing bodies, its structure and its role, at the end of 2017.

The corporate governance system is intended primarily to protect investors' interests. Losses to shareholders caused by multinational companies' management as a result of financial scandals have prompted some of them to devise a mechanism to protect their interests.

Corporate governance provides a greater degree of assurance that an effective control system is implemented at the entity level, ensuring that all users are properly and legally conducted. An effective corporate governance process leads to increased financial transparency and level of financial responsibility diminishing the risk of fraud.

2. Literature review

The concepts of corporate governance are presented in a series of theoretical and empirical studies, in the framework of internationally recommended guidelines but also in the professional rules developed by the competent bodies. In terms of practical concerns, there are more and more countries implementing the corporate governance system, starting from internationally-based principles.

Marcia Millon Cornett and other authors (Cornett et al, 2009) have analyzed the influences of corporate governance mechanisms on earnings and margins at the largest US listed bank. The study found that payments to the CEO for performance sensitivity, management independence and capital are directly positive with earnings and inversely proportional to revenue management.

Jonathan R. Macey and Maureen O'Hara explained the role that corporate governance plays in the performance of commercial banks (Macey, O'Hara, 2003).

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Kenneth Spong and Richard J. Sullivan have approached the role of corporate governance in increasing bank performance by analyzing the relationship between the quality of management and the financial performance of the entity (Spong, Sullivan, 2007).

Professor Ross Levine of the University of Minnesota concluded by studying that poor bank governance affects the entire economy, with negative consequences on economic development.(Levine, 2003)

About the implementation of O.E.C.D. on corporate governance, a series of studies have been developed at national level on the degree of implementation of these principles in banking entities in Romania. (Bîgioi A. D., 2012). A series of studies have been developed on the implementation of these principles in emerging economies (Feleaga, Feleaga, Voicu, Bigioi, 2011).

Bigioi A. and Bigioi C. (2017) have analyzed the insurance companies from Romania and they concluded that insurance companies have partially implemented the provisions of corporate governance principles.

3. Data and research methodology

The banking entities that were analyzed were extracted from the website of the National Bank of Romania. All 25 commercial banks available at <http://www.bnro.ro/banci-comerciale-1333.aspx> were selected. For each subject under investigation the data was extracted from the web sites of the entities concerned, Information on age, nationality and studies of Board members was completed with www.bloomberg.com.

From the point of view of the research methodology, the scoring method is combined with certain tests specific to the financial audit activity. For each entity, we estimate the degree of implementation of corporate governance principles based on the empirical tests mentioned above. The data will be grouped according to the classification criteria imposed by the objectives specific to each problem. Conclusions will be made on the basis of data processing.

The research was conducted in the following stages:

- the data was selected
- the data was been grouped according to specific objectives
- the data was processed taking into account the degree of implementation of the principles o corporate governance
- the results were centralized
- the results were analyzed and interpreted
- the conclusions were drawn.

All 25 commercial banks in Romania listed on the National Bank of Romania's website in the Credit Institutions Register, Part I-Banks, were surveyed.

In order to accomplish the study, we defined the following general empirical test function (Bigioi A, 2012):

General function of the Board of Directors ($f_5(ts_5)$):

$$F_5(ts_5) = \{ f(\delta_1, \delta_2, \delta_3, \delta_4, \delta_5) \mid 0 \leq f_{5i}(ts_{5i}) \leq 5 \},$$

$$\delta_1, \delta_2, \delta_3, \delta_4, \delta_5 \in [0;1],$$

$$i \in [0;25],$$

$$f_{5i}(ts_{5i}) = (f(\delta_{1i})+f(\delta_{2i})+f(\delta_{3i})+ f(\delta_{4i})+f(\delta_{5i})) \quad (1)$$

δ_1 represent the estimated value of the parameter checking on the condition that there is a list of members of the Board of Directors.

δ_2 represent the estimated value of the parameter checking on the condition that there is a professional presentation of each administrator.

δ_3 represent the estimated value of the parameter checking on the condition that there is a list of members of each committee/board, indicating those who are members of Board of Directors.

δ represent the estimated value of the parameter checking whether the entity has published information on the existence of a report on the Board of Directors' meetings, including number of sessions, and the average number of presences of each administrator.

δ_5 represent the estimated value of the parameter on checking the condition if the entity has disseminated information on the existence of a performance assessment procedure for each administrator.

In order to conduct the study, we used for each banking entity which is the subject of this study, the following model questionnaire (Bigioi A, 2012) (Table no 1):

Table 1. The questionnaire

Banking entity:	
Verified conditions:	Score obtained:
1. Is there a list of members of Board of Directors?	
2. Is there a presentation of each administrator?	
3. Is there a list of members of each committee, indicating who is member of Board of Directors?	
4. Is there an activity report on Board of Directors' sessions, including the number of sessions, and the average attendance of each administrator?	
5. Is there a procedure for assessing the performance of each administrator?	
Total score:	

(Each Yes answer is scored 1 point)

The scoring method was conducted in the following stages:

-a set of standard conditions that bank entities would have had to implement within its corporate governance policies were established. These standards conditions were determinate on the basis of international and national corporate governance principles and practices, as well as the recommendations made by the Bucharest Stock Exchange, on the implementation of the corporate governance code.

-for each condition a standard code was established

-the total score for each bank was calculated

-the results obtained have been centralized in order to interpret them

-the resulting information has been analyzed, drawing a series of conclusions.

4. Results of the study

The scores were obtained following the application of the above mentioned questionnaire (table no 2).

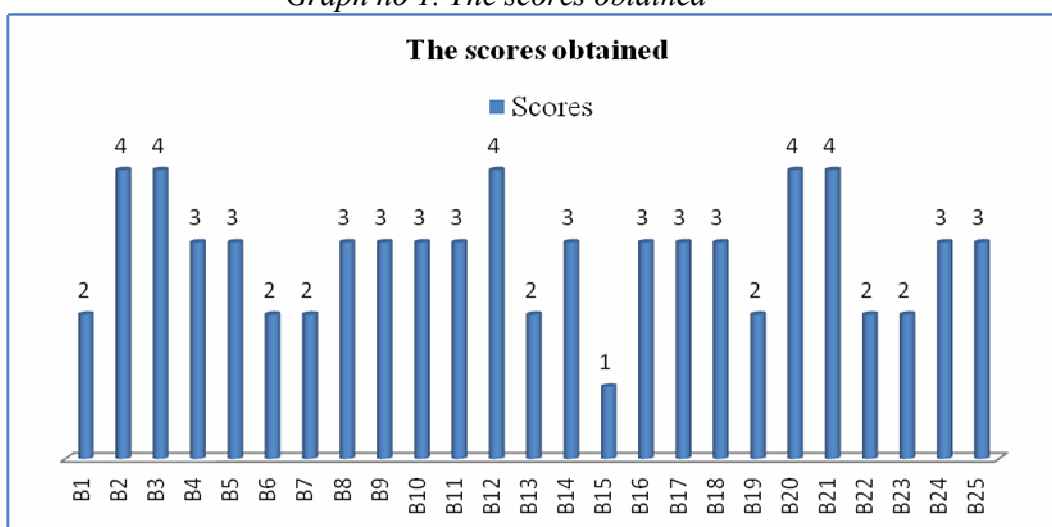
Table 2. Scores obtained

Code	Score
B1	2
B2	4
B3	4
B4	3
B5	3
B6	2
B7	2
B8	3
B9	3
B10	3
B11	3
B12	4
B13	2
B14	3
B15	1
B16	3
B17	3
B18	3
B19	2
B20	4
B21	4
B22	2
B23	2
B24	3
B25	3
General average	2.84

Source: own processing based on data extracted from www.bnr.ro

The scores are graphically represented in Graph 1.

Graph no 1. The scores obtained

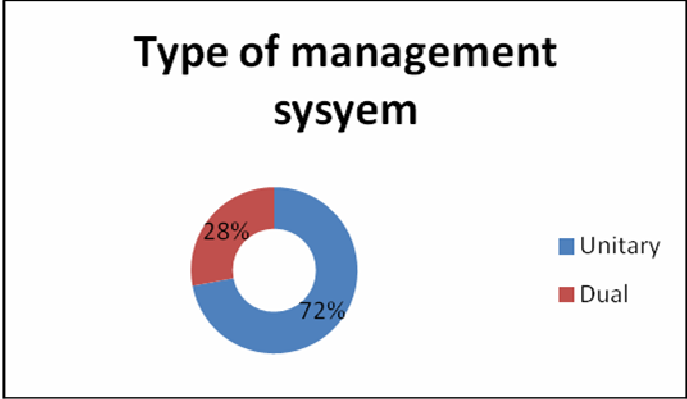


Source: own processing based on data extracted

The credit institutions in Romania have partly implemented the international corporate governance recommendations and practices, with the average score of 2.84 points out of a maximum of 5 points.

Most credit institutions opted for a unitary management system (Graph no 2).

Graph no 2. Type of management system



Source: own processing based on data extracted

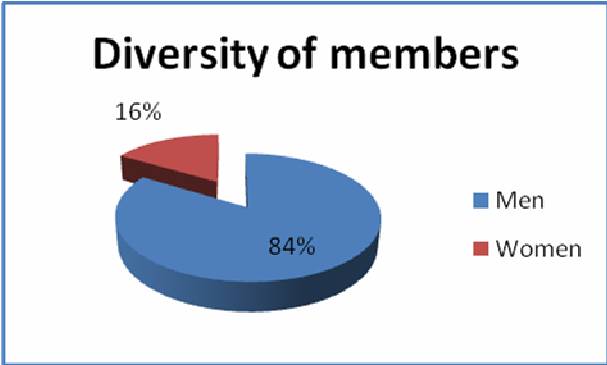
All institutions have an audit committee and a risk management committee.

As a positive element, we mention that most banking entities publish the list of board members, but 12 of them (48%) do not publish information about the members. Not all credit institutions present details about studies and professional experience. BRD offers the most information about the members of the Board.

The average number of members is 7. Management board have a minimum of 3 and a maximum of 14 members.

A negative element that was found following the study was that the international recommendations on the diversity of board members were not respected. In this respect, we mention that the majority of the members of the board are men and Romanians (graph no 3), a better balance of them being able to ensure a better quality of the board's work.

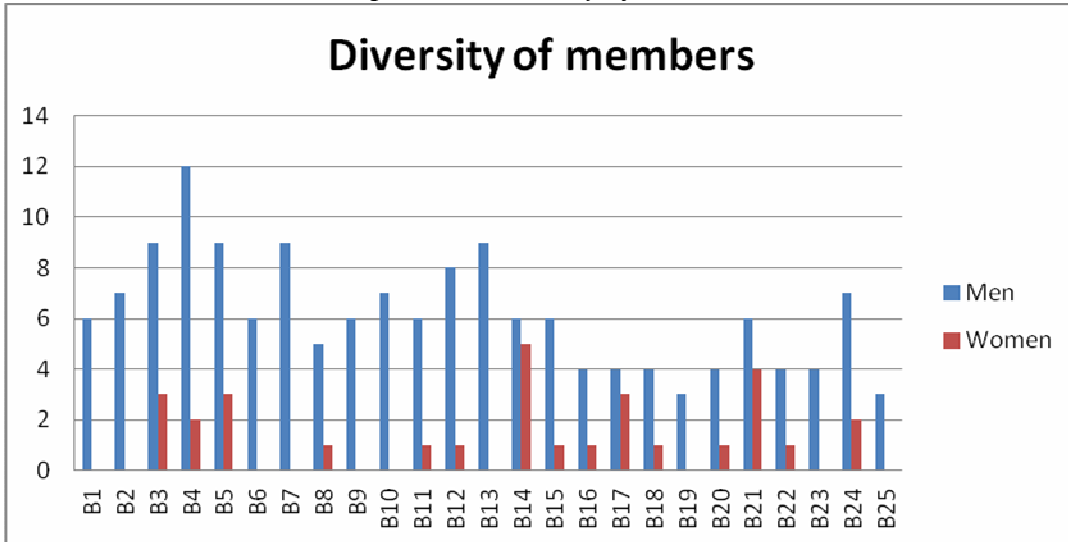
Graph no 3. The diversity of members



Source: own processing based on data extracted

The share of women is 16.30% and we noticed that in the case of 10 banks there is no woman in the Board of Directors. Only 3 banks have an approximately equal share of men and women (Graph no 4).

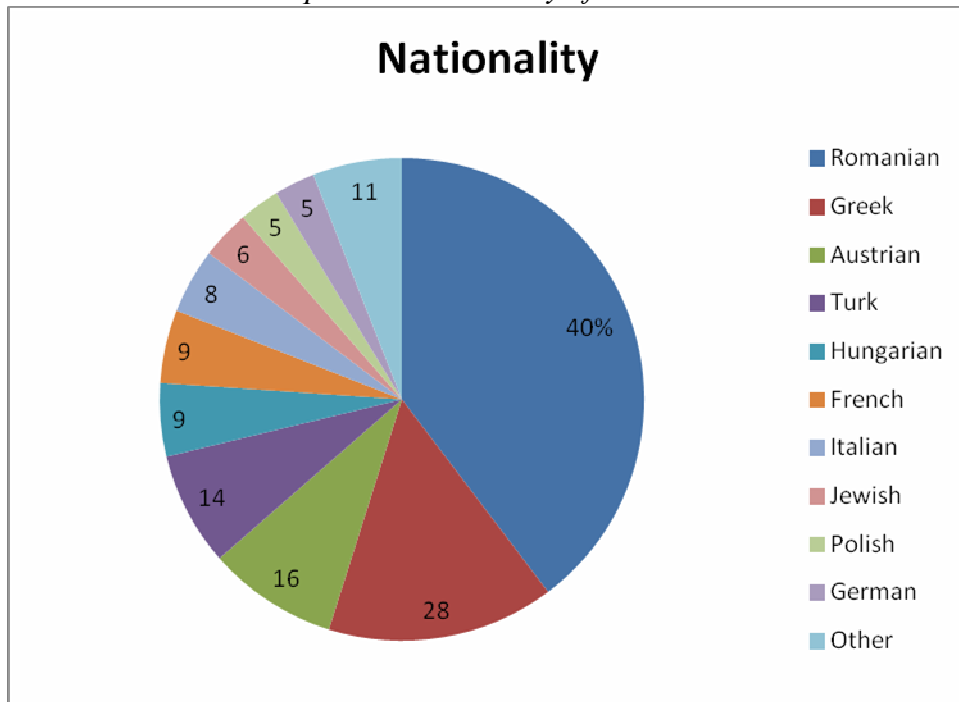
Graph no 4. Diversity of members



Source: own processing based on data extracted

Most members are Romanian, followed by Greeks, Austrians and Turks (graph no 5).

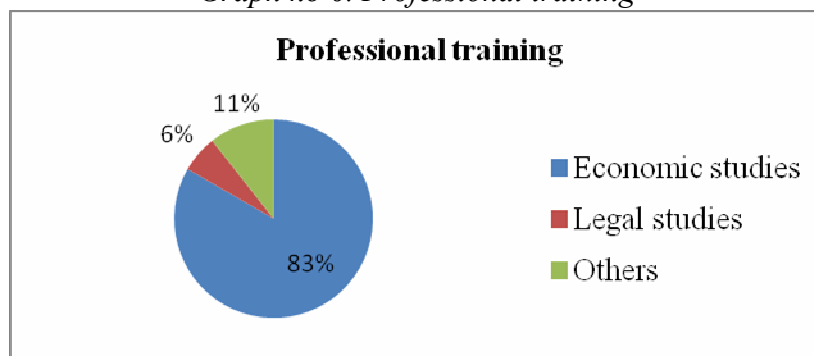
Graph no 5. Nationality of members



Source: own processing based on data extracted

In terms of professional trainings, most members have economic studies (Graph 6).

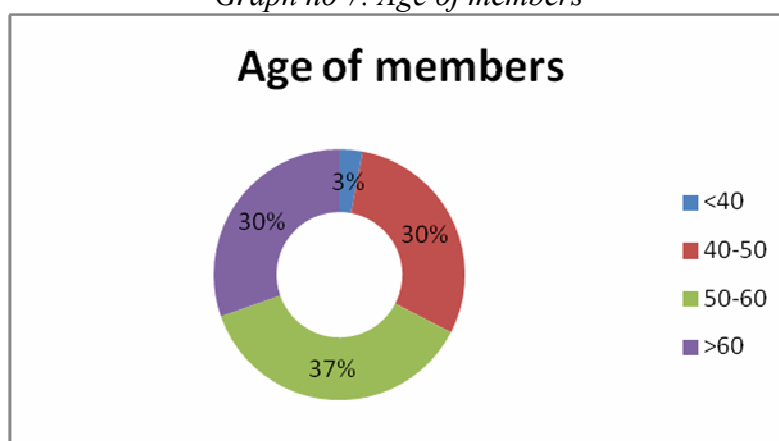
Graph no 6. Professional training



Source: own processing based on data extracted

In terms of age of Board members, most falling in the age segment 50-60 years (Graph no 7). The youngest member is 37 years old and the oldest is 75 years old.

Graph no 7. Age of members



Source: own processing based on data extracted

Regarding the transparency of banking entities in terms of board members' meetings, we found that most credit institutions did not publish a record of meetings in which the number of meetings and the number of members present at those meetings were to be presented. The number of sessions, as well as the average number of presentations of each member is mentioned in the Report of Transparency Requirements and Information Disclosure in 10 cases.

Regarding the existence of a procedure for assessing the activity of members of Board of Directors, we have found that most banking entities are not transparent in this respect.

5. Conclusions

The credit institutions in Romania have partly implemented the international corporate governance recommendations and practices. Information on Board members is missing or very brief in many cases. There is no gender diversity, predominating men. As a nationality, Romanians predominate. There is no information about the meeting of the Board of Directors and the presence of members there. Most Romanian banks have implemented the unitary management system. All institutions have an audit committee and a risk management committee.

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THE IMPACT OF THE INSTITUTIONAL DETERMINANTS OF THE INFORMATION EFFICIENCY ON THE FINANCIAL MARKETS

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Abstract:

Our research is based on two pillars: the institutional quality and the information efficiency. We consider that there is a link between these two variables and they strongly influence each other. Both variables are unobservable, latent variables, and their measurement cannot be done directly, but through some estimators. Arguments such as portfolio management, capital flows, financial stability lead us to affirm that solving problems economically is not enough in order to have an efficient information market, and here comes the important role of the institutions that have to ensure quality. We aim to empirically test and present the link between the information efficiency index and the quality of the public institutions.

Keywords: efficiency, public institutions, quality, bayesian method

JEL Classification: C11, D02, D6, D40, D53, G28, O43

Introduction

According to lately literature, the institutions "provide" the rules of the game in a society in the sense that they succeed in establishing a potential for long-term growth, equilibrium and efficiency in a country. As a rule, countries with positive aspects of the rule of law are powerful countries where the business climate is favorable, with property rights and social norms being market-friendly. Attracting investment, the efficient use of human capital, they are both aspects that result from an increase of long-term performance. The quality of an institution depends on several aspects, ranging from the country's history, geography, ethnicity, and natural resources. Often, all these aspects cannot be influenced by the political decisions that are being made.

Also, taking into account the historical aspects, we can say that in some cases it is necessary to look behind for a full understanding of the impact resulting from actions that are nowadays felt. The institutions require a longer maturing time, and the dependence of a state, for example, it is felt long after it goes into another stage. According to Chanda and Putterman (2007), countries with a longer history of self-government are more likely to have better-developed economic institutions. There is an index measuring "the history of self-government," i.e. the duration of each country's independent statehood.

Another aspect mentioned above, that can diminish the result of the consolidation of the institutions, is represented by the society being divided by ethnic or linguistic lines, according to Alesina et al (1999). In a divided society, the integration is more ungainly, and the degree of trust is more difficult to obtain by different ethnic or political groups, and the process by which the parties agree is often stodgier and slower, involving plenty of time and resources, and the direction of the reforms needed to consolidate an economic country will bear delays on these issues.

Some of the authors asserts that the confidence of these society factions at the level of government and institutions is much smaller than in a more compact society. A commonly used indicator to measure the division is the index of ethnic fractionation (Wacziarg et al., 2003). The indicator shows the probability that two people from the same country, randomly chosen, belong to different ethnic groups. Countries with higher fraction clues are expected to have weaker economic institutions.

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The geography of a country is also a factor with a profound impact on the economic development of a country. Countries endowed with difficult climate zones and land may experience lower growth and translate into high transport, disease, and low productivity in agriculture. Sachs (2003) states that levels of per capita income, economic growth and other economic and demographic aspects are linked to climate, disease ecology and coastal distances.

Robinson, Acemoglu and Johnson (2005) claim that geography primarily affects the development through its impact on the economy and political institutions. Hall and Jones (1999) claim that countries at a considerable distance from Ecuador may have stronger economies, as the climate can also encourage the economy.

The land is also of particular importance in case we take into account the costs of trade and investment for non-seaside countries that have more rough land. On the other hand, difficult conditions can encourage the development of the institutions, aiming to compensate higher transaction costs.

Another factor affecting the institutional development would be the abundance of natural resources relative to the size of the economy. The abundance of the natural resources can lead to a weakening of the democratic and economic institutions as Boix (2003) and Guriev et al (2009) associate this abundance of resources with a "curse".

Karl (1997) believes that in countries with rich natural resources, ruling elites might present attitudes opposed to the democratization and consolidation of the economic institutions as stronger institutions such as rule of law or corruption control, as they involve checks and balances that make it difficult to use natural resources properly.

Casson et al., (2010) illustrate in a paper how informal institutions have the power to impact the formal institutions on quality and the way they can work together and lead to a better development of an economy.

Some think that institutions are either able to promote the development of a country, or they can hinder their development. Rodrik (1999) also claims that social conflicts can also be considered as causes of a lack of persistence in growth rates, and thus he explains the collapse of the mid-1970s for several countries. Rodrik backs his theory that countries with a high living standard have seen massive declines after 1975 due to inequalities and poor institutional quality. Prior to Rodrik, Kaldor (1971), Kuznets, (1973); Nelson and Winter (1974); North (1990) support the idea of the importance of the institutions.

The quality of institutional services may also depend on issues such as: the independence of justice, property rights, quality of political leadership, etc. and also the capacity of economic and social actors to exert pressure in order to eliminate and change the inadequate institutions and the quality of service.

The institutional environment is determined by the legal and administrative framework where individuals, companies and governments interact in order to generate wealth. The importance of a solid and equitable institutional environment has become increasingly apparent during economic crises.

The quality of the institutions has a strong impact on competitiveness and growth. The investment decisions and production organization play a key role in how companies distribute the benefits and bear the costs of the development strategies and policies. For example, landowners, corporate or intellectual property owners are not willing to invest in improving and maintaining their property if their rights as owners are not protected.

Alonso and Garcimartín, (2013) establish certain criteria for assessing the quality of an institution together with the determinants, and will determine the concept of institutional quality. According to the results obtained, it is noted that a high development of the institutions, automatically implies a high-quality level of the institutions.

1. Research Methodology

1.1 Bayesian method of estimation (BMA)-general considerations

The Bayesian Average Model provides an empiric support for the thesis according to which the factors considered for estimating the quality of public institutions can also be associated with various estimates of the information efficiency. The Bayesian method produces a linear regression that combines dependent variables with different coefficients, constructing a weighted average with all of them. The Bayesian method estimates support environments from the posterior probabilities of the model that comes from Bayes' theorem:

$$p(M_Y|y,X) = \frac{p(y|M_Y,X)p(M_Y)}{p(y|X)} = \frac{p(y|M_Y,X)p(M_Y)}{\sum_{i=1}^{2^K} p(y|M_i,X)p(M_i)} \quad (1)$$

To use the Bayesian model, Raftery (2005) provides a basic idea presentation. It is assumed that a deduction about Δ is being followed and we have some D data. Taking into consideration several statistical possibilities for this M1,, Mk. The number of models can go up to large dimensions, and if only regression models are taken into account, but we are not convinced of the possible p predictors we can include, many models can be taken into consideration.

The Bayesian statistics all present uncertainties in terms of probability and deductions, by applying basic rules of probability calculation. From the application of the total probability law, the BMA posterior distribution of Δ is:

$$(2)$$

,where $p(\Delta | D, M_k)$ is the posterior distribution of Δ given by the model M_k and $(M_k | D)$ is the posterior probability that M_k is the correct model chosen from one of the models considered to be correct.

The Bayesian Averaging Model belongs to the field of modern applied statistics that provides data analysts with an effective tool for discovering promising models and obtain estimates of their posterior probabilities through the Markov Monte Carlo chain (MCMC). These probabilities can still be used as weights for predictions and average model estimates of interest parameters. As a result, the variation components due to the model selection are estimated and accounted for, contrary to the practice of conventional data analysis (eg, the gradual selection of the model). In addition, the variable activation probabilities can be obtained for each variable of interest.

Empirical evidence of the superiority of the predictive performance of the model is found in Raftery et al. (1997), Fernandez et al. (2001a, b) and Ley and Steel (2009). Fernandez et al. (2001b) uses the Bayesian method in growth regressions. The posterior probability is very common among models, so BMA is recommended despite of a single model.

Bayesian methodology was also used by Garratt et al. (2003) to predict the probability in the context of a structural vector to correct the errors of an economy. The method was also used for Brock et al. (2003) for Macroeconomic Policies and for inflation modelling by Cogley and Sargent (2005). The inflation forecast with BMA was also tested by Eklund and Karlsson (2007) and Gonzalez (2010). Eklund and Karlsson propose the use of predictive procedures in achieving the average of the model, despite the standard BMA.

1.2. Advantages and disadvantages of the method

Considering the standard BMA, we notice that there are also different approaches to the BMA, and the differences are the use of different a priori. Undertaking, choosing the right priorities is a critical aspect for finding conclusive analyzes.

As advantages of using the Bayesian method, we mention:

1. the natural and principal variant of combining pre-information with data within a robust theoretical framework. Past information about a parameter may be included, and previous distributions may be formed for future analysis.

2. Provides inferences that are conditional and accurate, without relying on asymptotic approximation. Insufficient sampling inference occurs in the same way as if it had a large sample. Bayesian analysis can also estimate any function of the parameters directly without using the plug-in method (a way of estimating functions by linking estimated parameters to functionalities);

3. It complies with the principle of probability (likelihood). If two distinct sampling patterns give probability proportional functions, then all inferences must be identical to the two models. Classical inference does not generally follow the principle of probability;

4. It provides a "convenient" setting for a wide range of models, such as hierarchical models and lack of data. The MCMC, together with other numerical methods, makes traceable calculations for virtually all parametric models.

The Bayesian estimation method is an indispensable tool of the economy, used to address some uncertainties about the model. Although a well-founded model in theory, the Bayesian Model Averaging also has some sensitivities about assuming priorities, so it is necessary to investigate the effect of different structures of priors.

Disadvantages of the method:

1. There is no way, the right way to choose a prior. Interpretation of Bayesian results requires skills to "translate" subjective beliefs into a predefined mathematical formula. The generated results may be misleading;

2. Can produce posterior distributions that are strongly influenced by a prior.

1.3 Test results

The global influence will test the quality of public institutions can exercise according to the theory of the financial markets. In order to make an estimation of this index, we build a synthetic variable, namely the one of the information efficiencies and the quality of public institutions, within a Confirmatory factor analysis approach. Next, we will get a global quality indicator for each of the 38 markets under study.

Through the confirmation factor analysis (CFA), it is tested in a complex way if analysis elements are associated with various factors. Using CFA, modelling of structural equations is used to test a measurement model by which the connections between observed and unobserved (latent) variables can be evaluated. After testing, we will analyse the impact of observed variables on the latent ones and also the correlation between the two types of variables.

The quality of institutions is estimated to be a latent variable within a structural equation modelling model (SEM). The R system is the lavaan package 0.6-3.1313, the acronym used for latent variable analysis. Testing through the lavaan interface makes it possible to provide a collection of tools for the purpose of exploring and estimating latent variables through factor analysis, structural and transversal equations, as Skrondal and Rabe-Hesketh (2004), Lee (2007) and Muth ' en (2002).

Following testing, the following results were obtained:

Table no. 1 Institutional quality predictors coefficients

Voice and Accountability	1
Political Stability and Absence of Violence	0.873*** (0.11)
Government Effectiveness	1.118*** (0.091)
Regulatory Quality	1.113*** (0.106)
Rule of Law	1.139*** (0.1)
Control of Corruption	1.105*** (0.104)
Robust Comparative Fit Index (CFI)	0.988
Robust Tucker-Lewis Index (TLI)	0.982
Loglikelihood user model (H0)	-137.826
Akaike (AIC)-informational criterion	297.653
Bayesian (BIC)	315.666
Sample-size adjusted Bayesian (BIC)	281.272
Robust RMSEA	0.108

Source: own processing

Taking into account the quality indicators of the model (Robust Comparative Fit Index, the Robust Tucker-Lewis Index (TLI), the Loglikelihood user model (H0), the Akaike (AIC), the Bayesian (BIC)), we may say that these indicators of institutional quality form a unitary dimension.

Next, we will test the existence of a non-linear connection between the information efficiency index calculated according to Kristoufek's connection with the estimation of the quality of public institutions based on the structural cohesion model in the previous table.

Table no. 2. The connection between the information efficiency index and the quality of the public institutions

	Coef.
The quality of public institutions	-0.283*** (0.057)
The quality of public institutions ^2 (squared)	0.182*** (0.007)
(logarithm) likelihood function	-51.916
Variance (residual)	0.8999

Source: own processing

In this situation there is a regression equation with the dependence represented by the global index of efficiency and the explanatory variables as the institutional estimator and its square.

Final remarks

There is a non-linear connection between the quality of the public institutions and efficiency. Thus, a higher-level shift in the quality of the institutions contributes to increasing the efficiency (reducing the deviations of the efficiency estimates from their reference level).

It is noted that after reaching a certain critical threshold, the shocks at the level of public institutions can increase the inefficiency.

Based on these results, one can assume an overturned U-shaped curve effect induced by variations in the quality of the public institutions and policies over the information efficiency of the considered financial markets.

Thus, an initial shock of the quality of the public institutions and policies leads to an increase in the deviations of the information efficiency estimates from their reference levels (at a decrease in the estimated overall level based on the methodology proposed by Kristoufek).

Subsequently, once the institutional quality exceeds a certain "critical threshold", its stabilizing effect on information efficiency begins to act: for higher levels of institutional quality, higher levels of efficiency are shown.

It is also noted that on the whole, the amplitude of the stabilizing effect of the institutional quality exceeds about three times the negative impact of a shock associated with the increase of this quality.

The results obtained can be corroborated with the non-uniform impact of the different components of public policies and institutions as shown in the first part of this study from the results obtained in several dimensions, the most significant being the Efficiency of Governance, Corruption Control, Participation and responsibility, followed by the rule of law. All these dimensions are important for the configuration and functioning of the economic part, for the success of the economic policies.

As a result, we can note that the quality of the institutions that tends to grow, with positive effects on the risk profile of the investor's trading profile, but if the shock at the level of policies and institutional factors is too high, there is a feeling of uncertainty surrounding the legislative framework and changing the investor risk profile, contributing to the diminishing of the information efficiency of the financial markets.

The financial markets are affected by the information asymmetry related to the market participants' inequality in accessing and interpreting data. The interpretation of data is a difficult process, and hence derives the change in the investor's risk profile, which is a palpable assumption in relation to changes in its environment and at the level of the institutions. As well as the results of our research, Hong, Kubik and Stein (2004) show that efficiency is influenced by the community in which we live, and institutions claim a very important role in the investment process.

The efficiency of the public institutions is able to bring benefits through several channels:

- They diminish the information asymmetries as they transmit to the investors, information about market conditions, goods and services;
- They reduce the risks as they define and apply property rights and contracts, determining who gets them;
- They restrict the actions of politicians and interest groups, making them accountable towards the citizens.

The internal inflation, unsustainable levels of external and internal debt, exchange rate volatility or inappropriate conduct of macroeconomic policies will lead to loss of investor and consumer confidence. Without effective institutions, markets cannot function properly. Their high quality can bring along a good functioning of the economy. The quality of the institutions has long been recognized as an important component of a well-functioning market. Market activities involve investor interaction, and institutions can help reduce the uncertainties resulting from incomplete information about the behaviour of other individuals in this human interaction process. Therefore, institutions can have a significant impact on the economic activities in general.

Comparative literature studies conducted on the quality of institutions over a long period of time - World Bank (1993), Transparency International (2010), Freedom House (1972) proved that mainly, the economic growth results from improved regulatory infrastructure, civil service, a more efficient government administration, and a professional public service. In short, consolidated democracies and free societies tend to have effective public governance and institutions and ensure greater social welfare and economic development.

An efficient, robust and predictable framework helps the overall economic development of financial statements, contributing to risk reduction, which demonstrates that institutional determinants have a considerable impact on this process. Investors' attitude to risk is changing and there is an increasing tendency to prefer personal autonomy instead of being guided by others. Investors are courageous and start to build individual businesses and activities, which increases financial market transactions.

Institutions have an essential role and must be seen as channels of transmission of values that capture societal structural changes, changes that we will highlight in the next research that we will undertake.

As further directions of research we aim to analyse the relationship between informational efficiency and other variables such as the GNI per capita, government expenditures, and other indicators.

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LEVELS OF TAXATION AND FISCAL POLICIES IN THE EUROPEAN UNION

Gica Gherghina, Culița¹

Abstract

The European Union countries are bond in this changing economy, sharing same regulations and policies at different levels but still trying to learn to integrate them. Although it is hard to have comparable information of taxation levels in very short time for the 28 Member States we must learn to analyze and take lessons from trends of the last years. For example, tax revenues rose in 19 Member States in 2016 as a percentage of GDP in 2016 but the level of taxation in EU Member States differs greatly.

At the European level, the share of labour taxes in total tax revenues shrank progressively from 2010 to 2016 when it accounted for 49.8% - similar to its pre-crisis level. This show a consistent preoccupation in all member States to reduce the burden of working people. In the same time, corporate income tax revenues rose to 2.7% of GDP in 2016 compared with 2.6% in 2015, continuing their gentle increase since the crisis though not yet at pre-crisis levels.

Taxation is a top priority for Member States who want to develop robust and effective tax policies for the future, in the benefit of all countries part of the EU.

Keywords: taxation levels, European Union, fiscal burden, fiscal policies, economy

JEL Classification: H2, H3

1. European Fiscal Board (EFB) – helping the European countries

EFB is an independent advisory body of the European Commission. The Board was set up following the Five Presidents' Report "Completing Europe's Economic and Monetary Union", with the aim to strengthen the current economic governance framework.

The main responsibilities of EFB are:

- evaluate of the implementation of the Union fiscal framework and the appropriateness of the actual fiscal stance at euro area and national level
- make suggestions for the future evolution of the Union fiscal framework
- assess the prospective fiscal stance appropriate for the euro area as a whole based on an economic judgment, as well as the appropriate national fiscal stances, within the rules of the Stability and Growth Pact
- cooperate with the National Independent Fiscal Councils
- provide ad-hoc advice to the Commission President

On 10 October 2018, the European Fiscal Board (EFB) published its second annual report. The report reviews the way the EU fiscal framework was implemented in 2017, highlighting positive and negative developments and scope for improvement. It welcomes the return to some timid fiscal consolidation in 2017 in the euro area as a whole, based on current estimates. At the same time, the Board regrets that some Member States with large fiscal imbalances missed the opportunity of the solid economic expansion to reduce their high public debt faster and build fiscal buffers. Flexibility should work symmetrically: after the fiscal framework was softened during the recovery, requirements should have been tightened and compliance more strictly ensured in better economic times. Looking ahead, the report proposes a simpler and more effective Stability and Growth Pact (SGP) than the current one.

The EFB's second annual report provides a comprehensive and independent assessment of how the SGP was applied in the last complete surveillance cycle, 2017. Economic activity was significantly more dynamic than expected and this helped governments reduce budget deficits and public debt as ratios to GDP. Countries representing around 40 % of the European

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economy achieved a sound fiscal position as defined by their medium-term budgetary objective; this is a positive sign. However, only part of the higher government revenue went into building fiscal buffers. It is problematic that some countries – critically, mostly those with high levels of public debt – spent higher revenue on expenditure slippages. As a result, their fiscal position deteriorated or did not improve by as much as required. In contrast, some countries with fiscal space consolidated further.

The Commission and the Council applied the EU fiscal rules firmly in some non-euro area countries but also showed forbearance in a number of other cases, both in setting fiscal requirements and when assessing compliance with requirements. The Commission also contributed to confusing intentions by calling for a sizeable fiscal expansion in 2017 that would have implied at least some deviation from the SGP requirements. Overall, in the 2017 fiscal surveillance cycle, the Commission acted as if the euro area were still in a fragile and uncertain recovery. The overall thrust in the implementation and interpretation of rules did not adapt to the much more favorable macroeconomic conditions.

To overcome the weaknesses and complexity of the current EU fiscal framework, the Board proposes a radical simplification of the rules and a clarification of governance. The reformed Pact would be based on one single target (sustainable public debt), one single instrument (controlling net expenditure growth) and one general escape clause.

2. Fiscal policies at the European level

Fiscal policies have a significant impact on economic growth, macroeconomic stability and inflation. Key aspects in this respect are the level and composition of government expenditure and revenue, budget deficits and government debt. Fiscal discipline is a pivotal element of macroeconomic stability. The need for fiscal discipline is even stronger in a monetary union, such as the euro area, which is made of sovereign states that retain responsibility for their fiscal policies. There are no longer national monetary and exchange rate policies to respond to country-specific shocks, and fiscal policies can better cushion such shocks if they start from a sound position.

Institutional arrangements

A number of institutional arrangements for sound fiscal policies have been agreed at the EU level, also with a view to limiting risks to price stability.

These include:

- the prohibition of monetary financing (Article 123 of the Treaty on the Functioning of the European Union),
- the prohibition of privileged access to financial institutions (Article 124 of the Treaty on the Functioning of the European Union),
- the no-bail-out clause (Article 125 of the Treaty on the Functioning of the European Union),
- the fiscal provisions to avoid excessive government deficits (Article 126 of the Treaty on the Functioning of the European Union, including the excessive deficit procedure), and
- the Stability and Growth Pact (secondary legislation based on Articles 121 and 126 of the Treaty on the Functioning of the European Union).

Additionally, the fiscal compact (as part of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) foresees the implementation of a balanced budget rule at the national level and a further strengthening of the excessive deficit procedure within the Stability and Growth Pact.

Excessive deficit procedure

The basic rule of budgetary policy enshrined in the Treaty is that Member States shall avoid excessive government deficits. Compliance with this rule is to be examined on the basis

of reference values for the general government deficit (3%) and gross debt (60%) in relation to GDP, whereby a number of qualifications can be applied.

In particular, only an exceptional and temporary excess of the deficit over the reference value can be exempt from being considered excessive, and then only if it remains close to the reference value.

The decision as to whether a Member State is in a situation of excessive deficit lies with the ECOFIN Council, acting upon a proposal from the European Commission.

If the Council decides that a Member State is in a situation of excessive deficit, the excessive deficit procedure provides for the necessary steps to be taken. These could lead to imposing sanctions on the country concerned.

Stability and Growth Pact

The Stability and Growth Pact provides an operational clarification of the Treaty's budgetary rules. It defines the procedures for multilateral budgetary surveillance (preventive arm) as well as the conditions under which to apply the excessive deficit procedure (corrective arm). The Pact is an essential part of the macroeconomic framework of the Economic and Monetary Union. By requesting Member States to coordinate their budgetary policies and to avoid excessive deficits, it contributes to achieving macroeconomic stability in the EU and plays a key role in securing low inflation and low interest rates, which are essential contributions for delivering sustainable economic growth and job creation.

The main rationale of the Stability and Growth Pact is to ensure sound budgetary policies on a permanent basis. The Pact lays down the obligation for Member States to adhere to the medium term objectives for their budgetary positions of 'close to balance or in surplus', as defined under country-specific considerations. Adjusting to such positions will allow Member States to deal with normal cyclical fluctuations without breaching the 3% of GDP reference value for the government deficit.

3. Taxation – promoting cooperation and growth at European level

Taxation is central to national sovereignty. Tax revenues provide governments with the money they need to exist and function effectively. In addition, tax laws reflect the fundamental choices of different EU countries in important areas of public expenditure, such as education, health and pensions. They influence private consumption and savings and set a financial framework for business activity and environmental issues. This is why the power to raise taxes and set tax rates lies with national governments.

What countries should do? First of all, taxation needs to be fair. This is not always easy to ensure, even at national level. It becomes a real challenge, however, when it comes to cross-border activities. Tax laws should not give businesses in one country an unfair advantage over competitors in another one. And the tax laws of one country should not allow people to escape taxation in another. That's why the countries of the European Union have agreed on several rules to tackle these issues. More and more companies and individuals are active in several countries, making it potentially easier to use legal means to pay the least tax possible ('tax avoidance') or to not pay taxes due ('tax evasion'). A single country cannot solve these problems on its own. This is why in recent years the countries of the EU have cooperated more closely to tackle the problems of tax avoidance and tax evasion and to ensure the fairness of taxation systems. Making the internal market function better The European internal market, also referred to as the single market, allows people and businesses to move and trade freely across the 28-nation group. However, the co-existence of different tax systems still makes life difficult for companies and individuals operating across borders. In some cases the tax laws may discriminate against foreign taxpayers or foreign income. But if they do there are EU laws in place to deal with the problem. In other cases, the individuals and companies may face taxation and compliance burdens in each of the countries involved leading to a very

high overall level of taxation. This problem cannot be tackled under current EU law. That's why EU countries need to cooperate closely. Agreement on simplifying certain tax rules, and eliminating inefficiencies, could contribute to ensuring the free flow of goods, services and capital around the EU.

Promoting growth Policy decisions made by one country may affect other countries either in a positive or in a negative way. That's why the countries of the EU have agreed to cooperate in the preparation of their national budgetary and economic plans. The overall objective is to put public finances on a surer footing, promote stronger economic governance and discipline, and make fundamental structural reforms to boost competitiveness. This work also includes assessing how tax policy can help in achieving these goals.

In short National governments are broadly free to design their tax laws according to their national priorities. However, in doing so, they must respect certain fundamental principles, such as non-discrimination and respect for free movement in the internal market. The EU supplements this with cooperation procedures and a legal framework to ensure the fair and efficient taxation of cross-border activities in the EU.

People, goods, capital, services and companies in Europe are on the move. It follows that EU countries cannot operate their tax systems in isolation from each other or from the rest of the world. In the wake of the economic crisis, European and international efforts to combat tax avoidance and evasion have increased and are likely to be stepped up further. As a result, tax dodgers will have a tougher time, no matter where they are resident or where their assets are located. At the same time, European tax policy aims at facilitating free movement of people, goods, services and capital. The European Commission will continue to work on eliminating tax obstacles to free trade in Europe and internationally. It will continue to help EU countries grow and prosper.

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THE PREDICTABILITY OF THE RISKS IN RELATION TO THE INFORMATION PROVIDED BY THE ACCOUNTING MODEL

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Abstract

Just before there was a theoretical system that would formally define its role, information was the engine of development, so that new knowledge builds on the support of the existing one. The multitude of new data is filtered, processed with a conceptual device specific to each scientific discipline, obtaining the final product: the information. Accounting is considered an informational discipline, studying the effects of economic transactions, but also other events, in the economic and financial situation of a company, in order to inform the internal and external users.

Key words: *global outcome, financial stability, non-financial information, financial risk*

JEL Classification: G3; G32; G34

1. Introduction

It can be stated that adequate information results from a harmony between different structural components that complement each other, which can determine the change in the probability with which future events will occur. Accounting information represents the product changed in the accounting information market and this product exists according to the rules and regulations that define it.

The satisfaction of the information needs resulting from the enterprise's relationship with the environment requires the production of relevant and objective information. As new product creators are increasingly attentive to the needs of consumers, accountants should seek to produce the information that responds to the demand of different users, their accuracy and relevance influencing decisively the achievement of the optimum level of expected results. The information activities specific to the accounting field are those that concern the production and use of accounting information. These consist of actions aimed at creating, collecting, storing, processing data and transmitting information. They involve recording and computing operations, as well as analyzing, interpreting, grouping and using information in decision-making.

The financial statements must meet the information needs related to: the evaluation of the overall results, the evaluation of the management (profitability, efficiency), the assessment of future prospects (profits, dividends, investments, financing), the evaluation of the financial stability, the solvency and the liquidity, the evaluation of the risks and uncertainties, facilitating the allocation of resources to shareholders, receivables and public power, making comparisons in time and space, determining the value of borrowed capital and the value of equity, assessing adaptability, verifying compliance with laws and regulations, assessing the company's contribution to the national economy.

Accounting information is an instrument, and like most instruments, it can not be of great help to those who are not capable or willing to use it. Usage techniques can be learned, which means that financial statements could provide useful information for all those willing to learn to use them. Language is one of the important elements of the company's culture and it constitutes a transmission belt necessary for the operation of a system oriented towards the decision-making center of the information.

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2. The accounting information, the main link between the accounting model and the risk analysis

Annual financial statements are an important source of information, carefully scrutinized by all participants in the capital markets. In the past decades, accounting synthesis and reporting documents have undergone a number of essential changes, in form and content, the jurisdiction and rules governing international financial markets increasingly placing an emphasis on the characteristics of accounting information. A market of accounting information must ensure the protection of the interests of associations and third parties by favoring the development of quantitative and qualitative accounting information; publication and intelligibility of accounting information (transparency); increasing comparisons in time and space.

The value of information can be defined as the difference between the net benefit generated by making a decision after obtaining the information and the net benefit obtained by making the same decision, unaffected by the information, and how well it responds to the needs of those who use it. The accounting information describes the economic consequences of the transformation process. The need for information from those involved in decision-making emerges from the multiple relationships that take place in the process of transformation, with the stakeholders: managers, investors, suppliers, employees, customers and the state. Thus, in order for the information to be effectively used in the managerial process, it must meet the following requirements:

- utility (verified by how it contributes to the process of adjusting and knowing the functioning of the systems);
- the accuracy of the information;
- the depth of information, which involves the complex reflection of the cause-effect relationships of economic phenomena;
- the age of information (sometimes daily information is needed, for example: supply rhythm);
- the value of the information.

Obtaining and capitalizing on accounting and real-time financial information has become a real benefit, especially in the current context and taking into account the risks to which the organization is subjected. Financial-accounting information requires appropriate use to help the company set consistent goals.

We identify two categories in which the accounting information is divided: financial accounting information - intended for external users (investors, employees, creditors, government or the general public) and management. Financial information is represented by the company's financial statements, these being part of the obligations of the company's managers and consisting of: balance sheet, profit and loss account, statement of changes in equity, cash flow statement and accounting policies and explanatory notes thereto. The financial statements are accompanied by a report where the management of the enterprise describes the main components of the operating and financial activity and their foreseeable evolution. They must give a true picture of the company's resources, results, and capacity to generate cash. The notion of "loyal image" is dynamic and reflects the best existing accounting practices at a given time.

Financial statements are unequivocally the information support required for financial analysis (to form a financial diagnosis), but also for risk analysis (to estimate possible exposure). Different categories of users use accounting information for various analyze to substantiate economic and financial decisions. Their elaboration serves the management of the enterprise to observe the economic and financial performance, but also as a basis for future activities. The objectives of the annual financial statements are different from country to country, focusing on the different

categories of users, ie external or internal users (those who are also producers of annual financial statements, having an additional asset to external users).

The information provided by the financial statements does not present everything that users need to make decisions, largely reflecting past events. Non-financial information - information from management accounts - is intended for internal users, being non-standardized, often non-monetary. The major role of management accounting is to produce information that allows modeling the relationship between mobilized and consumed resources and the results obtained in counterparty; in a predictive optics, it helps decision-makers, and in retrospect optics, it measures performance.

Risk management activity can be described as the art of making decisions in a world governed by uncertainty, being a complex process of identifying, analyzing and responding to the risks to which the organization is exposed. It represents the totality of certain methods, processes and measures by which the assessment is carried out and, if necessary, calculating the influence of the factors on the risk examined in order to reduce the loss and / or increase of the enterprise's profit. The use of accounting and financial information is particularly necessary to assess the risks to which the company is exposed in market economy conditions. In the process of risk management, one of the most important stages is the process of gathering and processing the necessary information. Thus, on the quantity and quality of the information obtained directly depends the effectiveness of the risk assessment - both quantitative and qualitative.

3. The quality of the accounting information - premise of risk identification and management

The accounting information specific to economic activities can be defined as a communication, news or message that contains new elements of knowledge of certain states, situations, conditions of manifestation of certain phenomena or economic processes. The information flows in the form of specific data, consisting of internal or external sources, but the following aspects must also be taken into account:

- the information is not built objects, they do not grow in nature, they are deliberately created by the socio-economic actors;
- the economic information makes representations and induces complex behaviors;
- along with formalized knowledge, the economic knowledge plays a very important role.

The quality of the accounting information depends on the very evolution of the economic entities, using it to properly assess business risks or opportunities. In order to be useful in the decision-making process, accounting information must meet certain qualitative characteristics. The accounting information has developed in the context of the evolution and development of the market economy and its increased complexity, and it has to be built in such a way that it corresponds to the management requirements for the decision making and informational needs of the other users. The information is made up of data that has been processed in a form useful to the recipient and having real value for planning, control or decision-making.

The usefulness of the information in the decision making process is defined by a set of attributes of quality. Thus, in order to be able to manifest their usefulness, accounting information must meet certain qualitative characteristics that are related to the accounting principles: intelligibility, relevance, credibility, comparability, reliability and opportunity.

The main qualities of the accounting information lead to the conclusion that the financial statements must reflect a clear and true image of the patrimony. For the risk analysis process, the raw information provided by accounting through the financial statements is transformed into another type of information using different models in order to inform about the dangers that may affect the company.

4. The typology of risks in relation to the identification sources

The information offer is the set of information available to different groups of users. We are currently looking at the information provided through the synthesis documents, these performing certain functions that make them particularly useful in analyzing, evaluating and managing risks. These allow the assessment of the accuracy of previous forecasts, and at the same time provide some information that underpins future forecasts. These can also confirm / deny information from other sources and act as an incentive to identify issues that need to be clarified through other sources of information.

The most important consequences of the information provided by the synthesis documents are the effects on the following variables: the distribution of wealth among individuals, the agreed level of risk, consumption and production; the allocation of resources among firms, the level of resources used to produce, divulge, analyze and interpret information, the level of resources used to accept and develop normalization. Due to its systematic nature and the variety of information it provides, accounting is the main source of information needed for financial analysis and hence for risk analysis and assessment. In order to give meaning to the various analyzes, the information in the synthesis documents should be used in correlation with the following factors: the size of the enterprise; the economic, social, political and cultural environment; the business risk; the tendency of the branch the enterprise belongs to.

The financial analysis identifies and classifies the most significant financial characteristics, in order to make a meaningful assessment of the situation and a lucid anticipation of the company's prospects.

The interpretation of the accounting flows is made in a different manner, depending on the expansion, maturity or decline phase of the company. The assessment of the degree of risk has significance to the extent that this is correlated with the strategic step that the enterprise goes through. The risk is inherent to any activity and means the variability of the result under the pressure of the environment. Risk analysis and profitability analysis are not two totally independent processes because the financial balance of the company is heavily affected by the assumed risk, a risk that is dependent on the economic factors, policies and financial policy of the company.

There is a wide variety of risks, each of which is determined by certain risk generating factors, with certain components and forms of materialization that produce the most varied effects as a mode of expression and amplitude. Under the current economy, determining the size of the risks, reflected by the magnitude of the effects they generate, becomes a necessity. The magnitude of the effects of the risks can be expressed by quantitative indicators when it is necessary to highlight some of the risks in the technical and economic spheres, and if the risk concerns areas such as the political and social spheres, the qualitative indicators are used predominantly.

The discovery of the relevance of the attributes of accounting information has been the subject of many researches. Two main approaches that were taken into account to assess the value of accounting information relevance are: association and prediction studies. The second approach is based on the fundamental analysis and therefore constitutes a different perspective. The value of a company is well determined by the information reflected in the financial statements. A concern of the financial analysis is the accurate measurement of the results of past and current trends and in the anticipation of future development trends. From this measurement derives an appreciation of the level, evolution and instability (or volatility) of these results. As noted in the above presentation, the accounting information is the basis for these measurements. This source of information is very useful not only for the potential risk at a certain time, but also in their anticipation. The signals arising from the accounting

information can be used in the prediction of certain results, and are used to improve the company's business.

As there is a need in the risk management process, the relevant information has a predictive value and a retrospective value. The information on the financial condition and past performance is used as a basis for predicting the financial situation and future performance, of the ability of the enterprise to take advantage of opportunities and to respond to unfavorable situations. Thus, accounting has to treat the past events in such a way that they can enter the decision-making patterns of the users.

In the process of risk analysis and modeling, we can use different mathematical methods, but also other methods and procedures, which help solve the problems related to risk assessment and develop an optimal action plan for risk situations. Statistical risk assessment methods are frequently used during the quantitative risk assessment based on historical data from previous periods. Another instrument used in the financial risk analysis is the financial analysis, this "Provides a set of concepts, techniques and methods that allows the treatment of internal and external information, their interpretation, the issuance of valuable judgments and assessments of the enterprise's activity in order to formulate pertinent recommendations regarding its evolution, level and quality of performance, the degree of risk in an extremely dynamic competitive environment". One of the basic principles of financial analysis is "vulnerability and risk assessment".

The assessment of a company's performance, financial position and its amendment, of the degree of risk in a particularly dynamic economic and social environment also requires other information beyond the scope of accounting information. Thus, the accounting flow is interpreted in a different manner, depending on the expansion, maturity, or declining phase of the company. The way in which the company manages its financial risks contributes essentially to its performance, reflecting in the company's results.

5. The quality of the accounting information in the view of the IASB and the predictability of risks

The adoption of the international financial reporting standards in 2005, by listed European companies, accompanied by similar regulatory actions across the globe, is one of the most influential changes in the accounting rules in history. The transition from one set of accounting principles to a single common set of accounting standards is affecting thousands of companies that differ in terms of size, management structure, capital structure, culture, legal environment and other features.

These changes have a major influence on the decision-making and risk management processes, thus increasing managers' preoccupation with the predictive value of financial statements. The issue of risk is also addressed by the IASB referential, a sign that its importance is more and more current, and disclosing information about how the company manages certain types of risk in its financial situation helps investors or other stakeholders in the business to create an overview of the company's business.

The accounting information has as its objective satisfying the needs of a diverse range of users, needs that are complex and sometimes contradictory, the dissemination of the accounting information being a source of power, which requires that the dissemination process to be the result of negotiation and compromise between the enterprise and external factors so as to be characterized by dynamism and reason. The main means of transmitting accounting information is by financial statements, but financial reporting is generally not associated with business planning, decision-making, or computerized systems. Managerial and financial accounting are seen as two systems independent of each other, but the process of aggregating financial information for preparing financial statements for reporting purposes

can be integrated into other business processes. The same information can be used by the organization's management, marketing, or even legal teams.

The main objective of the financial statements is to provide information on the financial position, performance and changes in the entity's financial position, useful to the wide range of users for making economic decisions. They do not provide all the information that users need, as they represent to a large extent the financial effects of past events and do not provide useful non-financial information. The financial statements also show us the results of the management and the management's responsibility for the resources entrusted to them.

Management can not work and make decisions without accounting information, and managing risk as accurate and close to truth requires accurate, consistent and quality information. Thus, a close relationship has been observed between the information that accounting can provide and the decisions taken after their processing, this time by analyzing the risks to which the company is exposed.

The demand for accounting information depends on their potential to reduce the uncertainty and availability of other sources of information. Accounting information is not the only available source of information for those who manage the risks, but there are some points where they have advantages over other sources, such as:

- the accounting information is highly credible, as a consequence of the auditors' intervention;
- the accounting information is legible for the connoisseurs of the finance and accounting department as their production and presentation are based on relatively homogeneous principles and rules.

Financial Accounting provides a mapping of payment commitments, but does not provide a forecast for the future. Because financial statements do not reflect management's future plans, they can not help users evaluate future events. However, users can be helped in the decision making process by the information in managerial accounting. While the internal financial reporting includes information from both types of accounting, managerial and financial, the external financial reporting is mainly comprised of the information provided by financial accounting. Therefore, very little information in the external financial reports refers to the management planning (decision-making) function.

The interest in the accounting information is evolving from the desire to facilitate the communication in the globalization process, and the creation of a conceptual framework to serve as a reference point and of generally accepted accounting principles that are the subject of debates in international forums.

The analyst's estimates are an important part of the decision-making process, as well as risk management as a basis for these processes. Reducing the asymmetry of the information received by potential investors, lenders and other interested parties, the comparability of the financial statements are also a benefit brought by the implementation of international standards, as shown in a Harvard Business School paper. They demonstrate that most improvements are made in countries whose national standards differ significantly from IFRS.

The decision-making process within the firm is independent of the user decision-making process. Business decisions involve profit planning and risk management. User decisions are factors that affect the future profitability of the firm, thereby affecting the future cash flows of the firm. Thus, it seems logical that the actual impact of the company's decisions should be recognized in the financial statements, and, when necessary, the factors affecting users should be described in the explanatory notes to the financial statements. However, the IASB general framework includes the users' decision (prediction of future situations) as a criterion for determining the treatment points in the financial statements, and encompasses market volatility as an economic reality.

Specifying possible future situations and choosing the most appropriate one is also a point in the decision-making process. These are under the sign of uncertainty, so that what has been considered as the best alternative can turn into the opposite if it fails to materialize. In order to know the consequences of a plan, a measure of performance is required. This is not a measure of future activities because they can not be measured, but only projected. It is a measure of what has happened, a reaction of the past, from which experience is gained in the managerial process.

The major role of management is to plan, and this action involves the existence of future activity. Business continuity principle applies taking into account the existence of the future, and it involves uncertainty. In relation to uncertainty, the concept of measurement, called "achievement", appears. Achieving is a principle of quality control: by reducing uncertainty to an acceptable level in the quantification process, impartiality is ensured among resource providers. The need for interpersonal equity underlines the concept of achievement in financial accounting. For financial reporting, there are criteria to determine what are the necessary conditions for the continuation of the activity which has to be satisfied.

The future also involves risks, and the enterprise's activity experiences them for a benefit. This gain is always expected, and is conditioned by changes in values in the future. By failing to foresee the future without any uncertainty, the realization appears as a necessary condition for measuring the profit generated.

The importance of risk management for the efficient operation of the organization can not be overestimated, being one of the most important goals for corporate governance. Modern risk management practices are a systematic and comprehensive approach, based on transferable tools and various techniques. These core principles are sector-independent, and should improve business resilience, improve predictability and help improve earnings.

6. Conclusions

Accounting information has certain limitations that may interfere with risk management. For example, if there is a delay in obtaining and reporting accounting information, it may lose one of its important characteristics, namely its relevance. Thus, a balance must be sought between respecting deadlines and sufficient credibility. In order to provide timely information, it is necessary to report all aspects of a transaction or event. We thus derive a balance between relevance and credibility, in order to meet the needs of users in decision-making.

The main feature but also the limit of financial indicators in the classical accounting system is that they measure the past and what is easy to measure. Due to the limitations of the financial information and its impossibility to detract from all aspects of performance, more and more non-financial information is required, especially in interpreting the values resulting from the calculation of the formulas for certain risks.

Balancing the benefits and costs of obtaining information is a general restriction, the benefits obtained by the users of accounting information must be higher than the cost of providing it. Also, an appropriate balance between the characteristics of the accounting information and its accurate presentation is necessary to meet the objective of the financial statements, being the result of applying the main qualitative features and appropriate accounting standards.

Other limits to accounting information that can influence decisions are:

- The use of historical cost and inflation - the data provided by accounting is expressed in historical figures, not adjusted with the consumer price index, so that in order to ensure the comparability of the data, restatement is required;
- Using different stock valuation methods (FIFO, LIFO, CMP) - creates difficulties in making comparisons between entities.

In the case of the standardized accounting model, these limits are eliminated using fair value measurement, this being an important step especially in the relationship with the investors, due to the implications for the credibility and comparability of the financial statements.

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USERS OF THE INFORMATION PROVIDED BY ACCOUNTING AND THEIR INFORMATION NEEDS

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Abstract

In this article we are trying to see how the utility of accounting can be justified. In order to do this, we will consider the organizations involved in the business that they seek to make profit from. It is hard to believe that all the information generated by a business can be remembered - however simple it may be. We dare say that bookkeeping is necessary at least because it allows the entrepreneur to remember information, especially digital, without which the business may not be properly led. Bookkeeping is justified by the need for information, the need for a certain rigor in the Administration of a business, large or small, simple or complex, individual or collective.

Key words: insiders, outsiders, IFRS, accounting perimeter, funding sources

JEL Classification: G3; G32; G34

1. Introduction

In Romania, the economic and political developments after 1990 led accounting rules to follow a fairly rapid path from centralized economy accounting to market economy accounting. Since 2000, the body responsible for establishing accounting rules in Romania (the Ministry of Finance) has started a sort of alignment of the Romanian accounting with some international standards: IFRS (International Financial Reporting Standards). This alignment has proven to be useful for joining the EU, an economic space in which IFRS have been mandatory since 2005 (for some categories of entities). Romania's entry into the EU has also been accompanied by new reporting obligations for listed companies. Thus, until 2011 inclusive, listed companies were required to prepare consolidated financial statements in accordance with IFRS. From 2012, the application of IFRS becomes mandatory in the individual bookkeeping of listed Romanian companies. The Romanian accounting approach towards these international norms was welcomed by many authors of Romanian accounting. It began thus, for some, or continued for others, taking over ideas, rules, comments or translation exaggerations specific to international standards. Receipts were made either after the originals in English, or after the Romanian official versions, or after intermediate versions in other languages. After 1990, the main sources of inspiration for Romanian bookkeepers were Francophone, a situation perpetuated to this day, even though English language sources are becoming more and more important.

Our entry into the orbit of IFRS has led to a hasty generalization sometimes, when the users of accounting information are presented, by taking over the list and hierarchy of those users from the above-mentioned international standards. We say that generalization is rushed for at least two reasons: first, IFRS refer only to listed companies whose shares are held by several individuals who usually do not directly participate in the activities of those firms. Thus, the only source of credible and relevant information - financial-accounting information - for many of these investors is the synthetic accounting documents.

A second aspect in this context refers to what users use: they do not have access to all accounting, but only to financial statements, so they are rather users of the financial statements, than users of accounting information in general. In our country most of the companies are not quoted on the stock market, they do not have too many investors, and they have little reason to obey rules similar to the international ones.

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2. Users of financial statements prepared by listed companies

The accounting information can be assimilated and analysed through three aspects: semantic, syntactic and pragmatic. The semantic aspect of information refers to the importance it holds for the element that receives it. The syntactic side highlights how the signs that compose the information remove an element of uncertainty, to determine the phenomenon, and the practical utility of the information for the user synthesizes the pragmatic aspect. Thus, the economic information is customized by expressing explanations of economic resources, production, distribution, the exchange and consumption of results, being formulated on the basis of a set of indicators that together form the "data repertoire" indispensable to the coordination of an efficient economic process.

Based on the general principles outlined on the functioning of the economic systems, as well as the designation of financial accounting information in the establishment of informational links, it can be concluded that while the content of the information is conditioned by the lead system, their form is given by the management system. If, in the process of obtaining information, their form may involve modifications depending on the means and processes used, the content will remain the same, independent of the structure of the lead and leader system.

Until 2010, the international accounting rules designated as external users of financial statements the following: potential and current investors, creditors, employees, customers, suppliers and other commercial creditors, the government and its institutions. In the first place there were the investors and it was even acknowledged that not all user information needs can be met by financial statements, but there are common requirements for all users. Investors, however, were privileged on the grounds that they provided the companies with capital, assuming the risks arising from it - if the investors are satisfied, then it is considered that most of the information needs of other users are satisfied. Many commentators have criticized international rules for the prioritization of investors, so the body that elaborates these norms has mastered its criticism and removed most other users from the list. Thus, in the post-2010 IFRS, it is explicitly stated that the objective of the financial statements is to provide useful information to existing and potential investors as well as to lenders and other creditors.

The investors are interested in the performance of the businesses in which money is placed, the risks to which the business is exposed, the ability of the companies to generate cash flows from which to pay dividends. It is clear that in order to be able to identify, interpret and understand the information in the financial statements, the investors referred to in this context must have reasonable knowledge of accounting, finance, and economics.

Financial creditors are the other major category of users. It is well-known the prudence often demonstrated by such creditors, interested in estimating the ability of the firm they loan money to, to repay the loan in good condition and to pay the appropriate interest and commissions.

The Romanian Accounting Standard, which is applicable to most companies, is more prudent in setting users, avoiding the submission of a list of them, and noting that the objective of the annual financial statements is to provide information on the financial position, financial performance and cash flows of an entity of a broad category of users.

3. Users of information provided by unlisted firms

If we take a generic example, a limited liability company where the manager is the main associate, then the list of users begins with the administrator itself. He/She needs data on the result, the debts, the receivables, the equity, the degree of indebtedness, the level of the stocks, the profit margins, the commercial additions etc. In this context, we can say that the

organization and keeping of the accounting of such an enterprise is adapted to the needs of the management, within the limits established by the accounting law.

However, the enterprise operates in a social environment, engages in relationships with all kinds of partners: tax authorities or other authorities, banks and other donors, etc. Some of these partners are interested in analysing the company's situation before conducting business with it - this type of analysis also often calls on accounting data.

The accounting information is not the only one required by financiers, but they can have a decisive place in making the lending decision. At the same time, financiers are often in a strong position, especially in relation to smaller businesses, being able to request all kinds of additional accounting information that is not normally disclosed. Thus, it is important to keep accounting accurate so that the information provided to creditors to lead to the most credible analyses.

Among the financiers there may also be private or public national, regional or international financial institutions, which provide support in starting or developing a business. These bodies provide non-refundable or repayable funding, but under favourable cost conditions. In order to grant such funding, the bodies may impose various conditions, including some more detailed or stricter accounting reporting obligations, possibly performing data retrievals obtained according to the Romanian accounting rules in order to make them compatible with the formats requested by the financiers. At the same time, in such circumstances, an auditor may be required to certify to the financier that the information in the applicant's accounts complies with the norms. Certainly, the accounting of a company that benefits or wishes to receive such funding is kept with some more attention and, implicitly, with somewhat higher costs.

Another user easily identifiable by all administrators or accountants is the tax authority. It seems that an entrepreneur, when employing an accountant or an accounting firm, thinks less of the proper keeping of the accounting than the fulfilment of fiscal obligations: the calculation of the various taxes, the drawing up and submission of tax declarations established by specific regulations. Certainly, the tax authority uses audit information for control purposes, but these bodies are more interested in how the tax obligations are met and less in the manner in which the data from the synthetic accounting documents were obtained.

4. Categories of information necessary for different users

Each of the accounting information users wants to know something. Some requirements are common, others are specific. The concepts most frequently encountered when discussing companies are analysed in chapters 4.1 and 4.2.

4.1. What does accounting profit mean and how can it be measured?

From the information frequently searched by users we chose, for a short development, a widespread and apparently easy to understand indicator: the accounting result - profit or loss. In accounting, measuring profit or loss is difficult. We will see that the amount obtained is not always very reliable, having an important managed component that is the result of choices made by businesses for the more or less visible purpose of manipulating financial information.

However, it is necessary for the non accountant to understand something of the organization's performance. It is very easy for anyone to understand what collections and payments are - for this there is no need for accounting or finance knowledge. An entity's inputs and outputs are not necessarily the best measure of their performance, but their explicit presentation provides a very good basis for assessing the company's situation over a given period. Thus, it has come to require accountants to draw up and provide users with such a cash and payout situation, called the Treasury Cash Flow Statement. This document should

show the payments made by destination, as well as the receipts, by origin. Apparently, it is a simple document to understand; the evolution of accounting and financial techniques has nevertheless led to a rather cumbersome way of presenting the main cash flows by reconstituting them on the basis of the net accounting result - this is a so-called indirect method of presentation of operating cash flows.

Performance appraisal on the basis of receipts and payments is very partial and can lead to wrong decisions. It is sufficient to consider credit operations, operations specific to investments in various machinery or other equipment, or even the wage pay to see that the company's effort does not always affect the accounting result when the payment occurs, as the effects are not always taken into account when calculating the result when there is a collection.

Many entities compile a document called The Statement of Changes in Equity where we find exactly the way in which the transition from the original net wealth to the final net wealth was made. It must be stated, even if an additional difficulty is introduced, that the result thus calculated for a period of time is not necessarily equal to the result established as a difference between the income and expenses of that period, the difference can be explained by the rules for the assessment and recognition of various elements of assets and liabilities.

4.2. Leverage and risk seen from the accounting point of view

Users should not be content to know how profitable the business is: this information needs to be complemented with more details. Among the latter, it would be useful to make an appreciation of the business risk. Without going into details about the diagnosis and evaluation of companies, we will only retain here an easy indicator, directly obtained from the accounting data, namely indebtedness. In many financial analysis papers it is suggested that, out of total resources, debts should not exceed two-thirds. Certainly, when considering credit applications, banks also take into account the degree of indebtedness - and even if we can assume that the rules specific to each bank differ from this point of view, the calculated indicators may be decisive in making the lending decision. If we look at a few concrete cases, we see a great deal of diversity in firm rankings by leverage, depending on many variables. It is advisable to compare entities with similar activity profiles and to make an analysis according to the position of the sector average. It can happen that an organization with systematic and persistent indebtedness of 80% to be profitable in terms of profit and market image. In the accounting reports, these debts contribute to increasing indebtedness, but, in many cases, they represent quasi-resources of their own, considering precisely the privileged relationship between the firm and its associates. At a different level, liabilities may arise frequently in the group, i.e. debts to other components of the same group. The cost of borrowing is also worth remembering: how much higher is the reference interest rate, how much is the annual effective interest rate, the proportion of the commissions of all kinds, which guarantee obligations exist.

5. Conclusions

The most common and most representative typology of relationship in the existence of an economic entity is that between its owners and its managers. This has to be correlated and understood in the context of the governance of the company in question. If the relationship between administrators and owners is a primary relationship in the governance of the society, it can be argued that at international level, accounting should meet the needs of a diverse range of users, its offers being increasingly social.

Equally important is that a financially assured economic entity carries out a policy of equilibrium between the recourse to external sources of financing and the generation of own sources (the way of self-financing, by depreciating the various components of the asset and by

allocating a representative rate of profit for the formation of reserves). That is why the financiers are represented by investors, creditors (especially bankers), state and government agencies, tenants, etc. As set out in the international accounting regulations, external information users, defined in the processes and financing operations, are the investors and the creditors.

In the case of small economic entities, the manager coincides most often with the owner. In the other types, however, the shareholders are numerous, they cannot directly engage in the daily activity and therefore delegate management authority to a group of managers. The information needs of the managers are mainly covered through reports that are not published to other categories of users. These reports are usually drawn up both on the basis of the information in the management accounts and on the basis of the financial accounting information. Their nature varies from one enterprise to another, depending on the type of activity.

The more complex and diversified the company's activity, the more managers need more information. In addition, the larger the company is, the farther away is the manager from daily activity, which obliges him/her to request additional information on which to be able to effectively control the activity of his/her subordinates.

Also, the specificity of the entity's activity influences the managers' information needs. Managers have immediate and complete access to accounting information. They do not have to wait and are not limited to information published in the financial statements. Although they benefit from information asymmetry in relation to other categories of users, however, managers pay special attention to the way in which published information is perceived by these ones. Such an interest is due to the fact that the published financial statements inform third parties on the management capacity of the management team. In other words, managers use the information in the financial statements to communicate.

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THE ROLE OF ACCOUNTING INFORMATION IN MAKING ECONOMIC DECISIONS

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Abstract

Emphasizing the globalization process of national economies, the integration of financial markets and information systems, the need to have unrestricted access to international capital markets imply the protection of investors through information that includes comparable data; access to international funding sources, possibility for pertinent performance appraisal and decision-making.

Applying international financial reporting standards by economic entities involves changes in the manner of recognition, measurement, impairment, in structures of financial statements. In pursuit of objectives, the management of an entity must apply accounting policies so that their financial statements should comply with all provisions of each applicable international accounting standard and each applicable interpretation.

Key Words: *accounting regulations, IAS, financial status, performance, assets, impairment.*

JEL Classification: M41

1. Introduction

The world economy is undergoing a continuous process of internationalization, of tightening economic connections among countries, with the emergence of more and more international or mixed capital companies. Emphasizing the globalization process of national economies, the integration of financial markets and information systems, the need to have unrestricted access to international capital markets imply the protection of investors through information that includes comparable data; access to international funding sources, possibility for pertinent performance appraisal and decision-making.

Under such circumstances, accounting information is increasing its importance, as it has to be characterized by reliability, clarity, completeness and, above all, truthfulness. In order for accounting information users to be certain of such information, it must be the product of accounting that operates in accordance with certain rules and regulations accepted by both accounting data producers and users.

2. Content

The need for accounting harmonization ensues from the work and influence of multinational accounting and tax and financial consulting companies as well as from the relationship with tax authorities as users of accounting information that control the activity of multinational companies. Accounting harmonization requires the production of a unitary conceptual model of financial statements presented by entities. The process ensuring harmonization and uniformity in accounting is accounting standardization.

Accounting standardization results in the *definition of accounting principles and rules* based on precise and identical terminology for all accounting information producers and users, as well as in the *information's practical application* in order to ensure comparability in time and space, relevance and credibility of accounting information.

Accounting principles are accounting hypotheses and conventions that guide normalizers in the development of accounting standards. Accounting standards are defined as rules set up as a reference system for the production of accounting information (evaluation, registration, classification and presentation) and the social validation of financial statements presented (recognition of their validity). It follows that accounting principles are the same for all entities irrespective of their nature, size or legal status. Yet, accounting rules may differ

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from one entity to another even in similar circumstances. In other words, accounting principles have a higher generality degree than accounting rules.

From a spatial perspective, one can talk about the dimensions of accounting standardization at national, regional and international levels. The main dimension of standardization is the national one. The economic, financial and possibly social objectives of some groups of countries have generated the development of the standardization dimension at regional and international levels.

At international level, the standardization process is based on the general framework in compliance with the International Accounting Standards Board (IASB). The International Accounting Standards Board is committed to developing, in the public interest, a single set of high quality financial reporting standards that are easy to understand, applicable and accepted globally based on clearly stated principles. International Financial Reporting Standards (IFRS) aim at *harmonizing* the accounting principles, procedures and treatments used to prepare and present entities' financial statements.

IFRS standards are merely recommendations, they are not imposed on any person, entity or country. They can be used in several ways: in the form of national norms; as useful documentation when dealing with the drafting of national regulations; as reference, in order to ensure the comparability of national regulations with the IASB reference. Multinational economic entities and large companies listed in financial markets must present their accounts in accordance with international standards or recognized international standards.

At regional level, a representative example is the accounting harmonization process achieved in the EU through directives. The scope and characteristics of European Directives are circumscribed to the area of the EU countries and their application is mandatory because it is a source of accounting law¹. As a result, in order to apply them, each country has the obligation to incorporate them in their own legislation, following the analysis, options and adaptations required by national particularities.

At present, an accounting rule is covered by the 2013/34/EU Directive of the European Parliament and of the Council of 26 June 2013 on annual financial statements, consolidated financial statements and related reports of certain types of entities. The 2013/34/EU Directive repealed the Fourth Directive and the Seventh Directive.

At national level, national or local standards are prepared by each country in relation to International Standards and European Directives. The design, development and adoption of national standards simultaneously takes account of national identities, accounting traditions and cultural domination effects at international level. It is also a political and strategic process within which each country defends its own interests. Romania had to consider the present and future changes in order to fit into the market, the competition rules and the commitments to the European Union. Normalizers in the European Union member states had the obligation to ensure the entry into force of its provisions until 20 July 2015. In this respect, in the beginning of 2015, Order of the Minister of Public Finance no. 1802/2014 for the approval of the ***accounting regulations on individual annual financial statements and consolidated annual financial statements*** came into force.

According to the needs of accounting information users, a distinction has been made between the tradable companies on the capital market, national companies/firms and other legal entities of national importance, towards other commercial companies, micro-entities, small entities, medium and large entities.

The standardization process may be provided by a public authority, an accounting profession body or an independent body.

Depending on the nature of a standardizing institution, there can be the following types of standardizing approaches:

State (public) type standardization where state intervention prevails; the set of rules is defined by a state body and imposed on all entities by virtue of laws and other regulatory texts (ordinances, government orders, ministerial orders). Standardization is state-owned in our country. At accounting level, there is an attempt to combine current accounting legislation with international regulations. Thus, the legal framework for accounting currently has three major components, namely: general accounting legislation; accounting legislation harmonized with 2013/34/EU of the European Union and with International Financial Reporting Standards; simplified accounting legislation harmonized with European directives. The accounting regulatory institution is the Ministry of Public Finance (MPF) through the Accounting Regulation Directorate assisted by the Accounting Advisory Board.

Pragmatic type standardization where the decisive role in the preparation and valorisation of norms is held by the liberal accounting profession; the bodies of the liberal accounting profession take up both the initiative to prepare rules and to implement them.

Mixed type standardization where rules are developed by professional bodies and "validated" by public intervention, or a mixed approach, a wider process in which norms are the result of the participation of unions, accounting profession, and employers' associations.

An important issue of accounting standardization is the standardizing concept. From this point of view, two concepts are distinguished: one based on the **general accounting plan**, the other based on the **conceptual accounting framework**.

The devices of accounting standardization viewed according to their scope are arranged on three levels: national, regional, international.

Standardization at national level is still achieved through the standardization tool that is the general accounting plan. Through its content, it is a theory or a doctrine that guides the accounting practice of a country.

In our country, the general accounting plan is identified by the rule called "accounting regulations on individual annual financial statements and consolidated annual financial statements" approved by Order of the Minister of Public Finance no. 1802/2014.

Standardization at regional level is a development of the accounting standardization dimension in some groups of countries. Accounting standardization at EU level is achieved through directives. The accounting rule is set out in Directive 2013/34/EU of the European Parliament and of the Council regarding annual financial statements, consolidated financial statements and related reports of certain types of entities.

Standardization at international level is a development superior to regional standardization, with the standardizing conception based on the **conceptual accounting framework**.

The instruments used in international accounting standardization are the International Financial Reporting Standards (IFRS) developed by the International Accounting Standards Board (IASB). The International Accounting Standards Board currently updates its conceptual framework. The project takes place in stages. Once a chapter is completed, the relevant points in the "General framework for the preparation and presentation of financial statements" that was published in 1989 are replaced. When the project on the general conceptual framework is completed, the Board will have one full comprehensive document entitled "Conceptual Framework for Financial Reporting".

The general framework for preparing and presenting financial statements includes the basic concepts and principles underlying the preparation and presentation of financial statements for external users. Financial statements prepared in the spirit of the general conceptual framework are of general interest and their content meets the common information needs of a wide range of users.

The objective of financial statements is to faithfully inform a user about their financial position, its evolution and the entity's performance at a given moment in order to substantiate decisions.

Obtaining information from the economic environment, from both the external and internal environment of a company allows the choice of the optimal economic opportunity to be followed in future actions.

As the main provider of economic information, one can say that the specialists' appreciation according to which: *accounting is not an end in itself, but is a means of business representation, which, after valorization by decoding and interpretation, should correctly underlie the economic and financial decisions of users*¹ proves its validity. The use of economic indicators may be a solution to highlight a company's financial status. *It may be that one's eyes are or are not the mirror of one's soul, as Immanuel Kant suggested, but indicators are absolutely the mirror of a company's financial statements.*

The latest period has been marked by many concerns about defining and assessing an entity's performance. According to the DEX, **performance** means a great achievement in a field of activity. Performance implies victory, competitiveness, progress, success, continuous effort. From an economic point of view, performance is measured by the result: profit or loss. The profit or loss reported by a trader is used in most cases as a benchmark for performance. For this reason, users want to know how the result has been obtained, what the revenues and expenditures have been that have led to the result. In the case of such a need for information, the balance sheet proves to be insufficient. It presents information on the financial position, the result being only a component of company equity. For this reason, it is necessary to prepare a statement showing how the result has been generated, and this is represented by the profit and loss account which provides a view of entity performance.

Performance is regarded distinctly by accounting information users according to their needs. In other words, performance measurement is based on users' goals.

Accounting information producers must attach great importance to how they present their performance due to the impact on the communication process with the outside.

The main accounting information users are:

As internal users, *managers* look for information on global performance, they look for information to set a concrete picture of resource management and distribution of results.

Specialized literature appreciates that managers currently incorporate in their decisions everything they know about market, competition, customers, but when they also incorporate financial analysis, decisions are better Relevant financial analyses provide managers with an opening to the future and help them make wiser, better documented choices. When internal information refers to the company itself, its profitability should take into account that development or investment decisions need to be made only on the basis of financial and economic analyses. In this case, the documentation and information activities must provide the following: the expected level of a company's results, the actual level achieved in the current period, the share in which the planned level has been achieved, the size of deviations and their causes, the ways of correcting and enhancing the company, and the company's performance level in the future

As external users:

Current and potential investors are interested in the ability of their investment to generate profits. Investors, as capital providers, want information on the performance of invested capital and the dividends they should receive. According to such information, investors may decide whether to buy, keep or sell "capital". When internal information is aimed at an entrepreneur, the latter must consider information such as (C. Rusu 1993): availability in risk taking, business leadership, professional training level, leadership skills, perseverance, flexibility, predictability and planning. *There are two issues that attract investors into a business, the possibility of future profits and the future development of a company, its potential.*

Bankers, as providers of bank loans and guarantees, need information in order to assess the ability of a trader to repay the loans on maturity dates and to pay the related interest;

Employed staff, as a labour supplier, is interested in an entity's stability and ability to generate economic benefits. Employees want information on the profitability and continuity of the entity's activity, and can therefore appreciate the entity's ability to provide wages, pensions, awards, and other social issues (jobs, health insurance, etc.);

Commercial partners need information on an entity's stability, information on the production cycle, ensuring the continuity of a trader's activity, especially in the case of medium and long-term agreements;

The state and its institutions use information on the construction of certain macroeconomic indicators (national income, gross domestic product, etc.);

The public seeks to know a trader, being a potential investor, supplier, buyer, employee, etc.

3. Conclusions

Normalizing accounting by providing a common language at global level brings important benefits to the entire economic world. Ensuring comparability between different standards systems does not imply that they are identical, but their regulations do not conflict. For example, due to China's economic development, this country will have to set its own set of standards, tailored to the requirements of the national economy, but compatible with International Financial Reporting Standards. At the level of the European Union, the harmonization process must overcome obstacles to: how to regulate accounting in each Member State; different interpretation of the concept of faithful image; the relationship between the tax system and the accounting of each country. Despite these difficulties and the specificities of each country, the EU Member States have started to harmonize accounting, aware of its advantages

The standardization of accounting by providing a single language at global level brings important benefits to the entire economic world. Ensuring comparability among different standard systems does not imply that they are identical, but their regulations should not conflict. For example, due to China's economic development, this country will have to prepare its own set of standards tailored to the requirements of its national economy, but compatible with International Financial Reporting Standards. In the European Union, the harmonization process must overcome obstacles regarding: how to regulate accounting in each member state; different interpretation of the concept of true and fair view; the relationship between the tax system and the accounting of each country. In spite of such difficulties and the peculiarities of each country, the EU member states have started to harmonize accounting, being aware of its advantages.

At national level, in the context of many changes that occur in the Romanian business environment and here reference can be made both to the political ones (every four years there is another vision of how business should take place in Romania, and what legislative changes should be made) and to the changes in the market (customer reorientation, competitors' occurrence, etc.), it is important that the development and adoption of accounting rules should take account of current and future changes, of the commitments to the European Union.

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DIGITAL SOCIETY AND NEW ECONOMY: CONTENT, HIERARCHIES AND EXPERIENCES

Marius Gust¹

Abstract

Digital society and the new economy is one of the coordinates of the world we live in, and its dynamics seem to eliminate those who disregard it. The paper aims to provide some benchmarks of what the new economy and digital society means through evaluations/classifications/indexes. Also, the paper aims to analyse the structure of the elements taken into account in order to shape the concept of economy and digital society. This analysis takes into account the indexes of the new economy and digital society published by the European Union, the UN Department for Economic and Social Affairs and, last but not least, a private institution, a Swiss Research Institute and Swiss Business School, International Management Institute, with expertise in leadership training and change management in organizations. At the same time, the paper aims to investigate the hierarchies of the previously mentioned charts and to present some experiences of some countries regarding the new economy and digital society.

Keywords: *digital economy, digital society, e-government, digital competitiveness*

JEL classification: O10, L80

1. General traits

Information society, knowledge society, new economy, digital revolution, digital economy, e-Commerce, e-business, e-Banking, e-Learning, e-Money, e-Trading, telemedicine, teleactivity, telework, e-Teaching, e-Learning, virtual libraries, virtual museums, art galleries on the Internet, digitization of information, digitized textbooks, digitization of national and international heritage. Here is just a brief inventory of the new reality man has to live, work, spend his spare time in. Not everyone, however, because some people either do not know about, are opaque to these new realities, are trying to escape their habits and traditions, or selectively adopt new realities according to their needs, their level of understanding and costs.

The concepts of information economy, digital economy, the new economy are not sufficiently clear, with different approaches from author to author, from work to work. But, in general, these categories relate to information, its production, its use, the equipment through which it is accessed or produced, and last but not least, the exchange of information between economic operators, consumers, public entities. Rather, we can better outline these concepts if we follow the various rankings that rank the nations in the information society. The analysis of this paper starts from three rankings that evaluate the penetration level of digital economy:

- The Digital Economy and Society Index (DESI), calculated by the European Commission, for the Member States of the European Union;
- The E-Government Development Index (EGDI), calculated by the United Nations, for 193 of the UN member states;
- The World Digital Competitiveness Ranking (WDCR), calculated by the Swiss IMD Institute, for a total of 64 economies.

2. DESI (Digital Economy and Society Index)

The Digital Economy and Society Index (DESI) is a composite index that centralizes the performance of the EU Member States in terms of their economy and digital society, taking into account in various proportions five main dimensions: connectivity, human capital, use of internet services, integration of digital technology and digital public services [1].

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In turn, the five dimensions are broken down into other sub-dimensions, with different values, in total, the DESI being calculated on the basis of 14 indicators. The dimensions and sub-dimensions that make up this index are shown in Table 1.

Table. 1. Indicators that form the DESI

DIMENSION	%	SUB-DIMENSION	%
Connectivity	25	fixed broadband	20
		mobile broadband	30
		fast broadband	20
		ultrafast broadband	20
		broadband price index	10
Human capital	25	basic skills and usage	50
		advanced skills and development (ICT specialists and Science, IT, Engineering and Mathematics graduates)	50
Use of Internet Services	15	use of content by citizens (news, music, video, games, video on demand)	33,33
		online communication (videotelephony and social networks)	33,33
		online transactions (banking and shopping)	33,33
Integration of digital technology	20	enterprise digitization (Electronic Information Sharing, RFID Radio-Frequency Identification, Social Media, eInvoices, Cloud)	60
		e-commerce (SMEs Selling Online Ecommerce Turnover, Selling Online Cross-border)	40
Digital public services	15	E-government (E-government Users, Pre-filled Forms, Online Service Completion, E-government Services for Businesses, Open Data)	80
		eHealth	20

Source: European Commission, Directorate-General for Communications Networks, Content and Technology, DESI 2018 Digital Economy and Society Index Methodological notem Updated: May, 2018

Table. 2. Digital Economy and Society Index (DESI)

	2014					2018						
	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI
Denmark	14,79	16,46	9,25	9,70	10,12	60,31	19,62	17,60	11,26	12,26	10,98	71,73
Sweden	16,36	17,10	9,07	8,55	8,97	60,07	19,00	18,56	11,01	11,27	10,61	70,45
Finland	13,63	18,12	8,18	8,98	10,76	59,68	16,51	19,81	9,81	12,18	11,80	70,11
Netherlands	16,49	17,15	7,71	7,11	8,68	57,13	20,28	18,56	9,97	10,47	10,58	69,87
Luxembourg	14,94	17,87	8,14	6,28	4,57	51,80	20,01	17,83	9,88	6,63	8,43	62,79
United Kingdom	13,30	16,67	7,31	6,10	7,74	51,12	16,28	15,43	7,85	12,00	9,71	61,26
Belgium	14,34	13,58	5,76	7,73	6,78	48,19	17,21	17,91	9,36	7,99	8,74	61,21
Estonia	11,77	13,23	8,06	4,33	10,34	47,73	18,78	14,36	8,00	10,91	8,68	60,73
Malta	12,36	11,21	7,94	6,31	7,91	45,72	16,03	15,34	9,24	7,41	11,72	59,74
Germany	12,68	13,97	6,18	6,21	5,72	44,75	16,18	13,64	7,41	9,96	10,85	58,05
Austria	10,63	14,26	5,17	5,65	8,27	43,98	15,93	16,09	7,14	8,83	9,97	57,96
Ireland	9,68	13,00	5,52	8,29	7,27	43,76	18,28	12,91	9,49	7,78	9,19	57,66
Lithuania	9,70	10,85	7,57	7,73	7,39	43,24	16,22	12,13	8,53	9,49	10,23	56,61
Spain	10,09	11,11	5,93	5,61	9,64	42,38	16,19	15,71	7,91	8,27	7,54	55,61
Portugal	12,60	9,06	5,70	5,72	8,93	42,02	15,64	14,12	7,57	8,02	8,62	53,98
European Union	11,03	12,28	6,01	5,50	6,72	41,54	15,08	13,00	6,74	9,57	8,60	53,00
France	10,69	12,74	5,39	4,85	6,34	40,01	16,85	11,46	6,95	8,39	8,95	52,59
Slovenia	11,01	12,00	5,62	4,92	6,03	39,59	15,97	13,77	6,97	8,09	7,52	52,32
Latvia	11,33	9,86	7,77	3,66	5,79	38,41	14,10	14,77	6,34	7,57	8,76	51,53
Czech Republic	9,04	12,26	5,94	6,83	4,21	38,29	16,48	10,96	8,22	5,41	9,78	50,84
Slovakia	8,22	11,75	5,72	6,41	4,53	36,62	13,77	12,97	7,69	7,49	7,56	49,48
Hungary	9,65	10,71	6,31	3,21	4,93	34,81	15,16	10,76	7,67	7,53	8,22	49,34

	2014						2018					
	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI
Poland	9,03	9,79	4,54	3,37	7,03	33,75	12,36	12,45	8,11	7,09	6,65	46,66
Croatia	6,35	10,08	5,59	6,94	4,04	32,99	15,43	11,99	8,05	5,02	6,06	46,55
Cyprus	8,64	7,67	6,38	4,42	5,67	32,78	14,70	12,07	6,31	4,71	7,23	45,02
Italy	7,34	8,51	4,80	3,74	6,66	31,05	13,21	10,20	5,60	7,36	7,88	44,25
Greece	7,42	7,94	5,09	4,43	3,53	28,41	13,73	8,71	6,25	4,88	7,46	41,03
Bulgaria	7,92	6,80	4,85	2,93	5,63	28,12	10,78	9,55	6,78	5,39	5,89	38,38
Romania	8,92	6,28	2,89	2,87	4,08	25,03	14,53	8,02	5,24	3,55	6,20	37,55

Source: European Commission, Directorate-General for Communications Networks, Content and Technology, DESI 2014, 2018

To analyse the progress made by the European states in terms of their economy and digital society, we took two years, 2014 and 2018, as a benchmark. From the analysis of the DESI values at the two moments, the results are:

- the average progress of EU states between 2014 and 2018 was around 11.5 points;
- the largest increases in the DESI are about 14 points for Hungary and Malta respectively, and the smallest, about 10 points, for countries with large scores: Sweden, Finland, Luxembourg, UK, but also Bulgaria, the penultimate country in the ranking;
- the hierarchies are almost unchanged between the two moments;
- the highest progress, on average, of about 4 points is recorded in the Connectivity and Integration of digital technology dimensions, while Human capital and Use of internet services progress is very small, below 1 point, and Digital public services averaging about 2%;
- apart from the Connectivity dimension, where only increases are recorded, some even very high, at 9 points (Ireland, Croatia), the other dimensions are much lower and some countries even register drops.

Table. 3. Romania and the Digital Economy and Society Index (DESI)

Country	2014						2018					
	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI	Connectivity	Human capital	Use of internet services	Integration of digital technology	Digital public services	DESI
Denmark	14,79	16,46	9,25	9,7	10,12	60,31	19,62	17,6	11,26	12,26	10,98	71,73
UE	11,03	12,28	6,01	5,5	6,72	41,54	15,08	13	6,74	9,57	8,6	53
Romania	8,92	6,28	2,89	2,87	4,08	25,03	14,53	8,02	5,24	3,55	6,2	37,55
Romania/UE	80,9	51,1	48,1	52,2	60,7	60,3	96,4	61,7	77,7	37,1	72,1	70,8
Romania/Denmark	60,3	38,2	31,2	29,6	40,3	41,5	74,1	45,6	46,5	29,0	56,5	52,3

Source: Author's calculations

The comparative analysis of the values of the DESI calculated for 2014, respectively, is totally unfavorable for our country, which occupies the last place among the countries of the European Union. The categories that get the lowest scores (the latest in the EU) are: human capital, the use of the Internet and the integration of digital technology.

The only positive is a slight closing of the gap with the average values calculated for the European Union. Thus, if in 2014 Romania's index was about 60% of that calculated for the EU as a whole, in 2018, Romania's index represents 70% of the EU average.

Also, we can see the progress of our country in all five dimensions, with higher values than the EU averages, but the major problems are our country's modest starting values. But some, despite all the progress achieved over the last four years, remain very low: integration of digital technology (29% of the EU average), human capital (45.6% of the EU average), use of internet services (46.5% of the EU average), with higher connectivity (74.1%) and digital public services (56.5% of the EU average).

3. E-Government Development Index (EGDI)

Since 2001, the United Nations Department for Economic and Social Affairs (UNDESA) has published a study on e-government. The study provides an analysis of the progress in using e-governance.

This study is the only global report assessing the status of e-government development of all member states of the United Nations. It looks at the evolution of e-governance through an index, the E-Governance Development Index (EGDI) [4]. From a technical point of view, EGDI is a composite index, calculated as the weighted average of the normalized scores of three of the most important dimensions of e-government, namely: online services (Index Online Service, OSI), the stage of telecommunication infrastructure development (Telecommunication Infrastructure Index, TII) and human capital (Human Capital Index, HCI).

$$EGDI = 1/3 * OSI \text{ normalized} + 1/3 * TII \text{ normalized} + 1/3 * HCI \text{ normalized}$$

Each of the three indices that are part of the EDGI is a value composed of other indicators. So,

- The OSI - Online Service Index - is comprised of the answers of 111 researchers, UN experts and volunteers (students, qualified graduates and university graduates in public administration universities) from over 60 countries, covering 66 languages, which assesses each country's national site in its mother tongue, including the national portal, the e-services portal and the e-participation portal, as well as the websites of the ministries of education, labor, social services, health, finance and the environment.

- The Telecommunications Infrastructure Index (TDI) is an arithmetic mean of five indicators: (i) Internet users per 100 inhabitants; (ii) the number of fixed telephone lines per 100 inhabitants; (iii) the number of subscribers to mobile telephony services per 100 inhabitants; (iv) the number of broadband wireless subscriptions per 100 inhabitants; and (v) the number of fixed broadband Internet subscriptions per 100 inhabitants.

- The Human Capital Index (HCI) is a weighted arithmetic mean of four indicators, namely: (i) adult literacy rate (1/3); (ii) Population coverage rate in the primary, secondary and tertiary education system (2/9); (iii) years of schooling (2/9); and (iv) the average school years (2/9).

The United Nations Department for Economic and Social Affairs (UNDESA), in addition to the EGDI index, also calculates an e-participation index (EPI). The E-Participation Index (EPI) is a derivative of the E-Government Development Index, focusing on the use of online services by citizens. The EPI of a country reflects the mechanisms of e-government participation implemented by the government, compared to all other countries. EPI is built on surveys, and new questions have been added in recent years including: availability of public information, citizens' rights to access government information, and feedback from citizens on how to improve online public services and public opinion use of tools such as social media, online surveys, and online discussion forums to participate in government.

Table. 4. E-Government Development Index and e-Participation Index for EU countries

Country Name	2005						2018					
	E-Government Rank	E-Government Index	Online Service Index	Human Capital Index	Telecommunication Infrastructure Index	E-Participation Index	E-Government Rank	E-Government Index	Online Service Index	Human Capital Index	Telecommunication Infrastructure Index	E-Participation Index
Denmark	2	0,91	0,97	0,98	0,76	0,76	1	0,92	1,00	0,95	0,80	1,00
United Kingdom	4	0,88	1,00	0,99	0,65	1,00	4	0,90	0,98	0,92	0,80	0,98
Sweden	3	0,90	0,87	0,99	0,84	0,57	5	0,89	0,94	0,94	0,78	0,94
Finland	9	0,82	0,83	0,99	0,65	0,56	6	0,88	0,97	0,95	0,73	1,00
France	23	0,69	0,61	0,96	0,51	0,41	9	0,88	0,98	0,86	0,80	0,97
Germany	11	0,80	0,84	0,95	0,62	0,56	12	0,88	0,93	0,90	0,80	0,92
Netherlands	12	0,80	0,73	0,99	0,68	0,70	13	0,88	0,93	0,92	0,78	0,99
Estonia	19	0,73	0,70	0,98	0,53	0,62	16	0,85	0,90	0,88	0,76	0,91
Spain	39	0,58	0,39	0,97	0,39	0,08	17	0,84	0,94	0,89	0,70	0,98
Luxembourg	28	0,65	0,40	0,91	0,64	0,14	18	0,83	0,92	0,78	0,80	0,94
Austria	16	0,76	0,74	0,96	0,58	0,41	20	0,83	0,87	0,85	0,77	0,83
Ireland	20	0,73	0,71	0,96	0,50	0,19	22	0,83	0,83	0,96	0,70	0,93
Italy	25	0,68	0,63	0,93	0,48	0,24	24	0,82	0,95	0,83	0,68	0,96
Belgium	18	0,74	0,71	0,99	0,51	0,51	27	0,81	0,76	0,97	0,69	0,76
Portugal	30	0,61	0,43	0,97	0,43	0,21	29	0,80	0,93	0,82	0,66	0,90
Malta	21	0,70	0,79	0,87	0,44	0,48	30	0,80	0,84	0,80	0,77	0,85
Poland	38	0,59	0,51	0,96	0,29	0,35	33	0,79	0,93	0,87	0,58	0,89
Greece	35	0,59	0,51	0,95	0,31	0,16	35	0,78	0,82	0,89	0,64	0,88
Cyprus	37	0,59	0,46	0,89	0,41	0,08	36	0,77	0,78	0,81	0,73	0,82
Slovenia	26	0,68	0,59	0,96	0,48	0,22	37	0,77	0,80	0,89	0,62	0,81
Lithuania	40	0,58	0,52	0,96	0,25	0,11	40	0,75	0,80	0,83	0,63	0,80
Hungary	27	0,65	0,70	0,95	0,31	0,38	45	0,73	0,74	0,84	0,61	0,71
Bulgaria	45	0,56	0,52	0,91	0,25	0,25	47	0,72	0,76	0,81	0,58	0,87
Slovakia	36	0,59	0,54	0,91	0,32	0,17	49	0,72	0,74	0,81	0,60	0,81
Czech Republic	29	0,64	0,59	0,92	0,41	0,21	54	0,71	0,65	0,88	0,60	0,62
Croatia	47	0,55	0,44	0,90	0,30	0,17	55	0,70	0,68	0,82	0,61	0,77
Latvia	32	0,61	0,48	0,95	0,38	0,17	57	0,70	0,67	0,81	0,62	0,69
Romania	44	0,57	0,64	0,88	0,19	0,32	67	0,67	0,66	0,79	0,55	0,71
United States	1	0,91	1,00	0,97	0,75	0,90	11	0,88	0,99	0,89	0,76	0,98
Zambia	180	0,00	0,00	0,68	0,02	0,00						
Somalia							193	0,06	0,11	0,00	0,06	0,13

Source: United Nations, UN E-Government Knowledge, Country Data

Specifically, the e-participation index (EPI) is based on the following information:

- electronic information - the availability of online information, that is to say, the level of information provided by governments to citizens (exchange of electronic information);
- electronic consultation - online public consultation, i.e. interaction between the parties by electronic means (electronic consultation), and
- making electronic decisions - involving citizens directly in decision-making processes.

In regards to the E-Government Development Index, Romania occupies a middle position in the ranking (67th place, with an index value of 0.67) and, unfortunately, the last among EU member states. Over time, our country's position deteriorates (dropping down from 44th place), although the value of the index is rising. Per dimension, the index gains an important addition to the telecommunication infrastructure dimension (0.55 in 2018, compared to 0.19 in 2005), value is maintained from the online service dimension (0.66 in 2018 versus 0.64 in 2005) and registers the human capital dimension (0.79 in 2018, compared to 0.88 in 2005).

Regarding the E-Participation Index, Romania has a value of 0.71, which places it on the second to last place among EU states (after the Czech Republic and Latvia).

4. The World Digital Competitiveness Ranking - WDCR

The World Digital Competitiveness Ranking (WDCR) is a relatively new tool and has begun seeing use "in response to the growing need for decision-makers and practitioners to appreciate and manage digital transformations." The objective of this index is to assess the extent to which a country adopts and explores digital technologies that lead to transformations in government practices, business models and society in general.

The WDCR is computed by an independent business school (IMD), with Swiss roots and global coverage, specializing in leadership training and organizational change management. IMD has its origins in a higher education and research institute specialized in economics, IMEDE - Institute for Entrepreneurial Direction set up in Lausanne by the Nestlé Company in collaboration with Harvard Business School. The Institute would operate under the name of IMEDE until 1989, when it would merge with the Centre d'Etudes Industrielles in Geneva (now IMI - International Management Institute). Following the merger between IMEDE and IMI in 1990, the new organization becomes IMD - the International Institute for Management Development, based in Lausanne, with the goal of forming world leaders. IMD is also known for the World Competitiveness Yearbook (WCY), which classifies the nations in terms of economic performance and competitiveness, the first such yearbook being published in 1989. Since 2016, IMD has been developing a global ranking of digital competitiveness (Digital World Competitiveness Ranking - WDCR). The WDC classification methodology [2] defines digital competitiveness according to three major factors, and each of these factors is divided into 3 sub-factors that highlight each aspect of the analysed areas, resulting in 9 such sub-factors. These include 50 indicators/aspects, but each sub-factor, regardless of the number of criteria it contains, has the same share as a whole (i.e. about 11.1%; $9 \times 11.1 \sim 100$). The 50 indicators/aspects are either measurable indicators (which have a share of 2/3 in the overall ranking), or are "soft data", resulting from surveys (analyses competitiveness as it is perceived), which have a share of 1/3. It should also be noted that WDCR was calculated for 63 states in 2018.

Specifically, the three factors and the 9 sub-factors are the following:

1. Knowledge, assessed based on three sub-factors:

1.1. Ability (talent), where the following are commensurate: the results of the educational assessment, the PISA test - mathematics, the international experience of high-level managers, if the highly qualified foreign staff is attracted to the country's business environment, if city management supports business development, if digital / technological skills are easily accessible, the net flow of international students:

1.2. Training and education, the aspects considered being: whether employee training is a major priority in companies, the total public spending on education as a percentage of GDP, the percentage of the population aged 25-34 that reached at least the level of tertiary education, the number of students returning to a teaching staff, the number of graduates in ICT, engineering, mathematics and natural sciences, the share of women with a university degree in the population aged 25-65;

1.3. Scientific concentration, as seen by the indicators: total R&D expenditure as a percentage of GDP, total full-time R&D personnel, female researchers, as a % of total R&D productivity (by the number of published scientific articles correlated with R&D expenditure as % of GDP), employment in the fields of science and technology as % of total employment, high technology patents as % of all patents granted by the applicant's country of origin.

2. Technology, also evaluated based on three sub-factors, namely:

2.1. The regulatory framework, quantified through the business initiation procedure, contract execution, immigration laws (if immigration laws do not prevent the company from

resorting to foreign employment), if the development and application of technology is supported by the legal environment, if the scientific research legislation encourages innovation, if intellectual property rights are properly implemented;

2.2. Capital, assessed through the IT & media sector's market capitalization as a % of total stock market capitalization, if technology development funding is available, if banking and financial services support economic activities effectively, what are investment risk and country risk, if venture capital is easily accessible for business, what are the telecommunication investments as a % of GDP;

2.3. Technological framework, where the following types of indicators are evaluated; if the communications technology (voice and data) meets the business requirements, the number of Mobile Broadband 3G & 4G subscribers as % of the mobile market, wireless broadband penetration rate per 100 people, the number of Internet users per 1000 people, average speed Internet bandwidth, high technology exports as a percentage of total manufactured exports;

3. Future Readiness, as seen through these three sub-factors:

3.1. Adaptive attitudes, which result from the following: the use of online services that facilitate public interaction with the government, Internet retail per one million people, possession of tablets as % of total households, smartphone possession as % of total households, if their attitudes to globalization are generally positive;

3.2. Business agility, assessed through issues such as: whether companies respond quickly and efficiently to opportunities and threats, what is the number of innovative firms as a % of total production enterprises, how agile/fast companies are, whether companies use data analysis to support decision-making, how much knowledge is developed between companies and universities;

3.3. IT integration, quantified through: e-governance – i.e. providing online government services to promote citizens' access and inclusion, public-private partnerships – i.e. whether public-private partnerships support technological development, cyber security - if computer security is adequately addressed by corporations, software piracy - that is % of unauthorized software.

Table 5. The World Digital Competitiveness Ranking, total and factors

Country	WDCR					Knowledge					Technology					Future readiness				
	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018
USA	2	2	2	3	1	4	6	4	5	4	5	6	5	6	3	1	3	1	2	2
Sweden	3	5	3	2	3	2	2	2	2	7	4	9	4	5	5	3	9	8	5	5
Denmark	7	8	8	5	4	8	9	8	8	8	14	13	12	10	10	4	6	6	1	1
Finland	4	3	6	4	7	5	7	9	9	9	2	7	7	4	4	6	4	5	4	8
Netherlands	6	6	4	6	9	11	14	13	11	12	13	15	10	9	8	2	1	2	3	4
G. Britain	12	12	12	11	10	13	12	11	10	10	17	18	18	16	13	14	11	11	9	3
Austria	24	26	19	16	15	14	16	12	12	13	27	29	28	28	26	16	19	19	15	14
Germany	14	17	15	17	18	16	10	10	13	14	24	25	25	21	21	8	13	14	18	20
Ireland	17	25	20	21	20	21	26	25	25	22	22	27	27	25	29	11	12	12	10	13
Belgium	25	19	18	22	23	26	21	20	22	25	29	24	21	24	24	17	15	16	22	23
Luxembourg	19	16	21	20	24	28	23	29	27	32	3	2	11	12	15	21	23	24	23	21
Estonia	23	27	27	26	25	23	30	30	28	29	20	19	17	19	20	22	26	26	26	26
France	22	20	22	25	26	15	20	21	19	20	19	23	23	22	19	26	21	20	28	27
Lithuania	32	28	29	29	29	25	18	18	21	23	32	28	29	29	30	37	34	33	31	33
Spain	29	30	30	30	31	35	35	36	33	31	36	35	32	33	33	28	29	30	29	30
Portugal	30	29	31	33	32	31	29	31	31	27	33	30	35	37	36	30	31	31	35	32
Czech R.	31	31	32	32	33	38	36	34	36	38	26	26	26	26	31	33	33	34	37	34
Slovenia	37	39	36	34	34	32	28	26	26	26	43	43	40	40	38	39	41	35	36	35
Latvia	33	34	33	35	35	33	32	33	34	34	28	32	33	32	32	40	37	39	41	39
Poland	39	38	38	37	36	36	31	27	32	33	37	36	36	39	37	50	49	51	39	37
Italy	41	36	34	39	41	46	42	40	42	42	50	46	44	45	41	31	30	29	30	36

Country	WDCR					Knowledge					Technology					Future readiness				
	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018	2014	2015	2016	2017	2018
Bulgaria	53	54	47	45	43	47	45	38	41	41	45	42	38	42	42	59	59	58	57	55
Croatia	45	46	44	48	44	49	46	45	50	43	44	41	43	47	49	47	52	50	56	54
Hungary	36	44	42	44	46	42	44	43	48	48	34	39	37	38	40	36	47	45	55	58
Romania	54	51	49	54	47	56	50	48	47	45	51	45	46	46	44	56	57	57	59	57
Slovakia	40	43	41	43	50	40	43	41	43	49	35	40	41	43	47	43	44	43	46	53
Greece	48	40	45	50	53	44	34	46	51	51	52	51	52	52	51	42	36	36	47	46
Cyprus	-	-	-	53	54	-	-	-	46	55	-	-	-	54	56	-	-	-	54	44

Source: International Institute for Management Development, Competitiveness Centre, IMD World Digital Competitiveness Ranking 2018

The World Digital Competitiveness Ranking ranks Romania 47th among the 63 countries it takes into account. Our country has improved its position in the rankings, climbing seven places in the last five years. Romania is better ranked on the criterion of knowledge (45th place) and the technology criterion (44th place) and a weaker position on the future readiness (57th place), respectively.

5. Highlights of digital society

The countries [3] that rank first in the previous charts have taken steps to move towards a digital society 15-20 years ago, have permanently had their citizens as allies in the process, have approached at least two digital channels, have prioritized digitizing public services, hence the impetus for business digitization, the latter being interested in adopting digitization through economic advantages, regulations and transparency. Here are some experiences of well-positioned states in previous rankings.

Denmark

2006 - The electronic passport (contains an information chip) and the digital photograph are introduced;

2007 – The www.borger.dk online portal is launched, containing information about public institutions and digital services offered;

2008 - The portal is upgraded, with the introduction of a page dedicated to citizens and the history of their relationship with the state;

2009 - An application that allows teachers to disseminate digitization-related knowledge through online training is launched;

2010 - Digital signature is introduced to provide fast and secure access to a wide range of public and private solutions, including e-banking, cadastre, insurance and pension funds (70% of the Danish population uses digital signature);

2011 - Technology that allows companies to send electronic invoices via the Internet in a secure way is launched;

2012 - The mobile version of this application is introduced;

2011-2015 - Introducing a service that facilitates the receipt of private and government emails in a single digital box.

Estonia

- Is an example of digital democracy and e-government, because 95% of tax returns are filed electronically via the e-Tax application, 95% of medicines are bought with a digital recipe (2015), 30% of votes are online, at European, national and local levels;

- Digital banking is used over 50%;

- A unique portal containing central and local government digital services in Estonia has been launched. It can be accessed using an e-ID/mobile ID, or alternatively through bank authentication elements;

- Government meetings are held online through a dedicated portal (the Estonian Government was the first in the world to prepare government meetings in the online environment, making decision-making transparent, reducing the duration of a meeting from 4-5 hours to 30-90 minutes and lowering costs);

- Since 2000, an application (the X-road Concept) has permitted the secure exchange of data between public and private computer systems, while also allowing each person to access a number of public registers (www.eesti.ee), the connection being made in the e-ID or mobile phone number base, which the citizens have the opportunity to review, and correct their own data in the registers;

- In 2003, the e-School application, which allows communication between students, teachers, parents and the school administration, starts functioning;

- In 2014, the e-Residency application/portal is established, which allows the digital signing of contracts, managing the company online, the relationship with banks and tax bodies.

Switzerland

It followed Estonia's example, as a model for digitization;

1990 - the E-Tax application is implemented;

2002 – Inception of digital identification (e-ID), without the system being generalized (fears about data protection and security);

2003 - Electronic voting is introduced in the Geneva canton (replacing the vote by post), the model being followed by other cantons, and an integrated system for the digital identification of voters being developed;

2007 - Inception of e-Health (patient's online file, development of national health services and information and introduction of the health card in 2010);

2010 – Beginning of Suisse ID (enables electronic identification and digital signature);

2015 - The electronic transport card is introduced;

The uPort concept is introduced - a decentralized identity concept based on "blockchain" technology that allows the transmission of credentials, signing online transactions in a secure environment.

United Kingdom

- The GDS-Government Digital Service exists, dedicated to digital services;

2013 - the Total Mobile App platform is launched, which integrates all data from the relationship with public institutions;

2014 - GOV.UK Verify appears, an application that permits the online verification of citizens' identity;

- Inception of The Red Tape Challenge Website, a portal facilitating maximum transparency on legislative decisions, the audience having 2 weeks to express their opinion, and the institutions, 3 months to comply;

- Introduction of HMRC ("Her Majesty's Revenue and Customs"), which allows for the payment of taxes online;

- Healthtech and EdTech, portals that enable e-health and e-education services;

- ICT disciplines are taught to children from the age of 5;

- Single Business Identifier, an application that provides all relevant information about a company;

- Government Gateway, a portal that allows access to governmental digital services.

Singapore

- Reach portal - for citizen-government communication;

- GWS-X - for data exchange between government agencies;

- Data.gov.sg - for the integration of 8000 databases and the use of 100 applications;

- eCitizen - allows citizens to interact with the public administration;

- Mobile SingPass - allows personal transactions via mobile;

- Citizen connect centers - channels / access points that include e-mail, mobile services, terminals, information points and ensure their overall connectivity;
- eVoice, allows the delivery of services using speech recognition technology;
- Business portal, allows interaction between business and public institutions;
- OBLs, allows licensing;
- Alliance for Corporate Excellence (ACE), a single system that integrates acquisitions, IT and financial aspects;
- Interactive TV, allows the transmission of government information to citizens, and feedback;
- Sing Pass - a common password for all government services;
- OneMap - platform that integrates spatial data (eg transport, schools, parks, sports centers, demographic data visible on the map);
- iEP - dedicated application to develop intellectual property

6. Conclusion

The digital society and new economy are one of the coordinates of the world we live in, and its dynamics seem to eliminate those who disregard it. This paper aims to provide some benchmarks of what this digital economy and society means, through evaluations/classifications/indexes. For this assessment, three rankings are analysed:

- The Digital Economy and Society Index (DESI), calculated by the European Commission, for member states of the European Union;
- The E-Government Development Index (EGDI), calculated by the United Nations for 193 of its member states;
- The World Digital Competitiveness Ranking (WDCR), calculated by a Swiss IMD Institute, for a total of 64 economies.

From analysing international rankings that evaluate this digital economy and society, it follows that the main issues associated with it are included:

- Knowledge, assessed through: skills (talent), training and education, scientific concentration, human capital, digital competences;
- Digital technology, assessed based on: telecommunication infrastructure, internet connectivity, use of internet services, regulatory framework, digital capital stock size, technology framework;
- Future availability, evaluated through factors such as: use of online services, the number of innovative businesses, providing government online services, E-government, e-Health, online services, integration of digital technology, online businesses.

Additionally, based on the analysis of the three indexes, it is clear that Romania occupies low positions in all three rankings.

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INFORMATION SOCIETY IN ROMANIA

Marius Gust¹

Abstract:

The world is changing so fast, and developed countries seem to have entered a global competition in the information society, computer use, mobile phone and other technologies to improve their performance but also to make life easier citizens and increase their comfort, reduce bureaucracy, optimize public spending and increase governance transparency. The paper aims to analyze Romania's position regarding the economy and the digital society, the information society sector of enterprises in the economy, using national indicators, as well as a number of international rankings at the level of the European Union. The paper also aims to investigate the mutations that have taken place in our country in the last decade, to localize the progress made and to highlight areas where the remains behind are very pronounced.

Keywords: *economy and digital society, information economy, e-government, digital competitiveness*

JEL classification: O10, L80

The world is rapidly changing, and the production of information and its use are coordinates of today's world, economy and information society. This paper does not intend to delimit the latter categories: the economy and the information society, but only to investigate the place Romania occupies in the new economy, and to present some of the most significant achievements of countries that hold leading positions in the rankings of the new economy.

For several years the National Institute of Statistics has published a radiography of Romania's information society, which reviews some of its indicators [10].

Table 1. Primary indicators of Romania's information society

Indicators	2010	2011	2015	2016
Number of fixed telephone lines per 1000 inhabitants	209,4	219,3	197,9	191,0
Number of mobile subscribers per 1000 inhabitants	1135,6	1091,6	1071,4	1064,3
Number of internet users per 1000 inhabitants	399,3	440,2	557,6	595,0
Number of broadband internet subscribers per 1000 inhabitants	139,6	153,9	197,7	206,8
% subscribers in total users	34,96	34,96	35,46	34,76

Source: INS, Information Society, 2013, 2018 and author's calculations

If we analyze the equipment at forms the basis of Romania's information society (Table 1), we can see a reduction in the number of fixed telephone lines per 1000 inhabitants, about 10%, and the number of mobile subscribers per 1000 inhabitants, about 6%, a situation explained by the reduction of the number of inhabitants, as well as by reducing the barriers between subscribers of different networks. The number of Internet users increased by around 40% between 2010 and 2016, but the number of broadband Internet subscribers accounts for only 34% of the total number of users, and the figure remains constant over the analysis period.

Table 2. Evolution of the share of enterprises using PC in total active enterprises in each domain (%)

Sector	2010	2011	2015	2016
Total	83,5	81,5	87,3	87,0
Industry and construction	79,6	81,8	87,4	88,0
Commerce	85,2	80,1	83,8	87,7
Services	87,2	82,1	87,6	85,2
Banking and insurance companies	100,0	100,0	100,0	100,0

Source: INS, Information Society, 2013, 2018

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Although more than 85% of enterprises rely on computers to do business (Table 2), about 15% do not (Table 2). By business sector, computer usage is indispensable in the financial, and below average in the services sector, but statistics make no mention of agriculture. Additionally, endowment with such equipment seems to have reached its limit, and even in the last year we witness a slight decrease in the services sector.

Businesses that are almost entirely reliant on computers also have an Internet connection (Table 3). Lower average values are located in trade and services, sectors that experience even decline in 2016 in regards to Internet connections.

Table 3. Evolution of the share of enterprises with Internet connection in total enterprises active in each domain (%)

Sector	2010	2011	2015	2016
Total	78,5	79,3	86,5	86,1
Industry and construction	75,3	79,9	85,4	86,7
Commerce	79,2	77,3	82,7	81,7
Services	82,5	80,2	85,3	84,3
Banking and insurance companies	100,0	100,0	100,0	100,0

Source: INS, Information Society, 2013, 2018

But the staff in enterprises using the computer is a third of the total - Table 4 - (value that does not see radical changes) and the same staff also used the Internet at work (here there is more noticeable growth) - Table 5.

Table 4. Share of personnel using computers in total personnel in each domain (%)

Sector	2010	2011	2015	2016
Total	33,9	30,6	32,7	35,6
Industry and construction	21,4	21,4	23,8	25,2
Commerce	37,7	40,8	42,8	42,9
Services	48,3	40,6	43,0	46,1
Banking and insurance companies	98,4	99,1	94,3	99,6

Source: INS, Information Society, 2013, 2018

Table 5. Share of personnel using computers with an Internet connection in total personnel in each domain (%)

Sector	2010	2011	2015	2016
Total	28,8	26,5	28,7	32,3
Industry and construction	18,2	18,1	20,1	22,2
Commerce	29,5	34,7	36,4	38,3
Services	43,7	36,5	38,0	43,3
Banking and insurance companies	76,8	86,9	87,4	92,3

Source: INS, Information Society, 2013, 2018

Computers are used by almost all bank and insurance staff, and about 45% of staff in trade and services, although computer availability is below average, and is slightly below average in industry and construction due to activity specificity. Roughly the same numbers are recorded regarding staff using computers connected to the Internet (Table 5), although slightly smaller because not all businesses have an Internet connection. We can also see that in 2016 about 8% of financial sector computers lacked an Internet connection (Table 5).

Table 6. Investments in hardware products

Indicators	2010	2011	2015	2016
Total (mil. lei)	772,6	548	684,5	873,7
GDP Romania (mil. lei)	533.900	565.100	712.800	761.500
% Investments in hardware products (mil. lei) in GDP	0,14	0,10	0,10	0,11
Industry and construction (per 1000 lei total net investments)	-	-	6,9	8,4
Commerce (per 1000 lei total net investments)	-	-	15,5	22,5
Services (per 1000 lei total net investments)	-	-	20,0	21,3
Banking and insurance companies (per 1000 lei total net investments)	-	-	326,3	204,9

Source: INS, Information Society, 2018 and author's calculations

Business investment in hardware products is negligible and shrinking, a sign of either a shortage of financial resources, or persisting unawareness of their importance. The most notable investments in hardware products are in the financial sector, although in 2016 this drops by almost a third. In the other sectors, investments have absolutely negligible values.

Between 2010 and 2016, the share of businesses using a mobile Internet connection increases, and the number of businesses that have a website from one in three in nearly one in two increases, but Internet sales continue to be low, though nearly triple in six years.

Table 7. Other indicators of the information society and enterprises in Romania

Indicators	2010	2011	2015	2016
Share of enterprises that have used a mobile connection to connect to the Internet per total enterprises active in the sector	19,4	25,7	47,6	51,4
Share of enterprises with their own website per total enterprises active in the sector (%)	33,8	35,8	46,2	45,4
Share of Internet turnover per total turnover of enterprises with economic activity in the sector (%)	3,0	4,2	7,4	8,4

Source: INS, Information Society, 2013, 2018 and author's calculations

But what is the ICT sector's status in Romania. First of all, it should be noted that the ICT sector comprises the activities of: manufacturing of electronic components, computers and peripheral equipment, communications equipment, consumer electronics and magnetic media, optical recording equipment; editing of software products; telecommunications; information technology services; web portal activities, data processing, web site administration and related activities; repair of computers and communication equipment according to CAEN Rev. 2 classification.

Table 8. Evolution of the Information and Communication Technology (ICT) sector

Indicators	2010	2011	2015	2016
Number of enterprises	15.570	14.595	18.957,0	20.294,0
Average number of employees (per 1000 persons)	120,5	128,0	162,9	173,2
Turnover of enterprises (mil. lei)	40.474	40.113	47.766	52.118
Turnover share of ICT enterprises per total turnover of enterprises with economic activity (%)	4,6	4,1	4,2	4,3
Turnover from software publishing and information technology services activities (mil. lei)	9.408,1	9.958,5	18.482,7	20.528,6
Turnover share of software publishing and IT service activities per total turnover (%)	1,1	1,0	1,6	1,7
Turnover share in software publishing and IT service activities in IT per total turnover of ICT enterprises (%)	23,2	24,8	38,7	39,4
Turnover share of telecommunications enterprises per total turnover				

Indicators	2010	2011	2015	2016
of ICT enterprises (%)	47,3	47,2	42,0	41,2
Gross value added (mil. lei)	14.107	14.320	20.337	22.598
Personnel expenses (mil. lei)	5.865	6.671	11.098	13.205
Gross operating surplus (mil. lei)	8.243	5.236	9.239	9.393
Realized investments (mil. lei)	2.600	3.016	3.140	3.813
Gross value added/turnover (%)	35	36	43	43
Personnel expenses/turnover (%)	14	17	23	25
Gross operating surplus/turnover (%)	20	13	19	18
Realized investments/turnover (%)	6	8	7	7

Source: INS, Information Society, 2013, 2018

In Romania, the ICT sector comprises about 20,000 businesses, with approximately 170 employees and a turnover of 52 billion lei, but which represent only 4% of the total turnover of Romanian enterprises, a percentage slowly decreasing.

In fact, the enterprises producing software and IT services make a turnover of about 20 billion lei, representing less than 2% of the turnover of Romanian enterprises, the percentage increasing by about 50% between 2010 and 2016, or representing approximately 40% turnover of ICT firms. It is worth mentioning that most of the turnover in the ICT sector comes from telecommunication companies, but these firms register a decrease in their share of ICT companies' turnover, from 47% to 41%.

ICT businesses are quite efficient, their added value increases from about one third to about 50%, their employees are well paid, a quarter of the turnover is used for salaries (the share of wages in turnover, between 2010 and 2016, almost doubles). Gross operating surplus represents almost one-fifth of turnover, and investment accounts for around 7% of turnover more than 33% of value added.

Table 9. Information Society in the Educational System in Romania

Indicators	2010		2011		2015		2016	
	Total	of which HE	Total	of which HE	Total	of which HE	Total	of which HE
Number of computers per 100 students	10,1	15,6	10,7	18,9	10,5	19,2	11,9	20,1
Number of Internet connections per 100 students	7,3	14,4	8,1	17,7	11,1	18,3	10,5	19,1
Share of education institutions with Internet connections per total number of educational institutions (%)	100	100	100	100	100	100	100	100

HE=higher education

Source: INS, Information Society, 2013, 2018

Table 10. Information Society in România households

Indicators	2010	2011	2015	2016
Average number of households with landline per 100 households	35,2	33,1	24,8	23,3
The average number of households with PCs per 100 households	37,2	40,0	47,2	49,9
Share of communications expenditure per total household consumption expenditure (%)	5,0	4,7	5	5,2

Source: INS, Information Society, 2013, 2018

Educational units own approximately 12 computers per 100 students, and almost double the value in higher education, growing by about 33% between 2010 and 2016. Most computers are connected to the Internet, and all school units have an Internet connection, although the numbers may not be reliable.

Households with landlines drop from just over 33% to less than a quarter between 2010 and 2016, but in contrast PC ownership increases to 50%. The share of communications expenditure remains relatively constant at about 5%, but telecommunication costs have declined sharply in recent years.

Table 11. The share of enterprises that used the Internet to interact with public authorities and the purpose of interaction (%)

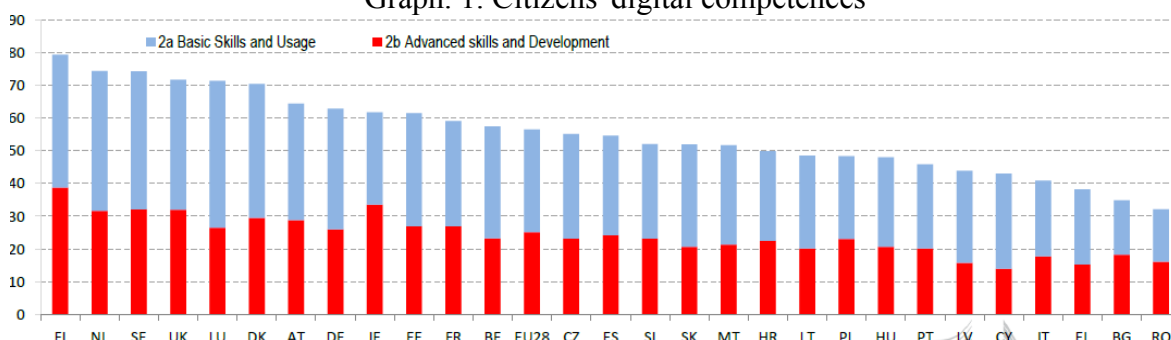
Indicators	2010	2016
Interacting with authorities	-	73,5
Information gathering	47,2	69,3
Obtaining forms	46,2	67,8
Returning forms	38,8	64,7
Performing administrative procedures	29,9	63,5

Source: INS, Information Society, 2013, 2018

Romanian statistics are very optimistic when talking about the interaction of businesses with public authorities through the Internet, moreover as interaction goals almost double their values. Specifically, 75% of businesses interact with public authorities, gather information (70%), obtain forms (67%), return completed forms (64%) and perform administrative procedures (64%) via the Internet.

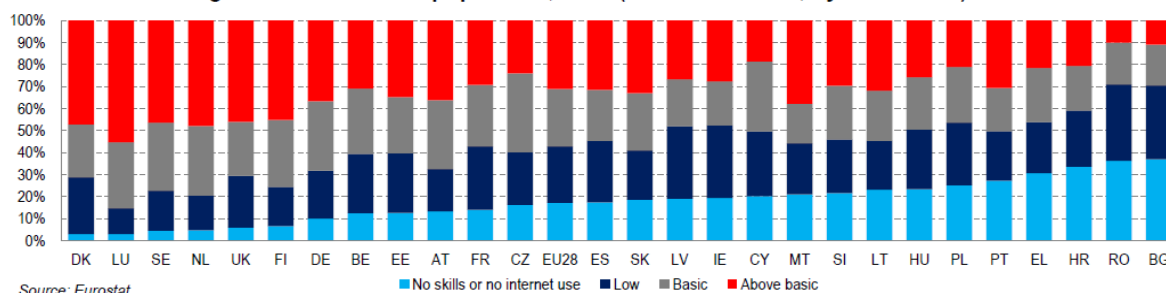
More details about the extent of the digital society in Romania can be found in the European Commission Report on The Digital Economy and Society Index 2018 [7].

Graph. 1. Citizens' digital competences



Graph. 2.

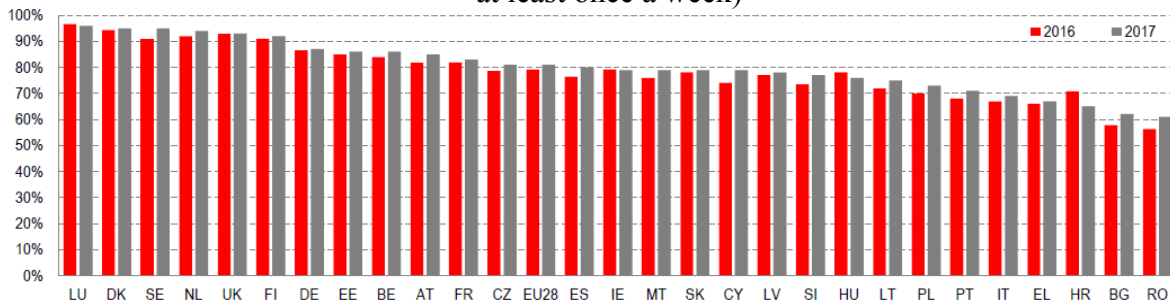
Digital skills of the EU population, 2017 (% of individuals, by skills level)**



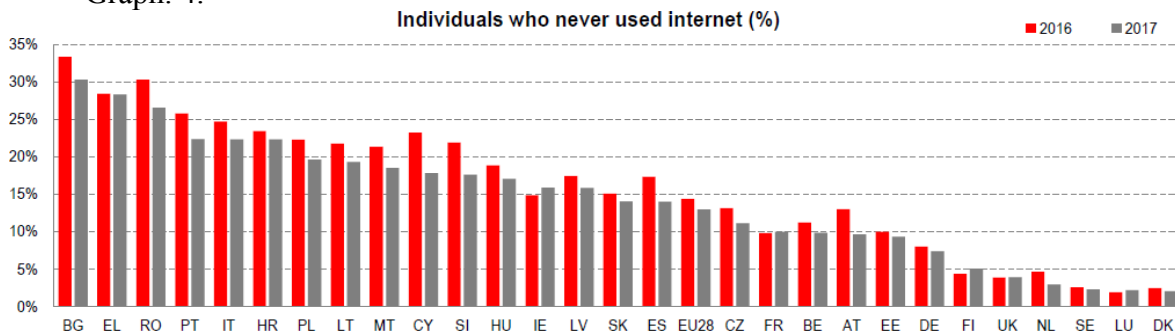
Source: Eurostat

Romania ranks last in the European Union in regards to citizens' digital skills. Thus, (Graph 1), only 30% of Romanians have digital skills, half of which can only use computers, while the rest also possess development skills. Finland is at the forefront of digital skills, about 80%, half of whom also have development skills. More than 40% of Romanians have no digital skills, and 30% have only basic skills (Graph 2).

Graph. 3. Regular Internet use in the EU (% of individuals using the internet at least once a week)

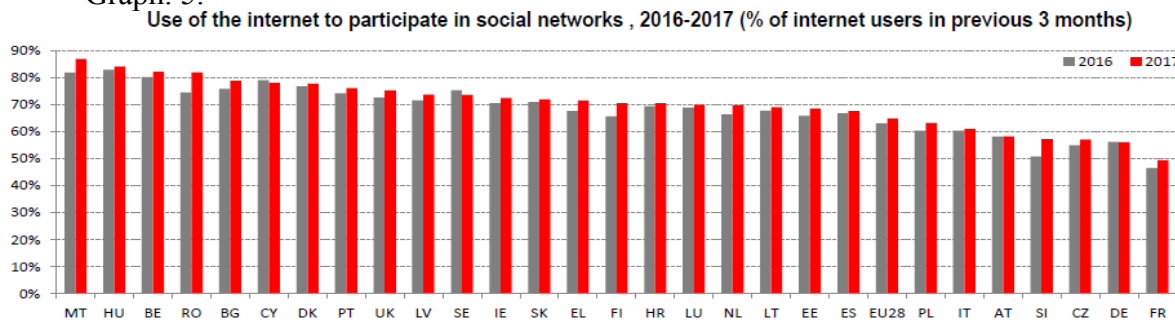


Graph. 4.

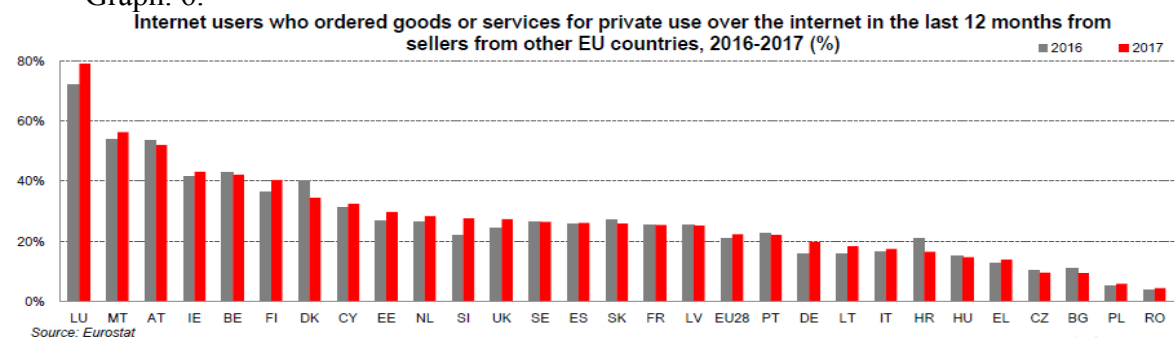


Romania is again among the last in regards to Internet usage (Graph 3), as only 60% of Romanians use, compared to 95% in Luxembourg, Denmark or Sweden. Romania, together with Bulgaria and Greece, are among the first in regards to number of people who have never used the Internet, between 25 and 30% of their population.

Graph. 5.



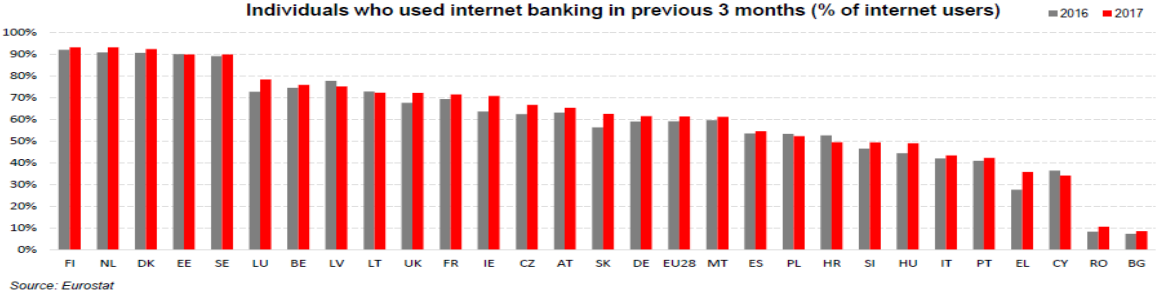
Graph. 6.



Of the 60% who use the Internet, 50% used it to participate in social networks (graph 5), while the number of those who used it to purchase goods and services is absolutely negligible (graph 6), Romania being last in this regard, compared to 80% in Luxembourg, and those who

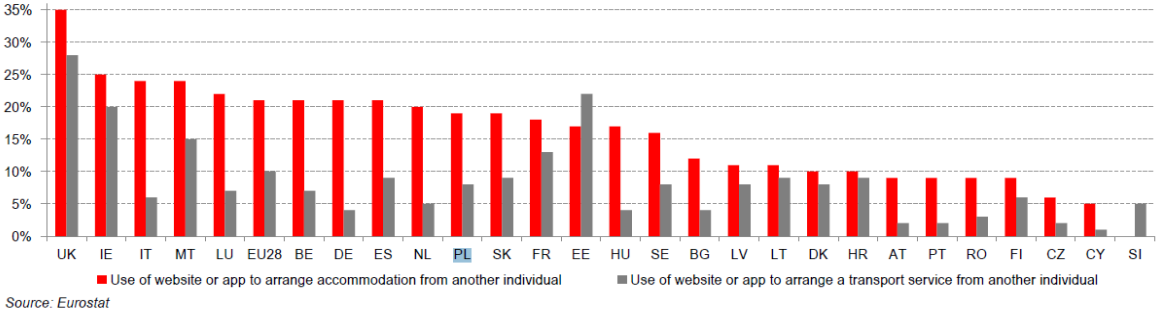
used it for banking (chart 7) account for about 5%, compared to 90% Finnish, Dutch, Danish, Estonian or Swedish people. But slightly more Romanians seem to contract accommodation (9%) and transport services (3%) via the Internet (Chart 8), far behind UK residents, where 35% of residents organize their holidays and 28% ensure their transport online.

Graph. 7.



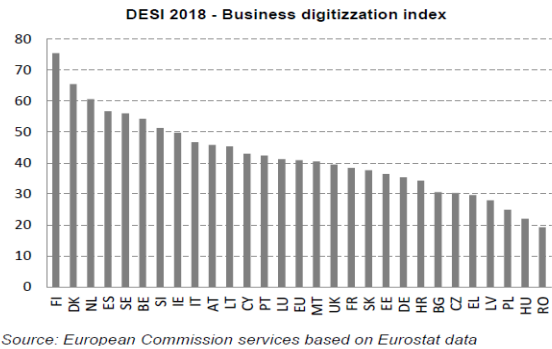
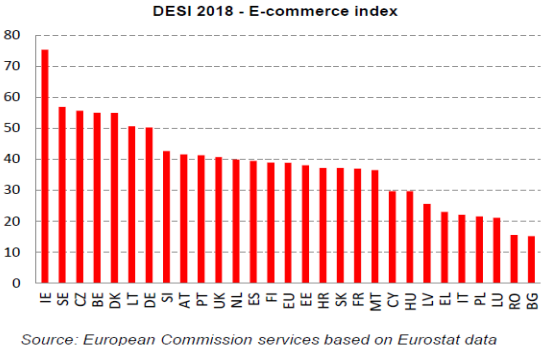
Graph. 8.

Use of websites or apps to arrange transport or accommodation from other individuals, previous 12 months, 2017 (% internet users)*



The use of electronic services is not preferred even by companies in our country. Thus, Graph 9 shows that the E-Commerce Index ranks Romania, along with Bulgaria, 15%, last places in the EU-20, compared to Ireland’s 75%. Romania ranks last on the Business Digitization Index as well, at about 20%, compared to 75% in Finland.

Graph. 9.



Adjacent to the DESI index, a Digital Intensity Index (ICI) is also calculated at EU level. It looks at enterprises and measures enterprise digitization through 12 indicators:

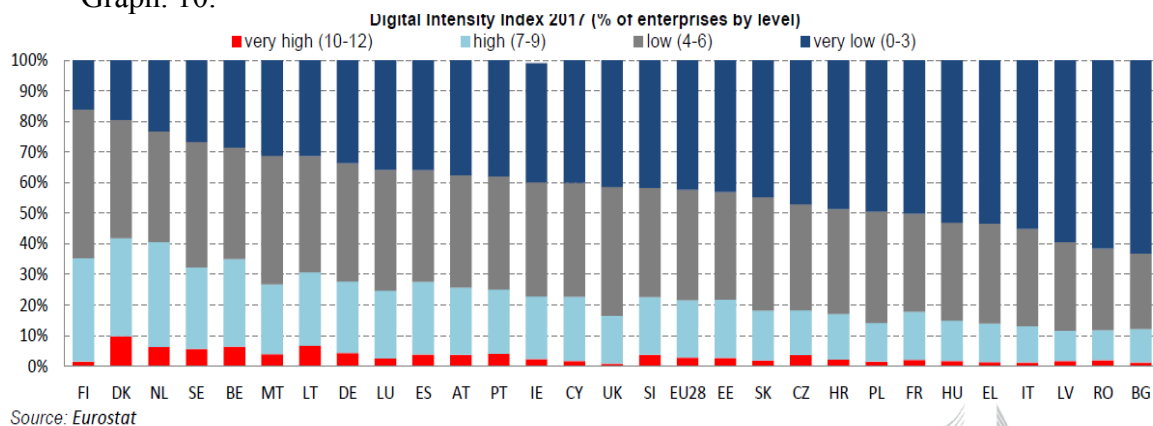
- Internet for at least 50% of employees;
- calls for ICT specialists;
- the existence of a fast broadband connection (30 Mbps or more);
- the existence of mobile Internet devices for at least 20% of employees;
- the existence of a web page;

- Web page with sophisticated features;
- use of social media programs;
- Internet advertising payments;
- Purchasing advanced cloud computing services;
- sending electronic invoices;
- the existence of eCommerce services (turnover over 1% of total turnover);
- the existence of business-to-consumer (B2C) business relationships (turnover to consumers over 10% of total web sales).

The index takes values between 0, the weakest performance, and 12, the maximum level.

In Romania, about 90% of enterprises get index values below 6 and only slightly more than 10% of enterprises receive grades higher than 6. At the opposite end are enterprises in Finland, Denmark, the Netherlands, where around 40% of enterprises earn scores of over 6.

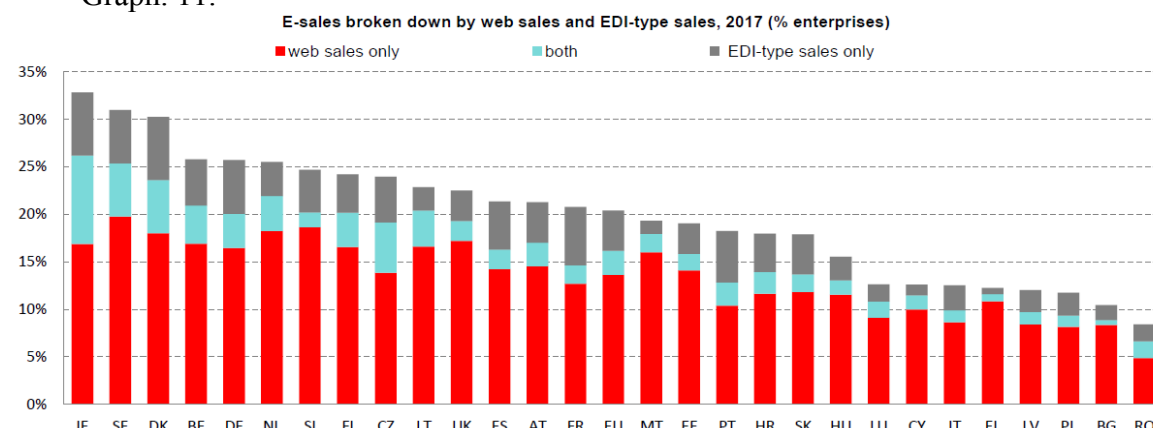
Graph. 10.



Source: Eurostat

Our country ranking last in terms of business digitization can be explained by the fact that less than 10% of enterprises use electronic sales (graph 11), our country being last among the EU-28 countries compared Ireland's 35%. Moreover, less than 5% is sales on the web, the rest being EDI (Electronic Data Interchange), the exchange of documents in a standard electronic format between business partners.

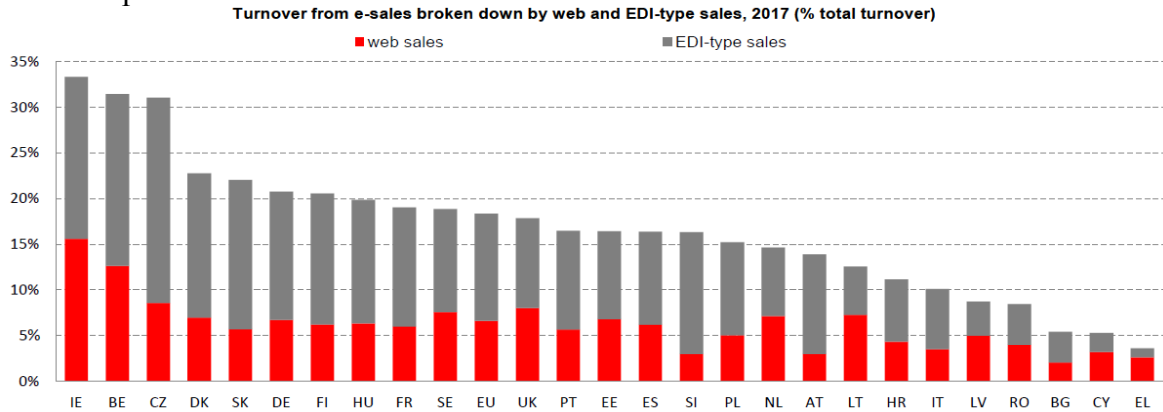
Graph. 11.



Source: Eurostat

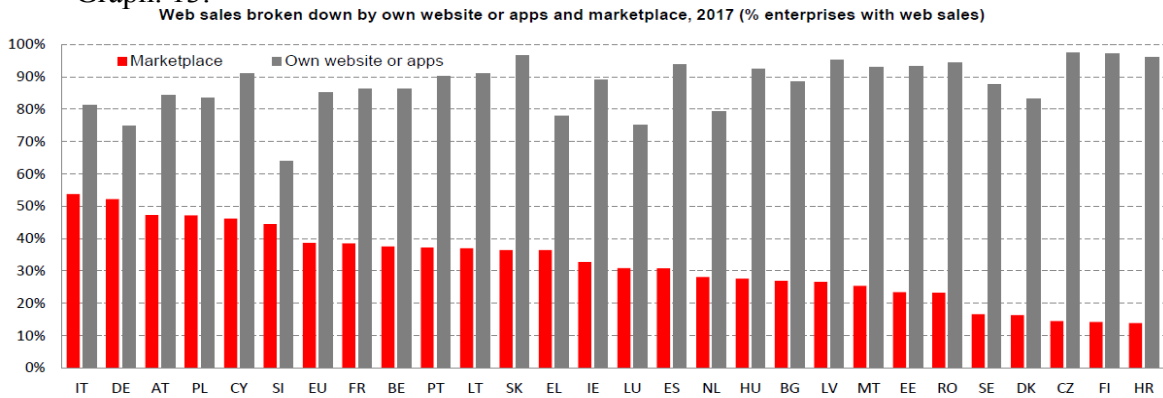
Graph 12 reveals that electronic sales as a percentage of total turnover represent 8-9%, of which online sales only 4%, the rest comprising only the electronic exchange of sales documents. In fact, across the EU, turnover from online trading is low, with only Ireland and Belgium exceeding 10%.

Graph. 12.

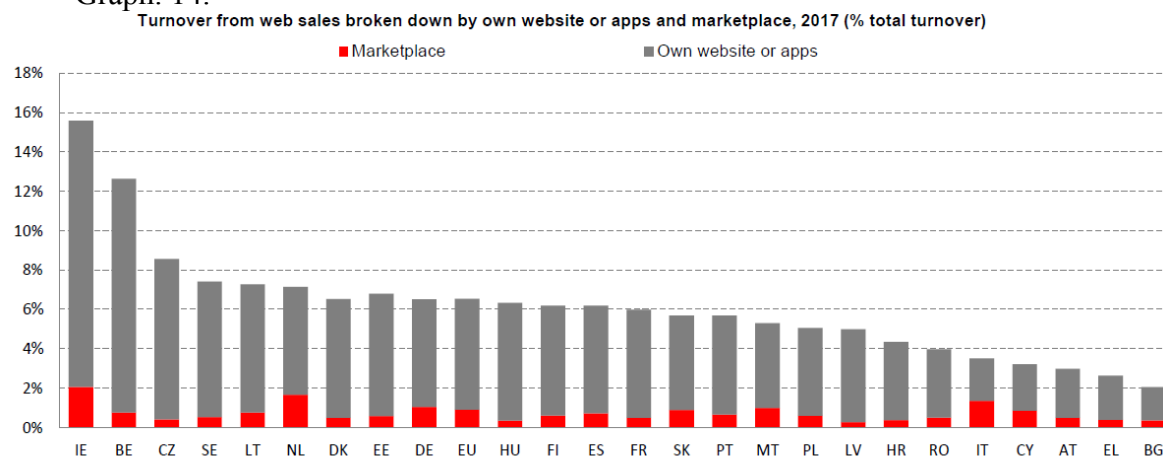


Most of the businesses that make online sales in Romania do so through "marketplaces", third-party e-commerce websites such as Amazon, e-Bay, internationally, or the well-known e-mag, in Romania (Graph 13), and just over 20% of businesses with online sales, do so through their own e-commerce sites,

Graph. 13.



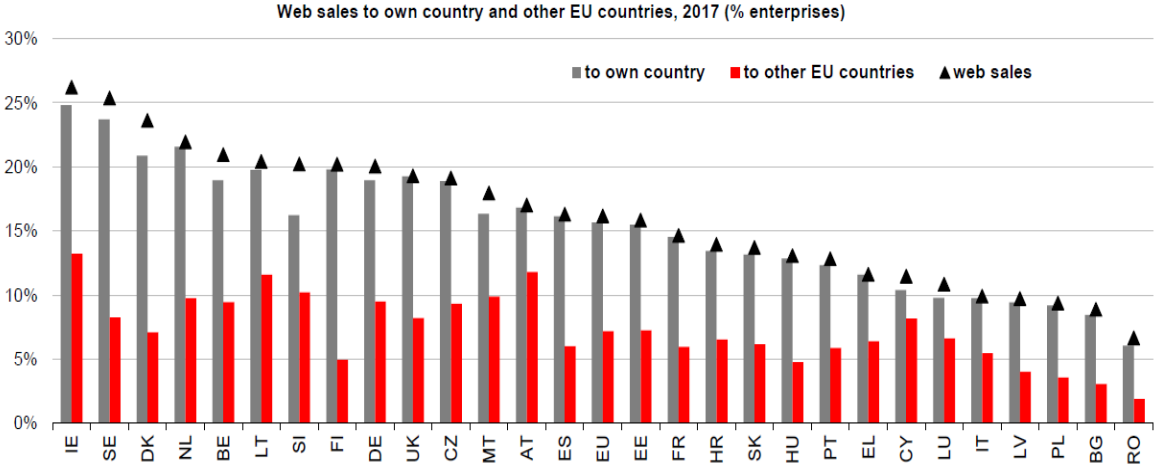
Graph. 14.



But the above mentioned percentages come from intentions, as for all intents and purposes, the two electronic sales methods, which account for about 4% of Romanian sales, come from about 0.5% sales on their own sites and the difference in sales through websites marketplace (chart 14).

Also, only 2% of Romanian companies want to sell outside the country, the rest that are interested in online sales are targeting buyers in Romania (Graph 15).

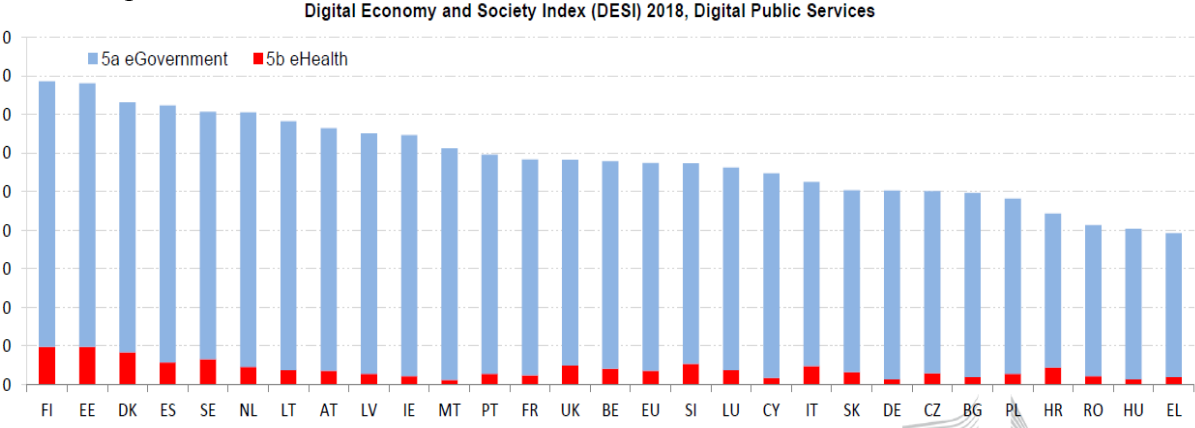
Graph. 15.



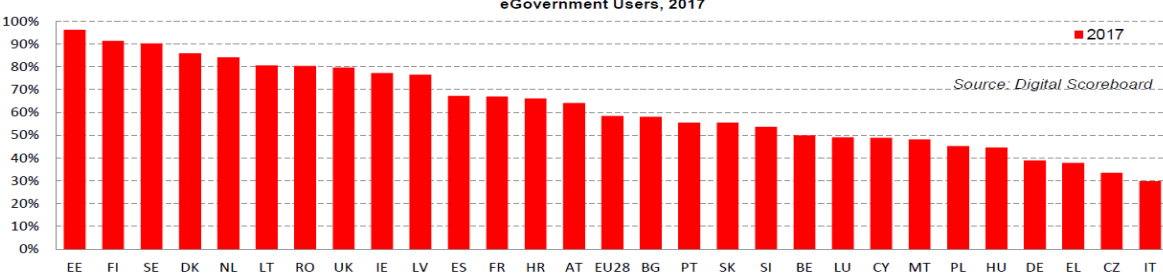
Source: Eurostat

About 40% is Romania's score in regards to the digitization of public services, but this stems mainly from the e-Government sub-chapter, and only a slight percent from e-Health (graph 16). Even though the score is high, however, Romania's performance is very low, compared with Finland, which is about 90%.

Graph. 16.

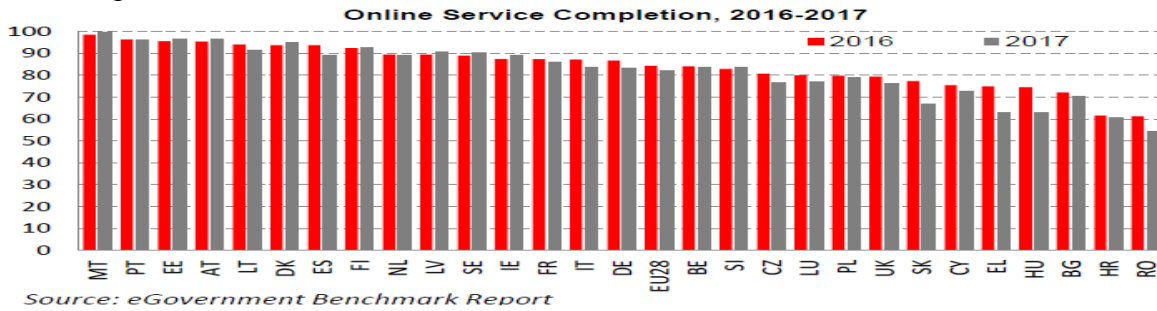


Graph. 17.



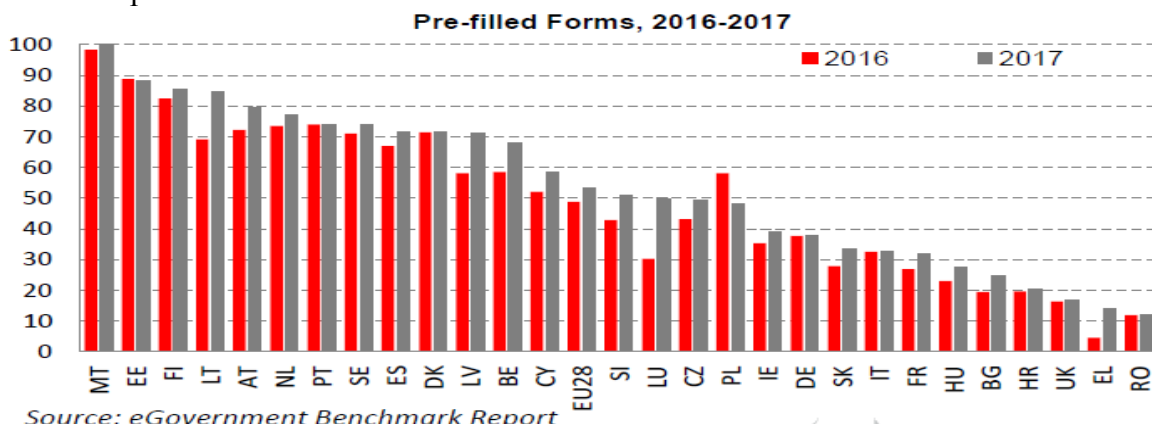
Romanian e-Government users make up about 80% (Chart 17), the only point in which Romania ranks among the top 10 EU-28 states (8th place).

Graph. 18.



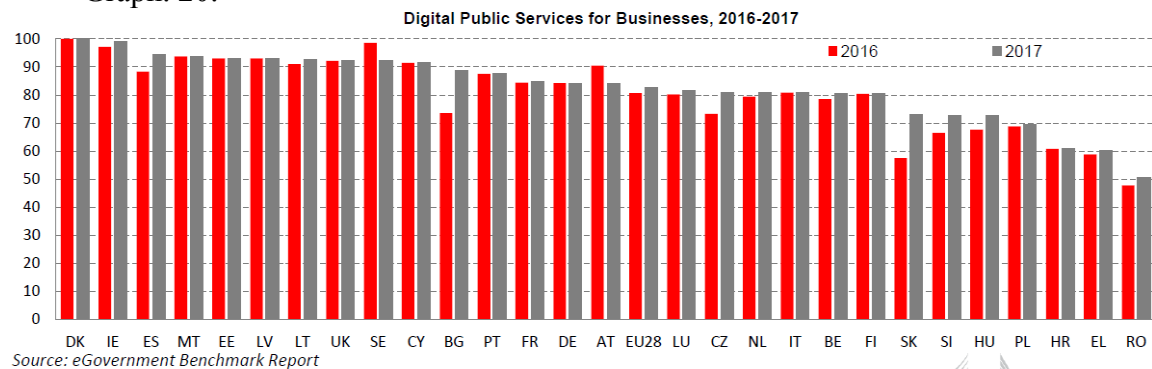
But when we break down the previous indicator into its components, we notice that Romania is last, with just over 50% of its public documents filled in online (value that is decreasing - graph 18), while in many EU-28 states, where about 100% are.

Graph. 19.



Romania achieves the same place and a value of about 10% when it comes to the electronic completion of predefined documents (graph 19), and 50% of businesses use digital public services (graph 20).

Graph. 20.



Conclusion

If we were to overview the information society in Romania, it is noteworthy that:

- the number of Internet users increases by around 40% between 2010 and 2016, but the number of broadband Internet subscribers accounts for only 34% of all users;
- Although more than 85% of enterprises use computers in their business activities, about 15% still do not;
- staff in enterprises that use computers represent one-third of the total, and the same staff also use the Internet at work;

- enterprises' investments in hardware are negligible and are diminishing, a sign of either insufficient financial resources or persisting unawareness of their importance;
- In Romania, the ICT sector comprises about 20 thousand enterprises, with approximately 170 employees and a turnover of 52 billion lei, only 4% of the total turnover of Romanian enterprises, a percentage slowly decreasing. In fact, enterprises producing software and providing IT services make a turnover of about 20 billion lei, representing less than 2% of the turnover of Romanian enterprises;
- ICT businesses are quite efficient, their added value increasing from roughly one third to about 50%, their employees being well paid, a quarter of the turnover being used for salaries (the share of wages in turnover, between 2010 and 2016, almost doubles). Gross operating surplus represents almost one-fifth of turnover, and investment accounts for around 7% of turnover, more than 33% of value added;
- Education units own about 12 computers per 100 students, and almost double the value in higher education, increasing by about 33% between 2010 and 2016;
- 50% of households own PCs, but the share of communications expenditures remains relatively constant at about 5%;
- Romanian statistics are very optimistic when talking about the online interaction between enterprises and public authorities. Specifically, 75% of businesses interact with public authorities via the Internet;
- But Romania is almost always last when compared with other EU-28 member states.

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PERFORMANCE AUDIT AND ITS ROLE IN MAKING PUBLIC INSTITUTIONS MORE EFFECTIVE

*Ionela Popa*¹

Abstract

The attributions of the Court of Auditors regarding a performance audit are provided in Article 21 Paragraph (2) and Article 28 of Law no. 94/1992, reissued. According to these provisions, the Court of Auditors:

- *deals with the performance audit of using the financial resources of the state and of the public sector;*
- *performs an independent assessment of the economic efficiency and effectiveness of a public entity, programme, project, process or activity in using public resources allocated to achieve the objectives set.*

The paper aims to identify the peculiarities of audit missions and their effects on public institutions.

Jel Classification: H80, H83

The creation and efficient use of public funds is a prerequisite for the success of Romania's ongoing economic and financial reforms and sustainable development. Budget funds allocated to public entities are not so comfortable as to allow them to spend such funds without any restrictions. This should be a call for prudent and thoughtful deeds, for the need to make great efforts to find the most appropriate ways to use the available resources. An essential contribution in the protection of financial resources, in promoting the responsibilities of entities involved in the creation and use of public funds, in promoting the order and the discipline needed for the management of public money, in the enhancement and development of the government's public and private patrimony rests with a public audit.

The main purpose of an audit carried out in public entities is the creation and use of their funds. A public audit is an independent review, a professional responsible opinion, a critical review of support and improvement, a credibility asset brought to the information on the use of public funds.

Internationally, the institutionalized framework regarding the external control and audit of public finance is provided by the International Organization of Supreme Audit Institutions (INTOSAI). It is for more than 50 years that INTOSAI has provided an institutionalized framework for promoting the exchange of knowledge and expertise, improving public external audit worldwide and has thereby contributed in strengthening the image, skills and prestige of various SAI's at national level and beyond.

According to the INTOSAI Audit Standards, a performance audit aims at independently assessing or examining the extent to which a programme, project, process, activity or public entity works economically, efficiently and effectively.

The Romanian Court of Auditors is the supreme external financial control institution on how to create, manage and use the financial resources of the government and of the public sector. The Court of Auditors also exerts jurisdictional duties.

The following types of activities are organized here:

1. Financial audit. The overall objective of a financial audit performed by the Court of Auditors in public institutions is to get reasonable assurance on: how to manage the public and private property of the government and of administrative and territorial units as well as the execution of revenue and expenditure budgets by an audited entity if they are consistent with the purpose, objectives and attributions provided in the normative acts by which the audited entity was set up and comply with the principles of lawfulness, regularity, economy, efficiency and effectiveness; audited financial statements, if prepared by an entity in accordance with the financial reporting framework applicable in Romania, comply with the

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principles of lawfulness and regularity and provide a true fair view of one's financial status, financial performance and other information regarding an entity's business and providing an opinion in this respect.

2. Conformity audit (control) consists in checking whether the activities of public entities are in accordance with the laws, regulations and decisions of the authorities governing the performance of such entities.

It implies checking how an audited entity complies with the laws, other regulatory acts, rules, regulations, policy rules, codes laid down or terms agreed upon, etc.

3. Performance audit

The attributions of the Court of Auditors on carrying out a performance audit are provided in Article 21 Paragraph (2) and Article 28 of Law no.94/1992 reissued. According to such provisions, the Court of Auditors: carries out performance audits of using the financial resources of the government and of the public sector; performs an independent assessment of the economy, efficiency and effectiveness by which a public entity, programme, project, process or activity uses the public resources allocated to achieve the objectives set.

A performance audit is the audit of one's good financial management, aiming at assessing the savings made while managing the funds allocated in order to accomplish an audited programme/project/process, namely determining the extent to which management principles and practices ensure the minimization of the costs of allocated resources, without compromising the successful achievement of objectives; the efficiency of using human, material, financial resources, including the examination of information systems on performance indicators, of internal control systems and procedures followed by audited entities, namely maximizing the results of a programme/project/process/activities in relation to the resources used and determining the ratio between the results obtained and the cost of resources used to obtain them; the effectiveness of using public funds, that is deciding the achievement level of the declared objectives in a programme/project/process/activity, as well as comparing the actual impact with the desired impact.

Measuring performance through the "3E's" - economy, efficiency, effectiveness - is a must to entity management at all levels in order to have a clear picture of the performance of a programme/project/process/activity.

The concepts of a performance audit are defined as follows:

Economy – it consists in minimizing the costs of resources allocated in order to achieve the expected results of a programme/project/process/activity or of a public entity, while maintaining the appropriate quality of such results. The economy concept refers to an entity's ability to minimize the cost of an activity without affecting its quality.

An economy audit can provide answers to questions such as: Do the procedures chosen for an entity's acquisition of goods and services represent the most economical way of using public funds? Have human, financial or material resources been used economically? Has the management acted in accordance with the policies to achieve the performance goals and targets set?

Efficiency – it consists in maximizing the results of a programme/project/process/activity or of a public entity in relation to the resources used to obtain them. The efficiency concept refers to an entity's ability to execute a programme/project/process or activity with maximum efficiency while using limited resources.

An efficiency audit can provide answers to questions such as: Have human, financial or other resources been used efficiently? Have an entity's programmes, projects, processes, activities been managed, organized, executed, monitored and assessed efficiently? Do entities' activities meet the objectives and requirements set? Are public services good quality, citizen-oriented and timely?

Effectiveness – it consists in the level of achieving the objectives set for each of the programmes/projects/processes or activities and the relationship between a projected effect and an actual result of a certain programme/project/process or activity. The effectiveness concept assesses the extent to which goals and objectives have been achieved, that is the extent to which a programme, project, process or activity meets its goals and objectives.

An effectiveness audit answers questions such as: Have the management policy objectives been achieved via the means used, namely have the results set been achieved? Have the means used and the results obtained been in line with the objectives of the management policy? Is the planned impact a direct result of the management policy and not due to other circumstances?

A performance audit can be executed both in the end and during the course of the projects, programmes, processes or activities. A performance audit is conducted in accordance with the auditing standards developed by the Court of Auditors, based on the INTOSAI auditing standards and best practices in the field and on the professional judgment of external public auditors, and is completed by developing an audit report.

The findings and recommendations made in an audit report are aimed at reducing costs, increasing the efficiency of using resources and achieving the objectives proposed in a programme/project/process/activity/entity being audited.

A performance audit allows the Court of Auditors to provide the Parliament, the government, audited entities, institutions concerned and taxpayers with reports on how to use public funds, including the Court of Auditors' recommendations to increase economy, efficiency and effectiveness while using them.

References:

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2. Law no.94/1992 on the organization and operation of the Court of Auditors, reissued, with further amendments and additions;
3. Law no.500/11.07.2002 on public finance, issued in Official Gazette no.597/12.08.2002, with further amendments and additions.

SECTION: EUROPEAN LAW AND PUBLIC POLICIES

CONSIDERATIONS ON THE CROSS-BORDER POSTING IN THE EUROPEAN UNION

Iuliana, Cebuc¹

Abstract:

The freedom to provide services on the territory of Member States is one of the basic principles of the Single European Market provided for under Art. 56 TFEU, which includes the right of companies to provide services on the territory of another Member State and to temporarily post its employees to the territory of that Member State for that purpose. The implementation and enforcement of this principle is a constant concern of the Union through action taken at the European level aiming at achieving a balance between the provision of fair competition conditions to businesses and the maintenance of an adequate level of protection for cross-border posted workers, in compliance with the application of the terms and conditions of employment provided for by national law.

At European level, the rules on the cross-border posting of employees within the EU and the rights they enjoy during the posting period, including the laws on labour relations, are covered by Directive 96/71 / EC on the posting of workers in the framework of the provision of services, as last amended by Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018.

Key words : cross-border posting of workers, companies, the protection of posted workers

JEL classification : K31, K33

1. The posting as a contemporary social and economic reality

The establishment and the development of the European Single Market has allowed the setting up of a favourable and dynamic environment enabling the freedom to provide services within the territory of the Member States. The freedom to provide cross-border services has determined an increasing number of companies to temporarily postpone their own employees to the territory of a Member State, other than the State in which they are employed, so that they provide services which are contracted by their employer, hence the concept of cross-border posting.

Posting is a reality with a social and economic impact that creates benefits for all the actors involved, the importance of posting at European level being sustained by the increasing number of posted employees. In 2016, posted employees accounted for 1% of the workforce in the European Union.

The effects of cross-border posting are not limited to companies posting and to the posted workers but they influence the labour market in the hosting state by replacing national employees with posted employees. In the Preamble to Directive 96/71 / EC, the European Commission highlighted the fact that posting allows companies to exploit competitive advantages outside the country where they are based and to manage downtime, while giving employees the opportunity to increase work quality.

According to the data provided by the Commission in the Posting of Workers: Report on A1 portable documents issued 2016, in the year 2016, a total of 2.3 million PDs A1 were issued by reporting Member States. Compared to 2015, the total number of PDs A1 issued increased by some 12%.

Approximately 1.6 million PDs A1 were applicable to postings to one specific Member State. Compared to 2015, the overall number of postings increased by 8.6%. After a slowdown in 2015, the annual growth rate has risen again.

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In 2016, on average 45% of PDs A1 were issued to posted workers employed in the construction sector. Also, 29% of the forms were issued for activities in the service sector and 24% for other industrial activities (excluding the construction field). Finally, only 1.5% of PDs A1 were issued to provide services in agriculture and fishing.

The duration of the posting period was on average 101 days in 2016. The differences between the salaries of local workers and posted workers vary from 10 to 50%, depending on the country of origin and the field of activity.

2. The current European legal framework

Cross-border posting refers to such situations when a company based in a Member State of the European Union, in the context of the transnational services provision, posts its own employees to the territory of another Member State, under certain given circumstances.

This type of posting involves the overlapping of three systems of law (the law in the state of origin of the company performing the posting, the law in the state in whose territory the work is done, plus the European legislation). This situation may generate for the posted employee a major uncertainty about his rights.

The need to protect the rights of posted workers while ensuring fair competition conditions for companies and adjusting to the new economic and social conditions has been a constant concern of the European institutions.

The rules on the cross-border posting of workers within the European Union and the rights they enjoy during this period, including the legislation applicable to employment relationships, are governed by Directive 96/71 / EC of the European Parliament and of the Council as of 16 December 1996 concerning the posting of workers in service provision, published in the Official Gazette of the European Communities (JOCE) no. L 018 as of 21 January 1997.

The legal framework has been continuously improved and has been further supplemented by adopting Directive 2014/67 on enforcement of Directive 96/71, which sets out the modalities for the implementation of Directive 96/71 on the posting of workers, with a view to preventing fraud, the exchange of information between Member States and Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 published in the Official Journal of the European Union no. L 173/16 of 9 July 2018 aiming at the uniform application of existing rules at European level in order to achieve real social convergence.

The European regulation on transnational posting is also based on the Court of Justice's solutions, relevant in this respect being the decision of the Court in *Rush Portuguesa* case, given on 27 March 1990. Actually, a Portuguese company entered into a subcontracting agreement with a French company to provide services for the execution of construction works for a railway in France. In order to execute the contract, the Portuguese company used its own employees, who had Portuguese citizenship.

Under the exclusive right provided by Article L 341.9 of the French Labour Code, only Office national d'immigration could recruit third-country nationals in France. As the Portuguese company infringed the abovementioned provisions, Office national d'immigration notified it of a decision requesting it to pay a special contribution owed by an employer who hired foreign workers in breach of the provisions of the Labour Code.

In defense, *Rush Portuguesa* claimed that they had the freedom to provide services within the Community, the provisions of Articles 59 and 60 of the EEC Treaty rendering inapplicable the application of national legislation which would have the effect of prohibiting the posting of their own employees in France.

The Court stated that 'Articles 59 and 60 of the EEC Treaty and Articles 215 and 216 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic must be interpreted as meaning that a company based in Portugal which provides services in the field

of construction and public works in another Member State may move with its own staff from Portugal during the execution of the mentioned works. In such a case, the authorities of the Member State on whose territory the works are to be carried out cannot impose conditions on the service provider concerning the employment of the workforce or the obtaining of a work permit for the Portuguese staff. "(ECLI : EU: C: 1990: 107)

Directive no. 96/71 was adopted in 1996 and was transposed and implemented by the Member States by the end of 1999. In Romania, the transposition was done with EU accession, through the adoption of Law no. 344/2006 on the posting of employees in the framework of the provision of transnational services published in the Official Gazette no. 336 of 24 July 2006 and entered into force on 1 January 2007.

The Directive regulates three types of posting: the direct provision of services by a company on the basis of a service contract, the intra-group posting and the posting through a temporary agency established in another Member State. The posting period shall not exceed 24 months, and a worker may not be posted to replace another posted worker.

According to Article 3 (1) of the Directive, companies which post workers to another EU State are required to provide posted workers with the same working and employment conditions as in the Member State on whose territory the workers are posted, considering the following aspects: (a) maximum periods of work and minimum rest periods; (b) the minimum duration of paid annual leave; (c) minimum wage, including overtime pay; (d) the conditions for the provision of workers, in particular by temporary employment companies; (e) occupational safety, health and hygiene; (f) protective measures applicable to the working and employment conditions of pregnant women or women who have recently given birth, children and young people; (g) equal treatment of men and women and other provisions on non-discrimination.

Regarding the social security system applicable to posted workers (pension insurance, occupational accidents and occupational diseases, health insurance, family benefits) and tax obligations, they are subject to the legislation of the state of origin.

Directive 2014/67 on enforcement of Directive 96/71, adopted on 15 May 2014, sets out the arrangements for the implementation of Directive 96/71 on the posting of workers by establishing a common framework of common provisions, measures and appropriate control mechanisms, including measures to prevent and sanction any violation and circumvention of the applicable rules, the control being mainly exercised by the authorities of the host Member State.

The Directive seeks to improve access to information for both Member States and service providers, the information being transparent, free of charge, in an accessible format and published on a single official website in several languages, taking into account labour market demands in the host countries. In the same context, cooperation between Member States is also expected to be improved through the use of the Single Internal Market Information System.

At the same time, the Directive offers a number of safeguards to protect the rights of posted workers and to remove unjustified obstacles to the freedom of services provision, imposing a series of obligations on Member States: to ensure that posted workers can submit complaints and initiate judicial or administrative proceedings, recognize procedural capacity for trade unions or other organizations that justify an interest in bringing proceedings on behalf of members, with their agreement, mentioning that the employer is responsible for any contractual obligations: contractual debts, overdue payments, and tax reimbursements.

In Romania, the Directive was transposed by Law no. 16 of 17 March 2017 on the posting of employees in the framework of the provision of transnational services published in the Official Gazette no. 196 of 21 March 2017.

The most recent amendment to European legislation in this field was made by Directive (EU) 2018/957 of the European Parliament and of the Council as of 28 June 2018

on the amendment of Directive 96/71 / EC on the posting of workers in the framework of the provision of services. This amendment seeks to ensure a higher level of protection of employees' rights under a loyal competition on the single market.

Member States have the obligation to transpose the provisions of this Directive into their national law by 30 June 2020, until Directive 96/71 / EC remains applicable in the previous form. At the same time, according to the constant jurisprudence of the Court of Justice of the European Union, Member States are required, during the transposition period of the Directive, not to adopt measures which could lead to the impossibility of achieving the objectives pursued by its adoption.

One of the changes following the adoption of the Directive concerns the establishment of the rule that posted workers must be entitled, during their posting, to working and employment conditions regulated in the host Member State by means of laws, regulations and administrative provisions, as well as by collective agreements or arbitration sentences that have been declared with general application. This obligation is currently only envisaged in the construction sector, with Member States deciding whether to apply it in other areas or not.

Thus, the most important change following the adoption of the Directive (which has also caused important controversies at European level) concerns in forcing employers to grant / guarantee a regulated remuneration in the host Member State to posted workers, posted workers and the local ones being thus subject to the same wage rules. By contrast, the current regulation provides that posted workers are entitled to a minimum wage.

The notion of remuneration shall be that established by the domestic law / national practices of the host Member State and shall include all the component elements of remuneration which are mandatory under the laws, regulations and administrative provisions and, where applicable, collective agreements or arbitration sentences with general application. Member States will need to make clear the elements of remuneration on their territory and those laid down by law or by collective agreements of general application will have to be taken into account when deciding the salaries of posted workers.

Regarding the posting related allowances, according to the provisions in force currently, they are considered to be part of remuneration insofar as they are not granted for reimbursement of the actual costs of posting (transport, accommodation and meals). In this respect, the amended Directive provides that if the enforcement of working conditions does not provide which elements of the allowance are allocated to the reimbursement of the posting-related costs, and which elements are part of the remuneration, it will be presumed that the posting allowance is granted as a reimbursement of expenses (and therefore cannot be taken into account when determining remuneration).

Considering the reimbursement of transport, accommodation and subsistence expenses for posted workers who are temporarily posted from their usual workplace in the host Member State to another place of employment, the rule applied shall be established by the legislation of the host Member State.

New rules are also introduced for temporary employment agencies by establishing the principle of equal treatment between temporary workers seconded by a temporary employment agent and workers recruited directly by the company located on the territory of the host Member State. Under these conditions temporary employment agencies are required to ensure, during the posting period, that posted workers are entitled to the working conditions applicable on the territory of the host Member State in accordance with Art. 5 of Directive 2008/104 / EC of the European Parliament and of the Council on temporary employment agencies (which establishes the principle of equal treatment between temporary workers and those employed directly by the concerned company).

The aforementioned rules also apply if, in the context of the transnational provision of services, temporary workers made available to a user are sent to work temporarily on the territory of a Member State other than that on whose territory they normally perform their work.

It is also reiterated and emphasized the obligation for Member States to publish on the unique national website the information on employment and employment conditions applicable on their territory (including on the component elements of remuneration without undue delay and in a transparent manner)

In order to guarantee the freedom to provide services within the territory of the European Union, Member States may, subject to the principle of equal treatment, impose conditions of employment and employment recruitment covering aspects other than those covered by Directive 96/71 / EC only if it is a matter of public policy.

There are also changes to long-term posting, with employers being obliged, if the posting exceeds 12 months (18 months as an exception), to observe, in relation to posted workers, all working and employment conditions applicable in the host Member State, with the exception of the provisions on: (i) the procedures, formalities and conditions for the conclusion and termination of employment contracts, including non-competition clauses, respectively (ii) supplementary occupational pension schemes. At present there is already a provision in the legislation on the coordination of social security schemes with regard to the over 24 months postin, which has the effect of subjecting posted workers in such a situation to several essential provisions of labour law in the host Member State such as health, safety and hygiene, or equal treatment between men and women.

3. The posting of employees within the framework of transnational provision of services throughout Romania

The posting of employees in the framework of the provision of transnational services is currently regulated in Romania in accordance with the European rules in the matter, by Law no. 16/2017 on the posting of employees in the framework of transnational services published in the Official Gazette no. 196 as of 21 March 2017 and Government Decision no. 337/2017 for the approval of the Methodological Norms for the application of Law no. 16/2017 regarding the posting of employees in the framework of the provision of transnational services published in the Official Gazette no. 411 as of 31 May 2017.

The law establishes a common framework of provisions, measures and control mechanisms that apply in Romania in the case of the posting of employees in the framework of the provision of transnational services, including measures for preventing and sanctioning any abuse or circumvention.

The legal provisions aim at guaranteeing an adequate level of protection of employees, in particular by ensuring compliance with the application of the terms and conditions of employment provided for by national law, while facilitating the freedom of companies to provide services, promoting a climate of fair competition and supporting thus the functioning of the internal market.

According to the provisions of art. 6 of the law, the employees posted on the Romanian territory benefit, irrespective of the labour law applicable, of the working conditions provided by the Romanian legislation and / or the collective labour agreement concluded at sectoral level, extended to the whole field of activity in terms of the maximum length of working time and the minimum period of regular rest, the minimum duration of paid annual leave, the minimum wage including supplementary compensation or payment, the conditions for the provision of employees by temporary employment agencies, health and safety at work, protective measures applicable to working conditions for pregnant women or those who have recently given birth, as well as for children and young people, equality of treatment between men and women and other provisions on non-discrimination.

The allowance specific to the posting is intended to ensure the social protection of employees and is granted to compensate for the inconveniences caused by the posting, which consists in removing the employee from his usual environment.

A number of control mechanisms are also introduced on the basis of which the Labour Inspectorate is the body empowered to carry out checks and control actions on transnational posting situations, including any non-compliance or abuse with regard to the applicable rules on transnational posting.

Thus, the Methodological Norms set out the factual elements on the basis of which the Labour Inspection will assess whether a transnational posting is real, with the help of some factual elements determined by the law.

In compliance with the provisions of art. 2 paragraph 1 of the Government Decision no. 337/2017, factual elements to determine whether a company really carries out significant activities (other than those of internal management and/ or administration) in the host member state, other than Romania and, if necessary, also in Romania, such as: i) the place where the company has set up its headquarters, the place where the offices are located, the place where it pays its taxes and social security contributions and, if applicable, the place where it is authorized to exercise its activity or is registered with the Chamber of Commerce or professional body of the host member state, ii) the place where the company carries out its basic activity, as well as the place where it employs its administrative staff, iii) the number of contracts signed and/ or the size of the turnover made in the host member state, as well as the activity carried out, together with the specific situation of newly- incorporated companies and SMEs, and other considerations)

These factual elements (along with the other provisions of the Norms) will also be taken into account in the inspections carried out by the Labour Inspection, by the territorial labour inspectorates and by the companies established in Romania posting workers in the provision of transnational services.

Paragraph 2 of art.2 includes the factual elements which characterize labor and the situation of employees posted to Romania which must be taken in consideration during inspections, include in particular: whether the employee's activity is carried out in Romania for a limited period of time, the beginning and the end date of the posting , whether the posting is made to Romania from another EU member state or from the Swiss Confederation, where the employee regularly performs his or her activity, consistency between the skills and qualifications of the posted employee and the scope of the service agreement, the means of ensuring travel expenses, meals and accommodation for the posted employee.

At the same time, in order to ensure the effectiveness of the control mechanism, a number of obligations are established for companies, set up on the territory of a member state, which post workers on the territory of Romania, regarding the obligation to submit to the territorial labour inspectorate, in whose territorial range the activity is to be carried out, a statement drafted in Romanian on the posting of their own employees, on the working day prior to commencement of work, at the latest; the obligation to hold and make available copies in electronic or paper format, of the working documents (labour contract, attendance sheets, proof of salary payment, etc.) to labour inspectors, at their request, and to keep them in an accessible and identifiable place on the territory of Romania, during the period of transnational posting, to designate a person to ensure the connection with the competent national authorities and to send and receive documents and / or notices, if applicable.

Companies are responsible under Romanian law for failure to comply with working conditions.

4. Conclusions

Posting is an economic, social and legal reality that produces multiple effects both for companies which post workers and for posted workers as well as for the state in which work is

being done, where changes in the labour market occur, as well as advantages for the state where workers settle in terms of tax collection, contributions and taxes related to cross-border work.

The recent amendment of Directive 96/71 / EC, and in particular the application of the principle according to which posted workers shall be entitled to the same payment as local employees, will determine, on the one hand, higher wage costs for companies posting workers and distortions of the single market, by objectively taking into account the economic differences between Member States, jeopardizing the competitiveness of workers in Central and Eastern Europe. It will also significantly increase the administrative effort and expenditure of SMEs on informing and enforcing matters of the labour law in that state, with each country having extensive labour relations regulations.

On the other hand, the changes made will reduce social dumping, increase the social protection of posted workers, stimulate the provision of cross-border services based on innovation, specialization and skills and will improve the existing legal framework at European level.

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ECONOMIC CRIMINALITY IN THE EUROPEAN UNION

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Abstract

Paradoxically, economic criminality is based both on fulminant technological developments and centuries-old human traits: greed, desire for power, attachment to material values, luxury. According to Europol reports, there are over 3600 economic organizations in the European Union with a high level of expertise supported by great mobility and connectivity. The magnitude of this phenomenon and the risks it entails in relation to the rule of law, with national and EU budgets have led states to work together to create a complex and effective form of cooperation for the prevention, combating and sanctioning of economic criminality. A large number of Member States of the European Union already have some form of administrative synergy, even if it is not so named.

Key words: Criminality, Fraud, European Union, evasion, taxes.

Criminality is a social phenomenon. Once criminality exists and develops in society, it results that it is also a product of it. Criminality itself is not conditioned by the biological nature of man, although it can manifest a critical criminogenic influence in the genesis of criminal behavior. Being a dangerous product of society, criminality causes considerable damage. For these reasons, the fight against this phenomenon requires to the greatest extent the elaboration and application of social measures, which give obvious results in controlling it.

The social origin of crime is based on researches carried out in different countries of the world. Resolutions, guiding principles, analyzes, and other materials of UN conferences focusing on explaining, preventing, and controlling the criminal phenomenon stem from the social nature of crime.

UN Member States have agreed since 1994 that they need to establish a common definition of organized criminality in order to make national measures as homogeneous as possible and to ensure the effectiveness of international cooperation. Thus, a first definition of “organized crime” is found in the World Plan of Action against Transnational Organized Crime. The UN General Assembly has thus tried to make a first definition in relation to the illegal activities committed, ranging from international vehicle theft to the sale of nuclear products, illegal immigration, environmental crime, cybercrime, trafficking in women and children and getting to corruption.

Subsequently, international institutions have not defined the concepts of “organized crime” or “organized criminality”, but have understood to relate to this phenomenon by the concept of “criminal organization”. In general, both Interpol and Europol define the “criminal organization” as a company or group of people engaged in permanent illegal activities, hired beyond national borders and whose main purpose is to obtain profit.

In 1998, the Council of the European Union - Justice and Home Affairs also defined the concept of “criminal organization” as “a structured association of more than two persons, established over time, acting concertedly to commit offenses punishable by a custodial sentence or the deprivation of liberty for a maximum of four years or a more severe punishment, whether these offenses are a purpose in itself or a means of obtaining material advantage and, where appropriate, to unlawfully influence the functioning of public authorities.”

The United Nations Convention against Transnational Organized Criminality, adopted in New York on 15th of November 2000 (hereinafter referred to as the “Palermo Convention”) replaces the phrase “criminal organization” with “organized criminal group”. Thus, according to Art. 2 letter a) “organized crime group” is a “structured group composed of three or more

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persons who have existed for a certain period of time and are acting in arrangement for the purpose of committing one or more of the serious offenses or offenses provided for in this Convention, in order to obtain, directly or indirectly, a financial advantage or other material advantage”. It may be considered relevant in defining the concept and the fifth United Nations Conference, which drafted the Resolution “Crime as a Form of Business”. The resolution highlights four criteria considered to be defining for organized criminality, namely:

- the purpose, respectively, obtaining substantial gains;
- the connections, respectively, the existence of well-structured and hierarchically defined relationships within the group;
- the specifics, respectively, the valorization of the attributions and the work relations of the participants in the group;
- the level, respectively, occupation by the group’s participants of higher positions in economy and society.

The Council of Justice and Home Affairs (JHA), through the Framework Decision No. 2008/841/JHA on the fight against organized crime, repealed Joint Action No. 98/733/JHA and redefined the criminal organization as follows: “a structured association, established in time by more than two persons, acting concertedly to commit offenses punishable by deprivation of liberty or the enforcement of a measure of deprivation of liberty of at least four years’ duration or a more severe punishment in order to obtain, directly or indirectly, a financial or other financial benefit”. (<https://eur-lex.europa.eu/legal-content/ro/TXT/?uri=CELEX%3A32008F0841>)

Tax evasion

The notion of fraud comes from the Latin word *fraus, fraudis*, which means deception, prejudice, misdemeanor.

Tax evasion is defined by the European Commission (https://ec.europa.eu/taxation_customs/business/company-tax) as a situation that occurs when some companies use aggressive tax planning to minimize the tax burden. This often involves companies that exploit the legal loopholes of tax systems and the inconsistencies between national rules to artificially change profits to jurisdictions with low or zero tax systems.

The issue of taxation is a matter of immediate importance for any state or governmental structure, representing the main means available for fundraising. The state apparatus then uses them to provide the basic services that constitute the essential obligations and the consideration for the “social contract”.

Value Added Tax was introduced into the European Community in 1970 through a series of Directives. It was intended to replace some of the former taxes on production and consumption and to allocate a percentage of VAT revenue (calculated on an integrated basis) to finance the Community budget, thereby facilitating the harmonization of VAT rules between Member States. The Sixth VAT Directive (77/388/EEC) provided a common basis for Community financing by applying the same transaction tax in all Member States and, at the same time, introducing an integrated calculation basis. The Sixth Directive contains definitions and principles of value added tax relating to the application of a general and non-cumulative consumer tax levied at all stages of production and distribution. Thus, VAT rules imply equal treatment of domestic and imported goods and services and a neutral tax-pricing ratio.

Legislation is made up of the following EU Regulations and Directives:

- Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation;
- Council Directive 77/1070/EEC;
- Council Directive 89/130/EEC on the approximation of the composition of GDP at market prices;

- Council Directive 89/1553/EEC on integrated rules for the collection of own funds resulting from VAT;
- Council Directive 93/454/EEC on the definition of taxes on production and imports;
- Council Directive 94/168/EEC on implementing measures;
- Council Regulation 218/92/EEC on administrative cooperation in the field of indirect taxation (VAT);
- Commission Decision no. 98/527/EC on the treatment of VAT fraud for national accounting purposes (discrepancies between theoretical and actual VAT invoices);
- Regulation of the European Parliament and of the Council 2516/2000/EC of 7 November 2000;
- Council Resolution of 10 February 1975 on measures to be taken by the Community to combat tax evasion and avoidance (OJC 035 14.02.1975 p.1);
- Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council of 13 November 1991 on the protection of the Community's financial interests (OJC 328 17.12.1991 p.1) (<https://eur-lex.europa.eu/collection/eu-law/eu-case-law/reports.html>).

Fiscal sovereignty is one of the fundamental rights of the EU Member States which, in this area, have given the EU only limited powers. Since the process of tax rules is geared to the unimpeded functioning of the single market, the harmonization of indirect taxation rules began at an earlier stage and, unlike the rules on direct taxation, required a more in-depth review of regulations in force. In parallel to these efforts, the EU is stepping up its fight against evasion and tax evasion, which is a threat to fair competition and is the cause of a major budget deficit.

Under the Treaty, fiscal measures should be adopted by the Member States unanimously. Tax policy is largely influenced by the case-law of the European Court of Justice, and the European Parliament has the right to be consulted in this respect, except for budgetary matters, for which Parliament, in its capacity as budgetary authority, decision-making powers with the Council.

Combating tax evasion and aggressive tax planning is a key challenge. Improving cooperation and coordination and increasing transparency in EU tax policy relations among Member States would allow Member States to avoid significant revenue losses and help to ensure a higher level of equity across the Union.

The recent European and international measures also place good fiscal governance among the means of combating tax evasion and tax evasion, considering that this scourge occurs within a state's borders but crosses more states both within the European Union and beyond its borders, the efforts of a single state are not enough to fight effectively.

In this regard, at European and international level, the concept of good fiscal governance is increasingly being debated in European and international institutions, minimum standards of good fiscal governance are being developed and there are also concerns for finding the best legal means to combat the scourge of fraud and tax evasion. Thus, new structures such as Eurofisc and the Platform for Good Tax Governance, Aggressive Tax Planning and Double Taxation were created in 2013.

Promoting good governance in the tax area requires action both at the European Union level and at Member State level. So, if good governance in the tax area improves within the European Union, Member States will benefit from it.

At the beginning of 2016, as part of its actions to promote good tax governance, the European Union has developed a package of anti-tax evasion measures that are part of the Commission's ambitious program for a more balanced, simpler and more effective company taxation within the Union.

The package includes concrete measures to combat aggressive fiscal planning, improve tax transparency and establish fair tax competition for all companies in the European Union. The Union has appreciated that this package of measures will help Member States to take firm and coordinated action against tax evasion. These include the Proposal for a Council Directive laying down rules against tax evasion abolition practices that directly affect the functioning of the internal market, based on the conclusions of the European Council of 18 December 2014 which underlined the “urgent need to step up efforts to combat tax evasion and aggressive tax planning, both at global and Union level.” (<http://www.nos.iem.ro/bitstream/handle/123456789/1143/10-Dragodan%20Arina.pdf?sequence=1&isAllowed=y>)

This Directive establishes common minimum rules for combating tax evasion practices directly affecting the functioning of the internal market, namely rules to combat erosion of the tax base and transfer of profits agreed within the Organization for Economic Cooperation and Development (OECD). This is part of the Commission’s anti-tax avoidance package, which addresses a number of important new business developments and important political priorities in the field of company taxation, which require a rapid response at EU level.

However, inconsistencies and gaps in implementation by Member States need to disappear. On 12 July 2016, was adopted the Directive (EU) 2016/116430 laying down rules against tax evasion practices which have a direct impact on the functioning of the internal market and which applies to all taxpayers who are subject to corporation tax in one or more Member States, including permanent establishments in one or more Member States of entities resident in a third country.

The directive proposes six strict anti-abuse measures that all Member States will have to transpose into national law and implement them in order to combat common forms of aggressive tax planning, namely: interest deductibility, exit taxation, the clause “Switch-over” (the transition from the tax exemption to the granting of credits), the general anti-abuse rule, rules on foreign controlled companies (FCC) and a framework for combating non-uniform treatment of hybrids.

As regards the transposition and applicability of the new European provisions, the Directive requires Member States to adopt and publish by 31 December 2018 the laws, regulations and administrative provisions necessary to comply with the Directive and the application of the provisions of the new Directive by the Member States will be made as of 1 January 2019. The new rules sought to establish rules to strengthen the average level of protection against aggressive fiscal planning in the internal market.

Since these rules should fall under 28 different national corporate tax systems, the Directive provides that they should be limited to general provisions and allowed to be implemented by the Member States as they are more well placed to define the specific elements of the rules in the most appropriate way for their corporate tax systems.

This objective has been achieved by creating a minimum level of protection for national systems of company taxation against tax evasion practices throughout the Union. As judged in the doctrine, “the transposition of a directive into national law does not require the adoption of specific rules of expression, with a general legal framework favorable to achieving that outcome.” Also, the general rules for combating abuse in tax systems have the role of combating an abusive practice in this area, which has not yet been regulated by specific provisions.

In addition, the Directive has been developed considering it is important to ensure that general rules for enforcement are applied nationally, within the Union and in relation to third countries in a uniform manner, so that their scope and outcomes in internal situations and cross-border should not differ. Member States should not be prevented from applying sanctions in cases where the general anti-fraud rule is applicable.

In the fight against fraud and tax evasion, an important role is played by the Organization for Co-operation and Economic Development within which were elaborated conventions containing provisions on international standards on the transparency and exchange of information in the tax field, providing all possible forms of tax cooperation to combat fraud and tax evasion, a priority for all states.

Money laundering

Money laundering is the de facto financial part of all the crimes that make a profit. It is the process by which offenders attempt to hide the origin and real possession of income from their criminal activities. If successful, this activity will allow control of these revenues and, ultimately, provide legitimate cover for the source of their income.

The purpose of a large number of criminal activities is to generate profit for the individual or group that is committing the offense. Money laundering is the processing of these crime outcomes in order to hide their illegal origin. This process is of critical importance because it offers the offender the opportunity to enjoy the proceeds of crime without revealing their provenance. Money laundering is a process by which an illegitimate gain is obtained by criminals who, without being compromised, benefit subsequently from the amounts obtained.

There is no single money laundering method. The methods can range from buying and selling a luxury item (e.g. a car or jewelry) to money through a complex international network, legal business, and ghost companies (companies that exist only as legal persons without having business or doing business).

Initially, in the case of drug trafficking or other offenses such as smuggling, theft, blackmail, etc., the resulting funds usually take the form of liquid money that must be introduced by any method into the financial system. Traditional bank deposits, money transfer and lending systems provide a vital money-laundering mechanism, especially in the initial phase of introducing cash into the financial system.

Despite the variety of methods used, the money laundering process is carried out in three stages that can include many transactions made by money laundering, transactions that are likely to alert financial institutions to criminal activities, namely:

1. Placement: Represents the “escape”, in its own right, of cash obtained from illegal activity, to separate funds from illicit sources that could be supervised by law enforcement. In the initial stage or of placement in money laundering, the offender introduces his or her illegal profit into the financial system. This can be done by dividing large amounts of cash into smaller and less suspicious amounts that are then deposited directly into a bank account or by buying a number of financial instruments (checks, promissory notes, etc.) that are then collected and stored in accounts from another location.

2. Stratification: After the funds are entered into the financial system, there is a second stage - stratification. It is the process of moving money between different accounts to hide their origin. At this stage, the money laundering undertakes a series of changes or movements of funds to remove them from their source. Funds can be directed to buying and selling investment instruments, or the launcher can simply send funds through electronic transfer to a series of accounts from various banks across the globe. The use of several geographically remote accounts for money laundering is mainly used in those jurisdictions that do not cooperate in anti-money laundering investigations. In some situations, money laundering may disguise transfers as payments for goods and services, thereby giving them a legitimate appearance. The separation of illicit revenue from their sources by creating complex layers of financial transactions designed to mislead control bodies and ensure anonymity.

3. Integration: Once the crime’s processes successfully went through the first two steps of the money laundering process, the money laundering goes to the third stage in which the funds re-enter the legal economic circuit. The launderer can then choose to invest the

funds on the real estate market, luxury goods or business. If the stratification process is successful, integration schemes will once again send the laundry results to the economic circuit, so they will re-enter the financial system by appearing as normal and “clean” funds from commercial activities.

The three basic steps can be in separate and distinct phases. They may appear simultaneously or, more commonly, may overlap. The way in which the basic steps are used depends on the available scouring mechanisms and the requirements of criminal organizations.

In the money laundering process, some vulnerabilities were identified, which were difficult to avoid by the money laundering unit and therefore easily recognizable, namely:

- placement of cash in the financial system;
- passing cash across borders;
- transferring cash to and from the financial system.

Conclusions

Direct tax harmonization in the European Union usually had a slow pace and limited scope. For decades, Member States have ensured their fiscal sovereignty, showing a strong reluctance to agree on common solutions in this sensitive area. Some proposals that have stood for many years on an EU political agenda have progressed now.

However, this dynamic seems to have changed dramatically in response to the recent priorities of establishing rules against tax evasion and tax transparency practices. Progress made so far towards their implementation seems unprecedented.

This has happened because, as is well known, the collection of taxes and duties and the fight against tax fraud and evasion are the competences of the Member States of the European Union. However, in a world where globalization is progressing, the European Union and the Member States need to work together both within the Union and internationally with other third countries to combat this scourge. In the fight against tax evasion, international cooperation through good fiscal governance plays a key role, sharing information between the tax administrations of states being fundamental.

As a result, the new means of combating tax evasion and avoidance adopted within the European Union and at international level provide the Member States with a legal framework and the necessary tools to effectively address cross-border tax issues and to exchange best practices.

In the tax area, the European Union accepts the existence of different Member States’ legislation as a consequence of fiscal sovereignty. In turn, national fiscal policies differ from one Member State to another, international cooperation remaining the only way for Member States to fight effectively against international tax evasion and tax evasion. Given that one of the main objectives of Council Directive (EU) 2016/1164 is to improve the resilience of the internal market as a whole, to cross-border tax avoidance practices, this cannot be done satisfactorily by the Member States through individual actions.

National company taxation systems are different and Member States’ independent actions would only duplicate the current fragmentation of the internal market in the field of direct taxation. Thus, they would perpetuate the inefficiency and distortions that arise in the interaction between a series of distinct national measures. There would be a lack of coordination. Instead, as most cases of inefficiency in the internal market give rise, first of all, to cross-border issues, remedial measures have been taken at Union level. It was therefore essential to adopt solutions that work for the internal market as a whole, and this could not be better achieved than at Union level, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

In accordance with the principle of proportionality, as set out in that Article, the Directive does not go beyond what is necessary in order to achieve that objective. By establishing a minimum level of protection for the internal market, this Directive aims only at achieving the minimum essential coordination degree within the Union in order to achieve its objectives.

In this respect, it has been appreciated that the harmonization measure at EU level in this area creates stronger protection from the perspective of the internal market; however, it also presents some risks. While non-EU countries are still analyzing whether, how and when to implement relevant measures to combat tax evasion and transfer of profits (BEPS), the EU as a whole becomes an entity that adopts early G20-OECD recommendations. Agreement between Member States on designing anti-evasion measures is based on an unanimously voted requirement: an unanimous agreement of all Member States must be ensured before anything, even if after its conclusion small adjustments to minimum standards can be made.

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EUROPEAN STRATEGIES IN THE FIELD OF ILLEGAL MIGRATION

Dănciulescu, Laurențiu-Andrei¹

Abstract

In recent years, the European Union has faced the largest wave of migrants since the end of the Second World War. Along with conflicts, instability and poverty in many parts of the globe, the repeated crises in the Near East were largely factors that led to this record not just positive. Migration management systems at the borders of the European states have been put under tremendous pressure, and they are not sufficiently prepared to respond to the phenomenon. With the intensification of the crisis, Member States have worked together to try and provide a rapid and efficient response at European level. EU migration strategies address all issues based on four areas: irregular migration, border management, asylum policy and legal migration.

Key words: strategies, European Union, migration legislation, asylum.

Migration is a common phenomenon in the history of mankind. Those who are now trying to reach European shores have different motives and choose different ways. Most seek legal ways to get rid of political oppression, war and poverty, or to regain their family and improve their professional and educational outlook, even if they often risk their lives.

In 2015 and 2016, the European Union faced an influx of unprecedented refugees and migrants. More than one million people have arrived in the EU, most of them fleeing war and terror from Syria and other Oriental countries. The EU has proposed a series of measures to tackle the crisis, including attempting to address the root causes of the crisis as well as increasing aid to people in need of humanitarian assistance both inside and outside the borders. Measures are being taken to relocate asylum applicants who are already in Europe, resettlement of people in difficulty from neighboring countries and the return of those who do not qualify for asylum. The EU improves border security, combating the trafficking of migrants and providing safe ways of entering its territory.

1. The migrant and the migration

The International Organization for Migration (IOM) considers migration to be a translation of a person or a group of people, either over an international border or within a state. Migration is a form of population mobility and includes any kind of movement of the population, regardless of its duration, purpose or form. This category includes: migration of refugees, economic migration, and the migration of people moving for other purposes or under the influence of other factors, such as family reunification.

The United Nations (UN) defines a migrant as a person who has resided in a foreign country for more than one year, regardless of the reasons behind the change of residence and the means used to migrate. Under such a definition, those who travel for shorter periods as tourists or business people are not considered migrants. However, in current use, the term migrant includes certain categories of people changing their short-term residence, such as seasonal agricultural workers, who travel for short periods of time to work on sowing or harvesting agricultural products.

1.1 Types of migration

Depending on certain criteria, the following types of migration are distinguished:

- by the territorial aspect:
- internal migration, when moving within borders;
- international migration, which involves crossing the border;

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- by the time factor:
 - permanent migration;
 - temporary migration;
- by motivation:
 - volunteer migration, for work or for economic reasons;
 - migration forced by natural disasters, political, religious, or wars;
- by means used:
 - regulated migration;
 - illegal migration (Popa, M. *Politica de migrație a Uniunii Europene: implicații pentru piața muncii*. Buzău: Alpha MDM, 2013, p.4).

1.2 The crisis of illegal migration

Many people in need of international protection arrive in the EU to seek asylum. International protection is granted to those who leave their country of origin and cannot return there for well-founded fear of being persecuted or at risk of suffering serious harm. The EU has a legal and moral obligation to protect those in need. Member States are responsible for examining asylum applications by deciding who will benefit from protection.

But not everyone who comes to Europe needs protection. Many of them leave their country in an attempt to improve their lives. They are often called economic migrants and if their request for protection is not legitimate, national governments have the obligation to return them to their country of origin (including through coercive measures if they do not willingly leave) or in another safe country which they have transited. Thousands have lost their lives at sea, trying to reach the EU. Almost 90% of refugees and migrants paid members of organized crime groups and traffickers to cross the border. The provision of food, water and shelter for these people puts enormous pressure on the resources of certain EU Member States such as Greece and Italy, the countries where most refugees and migrants enter the EU.

2. EU policy on illegal migration

International migration has an impact on the EU and the Member States. The phenomenon of globalization as well as the various events on the international scene have contributed to the increase of illegal migration flows, especially in recent years. Thus, the European space is developing its multi-ethnic and cultural diversity. In this context, the EU is proposing a global European policy to address the challenges of migration.

European policy is built on the European traditions of asylum and migration, taking into account both human rights and humanitarian aspects, and the benefits of the European Union, their migrants and their countries of origin. Integration of migrants into European society aims at a balance between their rights and the culture of the country of origin.

This benefits both the country of origin of the migrant and the society in which he/ she lives and works. Migration is an important factor in the evolution of contemporary European society.

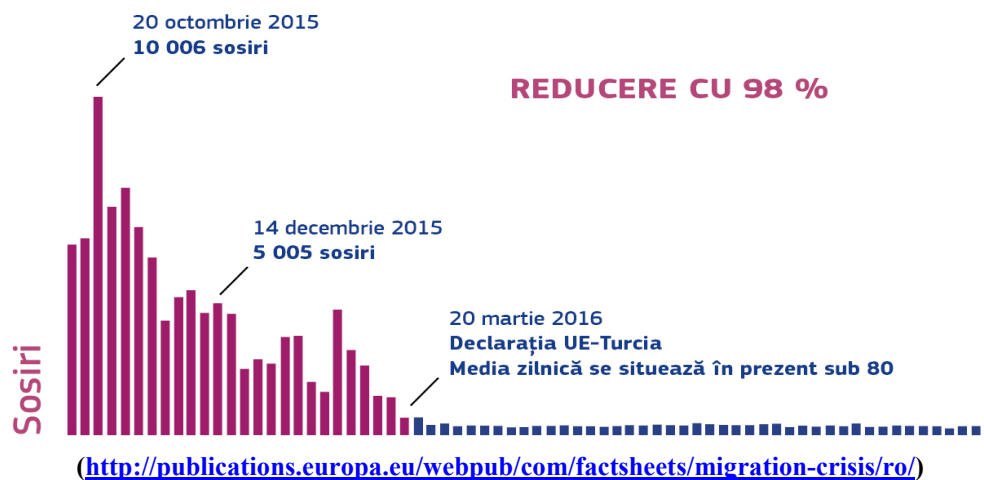
Among its many benefits, we mention:

- facilitating economic integration and intercultural dialogue at global and regional level;
- providing labor force needs in developed countries and better use of labor in the countries of origin;
- generating transfers of cash flows to less developed countries;
- facilitating the transfer of knowledge and technology to the countries of origin of migrants after their repatriation.

Migration also has a cost. The European Union is making considerable efforts to:

- integrate the migrants;
- combat and prevent illegal immigration;
- control the external borders.

Since the peak of the migration crisis in 2015, the EU has put in place measures to improve the control of external borders and migration flows. Consequently, irregular arrivals in the EU have been reduced by over 90%. The EU and its Member States are stepping up their efforts to establish an effective, humanitarian and safe European migration policy. The European Council plays an important role in this area by setting strategic priorities. Based on these priorities, the EU Council establishes lines of action and grants negotiation mandates with third countries. It also adopts legislation and defines specific programs. Over the past years, the Council and the European Council have outlined a strong response to migratory pressures.



2.1 Aspects of illegal migratory flows in the EU

The number of refugees and migrants coming to Europe across the Mediterranean Sea is decreasing. In the first seven months of 2018, a total of 55,000 refugees arrived in Greece, Italy and Spain - half of those arriving in the first seven months of 2017. The data comes from the United Nations Migration Agency (IOM) and the European Authority border guard (Frontex). This cannot be a “refugee crisis”, an “invasion” or a “flood” of refugees, as some populists Ministers of the Interior in the EU would like to describe.

It is true, however, that migration routes are changing. Spain became the first target of illegal migrants this year, followed by Italy and Greece. However, this trend was predictable from the end of 2017. Figures for Spain continued to increase, while those for Italy declined steadily. The threat of the Rome government with the closure of Italian ports for migrant ships is not the main cause of this evolution.

Libya seems to be making increasing efforts to prevent refugees and migrants from leaving Italy on board of faulty boats. And the fact that they may be forced to return to Libya persuades many potential migrants to give up their plans for departure. Intimidation works. It is an evolution that the EU is relying on for a long time, not just since the European summit in June.

2.2 The main routes of illegal migration to the borders of the European Union

Central-Mediterranean route

The Central-Mediterranean route has become the most widely used route to the EU in recent years. As a result, most migrants in Sub-Saharan Africa and North Africa use Libya as a transit country on their journey to Europe (<https://www.consilium.europa.eu/ro/policies/migratory-pressures/>).

East-Mediterranean route

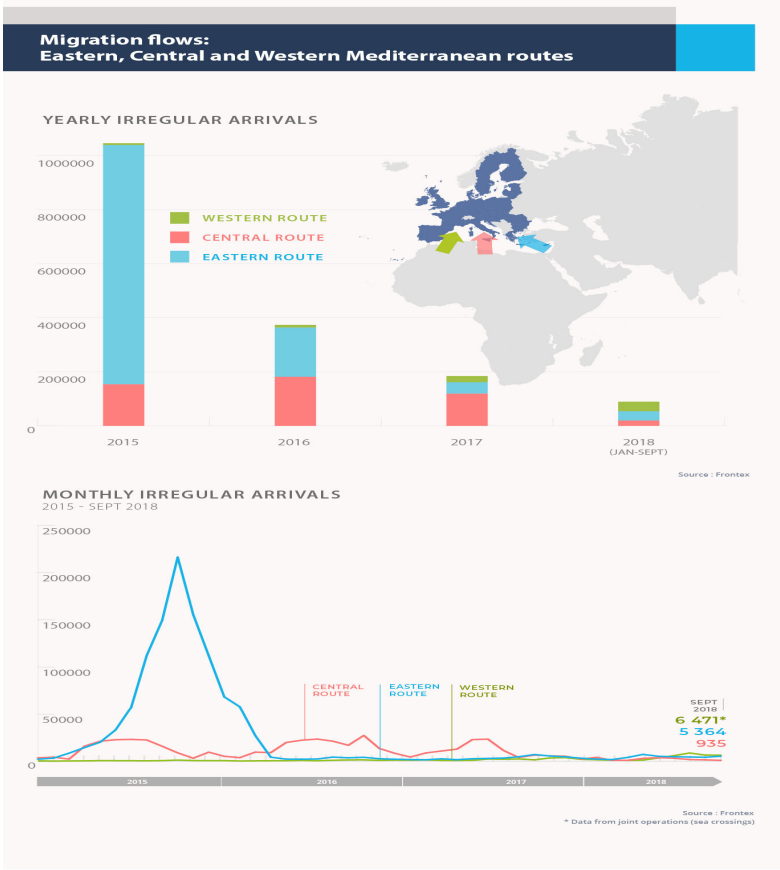
The Eastern Mediterranean route refers to the sea crossing from Turkey to Greece. A large number of refugees who were sheltering from the war in Syria arrived in the EU via this route in 2015. Since then, the number of irregular arrivals on the route has significantly

decreased due to close cooperation between the EU and Turkey. This has encouraged, in Libya, the development of networks that deal with the illegal introduction of migrants and trafficking in human beings. The EU has taken concrete steps to address the situation of migration in Libya and to tackle the root causes of migration in Africa.

No detour routes for migrants

Of course, the Moroccan-Spanish migrants from the Western Mediterranean are not the same ones who have previously tried their luck in Libya. The main countries of origin of illegal migrants coming to Spain would be, according to FRONTEX, Morocco and Mali. On the other hand, migrants who wanted to come to Italy in recent months came mainly from Tunisia and Eritrea.

It is now assumed that the Moroccan authorities no longer apply measures to prevent illegal migrants from leaving Moroccan ports and beaches. Until now, the Spanish and Moroccan border guards have worked well to prevent illegal travel through the strait between Morocco and Spain. For over 10 years, Morocco has received money from the EU and Spain for this cooperation. Of the European funds, up to now € 70 million has been invested in border insurance and another 55 million are foreseen in the coming years to strengthen border security in Morocco and Algeria. The Spanish coast guard has been working well for over 10 years with Mauritania, which has dramatically reduced the number of illegal African migrants in the Spanish Canary Islands.



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(https://www.reddit.com/r/europeanunion/comments/9mqefq/infographic_migration_flows_eastern_central_and/)

2.3 How EU manages illegal migration flows

The EU has adopted various rules and frameworks for the management of legal migration flows for asylum seekers, highly qualified and seasonal workers, students and researchers, as well as family reunions.

As regards other migration flows, the EU has common rules for the processing of asylum applications. In 2015, the Council adopted a decision on the transfer of several thousand asylum applications from Greece and Italy. The EU also concludes readmission agreements for the return of irregular migrants.

2.3.1 Stopping smuggling with migrants

The flow of illegal immigrants who have entered the EU has reached unprecedented levels in 2015 and remained high in 2016. In 2016, Member States reported new arrivals from Africa, the Middle East and Asia, many of whom turned for assistance in criminal networks of smugglers.

Migration through smuggling is a global dynamic criminal activity. Poverty, social and political instability, and limited availability of legal migration routes push people to criminal networks to facilitate their unauthorized entry, transit or stay in the EU.

Traveling to the EU can be extremely dangerous, and smugglers often expose migrants to both life-threatening risks and violence. The loss of life in the Mediterranean Sea demonstrates the need for an assertive and urgent response from the EU.

The fight against smuggling of migrants has been part of the EU's policies to combat illegal migration for more than a decade. In 2002, the EU adopted a legal framework on smuggling consisting of a directive defining facilitation of unauthorized entry, transit and residence and a framework decision to strengthen the criminal framework for such offenses.

In order to prevent the exploitation of immigrants through criminal networks and to reduce incentives for illegal migration, both the European Migration Agenda and the European Security Strategy identified as a priority the fight against smuggling of migrants. In May 2015, the Commission adopted an Action Plan against smuggling of migrants, designed to turn smuggling from a "high-profit, low risk" activity, into a business "of high risk and low profit", guaranteeing at the same time full respect and protection of human rights.

In some cases, migrants continue to depend on criminals after they have arrived in the EU. Criminal networks can facilitate illegal stay, including the production and provision of counterfeit documents, and allowing migrants to use authentic documents of other people to be impostors. This is illegal across the EU under the 2002 directive.

Migrants in an irregular situation are also more vulnerable to work and other forms of exploitation. Trafficking in human beings is a different but inter-related crime, for which the EU has set stricter rules of action against those criminals involved in it. EU rules also ensure that victims of trafficking have access to assistance, including the possibility of staying temporarily in the EU when cooperating with law enforcement authorities or, in the case of Member States that provide it, regardless of their cooperation. The EU also monitors the implementation of the 2009 Employers' Sanctions Directive, ensuring that employers employing illegal immigrants are properly sanctioned.

2.3.2 Improvement of controls at external borders

The images of migrants and asylum seekers buried in unsafe boats that make journeys dangerous for Europe have come to symbolize the tragic reality of the phenomenon of illegal migration. Smuggling at sea is one of the most dangerous forms of smuggling of migrants and one that often requires serious humanitarian relief efforts. To save the lives of those in distress at sea, the coastal services and the maritime services of the EU Member States need to make major efforts, with the support of the European Border Agency and Coast Guard (FRONTEX).

In addition, most illegal migrants have legally entered the EU legally on short-stay visas, but remain in the EU for economic reasons with the expiry of the visa. Efficient and credible external border management is essential. Therefore, the EU has developed an integrated border management strategy that seeks to maintain high levels of security using, for example, information technology (such as the Visa Information System) and biometric features (e.g. digital fingerprints) for identification.

The Commission has taken firm actions to prevent illegal migration in order to ensure that each EU Member State effectively controls its own part of the EU's external borders, builds confidence in the effectiveness of the EU migration management system and ensures that the fundamental rights of migrants are fully appreciated.

These include legislative measures, some of which have already been adopted and are being implemented, while others are still being discussed by legislators (e.g. the Council and the European Parliament). These include:

- Strengthen FRONTEX 's mandate in order to be able to act more effectively at the external border;
- Establish an evaluation mechanism to verify the correct application of the Schengen rules;
- Enhance coordination between border surveillance authorities through the European Border Surveillance System;
- EUROSUR and taking into account the feasibility of creating a European border guards system;
- Establish rules on surveillance of external maritime borders in the context of operational cooperation coordinated by FRONTEX.

2.3.3 A human and efficient return and readmission policy

A human and efficient return policy - in line with the EU Charter of Fundamental Rights and based on the principle of giving preference to voluntary return - is essential for a comprehensive and sustainable migration policy. The EU aims to harmonize and support national efforts to better manage revenues and facilitate reintegration through the Return Directive (which establishes common rules and procedures for non-EU nationals irregularly in the EU) and the Fund for asylum, migration and integration. Effective cooperation with non-EU countries on the basis of readmission agreements is also necessary to ensure the effectiveness of the return policy.

Return legislation is part of the Schengen acquis. Its correct implementation in EU countries is verified through evaluation visits led by the Commission together with the experts designated by the EU and other Schengen countries.

To date, the Commission has been formally authorized to negotiate readmission agreements with Russia, Morocco, Pakistan, Sri Lanka, Ukraine, the Hong Kong Special Administrative Region of Hong Kong and Macao, Algeria, Turkey, Albania, China, the Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Bosnia-Herzegovina, Moldova, Georgia, Cape Verde, Tunisia, Armenia, Azerbaijan, Belarus and Nigeria.

Agreements with the two special Chinese administrative regions, Sri Lanka, Russia, Ukraine, the Western Balkans, the Republic of Moldova, Georgia, Turkey, Armenia, Azerbaijan, Cape Verde and Pakistan have entered into force.

2.3.4 An opportunity to test a first “asylum center”

Spain has urged EU emergency aid to build shelters for migrants. The EU could use this opportunity to set up the first “asylum center”, a variant provided at the last European summit, on a voluntary basis. In these special centers, asylum applications will be resolved quickly. Rejected asylum applicants would be repatriated as soon as possible. At least that's the theory.

Practical implementation has failed in Spain due to the fact that there are no functional repatriation agreements with the countries from which migrants and refugees come from. There are also no other EU Member States willing to take over the asylum seekers initially accepted by Spain. The EU should, however, try to create such a center, at least to see what has been decided by the decisions of the last summit. Researcher Gerald Knaus, an expert on migration issues, the man who founded the agreement with Turkey on refugees, advises that the situation in Spain is necessarily used for a practical test. Spain does not like this advice too much because migrants would have an incentive to try to reach the Spanish shores and an asylum center respectively, from where they could get relatively quick, in some cases, the right to remain in the EU. This is a new argument in the EU, because Spain is now asking for a “European solution”, without specifying exactly what it would like to show. France, Belgium and Germany can expect an increase in the number of migrants because the experience so far has shown that unsuccessful asylum-seekers in Spain are somehow against all the rules of the Dublin agreement in the countries of northern Europe.

2.3.5 Integration of third-country nationals

The transfer and resettlement measures adopted in response to the crisis of refugees and migrants have highlighted the need for support for Member States with less experience of integration. In December 2016, the Council adopted conclusions on the integration of third-country nationals legally residing in the EU.

Societies with a wide range of skills and experiences are better placed to boost their development through human resources, and migration is one of the ways in which talent, services and skills exchange can be favored. However, migration remains highly politicized and often perceived negatively, despite the obvious need for diversity in rapidly evolving societies and economies. However, international migration has grown in scale and complexity, due to the increasing demographic divergences, new global and political dynamics, technological revolution and social networks, with a profound impact on the socio-economic and ethnic composition of society. All this has led to new challenges in the political area, related to the successful integration of immigrants into host societies, the way they are perceived in their countries of origin and, in a broader sense, how migration is experienced in within the communities in general.

The public opinion and perception of migration differs widely between countries, within them (as well as within subgroups within communities), but also over time. In view of these nuances, it is not possible to isolate a single public opinion, yet public-based demands are often highlighted in political speeches.

Conclusion

The findings of the analysis, based on an extensive review of existing studies, explore some of the factors that influence public opinion and which are often at the heart and base of the predominantly negative sentiment. The formulation of appropriate policies based on available information is influenced by the predominant conventional concept and the degree of understanding of what is “migrant” (labor migration, refugee, asylum seeker, occasional migrant).

The latter can also influence the limit to which migrants are perceived to contribute or not in a given space. The formulation of a future evolution of migration policies at the European level is not an easy task, given that the typology of development has been seriously affected by the economic crisis. From this point of view, we have been trying, with the latest analysis and the effects of the policies and strategies adopted at our continent, to reflect on the future of migration in Europe.

In the light of the above, the proposed approach focuses on two main directions: in the short term, given the effects of the economic and medium-term crisis, on the assumption that

the specific mechanisms underpinning the European social model are not affected by their substance temporary economic fluctuations.

The approach to immigration has begun to have two main directions that will continue to co-exist. The first, closely linked to the new concept of a “common area of freedom, security and justice”, secures immigration by developing, implementing and developing border control measures, combating illegal immigration, preventing and combating terrorism. The second approach is the socio-economic policy focused on the social and economic dimension of immigration as a component of the European social model. In this respect, the elaboration of the policies invoked must mainly focus on the status of migrants, institutional specificities and national specifics.

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THE FORCED EXECUTION OF THE OBLIGATIONS OF DOING AND NOT DOING

Nicolae, Gradinaru¹

Abstract

If the debtor's obligation to perform the title consists in leaving the possession of a good, in the handing over of a good or in its use, or in evicting the debtor from a dwelling or other premises, in the destruction of a building, planting or other work or performance of any other activity established for the realization of the rights of the creditor and the debtor fails to fulfill his obligation of goodwill within the term stipulated in the summons, the creditor will demand enforcement in view of the circumstances of the case and the nature of the obligation being executed, the court of enforcement for the purpose of applying a penalty.

Keywords: forced execution, penalty, cominatorial damages, summons, court.

JEL Classification K0 K3 K30

According to the provisions of Article 888 of the Code of Civil Procedure, where the obligation of the debtor provided in the enforcement order consists in the abandonment of the possession of a good, the handing over of a good or its use or the eviction of the debtor from a dwelling or other premises, the dissolution of a construction, planting or other work or in carrying out any other activity established for the realization of the rights of the creditor, and the debtor does not voluntarily execute his obligation within the time limit specified in the summons, the creditor shall demand the execution of execution, having regard to the circumstances of the case and the nature of the obligation being enforced, to refer the court of enforcement for the purpose of applying a penalty.

The assignment by court order of an immovable property or the obligation to surrender, to leave it or to use it, as the case may be, also includes the obligation to evacuate the building, unless the law expressly provides otherwise. Execution without excerpt At the creditor's request, if an urgent need is justified or there is a danger that the debtor may escape from pursuing, hide, destroy, or damage the assets to be surrendered, the court may order, by means of a declaration of enforceability, separate way, that forced execution be made immediately and without summons. Minutes of execution The executor will conclude a report on fulfillment of these obligations in the conditions of art. 679, setting out the execution costs to be paid by the debtor².

The minutes shall be communicated to the parties and a copy shall be kept in the file. The minutes shall be enforceable in respect of the execution costs established by the debtor. Impossibility of the forced handing over of the good Where the surrender of a good has

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² Art.679 of the Code of Civil Procedure

Unless otherwise provided by law, for all acts of execution executed in execution, the bailiff is required to conclude minutes containing the following:

- a) the name and location of the enforcement body;
- (b) the name and quality of the person who draws up the minutes;
- c) the date of drawing up the minutes and the number of the execution file;
- d) the enforceable title under which the act of execution is executed;
- e) name and domicile or, as the case may be, the name and location of the debtor and the creditor; f) the place, date and time of execution of the act of execution; g) measures taken by the executor or his findings; h) recording the explanations, objections and objections of the participants in the execution; i) other claims required by law or deemed necessary by the executor; (j) mentioning, where appropriate, the absence of the creditor or the debtor or the refusal or impediment to sign the report; k) mention of the number of copies in which the minutes were drawn up, as well as of the persons to whom it was handed over; l) the signature of the executor, as well as, where appropriate, of other persons interested in the execution or who assist in executing the enforcement act; m) the bailiff's stamp. The entries in paragraph (1) lit. a) -g), l) and m) are provided for under the sanction of nullity.

become impossible due to its destruction, concealment or deterioration or other such circumstances, the executor shall record this in a report drawn up in accordance with Art. 890, and, at the same time, will order the termination of the forced execution¹.

Obligation of the debtor to compensation If, in the enforceable title, it has not been established what amount is to be paid as equivalent to the value of the property in the event of its being surrendered or, where appropriate, the equivalent of the compensation due in the case of non-performance of the debtor's personal obligation the claim of the creditor will determine this amount by a judgment given by the parties quoting in the short term. In all cases, at the request of the creditor, the court will also take into consideration the damages caused by the voluntary non-fulfillment of the obligation before it becomes impossible to execute. The judgment is enforceable and subject only to the appeal. Suspension of the enforcement of this judgment can only be achieved by recording the amount determined. On the basis of the request, the creditor may establish precautionary measures.

Forced handing over of movable goods is done in accordance with Articles 893-895 of the Code of Civil Procedure. According to Article 893 of the Code of Civil Procedure, if the party obliged to hand over a movable asset determined by quality and quantity does not fulfill its obligation within 24 hours of the communication of the endorsement of the execution, its surrender shall be done by enforcement. In order to enforce the obligation stipulated in art. 893, the bailiff shall remove the property sought from the debtor or the person to whom he is located, placing the creditor in his rights established by the enforceable title.

The bailiff shall conclude, in accordance with Art. 890, a record of the performance of the execution, setting out the execution costs to be paid by the debtor. If, within 30 days from the date on which the bailiff moves to the place where the movable goods were to be removed, the lender did not surrender to the creditor, the bailiff may, at the request of the latter, make a final decision impossibility of teaching. The provisions of art. 891 and 892 shall apply accordingly even where the debtor, after the 30-day time limit, provides the surrender of the asset to the creditor. The forced surrender of immovable property is done in accordance with Articles 896-902 of the Code of Civil Procedure.

According to Article 899 of the Code of Civil Procedure, no evacuation of dwelling buildings may be made from 1 December until 1 March of the following year unless the creditor proves that, for the purposes of the provisions of the legislation he or she and his family have no proper dwelling or the debtor and his / her family have another suitable dwelling in which they could immediately move.

These provisions do not apply to the eviction of persons who abuse, in fact, without any title, home, or those who have been evicted because they endanger cohabitation or seriously disrupt public peace.

If the obligated party to evict or surrender a building does not fulfill this obligation within 8 days of the communication of the endorsement of the execution, it will be removed by forced execution and the building will be handed over to the entitled person.

Performing forced execution

In order to enforce the obligation, the bailiff will go to the spot, will summon the debtor to leave the property immediately, and in the event of opposition, he will evict the debtor with the property, together with all the persons who occupy the building in fact without any title

¹ Art.890 of the Code of Civil Procedure

As regards the fulfillment of the obligations stipulated in the present chapter, the executor shall conclude a report in the conditions of art. 679, setting out the execution costs to be paid by the debtor.

The minutes shall be communicated to the parties and a copy shall be kept in the file.

The minutes shall be enforceable in respect of the execution costs established by the debtor.

opposed to the creditor, with or without the help of the public, as the case may be, placing the creditor in his rights.

When the debtor misses or refuses to open the doors, the executor will be accompanied by public force agents or gendarmerie representatives as appropriate.

After opening the doors of the building, the presence of the said ones will be filled by 2 witnesses.

Execution in the manner of surrendering the real estate will continue on the day of its commencement even after 20.00, as well as in the next days, including the non-working ones, if it has not been finalized due to an opposition to execution by the debtor or other person or the operations required to complete forced execution could not be completed by 20.00.

If the execution concerns a building in which there are movable goods that are not the object of execution and which the debtor does not raise on their own or are sequestered in another pursuit, the executor will entrust these assets to the custody of a seizure administrator, who may even be the lender, at the expense of the debtor. This measure will be notified to the creditor in whose favor the goods have been seized. The provisions relating to custodian bailiffs are properly enforced. If the goods left in the warehouse are not seized in favor of another prosecution, the executor will fix, by means of the minutes, the period within which the debtor has to raise them, which may not be longer than one month. Minutes of forced handing over On performance of the execution according to the provisions of the present chapter, the bailiff shall draw up a report, the provisions of art. 890 being applicable. If the debtor refuses to receive the minutes, he / she is missing or, as the case may be, has left the building after commencement of execution, and his / her domicile is in that building, the bailiff, if the debtor does not communicate an address of his / her choice, -veral of forced handing over the door of the building or any other part of the building that makes it visible. Sale of goods left in the warehouse.

If the borrower does not pick up the goods within the timeframe shown in the report, and they have market value, they will be sold, including those that are by their nature insensible, according to the rules for the sale of traceable movable assets.

The price of the goods sold, after deduction of the forced execution costs, including the selling expenses and the remuneration of the seizure administrator, will be recorded in the name of the debtor, who will be notified of this in accordance with the provisions on the communication and handing down of summonses.

Goods that have no market value are declared abandoned. Also, at the request of the creditor, the bailiff may declare abandoned movable assets that have market value and have not been claimed by the debtor or other person to prove ownership, within 4 months of the date of the minutes of the forced handing over.

The debtor, as well as the local financial authority, will be notified of all this to take over the abandoned property. The provisions of art. 780 applies accordingly.

If the debtor or any other person, in the absence of prior express consent or judicial decision, enters or re-installs in the building, at the request of the creditor or other person concerned, a new forced enforcement on the basis of the same enforceable title, without summons and without any other prior formality.

In the case shown, any movable property, whatever its nature or value, which was not lifted at the time of the initial forced handing over or which was brought into the building after re-occupation, shall be deemed to have been abandoned as soon as it is reinstated.

On the basis of the minutes provided at the disposal of the criminal investigative body, certified copy, by the bailiff, the prosecution will be initiated.

Enforced enforcement of other obligations to do or obligations not to do.

Under Article 903 of the Code of Civil Procedure, these provisions are applicable to forced execution in the nature of the obligations to make or not to execute under an

enforceable title. If by the enforceable title the creditor was authorized to execute himself, or at the expense of the debtor, either to execute the obligation to do or, as the case may be, to remove or lift what the debtor did in breach of the obligation not to do it is no longer necessary to obtain a new enforcement order to determine the damages due by the debtor or, as the case may be, the value of the work necessary to restore the situation prior to the breach of the obligation not to do so.

In the latter cases, these amounts are determined on the basis of expertise or other supporting documents by the bailiff. In the case of an obligation to do so, the creditor may obtain enforcement in all cases where such a form of execution does not involve the debtor's personal constraint, that is, the freedom of the debtor is not at stake. It is the conclusion resulting from the text of art.1528 of the Civil Code, which stipulates that, in the event of non-performance of an obligation to do, the creditor may, at the expense of the debtor, execute himself or carry out the obligation. Unless the debtor is entitled to be late, the creditor may exercise this right only if the debtor notifies the debtor of it either with the delay or afterwards.

If by the enforceable title the creditor was authorized to execute himself, or at the expense of the debtor, either to execute the obligation to do or, as the case may be, to remove or lift what the debtor did in breach of the obligation not to do it is no longer necessary to obtain a new enforcement order to determine the damages due by the debtor or, as the case may be, the value of the work necessary to restore the situation prior to the breach of the obligation not to do so. In the latter cases, these amounts are determined on the basis of expertise or other supporting documents by the bailiff.

Under Article 904 of the Code of Civil Procedure, if the debtor refuses to fulfill an obligation to enforce a writ of execution, within 10 days of the communication of the declaration of enforceability, the creditor may be authorized by the executing court, by enforceable order, given the summons of the parties, to perform it himself or through other persons at the expense of the debtor.

Under Article 1530 of the Civil Code, the creditor is entitled to damages for damages for the damage caused by the debtor and the direct and necessary consequence of the unjustified non-execution or, as the case may be, the fault of the obligation. Under the provisions of Article 1724 of the Civil Code, when the buyer has not paid, the seller is entitled to either the forced execution of the payment obligation or the resale of the sale, as well as, in both cases, damages, if any.

Enforced execution of rates in the life insurance contract In the event of default, the creditor may demand the seizure and the sale of the debtor's assets, up to a sufficient amount to secure the payment of the rent for the future. This amount shall be determined, according to the law, on the basis of an expert opinion drawn up in accordance with the calculation methodology applicable to life assurance, taking into account, inter alia, the rates already earned by the creditor, his or her age and status.

Expenditure on expertise is borne by debirentier. Once it has been obtained from the sale of the debtor's assets, the amount is recorded at a credit institution and will be paid to the creditor in accordance with the amount and maturities agreed upon under the lifetime contract. If the debtor goes into liquidation, the creditor can realize his right to rent by entering in the picture of creditors a claim whose amount is determined according to the expert mentioned above.

In the case of an obligation not to do, there are arguments that may support the idea that it is suitable for forced execution in nature in case of violation and the obligation is passed in the enforceable title.

According to Article 905 of the Code of Civil Procedure, the creditor may, by enforceable order, with the summons of the parties, authorize, by enforceable enforceability,

to discontinue himself or any other person, at the expense of the debtor, the work done by him against the obligation of do not do it.

Under Article 1529 of the Civil Code, in the event of non-performance of the obligation not to do so, the creditor may request the court to remove or lift what the debtor did in breach of the obligation, at the expense of the debtor, within the limit established by court order.

If the debtor has committed an action, from which he was obliged to refrain from doing so, the execution of the action is as follows:

a) by granting damages to cover the loss suffered by the creditor through the action of the debtor in breach of the obligation not to do, which he has assumed;

b) by the creditor's right to demand the destruction of what he did in breach of the obligation not to do, or to destroy himself, at the expense of the debtor, in addition to damages.

By using these legal possibilities, forced execution in kind of the negative obligation violated by the debtor is achieved.

When the debtor persists in his attitude towards failing to perform his obligations, even if the creditor uses means of forced execution, the law provides the creditor with another legal means to compel the debtor to execute in kind, the obligations to do or not to do, there are also cominatorial damages.

Cominter damages Regressive damages are an indirect means of constraining the debtor to execute the obligations he has assumed under the contract and which consist of amounts of money to which the debtor is obliged to pay for each unit of time (day, week, month) of the delay until the fulfillment of the obligation. Their amount shall be determined by the decision of the court.

They are a means of legal constraint, a threat to the debtor, and have the purpose of determining him to execute the obligation in kind¹. Compensatory damages are a pecuniary sanction applied by the courts to ensure that an obligation to do or not to be enforced is determined by a court order and that the amount of money to be paid under this title is independent of the compensation which must be the equivalent of the damage caused and the reason for the grant of such damages is the exercise of their constraining effect on the debtor who persists in failing to fulfill his obligation by forcing him to pay to the lender certain sums in relation to the duration of the delay in fulfilling the obligation to do or not to do.

Legal characters:

- is a means of compelling the debtor to execute the obligation;
- periodic damages, as a means of compelling the debtor in the performance of his obligation, are not reparatory because they have no connection with the damage the creditor has attempted²;
- are a subsidiary means of achieving the obligation. Periodic damages are required only in exceptional cases, if there are no other means by which to enforce the obligation in kind;
- they are not limited in time because it is not known how long the debtor will not fulfill his obligation.

The legal nature of cominatorial damages is the middle of the debtor's coercion, in the case of "doing" or "not doing", to execute his obligation in kind. Granting them is not conditional upon the existence of any damage. If the debtor fails to execute, perform late or inappropriately executes the assumed obligation, the court must compensate for the damage caused by the creditor.

Periodic damages do not apply to an amount-of-money obligation, because in this case, the amount of money generates interest for late payment of the refund. Also, no cominatorial

¹Teofil Pop: The legal dimension of cominatorial damages, Law Journal no.12 / 1995, p.24.

² Decision No. 285/1997 of the Ploiesti Court of Appeal
Decision No. 294/1995 of the Bucharest Court of Appeal.

damages are applied even when theoretically it is possible to apply them when execution in kind is no longer possible or when the debtor's refusal to perform the obligation is clearly expressed. Periodic damages are provisional, civil sanctions.

It follows that in the substantive litigation the creditor transforms his claim for the payment of damages in a claim for damages and the court, on the basis of conclusive evidence, will determine the actual damage. Interim damages are temporary and their limit is fixed at the amount of the damage suffered and can ultimately serve to compensate by compensating them to compensatory damages¹.

If the special law provides for the debtor to be ordered to pay cominatorial damages or, as the case may be, for a civil fine for non-observance of an obligation to do or not to perform what can not be done by a person other than the debtor, provided in art. 906 of the Civil Procedure Code.

According to art. 906 of the Civil Procedure Code, if within 10 days of the notification of the execution of the execution of the execution the debtor does not perform the obligation to do or not to do, which can not be fulfilled by another person, it can be constrained in its execution, by applying penalties, by the enforcement court.

Where the obligation is not assessable in cash, the court seized by the creditor may oblige the debtor, by final judgment given by summoning the parties, to pay in favor of the creditor a penalty from 100 lei to 1,000 lei, set on the day of delay until execution the obligation provided in the enforceable title².

When the obligation has a valuable object in money, the penalty may be set by the court between 0.1% and 1% per day of delay, percentage calculated from the value of the object of the obligation.

If, within 3 months from the date of notification of the termination of the penalty payment, the debtor does not fulfill the obligation stipulated in the enforceable title, the enforcement authority shall, upon the creditor's request, set the final amount due to this title, quoting parts³.

¹ Decision of the Supreme Court No.1559 of 30 June 1984, published in the 1984 Reports of Judgments, pp. 123-124.

² Decision No. 73/2017 of the HCCJ (Complete DCD / C), published in the Official Gazette of Romania No. 914 / 22.11.2017, allowed the request for a preliminary ruling, filed by Cluj Tribunal - Civil Division in file no. 10022/211/2016 and consequently established that:

In interpreting and applying the provisions of art. 906 par. (1) and (2) Code of Civil Procedure, the conclusion of the settlement of the application for the payment of penalties on the debtor's day of delay of an obligation to make or not, valuable in money, which can not be satisfied by another person, is final, irrespective of the solution adopted by the enforcement authority, namely the admission or rejection of the creditor's request.

See also the Conclusion of Sept. 17, 2018, of the HCCJ Clearinghouse for Law Issues, published in M.Of.nr.898 / 25.10.2018.

Accepts petition request

Has the fixation of the material error streaked in the device of Decision no. 73 of 16 October 2017, delivered in File no. 1.363 / 1/2017 and published in the Official Gazette of Romania, Part I, no. 914 of November 22, 2017, in the sense that instead of: "in the interpretation and application of the provisions of Art. 906 par. (1) and (2) of the Code of Civil Procedure, the conclusion of the settlement of the application for the payment of penalties on a debtor's day of delay for making or not making money, which can not be satisfied by another person shall be final, irrespective of the solution adopted by the enforcement, admittance or rejection of the creditor's request ", shall read:" in the interpretation and application of the provisions of art. 906 par. (1) and (2) of the Code of Civil Procedure, the conclusion of the settlement of the application for payment of penalties per day of delay of the debtor an obligation to make or not to make, evaluate or not in money, which can not be fulfilled by another person, is final, irrespective of the solution adopted by the enforcement authority, namely the admission or rejection of the creditor's request. "Obligatory, according to the provisions of art. 521 par. (3) of the Code of Civil Procedure. Pronounced in public sitting, today, September 17, 2018.

³ When the value of the object has been set, the penalty may be set by the court between 0.1% and 1% per day of delay, calculated from the value of the object of the obligation.

If, within three months of the date of the notification of the termination of the penalty payment, the debtor fails to fulfill the obligation stipulated in the enforceable title, the enforcement authority shall, on the creditor's request, set the final amount due to this title, quoting parts.

Penalty may be removed or reduced by way of appeal to execution if the debtor fulfills the obligation laid down in the enforceable title and proves there are good reasons to justify the delay in execution.

The ending is enforceable.

The granting of penalties does not exclude the obligation of the debtor to pay damages, at the creditor's request, under the conditions of art. 892 or common law¹.

According to art. 907 of the Civil Procedure Code, for the non-fulfillment of the obligations stipulated in Chapter IV of the Civil Procedure Code regarding the forced execution of other obligations to perform or the obligations to do not, no cominatorial damages can be granted.

Public Power Competition

If, in the cases provided for in Art. 904 and 905, the debtor opposes the execution of the obligation by the creditor, the bailiff, at the request of the creditor, will obtain, according to the law, the contest of the police, gendarmerie or other public servants, as the case may be².

Making entries in the Land Book According to art.909 of the Code of Civil Procedure, if by enforceable title an enrollment in the land book was ordered against the person registered as the right holder, the creditor may apply directly or through the bailiff to the cadastre and real estate publicity office to have registration under this title. If the person against whom the enrollment was ordered was also obliged by the same executory title or by another to evict or, as the case may be, hand over the property to the creditor's hands, it shall proceed according to the provisions of art. 896 et seq., i.e. the forced handing over of immovable property. The provisions are also applicable in cases where the obligation contained in the enforceable title concerns the making of entries in public registers other than the land register. The cominatory damages are also enshrined by special rules. Such provisions, which refer to the sanction of payment of damages, are contained in art. 48 par. (2) of the Law no. 31/1990 on societies, in art. 64 par. (2) of the Land Fund Law no. 18/1991, republished, and in art. 24 paragraph (2) of

¹Art.11 of the Law no. 76/2012 on the implementation of Law no. 134/2010 on the Civil Procedure Code.

If the special law provides for the debtor to be ordered to pay cominary damages or, as the case may be, a civil fine for non-observance of an obligation to do or do what can not be done by another person than the debtor since the entry into force of the Code of Procedure civil, shall be entitled to apply the penalty under the conditions provided by art. 904 of the Civil Procedure Code.

Article 892 of the Code of Civil Procedure

If, in the enforceable title, it has not been established what amount is to be paid as equivalent to the value of the property in the event of its being surrendered or, where appropriate, the equivalent of the compensation due in the case of non-performance of the debtor's personal obligation the claim of the creditor will determine this amount by a judgment given by the parties quoting in the short term. In all cases, at the request of the creditor, the court will also take into consideration the damages caused by the voluntary non-fulfillment of the obligation before it becomes impossible to execute.

The judgment is enforceable and subject only to the appeal. Suspension of the enforcement of this judgment can only be achieved by recording the amount determined. The provisions of art. 751 and 752 are applicable accordingly.

On the basis of the request provided in paragraph (1), the creditor may take precautionary measures.

²Art.904 the execution of the obligation to do, from the Code of Civil Procedure

If the debtor refuses to fulfill an obligation to enforce in a writ of execution, within ten days of the notification of the conclusion of the declaration of enforceability, the creditor may be authorized by the executing court by enforceable order, with the summons of the parties, to either by himself or by other persons, at the expense of the debtor.

Art.905 the execution of the obligation not to do

The provisions set out in this section are also applicable in the case where the enforceable title includes an obligation not to do so.

The creditor will be able to request the executing court to authorize, by enforceable enforceability, with the summons of the parties, to discontinue himself or other persons, at the expense of the debtor, the work he has done against the obligation not to do so.

the Administrative Contentious Law no. 554/2004, which states that if the time-limit is not observed, "the claimant is entitled to compensation for delay"¹.

It follows that cominatorial damages are a pecuniary penalty that is applied by the courts to ensure that an obligation to do or not to be enforced is determined by a court order and that the amount of money set is to be paid under this title is independent of the compensation which must be the equivalent of the damage caused and the reason for such damages is the exercise of their constraining effect on the debtor who persists in failing to fulfill his obligation by making him pay to the creditor of amounts calculated in relation to the duration of the delay in fulfilling the obligation to do or not to do so.

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¹ Art.48 paragraph 2 of the Law no. 31/1990 If the company fails to comply, any interested person may ask the tribunal to oblige the organs of the company to regularize them, subject to the payment of damages under common law. Art.64 of Law no.18 / 1991 If the local commission refuses to hand over the title issued by the county commission or puts it in real estate, the disaffected person may file a complaint with the court in whose territory the land is situated. If the court accepts the complaint, the mayor shall be obliged to execute immediately the handing over of the property title or, as the case may be, the effective possession of the property, subject to the payment of penalties under the conditions provided by art. 906 of the Civil Procedure Code. Art.24 paragraphs 2 and 3 of Law no.554 / 2004.

In the event that the debtor does not voluntarily perform his / her obligation, it shall be executed through forced execution, following the procedure provided by the present law. At the request of the creditor, within the limitation period of the right to obtain enforcement, which shall run from the expiry of the terms provided in paragraph (1) and which have not been complied with, the executing court shall, by final judgment given by summoning the parties, apply a fine of 20% of the minimum gross salary per day of delay to the head of the public authority or, as the case may be, is paid to the state budget, and the applicant grants him penalties, under the conditions of art. 905 of the Code of Civil Procedure. Decision No.898 / 2015 of the Constitutional Court. The Constitutional Court admits the exception of unconstitutionality and finds that the legislative solution according to which the conclusion provided by art. 24 paragraph (3) is "definitive" is unconstitutional.

THE SEPARATION OF THE ASCENDING

Nicolae, Gradinaru¹

Abstract

The ascendant paradigm is a derogation from common law and which the law permits, as heirs instead of being given the inheritance in the state of indivisibility, they receive goods directly in property by the will of their ascendant and not as a result of a division made by the will of these heirs.

The Ascendant Partial is a legal act that achieves a division and prevents a state of indivisibility between the heirs by donation or will.

Keywords: sharing, ascending, indivisibility, sharing.

JEL Classification K0 K3 K30

Ascendant paradigm is the legal act concluded between the living (eg donation) or an act of cause of death (such as the will) by which an ascendant divides all or part of his possessions between his eventual heirs of the first class of heirs; and namely his descendants, thus making dividing relations between them, so, according to Article 1160 of the Civil Code, ascendants can divide their property among the descendants.

This ascendant division is a derogation from the common law and which the law permits, as heirs instead of being given the inheritance in the state of indivisibility, they receive goods directly in property by the will of their ascendant and not as a result of a division made by the will of these heirs. Ascendant paradigm is a legal act that achieves a division and prevents a state of indivisibility between the heirs by donation or will.²

Formal conditions According to art. 1161 of the Civil Code, the ascending partition can be made by donation or by will, in compliance with the forms, conditions and rules stipulated by the law for these legal acts. Failure to comply with these formal requirements imposed by law results in the absolute nullity of the legal act of division concluded in violation of these provisions.

After the ascendant's death, the descendants who are the beneficiaries of the divide can confirm the null act by executing the ascension's disposition, knowing the cause of the nullity. Background conditions The legal act by which the ascension share is to be fulfilled must meet the general conditions applicable to all legal acts provided by art. 1179 of the Civil Code, namely: the capacity, the consent of the parties, the determined and licit object and a lawful and moral cause, as well as the special conditions such as: the persons between whom ascendant ascendant takes place, namely the ascendants and their descendants, the division and the way in which this division is made.

Special conditions of the legal act by which the ascending share is made:

a) Persons who have the right to divide their property by ascending. These people call ascendants, ie parents, grandparents or grandparents, who divide the goods among their descendants as presumptive heirs. Ascendants can be: from marriage, from marriage, or from adoption. Descendants can be: children, grandchildren or grandchildren from marriage, out of marriage or adoption.

The spouses can make upward ascension in favor of their descendants having as their object the common goods through a conjugal donation, that is to say, through a donation contract having as donors the two spouses who donate their common goods to their descendants (from marriage, from outside marriage or adoption). Wives can not conjunctive (mutually) testament because it is forbidden by law³.

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² Art.984 of the Civil Code

Liberty is the legal act whereby a person freely dispenses his goods, in whole or in part, in favor of another person. Liberties can only be made through donation or binding in the will.

³ Art.1036 of the Civil Code

When the surviving spouse is omitted from the ascendant, this does not result in the nullity of partition, because ascendants can divide their possessions among descendants, the inclusion of the surviving spouse does not excite it as ascendant, but has received a liberty (donation or will) according to common law.

If the surviving spouse is not left to the surviving spouse, he may, by hereditary petition for heirs, inherit his share of the inheritance to which he is entitled according to the law, and if his right to inheritance has been violated, the surviving spouse is he / she may request through redemption action to complete the inheritance reserve to which he / she is entitled according to the law, namely $\frac{1}{2}$ of the share to which he / she is entitled as a legal heir, ie in a contest with the descendants, the share of the surviving spouse is $\frac{1}{4}$ of the inheritance, $\frac{1}{8}$ of inheritance. Thus, according to Article 1163 paragraph 3 of the Civil Code, if the ascendant paradigm violates the inheritance reserve of any descendant or surviving spouse, the provisions relating to the reduction of excessive liberties¹.

b) the descendants of which the upward division is made must have a succession inheritance to inherit the divisor, not to be unworthy, and to accept the inheritance. They can come to inheritance in their own name or through representation.

According to art. 1163 of the Civil Code, the absolute nullity is punished by the partition in which not all descendants who meet the conditions to come to inheritance, either in their own name or by succession representation, have suffered.

There is no nullity of the ascendant paradigm in which a descendant who comes to the inheritance by inheritance is not included, but was the one he represents².

Descendants between ascending ascendant must exist on the date when the donation ends or exist at the date of the opening of the succession if the division is by will³.

According to Article 1163, paragraph 3 of the Civil Code, if the succession reserve of a descendant or surviving spouse is broken by the ascendant, the provisions concerning the reduction of excessive liberties are applicable. c) the goods forming the object of the divide are the ascendant. Ascendant parcel includes goods belonging exclusively to the ascendants.

According to Article 1161 (2) of the Civil Code, the donation can only have as object the present goods of the possessor, ie they can not be included in the ascendant and future goods. If all the assets of the inheritance were not included in the ascendant, the goods not included in the division shall be shared according to the law.

d) the ascendant partition is effective, that is, the consignments formed to the heirs are constituted in nature rather than in parts because it is not a ascendant partition but a staying in the individual.

e) the divesting is a liquidation of the succession, the ascendant must respect the inheritance reserve of each heir. favoring heirs can only be done from the available amount. The effects of the upward division. The effects of the upward division differ as it is done through donation or will. The effects of the upward division by donation. The donors will acquire irrevocably through the conclusion of the donation contract, rights from the

Under the sanction of absolute nullity of the will, two or more people can not dispose, by the same testament, either in favor of the other or in favor of a third party.

¹ Art.984 of the Civil Code

Liberty is the legal act whereby a person freely dispenses his goods, in whole or in part, in favor of another person. Liberties can only be made through donation or binding in the will.

² N.Grădinaru - Civil Law. Succession. Ed. Economic Independence. Pitești 2018. p.228

³ Art.36 of the Civil Code

The rights of the child are recognized from the concept, but only if he is born alive.

Art.412 of the Civil Code

The time span of between three hundred and one hundred and eighty days before the child's birth is the legal time of the concept. It is calculated daily.

ascendant, which they can freely dispose of. The immovable property that is the object of the donation is recorded in the land book.

Creditors to the ascendant can attack the donation if they believe it was done in violation of their rights.

Upon the death of the descendant, descendants still remain donors while retaining goods received by donation.

The remaining goods, which have not been the object of the ascension, will be acquired by the heirs in the indivisible.

Goods that have been donated by the ascendant are an early liquidation of the inheritance among all descendants and are not subject to the report.

The effects of the ascendant division made by the will.

In this situation the partition is done through an act of death and only effects of the death of the author who leaves the inheritance.

At the time of death, the descendants acquire the goods in a divided state for each lot according to the ascendant division contained in the will.

Through the downward division the descendants remain legal heirs and not legatees, the testator does not establish related and linkers but only a division of the inheritance.

The testament gives rise to divisions among the descendants.

The remaining goods that have not been the object of the ascendant partition will be acquired by the heirs in the individual as if the ascension was made by donation.

If the testator, after having made the ascendant partition through the will, has alienated certain items that were included in batches of descendants, at the death of the testator they may request the annulment of the testamentary ascendant partition. If the testator has disposed of goods to affect the succession reserve of a descendant, he will be able to demand by reducing the batches of the other descendants until the reintegration of his succession reserve. Ineffectiveness of ascending partition.

The ascending partition may be ineffective for common law reasons as follows: - the partition may be hit by relative nullity for non-observance of the capacity conditions and the conditions of consent (vices of consent), or hit by the absolute nullity for non-observance of the formal conditions or for the obsolescence. The ascending donation may become ineffective by revoking the donation for not performing the task or for ingratitude or for admitting the pauline action introduced by the creditor of the ascendant who has completed the donation; - the partition may be ineffective and as a result of the provisions of art. 1163, which stipulates that an absolute nullity is punished by the partition in which not all descendants who meet the conditions for coming to inherit, either in their own name or by succession representation .

Those provisions do not apply to the separation in which a descendant who is inherited by inheritance has not been included, but the one to which he represents is included.

If the succession reserve of any descendant or surviving spouse is broken by the ascendant, the provisions on the reduction of excessive liberties apply.

If the ascension of the ascendant has been made by both parents, the right to act in the reduction is born at the death of the surviving parent, because the two parents' assets form a single table to be divided.

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ENHANCED EDUCATIONAL STANDARDS VIA ENTREPRENEURSHIP-BASED PROJECTS

Aida Mihaela, Grecu

Abstract:

European funded programmes such as Erasmus+ projects have played a tremendously supportive role in students' and teachers' educational development process over the past years due to their limitless training activities that can be easily accessible to anyone willing to get out of their comfort zone and acquire further knowledge or even give a boost to their skills. "Career based opportunities" Erasmus+ K2 project stands for an innovative and creative way of increasing participants' entrepreneurial skills, self-esteem as well as their chances of insertion on the labour market after graduation. Throughout the first year of the project lifetime, this collaborative extracurricular activity brought about a great deal of positive changes in our students' perspective on their career path and entrepreneurial skill as well as on teachers' personal and professional development.

Key words: project, education, entrepreneurial skills, labour market, career

Chapter 1: "Career based opportunities" - general overview

"Career based opportunities" is a European funded partnership that has been developed by five secondary schools from Poland, Romania, Italy, Turkey and Bulgaria since 2017. It was designed to last for two years, that is until August 2019 and meet the objectives of the European Commission. Taking into account the different rates of youth unemployment in the countries participating in this project (Poland: 26.5 %; Italy: 40.1 %; Romania: 23.3 %, Turkey: 23,2 %), there is a great need for innovation in this matter. In the context of increasing unemployment rates nowadays, the above results come from the difficulty of graduates to find jobs in accordance with their interests, abilities, skills or personality traits. Therefore, this project is intended to meet the needs of young European citizens in secondary schools and allow them to choose a suitable career path and make the right career choices. Young people should also be fully aware of their potential and have access to information regarding the general economic environment of the European labour market.

The project is established around the central concept of exchange of experience and good practices. Participants will benefit from the expertise of professionals and the beneficiaries' associated partners. They will assist students in transferring the information and applying it to a modern and dynamic school environment. The project focuses on the development of students' entrepreneurial skills and offers them opportunities to connect to the labour market, local/regional/European institutions or private companies with the same scope. It will allow students to develop a genuine adaptability to the market at a local, national and EU level. The project will last for two years and there will be two Transnational meetings at the beginning and closure of the project and four Learning/Teaching/Training Activities. There will be workshops during student exchanges and observation good practices in the Italian school (Good Practice 1: The developed connection between school and Labour Market in Italy) and Romanian school (Good Practice 2: Creating the training firms as real firms - Mock Companies). Those practical and useful applications will be integrated into the project activities and in the second year all the partners will apply the two actions. During each exchange seminars will be given by professionals from the labour market in order to easily achieve the transition from school to work and reduce the labour market segmentation.

The purpose of the project is international. It will create a strong synergy among partner schools and it will provide inspiration for students to develop their future career path. The project includes 2630 participants in a direct and indirect manner.

Pupils: All the project activities at local and international level will involve students as beneficiaries directly and indirectly. Approximately 1200 students/teenagers will indirectly be affected.

Teachers: Teachers will be involved both as instructors and beneficiaries by observing other schools and their education system). There will be teams of 5 teachers in each partner organization so 25 in total will take part actively in the project activities. Approximately 150 teachers/adults will indirectly be affected.

Administrative staff: They will tackle the running of the legal issues of the project, observing other school education systems and transferring good practices into the school curriculum. Approximately 36 administrative staff will be indirectly affected.

Graduated students: Questionnaires will be applied on minimum 100 students and this evaluation will offer the state of their professional working life. 500 students will be involved in total.

Parents: The number of the family members will be 300 in total and they will contribute to introducing the host country culture and tradition. Approximately 480 family members will be indirectly involved in the project.

Labour Market members: Minimum 15 members from the labour market will be involved in the project in every school.

Local community: Local community members such as university lecturers, local press, municipality, directorate of national education and PTA will help to disseminate the project to a wider community. Approximately 300 people from local community will be indirectly involved.

A positive direct effect is expected at a rate of 30% from our pupils and target groups by: gaining basic skills in term of entrepreneurship; reducing labour market segmentation; offering pupils opportunities to connect to the labour market through local/regional/European institutions or private companies; leading students to analyze their own marketability; increasing student flexibility and align to the concept of continuous learning and flexible career options; adapting to labour markets in local, national and EU level; providing a unique opportunity for students to acquire knowledge and deeper understanding of the cultural and linguistic diversity of the European community.

Chapter 2: "Career based opportunities" and its impact after the first year

As it was established at the application stage, the activities of the first year of the project have been carried out by five secondary schools from Poland, Romania, Italy, Turkey and Bulgaria. Throughout the former part of the project lifetime, that is from the 1st of September 2017 till the 31st of August 2018, all the partner countries actively involved in the initially planned activities of the project, thus being able to reach all the project aims: improvement of students' entrepreneurial skills, development of the relationship between school and labour market, increasing the chances of insertion of all pupils on the labour market by ensuring chances and socio-professional inclusion, the development of communication, digital and mixed groups cooperation skills, the growth of our schools institution's internalization. Through a very close communication process among all the project partners, which was led by the Polish coordinator, we managed to adjust the activities' plan so that a constant progress of the project was assured. The initial stage of the project was the one during which we introduced the project to our schools-teachers and students included, created its facebook page, chose the students' and teachers' project teams, created logos, posters and leaflets to promote it. Then, 2 members of the teachers' project team, that is the Romanian manager of "Zinca Golescu" High School together with the project coordinator, took part in the first transnational project meeting TPM which was organized in Poland. On this occasion, the participants met for the first time face to face, got to know each other better, presented their own schools, the educational system in each country, the SWOT analysis of each school, discussed the features of each activity as well as possible problems and their solutions, reorganized the plan of activities, created the draft surveys to be applied to current students and graduates, chose the logo and poster meant to represent our project, negotiated a

fair distribution of tasks, decided the sectors of improvements in the case of the official website and agreed on the dates of the learning-teaching-training activities/ LTTs in Italy and Romania. What is more, the Polish partnership coordinator presented the education opportunities in vocational education training/ VET around Europe, which was later on showed to the students in each country during our local meetings. Before the meeting in Italy, each partner school applied, interpreted and made power point presentations with both the graduates' and the current students' surveys, created presentations of their country, region, school and educational system, made an Erasmus+ corner in their schools, delivered leaflets and project brochures to parents and other stakeholders, organized mini-conferences for stakeholders. All these intermediate project results were shared during the LTT in Italy. In order to make our stay in Italy more comfortable, the Italian team designed a travel manual about Italy and especially Limbiate region. What is more, thanks to the meeting in Italy (25th February to 3rd March 2018) our students were introduced to the notion of big business and teachers learnt how to link our schools with local businesses to give our students a connection with today's job market. Talks with successful business people both during our field trips in companies (CEMP SRL, GIORGETTY SPA) and the interviews with successful labour market members, gave the students an array of warm-hearted advice and encouragement.

The LTT in Romania (15th April to 21st April 2018) was carefully organized so that meaningful and useful activities be implemented based on teamwork. One week before this transnational meeting, the Romanian project team designed a travel brochure meant to promote the country, region, school and provide our partners with useful information to make their stay here easier. The whole LTT in Romania concentrated on enlarging all the participants' knowledge and practical skills regarding the stages of setting up a company through multiple workshops such as: stepping into the world of entrepreneurship; entrepreneur versus Employee; writing a cover letter; writing a business plan-revealing 10 essential steps to be taken when planning to start a business, enlarging on the 9 sections of the lean canvas, sketching 5 different business ideas and posters to promote them; Mock Firms Fair-good practice examples, visits to mock firms stands, filling in worksheets regarding details related to the businesses presented previously; field trip to Dacia Renault Group - Mioveni, Romania and IPEE Company - Curtea de Arges; "Paving the way for success" Conference – presenting the profile of various successful people on national, regional and local level; Speech about success; interviews with 2 successful people; watching a video with two young entrepreneurs. Additionally, participants got familiar with a myriad of European and Romanian certificates, designed the draft magazine of the LTT's results and immersed in the Romanian culture.

In terms of impact, the project intends to meet the needs of young European citizens in 5 European secondary schools so that they find a suitable career path and make the right career choices in full self-awareness and having access to the suitable information regarding the general economic environment of the European labour market. The project is focused on the exchange of experience and good practices. The expertise of professionals, of the associated partners who assist students in transferring the information and applying it to a modern, dynamic school environment has had a beneficial influence on every participant in the project. The project aims at developing students' entrepreneurial skills and offers them opportunities to connect to the labour market or local/regional/European institutions or private companies. Students are in the process of becoming aware of their personal skills needed in the work environment, are increasing their flexibility and align to the concept of permanent training and flexible career options, developing their adaptability to labour markets in local, national and EU levels.

Impact on students:

- SWOT analysis prepared for their schools made students aware of the importance of strategic thinking, taking into account foreseeable risks
 - They have learnt how to analyse surveys run on present-day students and graduate to become aware of their knowledge/lack of knowledge on the today's labour market.
 - they have practised various ways of promoting a project
 - they improved their ICT skills while designing customized logos, leaflets, posters, roll-ups, brochures, a travel manual, key rings, pens, folders, flag, T-shirts, PPTs, Prezi presentations, Publisher, Kinemaster, googledocs, youtube)
 - They have learnt how to design and run a Facebook page of a project
 - They became accustomed with European Instruments like Europass, ECVET, Youthpass, ECTS
 - They got a crystal clear picture of the current labour market requirements
 - They discovered new links to the labour market through their field trips in Italian and Romanian companies.
 - The have learnt about company's structure and possible career paths
 - They have been inspired by meetings with successful business people in Italy and Romania, and learnt about the possibilities and challenges connected with running a firm
 - They have paved their way into starting their own firm by preparing drafts of their business plan and watching simulations of a firm fair, including 3 mock firms of the Romanian partner school and 2 of a local partner school
 - During the short exchanges, the students discovered the characteristics of a successful entrepreneur in other countries, in this way becoming aware of the possibilities offered by the labour market in other European countries and trying to adapt to the necessities needed on the labour market at local, national and European level.
 - They have practised and improved their public speaking skills as well as their critical thinking, problem solving ability, creativity
 - They have increased their self esteem, confidence in speaking English on a daily basis, cooperating skills when working in mixed-nationality teams
 - They have overcome previous stereotypes
- Impact on teachers:
- Refreshed teaching strategies, better English communicative skills, improved teamwork skills
 - Teachers involved in the TPM in Poznan, Poland received participation certificates.
 - Not only did all the participants in LTTs got an official certificate of attendance, but the Romanian school also cooperated with the Italian partner and jointly issued Europass Documents for the 8 participants.
 - The educational organisations have gained important links to various institutions on the local and regional level, which started a long-lasting process of cooperation and innovation. Partner schools involved in the project development gained social fame and recognition on the local, regional and European level.
- Impact on partner institutions: local companies have gained a possibility to attract young people to their market segment; in cooperation with schools, they tailor and update the education offer, making it more practical and skill oriented.
- Impact on families/local community: due to the dissemination activities, families have become more aware of the European dimension of education and their children opportunities during their school period. Moreover, parents have turned into more tolerant, flexible and open-minded people during the student exchanges.
- "Career based opportunities" Erasmus+ K2 project is the extracurricular activity that has been in progress in our high school for more than one year and brought about a great deal of changes in our students' perspective on their career path and entrepreneurial skill as well as

on teachers' personal and professional development. On no account should educational institutions avoid getting involved in such inspiring, innovative and experimental projects as they do urge teenagers to embark on a self-discovery and personal development program that will undoubtedly boost participants' self-esteem and their chances for an easier insertion on the labour market.

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ASPECTS ON LEGITIMATE DEFENCE IN THE CURRENT CRIMINAL CODE AND IN COMPARATIVE LAW

Lixandru Raluca-Viorica¹

Abstract:

The current Criminal Code places special emphasis on the justifying causes. The justifying causes remove the illicit character of the act provided by the criminal law, and not the guilt represented by the imputability of the act. The legitimate defence removes the criminal character of the act. It is very important that its conditions are met: there must be a direct, immediate and unjust material attack, as well as a defence directly proportional to the severity of the attack.

The effects of justifying causes occur in rem, consequently extending on all the participants.

If a justifiable cause is retained, punishments, educational measures or safety measures may be applied. The civil liability of the perpetrator is removed.

Upon developing the current codes, concerning the legitimate defence, the opinions expressed in the literature have been taken into account, as well as the laws of other states.

As a rule, in the European legislation, there is no division in justifiable cases (which also includes the legitimate defence) and causes of non-immutability (e.g. the French, Spanish and German Penal Codes), with the exception of the Belgian criminal code, where there is the same classification as in the Romanian Criminal Code.

Key words: *legitimate defence, criminal nature of the deed, justifying causes or causes*

JEL classification: *K 14*

The justifying reasons were introduced in the current Criminal Code in order that the Romanian criminal legislation be aligned with the European one. In fact, one reverted to the existing provisions in the Criminal Code of 1937.

The current Criminal Code enshrines four justifiable causes, stipulated in article 19-22, namely: the legitimate defence, the state of necessity, the exercise of a right or the fulfilment of an obligation and the consent of the victim.

The justifying causes eliminate the illicit character of the deed provided by the criminal law, and not the guilt represented by the imputability of the deed.

Furthermore, the criminal character of the deed is removed, the justification cause having an effect on the deed, in rem, it acquires licit character.

The effects of the justifying causes occur in rem, consequently they extend to all the participants (accomplices or instigators), not only to the author(s) or co-author(s).

No punishment, educational measures or safety measures can be applied in case of retention of a justifiable cause. The civil liability of the perpetrator is removed. On the criminal side of the case one may order the classification under the stage of criminal prosecution or the acquittal in the trial stage on the basis of article 16-17 Code of Criminal Procedure.

The justifying causes can be defined as those situations governed by the criminal law in the presence of which an act according to an incrimination rule ceases to be in contradiction with the superior legal order becoming permissible (Niculeanu, 2010).

I. Legitimate defence. Notion

Legitimate defence is a cause that removes the criminal character of the deed and is stipulated in article 19 Criminal Code. The Criminal Code provides that *the deed provided for by the criminal law committed in legitimate defence is justified* (paragraph 1 of Article 19 of the Criminal Code), *and in paragraph 2 it is mentioned that it is legitimate defence for the person who commits the act to remove a direct, immediate and unjust material attack,*

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endangering his or her person or another's, their rights or a general interest if the defence is proportionate to the severity of the attack.

In paragraph 3, the Criminal Code provides for a relative presumption of legitimate defence in which the deed is committed *"to reject a person's entry into a dwelling, room, dependency, or place enclosed belonging to it, without the right to do so, through violence, guile, burglary or other such unlawful ways or during the night."* In the current Criminal Code, it is good to note that there is a limitation of the spaces in which a person can penetrate and also an extension of the penetration actions or penetration attempts (Udroiu, 2014).

Excess justified by defence is not assimilated to legitimate defence, but it is stipulated in article 26 of the Penal Code as a cause of non-immutability and is entitled unimputable excess.

In the current Criminal Code, as in the old Criminal Code, the legislator considered that guilt, according to the criminal law, is excluded in situations in which the perpetrator is aware of his/her deeds, or is under the pressure of a constraint (Niculeanu, 2003).

II. The conditions of legitimate defence

Regarding legitimate defence, there are two categories of conditions, namely, conditions of attack and defence related conditions.

Conditions of the attack:

a) There is a material attack

The attack is material when committed by physical violence or when physically threatening the social value protected by the criminal law (for example, a person's life, health, integrity or other rights or a general interest).

The attack is not material if verbal or written aggressions are used, such as insults, injuries, but there is the possibility of retaining a legitimate attenuating circumstance, the challenge.

It is possible that the attack is material and at the time of its committing through omission, the condition being that the social value protected by the norm of incrimination is impaired.

If the attack comes from an animal, and in order to remove it we have committed a deed stipulated by the criminal law, we are in the presence of a state of necessity (Article 20 Criminal Code) (Boroi, 2010).

b) The attack is direct

For the attack to be direct there must be no obstacle between the victim and the aggressor that the latter cannot overcome. The attack is not considered direct when an obstacle (e.g. a closed gate, a fence, a wall) is placed between the aggressor and the victim, causing the attack not to create a threat to the injured value (Niculeanu, 2001).

c) Attack to be immediate

By the phrase "immediate attack" is meant the ongoing attack, i.e. the current danger, as well as the attack on the point of triggering, that is the imminent danger. The immediate nature of the attack is reflected in the very short time that exists between the triggering of the threat and the defence.

As an exception to this rule, this character may be absent in the case of an attempted offense, for example in the case of an attempted imperfection in committing the crime of murder, when the criminal activity was interrupted by the intervention of the public cry or persists in the case of offenses with a reversible result, for example when the victim, after being robbed, exerts violence on the offender in order to recover his/her stolen good (Udroiu, 2010).

If the victim is disarmed by the object capable of causing an aggression, the attack is not immediate.

d) The attack is unfair

The attack is unfair when it is deprived of any legal basis. If there is a legal framework (for example, a boxing match), the attack is no longer illicit and the legitimate defence cannot be retained.

In the doctrine, it was argued that (Niculeanu, 2001) if the person who invokes the legitimate defence knows that the attacker is irresponsible, he/she will be in a state of necessity, and if he/she does not know this, he/she is in the situation of legitimate defence because in the first situation it is necessary that the one in danger can only be saved by committing the deed provided by the criminal law, which is not necessary in the situation of legitimate defence.

e) The attack to endanger the person or rights of the attacker or of another person or the general interest.

The danger can cause an evil that cannot be remedied or irremediable, such as loss of life, permanent or temporary disability, harm, destruction of an important asset of the victim.

In the old regulation, legitimate defence could not be maintained unless the attack did not create a serious danger. When determining the severity of the hazard, account shall be taken of the object of the aggression, the value of the injured object, the place, the time of the aggression, as well as the situation of the attacker.

In the current regulation, if the other conditions of the attack are met, even if the danger is not considered serious, the state of legitimate defence can be retained.

Defence related conditions:

a) The defence by which the attack is denied is an act provided by the criminal law

The form of guilt by which the defence is carried out may be intentional, faultless or praiteral, and the deed can be done in the form of an attempt or in a consumed form.

The legal framing of the deed is irrelevant.

b) Defense is required to reject the attack

The deed committed in legitimate defence must relate to the person of the aggressor, not to another person. It is also important that the deed stipulated by the criminal law be committed between the time when the attack became imminent and the moment when it was consumed. If the deed is placed outside this time, the legitimate defence cannot be retained.

In the recent doctrine (Zlati, 2015) it was appreciated that "(...) Fighting back in the digital/computer environment should not be neglected by doctrine and judicial practice. Since traditional crimes are beginning to gain more and more technical/informational valences, we strongly believe that an assessment/reassessment of current justifications is needed to see to what extent they are in line with current needs.

We also consider it somewhat paradoxical that the legislator felt the need for a quantitative expansion of the criminal law by introducing some computer cybercrimes, without considering it necessary to observe to what extent the justifiable causes - in their current form - raise any problems applicable to these new types of criminal behaviour."

c) The defence action should be proportional to the attack

This condition implies that the need for defence corresponds to the aggressiveness of the attack, that is, it is necessary to have some equivalence (Boroi, 2010) between attack and defence.

The current Criminal Code no longer assumes the excess defence of the legitimate defence, which is included in the causes of impunity. Excessive defence is the situation in which the perpetrator, due to disturbance or fear, voluntarily or involuntarily exceeded the limits of a defence proportionate to the severity of the danger and the circumstances in which the attack occurred.

In case of exceeding of the limits of proportional defence is determined by other causes, the excusable excess will be retained (Article 75 letter b of the Criminal Code). The excuse for provocation is a legally attenuating circumstance both in the current Criminal Code

and in the previous Criminal Code; it is the situation in which, due to a strong disturbance caused by injuries brought by the injured parties, violence, serious prejudice to dignity or other serious unlawful action the perpetrator commits a deed prescribed by the criminal law. It is medically proven that the strong state of disorder or emotion in which the perpetrator is establishes the inhibition of the psychic forces and is determined to commit the deed prescribed by the criminal law.

There is the possibility that the excuse of the challenge can be confused with legitimate defence. The two institutions are very different from a legal point of view. The excuse of the challenge is a legitimate attenuating circumstance, while legitimate defence is a justifiable cause that removes the criminal nature of the deed. Legitimate defence appears to be a response to an imminent attack or on the point of unfolding, but not consumed. The excuse of the challenge is a reaction to revenge, punishing the provocateur after the injuries. That is why the provocative act does not have the intensity, the character and the legal conditions of an attack to which legitimate defence is allowed.

Legitimate defence removes the criminal nature of the deed and, consequently, the criminal liability. The excuse of the challenge does not remove the criminal liability, but it contributes to reducing the amount of the punishment.

The unreasonable excess of legitimate defence removes the criminal nature of the deed based on the disturbance or fear caused by the severity of the attack. The excuse of the challenge diminishes the criminal liability when the deed was committed under the influence of a strong disorder or emotion caused by the injuries, offenses committed by the injured party to the perpetrator. Both institutions are related to the internal psychic processes of the perpetrator of an act of criminal law.

Both in the case of legitimate defence and in the situation of the excuse of provocation the defence is a result of a violent attack. In both situations, acts of violence directed at the defending party must be unfair.

There are a number of differences between legitimate defence and excusable excess.

Legitimate defence is a justifiable cause of the institution of punishment, while the excuse of the provocation is related to the punishment institution. In the case of legitimate defence, there is a possibility that it may be presumed, while the excuse of provocation must be proven in the criminal proceedings.

Within the legitimate defence, the attack must be material, that is, achieved by physical violence or by means that physically endangers the protected social value. The challenge can also be achieved by a serious attack on the person's dignity or by another serious offense.

Legitimate defence takes place before the attack is consumed, while the challenge involves a beginning attack.

The correlation between the two institutions has been reflected over time in judicial practice.

Thus, the High Court of Cassation and Justice, the criminal section, by decision no. 945 of March 17, 2009 decided that legitimate defence implies that the material, direct and unjust attack for the removal of which the person commits a deed prescribed by the criminal law shall be immediately - imminent or actual. There is no legitimate defence to the person committing the criminal law offense after a period of time has elapsed since the attack was consumed while the victim was withdrawing because the attack was neither imminent nor actual. Secondly, the lawful attenuating circumstance of the challenge involves committing the offense under the control of a violent disorder or emotion, caused by a challenge from the injured person rather than from another person through violence, through a serious dignity or other unlawful serious action.

The Supreme Court also decided in 2006 (High Court of Cassation and Justice, Criminal Division, Decision No. 785 of February 7, 2006) that if the defendant committed the act of killing the victim after the attack of the victim (Article 44 paragraph 2 of the previous Criminal Code, Article 19 of the current Criminal Code), because on the one hand the conditions of an immediate attack are not met, and on the other hand, the attack of the victim does not present a danger that seriously threatens the defendant's life, the means used by the victim in his/her attack are not able to justify the defendant's retaliation. In this case, the provisions of article 75 letter a) Criminal Code (Article 73 letter b) of the former Criminal Code) because the defendant committed the act of murder in the conditions of a strong disturbance and emotions determined by the aggressive behaviour of the victim.

There is also the possibility that legitimate defence can be confused with excusable excess (overcoming the limits of legitimate defence). Excusable excess is a general legal attenuating circumstance. It consists in committing an act provided by the criminal law by a person who is not under the control of any strong disturbance or fear. It is necessary to overcome the limits of a defence proportionate to the severity of the danger. The attack must be direct, material, immediate and unjust, endangering the person or rights of the attacked person or of the other or the general interest, and the defence constitutes an act prescribed by the criminal law necessary to reject the attack by the aggressor. In fact, it is necessary to fulfil the conditions of legitimate defence, except for that of the proportionality of defence with the attack. Exceeding the limits of legitimate defence must not be determined by the existence of a state of disorder or fear of the defending person.

III. Conditions of legitimate defence

In article 19 paragraph 3 of the Criminal Code stipulates that *"it is presumed to be legitimate defence, under paragraph 2, the one committing the act to reject a person's entry into a dwelling, room, dependency or enclosed place, without the right to do so, through violence, cunning, burglary or other such illegal means or during the night. "*

Attack related conditions:

The necessary conditions for the attack are a relative presumption, the contrary evidence lies with the criminal prosecution bodies.

- a) The attack consists of an act of penetrating into a dwelling, room, dependency, or enclosed space through violence, cunning, burglary or other unlawful abuses;

The action of entering a house, room, dependency or enclosed space unlawfully, that is to say to be unlawfully committed, should not be based on a legal basis;

Infiltration or attempted unreasonable penetration by night, regardless of the means used or during the day, only if it is carried out through violence, cunning, burglary or other such means;

It is necessary to have an attempt to penetrate or the actual penetration into these spaces, namely, dwelling, room, dependency or enclosed space belonging to it.

Defence related conditions:

- a) The action to reject a person's entry into a dwelling, room, dependency, or enclosed space belonging to it is committed by an act prescribed by a criminal law;
- b) Defence is necessary to reject the attack;
- c) Defence is directly proportional to the attack.

IV. The effects of legitimate defence

The deed committed in a state of legitimate defence presents all the constitutive elements of a crime, but the criminal nature of the deed is removed and then the deed is lawful. Penalties, educational measures or safety measures cannot be applied to the perpetrator.

Effects occur in rem and also affect the participants.

If the state of legitimate defence is discovered during the prosecution, the prosecutor orders the filing, and in the course of the trial the court may order the acquittal. Criminal liability is removed and so is the civil liability. Article 1360 of the Civil Code states that: "A person who, in legitimate defence, caused the aggressor some damage, does not owe to compensation."

V. Some Considerations on the institution of legitimate defence in the legislation of other European states

Once with the entry into force of the current Criminal Codes (Criminal Code - General and Special Part and Code of Criminal Procedure), our criminal legislation has been aligned with the European legislation in this area. The current Criminal Code was considered to be a modern European Criminal Code.

As regards legitimate defence, the opinions expressed in the literature as well as the legislation of other states have been taken into account.

Thus, Article 15 of the Swiss Criminal Code, Article 20 of the Spanish Penal Code and Articles 122-125 of the French Criminal Code were taken into consideration. In the old Criminal Code it was stipulated that the danger of attack must be serious. By removing the notion of serious danger in the Criminal Code, it can no longer be applied to the legitimate defence.

As a rule, there is no division in justifiable cases (which includes legitimate defence) and causes of non-immutability (e.g. the French, Spanish, German Criminal Code), with the exception of the Belgian Criminal Code, where there is the same classification as in the Romanian Criminal Code.

Regarding the condition that the attack be material, it is not found in the European criminal law.

In the legislation of some states, for example the French Criminal Code, among the values jeopardised by the attack there are also the assets of the person, something that is not found in our legislation. In the Romanian Criminal Code, in terms of legitimate defence, the attack may concern one or more natural or legal persons, their rights or a general interest. The Romanian Criminal Code emphasizes the defence of the values based on the attributes of the individual or natural person.

Some European laws (e.g. the Maltese Criminal Code) regulate legitimate defence from the perspective of crimes against life, health and bodily integrity.

Legitimate defence presumed or committed during the night is not found in all European laws, but there are some states (e.g. Spain) that have much more consistent regulation than the one in our Criminal Code.

Compared with the European and Romanian legislation, the United States of America has similar regulations. The American lawmaker distinguishes between the force and the armed force with which he/she can respond, emphasizing the need to oblige the victim, in some situations, to withdraw to avoid the attack. It is also stipulated that legitimate defence cannot be withheld if the aggressor was challenged by the victim who repudiated.

As for the other justifying causes, there are similarities with the legislation in other European states. The exercise of a right or the fulfilment of an obligation is found in most of the legislations (Article 20 point 7 of the Spanish Criminal Code, Article 51 of Italian Criminal Code, Article 36 of the Portuguese Criminal Code, etc.). This institution was also enshrined in the Criminal Code of 1936 under the title "order or authorization of the law and command of the legitimate authority" (Boroi, 2010).

Also, the consent of the injured person is also found in other legislations - article 50 of the Italian Criminal Code, article 38 of the Portuguese Criminal Code, etc.) (Boroi 2010).

As regards the judicial practice at European level, the European Court of Human Rights underlined by its judgments (Mugurel Soare Case and Others vs. Romania, judgment

of 23 February 2011) that there are numerous gaps in the Romanian legislation regarding the use of the armed force by the agent of the authority in case of legitimate defence.

Because in my study I have also referred to two attenuating circumstances (the excuse of the challenge and the overcoming of the limits of legitimate defence), I consider it necessary to introduce some comparative law references.

therefore, with regard to attenuating circumstances, the Italian Criminal Code provides that the judge, in addition to the circumstances set out in the Code, may also take into account other circumstances justifying the reduction of the penalty. The French Criminal Code (the general part) does not list the causes of the attenuation of punishment, only in the special part there are such references (Boroi, 2010).

The Spanish Criminal Code provides for mitigating circumstances, but also provides for the Court to be able to retain other circumstances. In this Code there are two legal attenuating circumstances, which in our law are assimilated to mitigating circumstances:

- when the accused confesses his/her deed to the authorities before he/she becomes aware of the legal consequences of his/her deed;
- when the accused commits the reparation of the damage caused to the victim or the mitigation of his/her effects at any time of the proceedings and prior to the conclusion of the oral hearing (Boroi, 2010).

In the end of my study, I emphasize that, with regard to the institution of legitimate defence, the condition that the attack be material is not found in the European criminal law. The other conditions set forth in our Criminal Code are found in other laws, even in other forms, but many similarities are found in the American legislation.

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SOME CONSIDERATIONS ON THE EUROPEAN CONVENTION OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND THE CHARTER OF THE FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

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Abstract:

At European Union level, the concerns related to human rights regulation are quite recent.

The European Convention is a regional legal instrument for respecting human rights. It is also the qualitative synthesis of the international norms in the field, and its sources of inspiration were, in particular, the Universal Declaration of Human Rights and the International Covenants on Human Rights.

The Fundamental Charter of Human Rights is a regional legal instrument on human rights, which includes for the first time in the history of the European Union the ensemble of civil, political, economic and social rights of the citizens of the Member States of the European Union. The text of the Charter includes a preamble and six titles on: dignity, liberties, equality, solidarity, citizens' rights and justice.

Key words: *human rights, European convention, charter, European Union.*

JEL classification: *K 38*

The end of the Second World War has led to the development of international human rights law, an area less approached at that time. This stage in the history of mankind has led to an analysis of the human being in terms of respecting human rights against the atrocities committed during the Second World War. The United Nations Charter, adopted following the San Francisco Conference, which was signed on 26 June 1945 and which entered into force on 24 October 1945, proclaims in its preamble a call for respecting the human rights: "the belief in the fundamental human rights, in dignity and the value of the human person, in equality of men and women, as well as of nations, large and small." In the beginning of the Charter of the United Nations, in Article 1 its purposes are emphasized: to maintain the international security, develop friendly relations between nations and "achieve international cooperation in solving international economic, social, cultural or humanitarian issues in promoting and enforcing respect for human rights and fundamental freedoms for all people, regardless of race, sex, language or religion." One of the noble purposes of the United Nations Organization is, through its organs and bodies, to undertake actions to promote and protect the rights of the human being through different forms and modalities specific to international law (Suceavă, 1991). Thus, this is the first general ordination of international human rights protection through a fundamental international treaty of universality (Selejan-Guțan, 2011).

The principles based on which the UN is organized and operates, also partially mentioned in the preamble to the Charter, are:

- equal sovereignty of all members;
- fulfilling in good faith the obligations assumed by all members in accordance with the UN;
- the peaceful resolution of all disputes between the Member States, so that international peace and security, as well as justice, are not jeopardized;
- abstention of all members from the threat of force or use of force in international relations against the territorial integrity and political independence of any state or in a manner inappropriate for the purposes of the organization;
- granting any kind of UN assistance to the Member States in any action undertaken in accordance with the Charter;

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- refraining of the members from assisting any country against which the UN has taken preventive or forceful action;
- the UN's imposing to observe these principles also by the non-member states as long as it is necessary to maintain international peace and security;
- not authorizing the UN intervention in matters specific to the domestic jurisdiction of any state, not even in the form of subjecting such issues to the UN members to regulate them according to the provisions of the Charter, with the very important mention that the cases in which one applies the force measures laid down in Chapter VII (Article 2) are excluded.

Article 10 and 13 of the Charter of the United Nations mentions the competence of the UN General Assembly, and in Article 55 letter C), the protection of the human rights is presented as being necessary for the international economic and social cooperation.

The UN Charter has the great merit of introducing the human rights in the international order, and by adhering to this Charter, which is a multilateral international treaty, the states parties recognized that the "human rights" referred to in the Charter are of international interest and not they are the sole object of their internal jurisdiction (Seleja).

What is specific to the UN Charter is to address the interdependence of human rights issues with international peace and security, friendly relations among nations, welfare of the peoples and other socio-economic objectives (Selejan-Guțan, 2011).

The provisions of the UN Charter on Human Rights are laconic, but at the time of their adoption they are of particular significance, since this first opening will foster the further development of the UN human rights system, starting with the adoption of the Universal Declaration of Human Rights in the year 1948 (Scăunaș, 2003).

The UN General Assembly adopted the two international human rights covenants and were opened for signature in December 1966, and entered into force only after a decade, with ratification by 35 states. The two pacts create legal obligations for the parties states, which have the status of an international treaty.

Both pacts contain a common beginning part, composed of a single article, which supports the following rights of the peoples: the right to freely ensure their economic, social and cultural development; to dispose freely of their riches and natural resources; the right to establish their political status.

I. International Covenant on Economic, Social and Cultural Rights

The Covenant defines and describes a series of rights, as well as the measures that are necessary for them to be respected. Thus, this includes rights such as: the right to work; the right to enjoy fair and just working conditions; the right to set up and join trade unions; the right to social security; the right to family protection; the right to enjoy the highest possible standard of physical and mental health; the right to a satisfactory standard of living; the right to education; the right to participate in cultural life.

These rights are detailed and defined in the Covenant. The State ratifying the International Covenant on Economic, Social and Cultural Rights undertakes to ensure the full realization of these rights.

No system of interstate or individual complaints is inserted into the agreement, requiring only the Parties States to report on the measures they have adopted and on the evolution of the rights enshrined in the Covenant.

Every five years, the International Covenant on Economic, Social and Cultural Rights obliges the states to submit a report on the internal implementation of its provisions. The reports are examined by a professional working group of 5 members of the Committee on Economic, Social and Cultural Rights, which draws up a list of specific issues requiring additional information.

With regard to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights does not impose immediate obligations on States Parties, this being justified by the nature of the rights and the existing situation in the states different from an economic, social, and cultural point of view (the Committee for economic, social and cultural rights - set up in 1976 by the UN Economic and Social Council, composed of 18 elected officials on a personal basis).

II. The International Covenant on Civil and Political Rights

This agreement was adopted in 1966 and includes a number of rights, such as the right to life, freedom and security of the person, the freedom to be free from imprisonment, the right of all persons deprived of their liberty to be treated in a humane manner and respect for the dignity inherent to the human being, the right of the child to acquire a nationality and to provide him/her with those protection measures deriving from his/her status as a minor, the right not to be arbitrarily subject to arrest, detention or exile, the right to a fair trial, benefit of the doubt.

The Covenant obliges states to take legislative or other measures to transpose the rights recognized by the Covenant, such as: ensuring the right of the person to make effective complaints, even if the violation of the right was committed by a public authority; to ensure that the competent authority decides on the rights of the person making the complaint with the possibility of judicial redress; to ensure that the competent authorities will respond to any complaint that has been recognized as justified (International Covenant on Civil and Political Rights, Article 2, paragraph 3).

Specific to this Pact is the addition brought by article 27, which states the commitment of the states to recognize the right of the members of ethnic, religious or linguistic minorities to enjoy, together with other members of their group, their own culture, to practice their own religion or to use of their own language (Selejan-Guțan, Crăciunean, 2008).

Article 4 of the Covenant contains a derogation clause which allows States Parties to "suspend public duties during times of public dangers", with the exception of seven of the most important ones:

- the right to life;
- the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- the right not to be closed for non-performance of contractual obligations;
- the right not to be held in slavery and servitude;
- the right of every person to recognize his/her legal personality;
- the principle of non-retroactivity of incriminations (or of the application of more favourable criminal law);
- freedom of thought, conscience and religion.

The obligations of States Parties are set out in Article 2 paragraph 1: "The States Parties in the present Covenant undertake to respect and to guarantee to all individuals within their territory and within their competence the rights recognized in this Covenant, without distinction, in particular in terms of race, colour, sex, language, religion, political or other opinions, national or social origin, wealth, birth or other status." Paragraph 2 of the same article mentions that States Parties "in accordance with their constitutional procedures and the provisions of the present Covenant to act to enable the adoption of legislative or other measures that are necessary to achieve the exercise of the rights" provided for in the Covenant.

Concerning the rights taken from the Universal Declaration of Human Rights, the Covenant furthermore enshrines rights such as: the right of any individual deprived of liberty

to be treated with humanity and respect for the dignity inherent in the human person (Article 10 of the Covenant). Thus, it is stated that:

- those in pre-trial detention will, apart from exceptional circumstances, be separated from the convicted and will be subjected to a distinct regime, according to their condition as non-convicted persons;
- young people in custody will be separated from adults and will decide on their case as soon as possible;
- the penitentiary regime will include treatment of the convicts with the essential aim of their adjustment and their social integration. Young offenders will be separated from adults and subject to a regime appropriate to their age and legal status.

Other rights provided in addition to the Universal Declaration are: the right of the person not to be imprisoned for the sole reason that he/she is unable to perform a contractual obligation (Article 11); the right of every child to protection measures on the part of his/her family, society and the state (Article 24); the right of peoples to self-determination as a collective right enshrined in the Covenant on Economic, Social and Cultural Rights (Article 1); the collective right to protection against propaganda for war and the incitement to national, racial or religious hatred, which constitutes an incitement to discrimination, hostility or violence, and the prohibition of such acts by the states parties (Article 20), etc.

III. The first optional protocol to the International Covenant on civil and political rights

The first Optional Protocol (The main international instruments on human rights to which Romania is a party, Volume I, Universal Instruments, Romanian Institute for Human Rights, Bucharest, 2007) entered into force in 1976 and completes some of the measures provided for in the Covenant. In article 1 and 2 the purpose of this Protocol is mentioned: "Any State that is a party to the Covenant which becomes party to this Protocol shall recognize the competence of the Committee to receive and examine communications from natural persons under its jurisdiction claiming to be victims of violation, by that State Party, of any of the rights set forth in the Covenant. The Committee will not receive any communication regarding the State Party to the Covenant which is not a party to this Protocol" (Article 1) and "Subject to the provisions of Article (1), any natural person who claims to be the victim of a violation of any right stated in the Covenant and who has exhausted all available domestic remedies may submit a written communication to the Committee for consideration." (Article 2)

The Protocol provides individuals with the opportunity to submit individual communications and complaints to the Human Rights Committee. Complainants can only be individuals - natural persons, not groups of persons or legal entities, as in the case of the European Convention (Guțan, 2011).

To be admissible, the complaint must not have been submitted to a similar international court at the same time, and internal remedies must be exhausted beforehand.

Currently, the Committee asks the States Parties to indicate in their reports what measures are taken to meet the Committee's recommendations in cases where the Covenant has been found to have been violated.

IV. The second optional protocol to the International Covenant on civil and political rights

The Second Optional Protocol to the International Covenant on Civil and Political Rights (The main international instruments on human rights to which Romania is a party, Volume I, Universal Instruments, Romanian Institute for Human Rights, Bucharest, 2007) was adopted by resolution of the General Assembly of the UN at its 44th session on 15

December 1989 and entered into force on 11 July 1991. Romania ratified the Protocol on 25 January 1991 by the Law no. 7 (Published in the Official Gazette of Romania, Part I, No. 18 of 26 January 1991).

The protocol has as its primary objective the abolition of the death penalty. Thus, article 1 provides that: "1. No person under the jurisdiction of a State Party to this optional Protocol shall be executed. 2. Each State Party shall take all the necessary measures to abolish the death penalty within the territory under its jurisdiction." Each State Party shall take all the necessary steps to abolish the death penalty within its jurisdiction. There is only one exception to these provisions, stipulated in article 2, namely: "1. No reservation shall be made to this Protocol, except the reservation made on the occasion of the ratification or accession, providing for the application of the death penalty in wartime following a conviction for a military crime of extreme gravity committed over time of war. 2. The State Party shall, at the time of ratification or accession, notify the General Secretariat of the United Nations of the relevant provisions of its domestic law that apply in time of war."

Romania, upon the ratification of this Protocol on 25 January 1991, did not make such a reservation, which means that Romania abolished the death penalty in time of war. In May 2002, the 13th Protocol to the European Convention on Human Rights was adopted concerning the abolishing of the death penalty in any circumstance and which Romania ratified in July 2003.

When formulating such a reservation, it is necessary for the States which ratify them to communicate the corresponding provisions of their domestic law that apply in time of war.

At European level, the concerns over the human rights regulation are fairly recent. One of the most important regional legal instruments is the European Convention on Human Rights.

The European Convention on Human Rights was signed in Rome on 14 November 1950 by 15 European countries and entered into force on 3 September 1953. It can be judged that it is technically a treaty by virtue of which the states undertake certain legal obligations and recognize the rights of each person (Suceavă, 1991).

Individuals have the possibility, through the European Convention on Human Rights, when they consider that their rights have been violated, to open proceedings before the European institutions provided for by the Convention, against the states that have infringed their rights.

The European Convention is the qualitative synthesis of the international norms in the field, and its sources of inspiration were, in particular, the Universal Declaration of Human Rights and International Covenants on Human Rights (Deleanu, 1998). One of the fundamental elements of the European democratic stability is the European Convention on Human Rights (Zlătescu, 2011).

The states have made changes in their internal legislation so that they are in full compliance with the Convention. Some states have fully taken up the Convention in the sense that the injured person complains to a court by directly invoking the violation of the rights attached to it (e.g. Italy, Germany and Switzerland). According to the French Constitution of 1958, the international treaties concluded and approved have a higher value than the internal laws. In the Netherlands, the Convention is superior to the Constitution, and in Austria, the Convention has equal value to the Constitution (Suceavă, 1991).

The following rights are inserted in the European Convention on Human Rights: the right to life, the right to freedom and security of the person, the right not to be subject to ex post facto laws and punishments, the right to a fair trial, the right to respect for private and family life, the right to respect for residence and correspondence, the right to freedom of thought, conscience and religion, the right to freedom of expression, the right to freedom of assembly and association, and to join trade unions, the right to marry and to form a family, the

right to respect for property, electoral rights, the right to education, the right to free movement, freedom of choice of residence.

The Convention provides for a series of prohibitions for the State or its bodies to carry out certain facts such as: torture, cruel, inhuman or degrading treatment or punishment, death penalty, slavery, discrimination in the exercise of the rights and freedoms set forth in the Convention, forced expulsion or extradition of their own citizens.

Some of these rights are considered to be "intangible rights" (Guțan, 2011) because the States Parties can not harm them, any person anywhere and under any circumstances being able to benefit from them: the right to life (Article 2), the right not to be subjected to torture and other inhuman or degrading treatment or punishment (Article 3), the right not to be subjected to slavery (Article 4), the right to non-retroactivity of the criminal law (Article 7), the right not to be judged twice for the same deed or the non bis in idem principle (Article 4 of Protocol No. 7).

The states have the obligation that their legislation does not conflict with the provisions of the Convention, its purpose being not to replace the national legal systems for the protection of human rights, but to constitute an international guarantee that adds to the domestic law (Suceavă 1991).

The text of the Convention has been supplemented in some areas by **additional protocols**. They have been adopted and include a series of rights, as follows:

- Protocol No. 1, drawn up in Paris in 1952, includes the right to education, the right to property, the commitment of States to organize free and secret elections at reasonable intervals;
- Protocol No. 2, signed at Strasbourg on 6 May 1963, grants the European Court of Human Rights the right to give an advisory opinion at the request of the Council of Ministers on legal issues concerning the interpretation of the Convention and its Protocols;
- Protocol No. 4, adopted in Strasbourg on 16 September 1963, provides for rights other than those recognized by the Convention, such as: the right to free movement, the ban on the expulsion of its own citizens and the collective expulsion of aliens, the prohibition of deprivation of liberty for non-compliance with contractual obligations;
- Protocol No. 6, adopted in Strasbourg on 28 April 1983, which abolished the death penalty in peacetime;
- Protocol No. 7, concluded in Strasbourg on 22 November 1984 granting foreigners guarantees before being expelled from their country of residence, the right to recourse to criminal proceedings, the right to reparation in the event of a judicial error, the right not to be judged twice for the same deed, equality of rights and obligations between spouses;
- Protocol No. 8 adopted in Vienna on 19 March 1985 brings certain amendments to the Convention as regards the European Court of Human Rights;
- Protocol No. 12 introduced the general principle of non-discrimination;
- Protocol No. 13, adopted in Vilnius on 3 May 2002, provided for the abolition of the death penalty in all circumstances.

The legal instruments on the respect for the human rights have been complemented at the European Union level by another important document, the Charter of Fundamental Rights of the European Union.

On 12 December 2007, the Presidents of the European Parliament, the European Commission and the Council of the European Union proclaimed and signed the Charter of Fundamental Rights of the European Union.

The Charter contains, in a single text, for the first time in the history of the European Union (Fuerea, 2016), the ensemble of civil, political, economic and social rights of the

citizens of the Member States of the European Union. The Charter begins with a preamble and comprises 54 articles structured in 6 Titles, namely: dignity, liberties, equality, solidarity, citizens' rights and justice.

Within the first Title, Dignity, it is stressed that "human dignity is inviolable". The right to life must be respected, and the death penalty is prohibited, as well as torture and punishments or inhuman and degrading treatments, slavery and forced labour.

The second title emphasizes the respect for the right to privacy and family life, residence and secrecy of communications, as well as the safeguarding of personal data (Article 8 of the Charter).

The equality of all persons before the law is enshrined in Title III. Discrimination on the grounds of "gender, race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or any other opinion, membership of a national minority, wealth, birth, disability, age or sexual orientation" (Article 21 (1)) is prohibited.

The defence of labour law and social protection is regulated in the Fourth Title - Solidarity.

The fifth title - Citizens' rights - refers to the right to vote and to be elected in the European Parliament; the right to vote and to be elected in local elections; the right to refer the matter to the European Ombudsman; the right to petition; freedom of movement and residence; diplomatic and consular protection.

The right of access to justice is governed by Title Six. In Article 47 of this Title it is stipulated that any citizen is recognized as having the right to an effective remedy and the right to a fair trial. Also, article 50 mentions the right not to be tried or convicted twice for the same offense.

The Seventh Title regulates the principle of subsidiarity as regards the institutions, bodies, offices and agencies of the European Union.

The Charter establishes a level of protection of the human rights through article 53, where the following points are emphasized: "None of the provisions of this Charter may be interpreted as impairing or violating the human rights and fundamental freedoms recognized in the relevant fields by the Union and international law as well as international conventions to which The Union or all the Member States are parties, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms and the constitutions of the Member States."

It follows from this article of the Charter that there is no possibility for the Member States or the European Union "to lower their own protection standards, but they are the result of only the constitutional rules and international conventions and only those conventions of which the Union or all its member states are part" (Bocşan, 2017).

Article 53 of the European Convention on Human Rights states that: "Nothing in this Convention shall be construed as limiting or impairing human rights and fundamental freedoms which may be recognized under the laws of either Contracting Party or any other convention of which that contracting Party is part."

The aforementioned provision may be interpreted as meaning that States Parties may have their own higher standards of protection than the Convention requires for its rights. States Parties may also protect other fundamental rights and freedoms than those provided for in the Convention.

From the two articles analyzed above, it follows that "the prohibition to impose limited standards on human rights and fundamental freedoms refers only to the situation of invoking the Convention and the Charter, respectively, in order to achieve such a goal" (Bocşan, 2017).

Conclusions

International human rights law began to develop once with the end of the Second World War. What caused the emergence of all legal instruments of universal vocation and regional vocation were the atrocities committed during the Second World War. The Universal Declaration of Human Rights was one of the legal instruments of universal vocation of particular importance in the evolution of human rights. At European level, the protection of the human rights has been strengthened by the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and by many other regional instruments.

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LEGAL MECHANISMS FOR MANAGING THE PHENOMENON OF MIGRATION AT THE INTERNATIONAL AND EUROPEAN LEVEL

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Abstract

Migration is one of the forms of human mobility that has manifested itself in all stages of the history of human society, including contemporary society, and has embraced different forms and dimensions from one historical stage to the next.

In general, migration has generated positive effects for the progress of mankind, favoring the transfer of ideas and other spiritual values, satisfying the need for diversity of societies and economies, but it has often been perceived negatively because taking advantage of these people's movements have penetrated into space destination of migrants certain serious phenomena such as cross-border crime and terrorism.

The United Nations is addressing the phenomenon of migration as being the expression of freedom of movement enshrined in art. 13 of the Universal Declaration of Human Rights of December 10, 1948, in which the freedom of movement is structured on two components: freedom of movement on the territory of the country - art.13 (1) b) the right to leave any country and to return to its country Article 13 (2).

Within the UN there are several institutions with tasks in managing the migration issue such as: Human Rights Council - HRC; United Nations Refugee Agency - UNRA; International Organization for Migration - IOM; United Nations Office for the Coordination of Humanitarian Assistance - OCHA. With the contribution of these institutions, reference documents were adopted to identify the solutions and measures required for each category of migrants.

Also, at the EU level, there is a well-defined policy on migration, with distinctive elements for the migration of European citizens and their families towards the migration policy of non-European citizens.

The volume, concentration and serious events that have followed migration have recently highlighted the vulnerabilities of systems designed to manage this phenomenon at European and international level.

These consequences are the subject of the work agenda of the international and European institutions, from which they expect effective measures to find a fair measure between the benefits of migration and the possible vulnerabilities it generates.

Keywords: migration, freedom of movement, repatriation, European citizen, non- European citizens

JEL Codes : K33,K36

1. The general context of migration phenomena manifestation

The migration constitutes one of the most important challenges of modern societies, with huge impact over geopolitics.

As a mobile form of individuals and human groups, migration is met in all stages from human society history, including in modern age society, with different shapes and sizes from one historical event to another, in report with the historical, political and demographic context in which it has manifested.³

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³ Ancestral forms of migration were trans humanity and exodus. With the state organization and the crystallization of the military force, migration has embraced aggressive forms: invasions, colonisations, population displacements. In historical order, the first waves of migration occur at the end of the ancient period: the migration of the Germanic peoples to Central and Northern Europe, including the British Isles; that of the Slavic peoples to eastern Europe and the Balkan Peninsula; that of peoples of Mongolian origin to Asian countries and Eastern Europe; that of the Arabs in the Middle and Near East countries; and so on.

In the Middle Ages, when America is discovered, there is a migration to these lands, first of all, Spanish and Portuguese (in Central and South America), then French, Dutch, English, Scottish, Irish (especially in North America). The colonization of America is followed by the forced displacement of a huge number of black-slaves brought from Africa and other parts of the world. It is estimated that their number amounts to several tens of millions, which led to the depopulation of Africa in the eighteenth century.

The following centuries mark a continuous and systematic process of population emigration from Europe to America, but also to other areas such as Australia, Southeast Asia and even Alaska.

Migration caused the disappearance of some civilisations and empires (Persian, Roman, Mayan) but in other circumstances it has represented the development engine of some powerful countries – and what better example than the history of The United States. It favours the transfer of ideas and other spiritual values, satisfying the need of diversity for societies and current economies. (*Tache (Uzlău) Marilena Carmen, 2017*).

Migration leads to social, economic and cultural changes which in turn changes the way of life, the character and dynamics of social groups, both those who migrate and those receiving migrants¹, thus generating a continuous adjustment of social management with potential assimilation or rejection issues.

Sometimes from migration, certain individuals with harmful behaviours have profited, as those of transnational criminality or terrorism. From this cause, the world's states have recently developed a reticence in what regards migration phenomena.

Most analysis and studies with the objective of migration phenomena are focused on mass movement of labour force, although migration, economically, generates the smallest concerns. Migration due to political instability and determined by armed conflicts or political persecution, must concern mainly human kind (*Massey, D. et al, 1998*).

Considering the generating factor of migration, international document is distinct amongst different categories of migrants², (migrants due to economic reasons, asylees, refugees from war zones, political refugees, etc.) instituting legal treatment differentiated by them. (*IOM, Glossary no. 25, 2011*).

Given the multitude of issues and implicitly the instruments and studies used to manage migration phenomena, an exhaustive approach is not possible in this context, therefore we will stop on what regards the architecture and functionality of institutional system within The United Nations Organisation and that of the European Union level, stating that between the two systems, there is a substantial convergence³.

2. Managing migration phenomena by The United Nations Organisation

In modern age society, migration knows an amplitude without precedent. According to the data provided by The International Organisation of Migration, nowadays one billion people – out of seven billion of the world's population – have migrated from their origins. 244 million of that are international migrants, meaning persons living in another country than the one where they've been born. The number also includes the 21 million refugees according to the New York Statement as of December 2016⁴, 3 million asylum applicants and over 40 million internally transferred persons.

Under these circumstances, it is obvious that only The United Nations Organisation, as a competent structure in dealing with global issues of mankind, has the possibility to admit

¹ When supported by appropriate policies, migration can contribute to sustainable and inclusive economic growth and economic development both in home and host communities. In 2014, migrants from developing countries sent home an estimated \$ 436 billion in remittances; an increase of 4.4% over the 2013 level (World Bank 2015), far exceeding official development assistance.

² Migrant person departing from one place to another, crossing an international border or moving within a state, away from the place of residence or family. Some United Nations documents state that a person who has been living in a foreign country for more than one year regardless of cause, whether voluntary or involuntary, and means, legal or illegal, used to migrate (IOM, Glossary, no. 25, 2011).

³ According to a resolution adopted by the UN General Assembly in May 2011, the EU can speak before other important groups when it speaks on behalf of the 28 EU Member States and is invited to intervene in the general debate at the opening of the General Assembly (No 65 / 276 of 3 May 2011). On this basis, EU Council President Donald Tusk agreed at the UN General Assembly in New York on 20 September 2017 on migration that the EU and its Member States act to achieve balanced and comprehensive global pacts for refugees (www.consilium.europa.eu)

⁴ UNHCR The UN Refugee Agency: Better protection for refugees in the EU and globally December 2016, accessible on <http://www.refworld.org/cgi-bin>

and coordinate the multitude of issues concerning migration management. A such step is not possible without approaching profound causes which animate this phenomenon: proliferation of conflicts, terrorism, severe violations of human rights, poverty, substantiating unlawfulness, poor governing, natural disasters, climatic changes, etc.

2.1. The contents of migration right and institutional structures with attributions of protecting it

Legally, migration constitutes in the UN approach, an expression of free movement, recognised by The Universal Statement of Human Rights as of December 10th, 1948.¹

Art. 13 The statement consecrates the freedom of circulation under two types:

-art 13(1): *freedom of circulation on the country's territory* - „Any person has the right to circulate freely and to choose one's residence within the borders of a state”);

- art 13(2): *the right to leave any country and not to come back* –”Any person has the right to leave any country and the right to return to his or her own country.

Granting circulation freedom has its bases the provisions of art. 12 of the International Pact on Civil and Political Rights², which states the following: ”...3.*The abovementioned rights fail to make the objectives of some restrictions only if they are foreseen by law, necessary to protect national security, public order, public health or morality or the rights and freedoms of others and are compatible with other known rights in the hereby Pact.*

4. No one shall be deprived arbitrary from the right to enter in his/her own country”.

In the same meaning, the provisions of the Pact regarding economic, social and cultural rights are also adopted in 1966 and that of the two additional protocols of the Pact regarding civil and political rights, with the first adopted in 1966 and the second in 1989.

All five documents aforementioned comprise The International Carta of Human Rights considered as being the core of UN human rights protection system.

To apply them, under aegis of UN, more institutions and organisms have been created, as The International Organisation for Migrants (IOM); The Council of Human Rights (CHR); The UN Agency for Refugees (HCR); The UN Office for Coordination of Humanitarian Assistance (OCHA).

Managing the phenomena of migration by these institutions, in cooperation with the national states, raised lots of issues, deriving from the statute of different categories of migrants, from the attribution of duties to the generating states of migration phenomena as well as the attribution duties of the receiving states. The unitary approach of these issues has at its basis common standards instituted by a series of international documents, agreed within some conferences and other types of inter-state reunions.³ as well as based upon common initiatives⁴.

¹ The Universal Declaration of Human Rights was adopted on December 16, 1948, by Resolution 217 A at the Third Session of the United Nations General Assembly.

² Adopted and opened for signature by the General Assembly of the United Nations on 16 December 1966. It entered into force on 23 March 1976, 49, for all provisions except those under art. 41; on 28 March for the provisions of Art. 41. Romania ratified the Pact on 31 October 1974 by Decree no. 212, published in the "Official Gazette of Romania", Part I, no. 146 of November 20, 1974.

³ Amongst which we mention: International Conference on Population and Development, Cairo, 5-13 September 1994 (United Nations publication no. E.95.XIII.18), chap. I, Resolution 1, Annex; World Summit on Social Development, Copenhagen, 6-12 March 1995 (United Nations publication no. E.96.IV.8), chap. I, Resolution 1, Annex I; the Fourth World Conference on Women, Beijing, 4-15 September 1995 (United Nations publication no. E.96.IV.13), chap. I, Resolution 1, Annex II. Resolution S-24/2, annex; Resolution S-25/2, annex; Resolution 217 A (United Nations A / RES / 58/208; Resolution No 49/127 of 19 December 1994, No 50/123 of 20 December 1995, No 52/189 of 18 December 1997, No 54/212 of 22 December 1999 and 56/203 of 21 December 2001 on international migration and development, Resolution 56/203 of 21 December 2001 (56th session of the Agenda 93 (c), 58th plenary of 23 December 2003).

⁴ Common initiatives in this regard include those on United Nations agencies, the International Organization for Migration (IOM) or the International Centre for Migration Policy Development, conducted together with the

2.2 Standards and regulations applicable to different categories of migrants

Work standards and instruments applicable to the migration case start off from defining types of migrants.

- The economic migrant – person leaving his place of residence to settle outside the country to improve the quality of life. This term is often used to persons trying to enter the country without legal permission and/or using the asylum procedures without a bona fide reason; it can also apply to persons leaving the country of origin for employment purposes. Also, these term does not involve refugees fleeing from persecution;

- The legal migrant – the migrant who entered the country according to admission criteria of a country and stays there;

- Illegal migrant – person without a legal statute in the transit or host country (breaching entry conditions; visa expiry¹. The term of „with illegal statute” is preferred with „illegal” because the later has a penal connotation and is foreseen as denying the humanity of migrants;

- Qualified migrant – person who, due to his/her qualifications or professional experience, receives a preferential treatment in what regards the admission in the host country², being subjected to fewer restrictions in what regards the duration of stay, workplace change and family reunion;

- Temporary working migrant – qualified workers, semi-qualified or unqualified workers staying in the destination country for defined periods determined by the employment agreement or a services agreement concluded with a company;

- Person under ordered migration – a person’s movement from one’s usual place of residence, in accordance with the laws and regulations governing the exit from the country of origin and travelling, transit and entering the destination or host country;

- Refugees are a category of persons, distinct from migrants, of which statue is clearly defined in the Convention on refugee statute, as of 1951, in its protocols, 3 as well as in the national legislations. Refugees are endowed with special protection, so that they will not get banished or returned to those areas where their life might be in danger. Refugees have the right to be supported in what regards repatriation. The repatriation constitutes the personal right of a refugee, war prisoner or civil detainee to return to his/her country, under specific

European Commission and addressing a wide range of migration issues International. Examples include services for migrants and resource centres in the Western Balkans and Asia, the ACP Migration Observatory, Regional Protection Programs (PPRs) in Africa and Eastern Europe, and numerous projects supporting the implementation of Mobility Partnerships in Eastern Europe (Moldova and Georgia) and Africa (Cape Verde).

¹ The definition includes, inter alia, those persons who have legally entered the country of transit or destination but have remained for a longer period than the authorized period or who have subsequently entered into unauthorized work (also a migrant clandestinely / without documents or a migrant with an unregulated situation).

² The most disputable way of economic migration is the brain drain phenomenon "considered to be" an abnormal form of scientific exchange between countries, characterized by the existence of a unidirectional flow in favour of the most developed countries "(See Massey, D. et al. The opposite is the reverse of brain drain, brain gain, immigration of trained and talented individuals to their home country. It is certain that contemporary migration, as compared to earlier periods, tends to "pick up cream" in some of the most educated and skilled labour sectors, degrading the domestic economy.

³ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990 The Geneva Convention recognizes refugee status for any person who:

(1) was considered a refugee to the arrangements of 12 May 1926 and 30 June 1928 or to the conventions of 28 October 1933 and 10 February 1938 and to the Protocol of 14 September 1939 or to the application of the Constitution of the United Nations High Commissioner for Refugees.

(2) following events occurring before 1 January 1951 and fears of being persecuted because of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of nationality and who cannot or, due to this fear, does not want the protection of this country; or who, having no citizenship and being outside the country in which he has been habitually resident as a result of such events, cannot or, due to that fear, does not wish to return.

conditions established by diverse international instruments¹ The repatriation option is conferred to a person individually and not to the holding power.² There are statute differences between refugees and international migrants although these categories have the same vulnerabilities, benefit of the same universal human rights and most of the challenges confronted are common.

Regarding the work of the UN and its specialized institutions on the protection and assistance in case of danger of people in a form of migration, there are opinions officially expressed that the performance of these institutions is modest, especially when considering the situation of persons coming from areas of military conflict or natural disaster.

It has led to a growing differentiation between the policies of the international organization and the approaches of the Member States facing the phenomenon of migration, which calls for a crisis of authority that the UN and its institutions have been going through lately (*Apostoiu, G, 2012*).

An attempt to reactivate Member States' solidarity in supporting the UN migration policy stems from the New York Declaration on Refugees and Migrants of September 2016. The text of the document reaffirms the importance of international protection and represents the commitment of Member States to enhance and improve the protection mechanisms for people forced to migrate. The negotiating message was that no government can tackle large-scale refugee movements on its own. International cooperation is the only way to go.

However, on the basis of the commitment signatory States to the declaration, the UN has taken steps to adopt a comprehensive, regulated and ordered Global Pact on Migration, and this document was voted by 193 states at the 73rd UN General Assembly sessions September 27th, 2018 (except for the US) after several European countries voted Austria, Hungary, Poland, the Czech Republic and more recently Bulgaria said they would not sign this document at the Marrakech Conference (Morocco) from December 10-11th, 2018. This confirms once again that the United Nations mechanism cannot manage this issue satisfactorily when it has acute manifestations.

3. EU policy on migration

EU countries face both internal and external migration. In order to effectively manage it, the European Union has called for the development of common policies in the field.

These common policies aim at: regulating and controlling migratory flows; fight illegal migration; integration of immigrants; international cooperation on migration; the creation of a European asylum system.

There are Community-wide measures aimed at providing a favourable framework to attract labour.

Policies start from the premise that mobility generates many benefits: providing labour force needs in developed countries and better use of labour in the countries of origin; facilitating economic integration and intercultural dialogue at global and regional level; generating transfers of cash flows to less developed countries; facilitating the transfer of knowledge and technology to migrants' countries of origin after their repatriation.

European migration policy also involves a number of risks and vulnerabilities, especially when it benefits of large groups of people coming from outside the European area.

¹ The Geneva Convention (1949) and the Protocols; Regulations on respect for laws and customs on earth, annexed to the Hague Convention (1977)

² In the face of an international armed conflict, repatriation includes the obligation of the retaining power to release the eligible persons (soldiers and civilians) and the country of origin's debt to receive their citizens at the end of the hostilities. Even if the law of the Treaties does not include a general rule on this point, today it is easy to accept that repatriation of prisoners of war and civilian detainees is implicitly accepted by stakeholders. Repatriation as a term applies also to diplomatic representatives and international officials during an international crisis, as well as to expatriates and migrants.

For these reasons, it is nuanced, as regards migrants from the European area or people from outside.

Neither European migration nor the refugee policy is a complete success. An official EU document recognising its poor share¹.

The reality is that across Europe there are serious doubts about the adequacy of migration policy to the pressure of thousands of migrants.

3.1. Migration of Europeans and their family members who are European citizens

This starts from the concept of a "common space of freedom, security and justice." It is a reality that the European area is developing its multi-ethnic and cultural diversity and that European policy must consider both the respect for human rights and the humanitarian aspects, European Union and migrants, while taking into account the needs for a secure immigration developing, implementing and developing border control measures to prevent and fight cross-border crime and terrorism. From a social and economic matter, the European policy is centred on the model of a social Europe.

The Directive 2004/38/EC brings together all legislation on the right of entry and residence of citizens of the Union into a single instrument (*Official Journal of the European Union L 158/77, 30.4.2004*). The purpose of this legislation is to simplify and reduce the formalities of EU citizens and their family members that have to meet in practice of their right of movement and residence.

The Directive lays down the conditions for practicing the right to exit and enter into a Member State, the right of residence, the right of residence for a period of three months, the right of residence for a period longer than three months, equal treatment with nationals of the Member State, the acquisition of the right of permanent residence by family members who do not have the nationality of a Member State.

On January 1st, 2017, 16.9 million people living in one of the EU Member States had the nationality of another EU Member State.

As far as the country of origin is concerned, on January 1st, 2017, 36.9 million people born outside the EU - 28 lived in an EU Member State, while 20.4 million people were born in another state EU Member State than the one in which they resided: Only in Hungary, Ireland, Luxembourg, Slovakia and Cyprus the number of people born in other EU Member States was higher than the number of persons born outside the EU.

The largest share of the foreign population was recorded in Luxembourg, and the lowest in Poland.

Specifically, migration of European citizens into the European Economic Area is a circular migration. By definition, any circular migration is also temporary. The phenomenon is featured by permanent migration (establishment in the destination country) and return migration (travel and return). There are, however, tangencies between these two forms of migration: they can lead to permanent migration or definitive return.

The main rights recognized by the European legislation for migrants are as follows:

- The right of residence is granted to European citizens working or looking for a job in that country. Where a European citizen is in a State other than where he is a national, then the members of his family are entitled to accompany or join him. The EU also facilitates the entry and residence of other family members, including: life partners with whom people have a long-lasting relationship, people with serious health problems, needing care, or being dependent or part of the household. By facilitation, it is understood that these people do not automatically enjoy the right to enter and stay in the hosting State. Their situation must be

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a European Migration Agenda, 13.5.2015 COM (2015) 240 final.

examined by the hosting Member State in accordance with its domestic law. Concerning their relationship with the citizen of the Union, it will be decided whether or not to allow such persons to enter and reside.

- The right of residence for a period of three months. This right is also recognized for family members who are European citizens, as they enjoy the same rights as the citizen they accompany. In case of family members who are not European citizens, they may be required to have either a short-stay visa or a short-term residence permit. The host State may require the citizen and/or his/her family members to report their presence on the territory of the State within a reasonable and non-discriminatory term. In the event of failure to comply with this requirement, such persons may be subject to proportionate administrative sanctions.

- The right of residence for a period of more than three months is granted where the period of residence for Union citizens and their family members exceeds three months, but fulfils certain conditions, namely: they are engaged in an economic activity (to an employer or are freelancers); have sufficient resources for them and their family members so that they do not require the intervention of the host Member State's social assistance system; are enrolled in an accredited or funded educational institution by the host Member State or attend training courses and have sufficient resources and health insurance; are family members of a person who is a citizen of the Union and falls within one of the categories mentioned above. For family members who are not citizens of the Union, registration certificates are issued which have taken the place of residence permits.

- The right of permanent residence granted to citizens of the Union and members of their families if they have resided in the host Member State for an uninterrupted period of five years, provided that an expulsion decision has not been taken against them. This rule also applies to family members who are not nationals of a Member State and who have lived for five years with a citizen of the Union. The permanent residence document for citizens of the Union shall be issued on the basis of a request from the citizen and shall be issued as soon as possible after the date of filing this request.

- The right of free movement of persons within the Schengen area¹. The most significant facilitation which the Schengen Agreement² institutes, is that of eliminating internal controls, thus, EU citizens, their family members and residents may enjoy the right of free movement within the Schengen area. Foreign citizens residing in the Schengen area can circulate freely, without the need for a visa, for the period of validity of the permit. By eliminating internal controls, EU citizens, their family members and nationals enjoy the right to free movement of persons within the Schengen area. Foreign nationals residing in the Schengen area may circulate freely, without the need for a visa, for the period of validity of the valid permit.

In addition to the free movement of persons and the abolition of checks on persons at internal borders, the objectives of the Schengen Agreement are aimed at developing common

¹ The Schengen area is an area of free movement for persons based on the Schengen Agreement. It was signed on 14 June 1985 and aimed at removing controls at the common borders. The first signatory states were Germany, France, Belgium, Luxembourg and the Netherlands. Five years later, the Convention implementing the Schengen Agreement was drafted and signed. It removed controls at the internal borders of the Schengen area and created a single external border where immigration controls for the Schengen area are carried out according to the common rules of the Member States. Currently, the Schengen Agreement has 26 full European states. Of these, 22 are members of the EU, and the other four are: Switzerland, Norway, Iceland and Liechtenstein. The UK and Ireland chose not to apply the Schengen acquis in full, but they work with the signatory states in some areas. Romania, Bulgaria and Cyprus are in the process of negotiating and preparing for accession to the Schengen Area.

² The Schengen Agreement currently has 26 full European states. Of these, 22 are members of the EU, and the other four are: Switzerland, Norway, Iceland and Liechtenstein. The UK and Ireland chose not to apply the Schengen acquis in full, but they work with the signatory states in some areas. Romania, Bulgaria and Cyprus are in the process of negotiating and preparing for accession to the Schengen Area.

rules applicable to persons crossing the external borders of EU Member States; harmonization of entry conditions and visa rules; better police cooperation; the establishment of a Common European Asylum System (CEAS); judicial cooperation through a rapid system of extradition and transfer of the enforcement of criminal judgments; the development of a Schengen Information System (SIS).

3.1. Migration of Non-EU citizens and their family members

In 2015 and 2016, the European Union faced an unprecedented influx of refugees and migrants.

Official statistics show that in 2016 almost 2 million non-EU citizens immigrated to the EU, and more than a million of them were declared war refugees.

EU Member States granted citizenship to nearly 1 million people in 2016, or 994.8 thousand, representing an increase of 18% compared to 2015. Italy has the highest number of people who have acquired citizenship in 2016, e.g. 201.6 thousand (or 20% of the total EU-28). The countries with the highest levels of citizenship were Spain (150.9 thousand), United Kingdom (149.4 thousand), France (119.2 thousand) and Germany (112.8 thousand). In absolute terms, the highest increases compared to 2015 were observed in Spain, where the number of residents who were granted Spanish citizenship was 36,600, followed by the United Kingdom (31,400), Italy (23 600), Greece (19 300) and Sweden (12 300). On the opposite side, the largest decreases in absolute terms were observed in Ireland (the number of Irish citizenships was that of 3500 less than in 2015), followed by Poland (300)

On January 1st, 2017, the number of third-country nationals residing in an EU Member State was that 21.6 million.

The percentage of foreign citizens who resided for different reasons in the EU Member States on January 1st, 2017 was 7.5% of the population of the Member States.

In absolute terms, the largest number of foreign nationals living in the EU Member States on January 1st, 2017 were in Germany (9.2 million people), the United Kingdom (6.1 million), Italy (5.0 million), France (4.6 million) and Spain (4.4 million). Foreign nationals from these five Member States together accounted for 76% of the total number of foreign nationals living in all EU Member States, with the five Member States accounting for 63% of the EU - 28 population together.

In relative terms, the EU Member State with the largest share of foreign nationals was Luxembourg, with the proportion of foreign nationals accounting for 48% of the total population. A high proportion of foreign citizens (at least 10% of the resident population) was also found in Cyprus, Austria, Estonia, Latvia, Belgium, Ireland, Malta and Germany. In contrast, foreign nationals accounted for less than 1% of the population of Poland and Romania (0.6% in both countries) and Lithuania (0.7%).

An analysis of the age structure of the population shows that for the EU as a total, the population of foreign citizens was younger than the national population. The age distribution of foreign citizens, compared to national citizens, indicates a higher proportion of relatively young, working-age adults. On January 1st, 2017, the average age of the EU-28 national population was 44 years, while the average age of foreign nationals living in the EU was 36 years. (*Up to date March 2018, accessed at <https://ec.europa.eu/>*)

The large-scale, uncontrolled arrival of migrants and asylum seekers has tried not only the asylum systems of many Member States but also the Common European Asylum System 1 as a total.

At institutional level, a series of measures have been initiated to cope with the crisis.

¹ Common European Asylum System, also called the Dublin System, has been in operation since 1999 but has been consolidated under Council Directive 2005/85 / EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee (OJ L 326, 13.12.2005, p. 13)

One of these concerns the relocation of asylum seekers already in Europe, the resettlement of people in difficulty from neighbouring countries and the return of those who do not qualify for asylum.

It is also intended to increase aid to people in need of humanitarian assistance, both inside and outside the EU.

The EU improves border security, combating trafficking in migrants and providing safe ways of entering its territory.

In a report of the European Commission presented to the European Parliament on October 10th, 2018¹ the progress towards a genuine and real security union on objectives such as strengthening external borders, *improving the exchange of information and achieving interoperability of all data systems, as well as protecting citizens both online and on the ground, were mentioned*: However, attempted terrorist attacks, the use of chemical weapons on the streets of a Member State, and, more recently, the cyber-attack on the headquarters of an international organization, point out that now, more than ever, Europe remains a target and demonstrates the importance of increasing our security and resilience.

Conclusions

It should not be overlooked that immigration has an effect on the security level of the insertion society. This has to be said even more forcefully as a globalization vector of migration causes and collisions of civilizations. Only the ability of the community and the State to manage it together with the results of these efforts, are able to lead to the benefits of this phenomenon. In other words, the degree of social integration of immigrant groups is the barometer of integration and also the level of a community's security. Security should be a key target of the wide range efforts that the receiving community makes: funding instruments, research and innovation programs, as well as training initiatives.

Unfortunately, migration brings with them (infiltrated among migrant groups) individuals with ideologies of extremist intolerance, terrorists that are preached and sometimes even appropriated by the citizens of the receiving countries in migratory flows.

The recipient countries of migratory flows are currently confronted with the mixed migration phenomenon in which economic migrants and asylum seekers travel together. In reality, these groups may mix and even overlap, and this grey area is frequently exacerbated by the contradictory methods with which asylum claims are often processed.

The challenge for countries of destination or transit of migrants is clear: maintaining authority over policies in a system of increased interdependence that requires multidimensional structural policy making, flexibility, adaptability to the conflicting forces of the international environment.

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¹ <https://ec.europa.eu/romania/news/2018>

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MANAGEMENT OF SUCCESSFUL LITERARY CREATION THROUGH PATTERNS AND RECURRENT MOTIFS

Georgiana Mirela, Mîndreci¹

Abstract:

One of the most long-living writers of the 21st century is the American short-story writer and novelist, Jerome David Salinger. He died at the age of 91 on 27th January 2010, a recluse, after a not very prolific literary activity, but a very glorious one, especially due to his only novel, "The Catcher in the Rye." Much of his fame that led to the mass translations of his novel and his earlier works, much of the craze created around the novel's main character, Holden Caulfield, film making inspired by this teenage hero and huge sales was mainly due to the controversy created around Salinger's name and the cultural and social context of the '50s - the time of his literary peak. This article tries to briefly look at the main patterns and recurrent motifs in Salinger's early works that later helped and created the writer's literary success as proof of good management of his literary skills and creation.

Keywords: literary creation; recurrent motif; translation; pattern; successful literary creation

J. D. Salinger's fiction abounds in certain attitudes, patterns, and motifs that repeat themselves, under different forms and names, and that evolved from his early short stories to his last published literary creations. Many critics have tried to identify and explain these patterns to better understand the meaning of Salinger's fiction. As it happens in the case of any important writer, there is a world of certain themes and attitudes that predominate and give a distinguishing note to the writer's fiction, rendering him or her unique. The exact same thing happened in the case of J. D. Salinger and his world of themes and attitudes. H. Grundwald, in the long introduction to his collection, states that Salinger "seems to allow a far greater variety of interpretation than almost any other contemporary writer" (xxvi). Some of the major themes identified by different critics in Salinger's fiction are also briefly enumerated in H. Grundwald's introduction: "faith, conformity vs. society, love of various kinds, the psychology of youth vs. age, the sentimentalization of the child, the dream of unfallen man, the repressed and perverted sex instinct, the emotional excess of the idle rich" (xxvi). Another brief look at Salinger's fictional world identifies and reveals some of the following major themes: the "misfit hero," "phony" and "nice" worlds, crucial moments of revelation or epiphanies, alienation and vulnerability, escapism, quest for a moral ideal, religion and Western philosophy, symbolism of names, childhood and adulthood, relationships, specific use of language, and so on. Salinger's style and writing technique are unique and they include a rather inspired use of detail, slang characteristic to the 20th century, vocabulary specific to teenagers, and colloquialisms.

The concept of the "misfit hero" can be attributed to Paul Levine who, in the article "J. D. Salinger: The Development of the Misfit Hero," traced and wrote about the condition and the evolution of the Salingerian hero. In his opinion, "[t]he hero in every Salinger story becomes a reflection of a moral code arising out of a cult of innocence, love, alienation, and finally redemption. These heroes form a particularly adolescent troupe of spiritual non-conformists, tough-minded and fragile, humorous and heartbreaking" (498). Thus, the main dilemma in Salinger's stories seems to focus on the moral hero who is "forced to compromise his integrity with a pragmatic society" (498). The vision of the Salingerian hero becomes the writer's trademark as he develops his writing talent. In "The Varioni Brothers" Salinger created for the first time the hero as an artist and, according to Warren French, he tried "to come up with a statement about the role of the artist in modern American society" (French 56).

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The definition of this type of hero, also called the “moral hero,” refers to a selected group of young characters who separate themselves from the others by sharing a special moral code that springs from innocence and true feelings of love, alienation and salvation. In Salinger’s short stories these heroes always have to face the difficulty of being forced to compromise their integrity because of the pragmatic and materialistic world in which they live and this always raises a moral conflict within them. The conclusion is that his early short stories cannot reach the level of exquisiteness of his “mature” works which intensify and expand his attitudes and themes proving thus a maturation of his style and writing technique.

All the characters that populate Salinger’s fictional world seem to be divided into two categories: those who belong to the “nice” world and those who belong to the “phony” world, and the characters from the “nice” world always try to do something to change or fight against the “phony” world and this makes up another one of Salinger’s recurrent attitudes or patterns. W. French remarks that Salinger’s first use of the word “phony” in print determined millions of people to regard it “as his trademark” (55). But Salinger’s characters are embattled against a world that often seems confusingly phony and nice at the same time. “Niceness,” characterized by I. Hassan as the earlier discussed “rare quixotic gesture,” can mean to Holden, for example, a little boy singing to himself “If a body catch a body coming through the rye” (Salinger Ch. 22, 155) or the nice feeling offered by wearing the red hunting cap, or holding hands with Jane Gallagher at the cinema.

On the other side of the barricade there is “phoniness.” It can be also considered “squalor,” which is what makes the story “For Esmé—with Love and Squalor” the highpoint of Salinger’s *Nine Stories* in J. Lundquist’s opinion and in other critics’ opinion as well, and which also makes it such a perfect representation of Salinger’s view of the world. “Phoniness” or “squalor” can be found in the ugliness of Eloise’s life in Connecticut, or in Sergeant X’s disillusioned and neurotic postwar universe, or in all the things Holden finds distasteful.

Thus, there are two typical Salingerian worlds: the “phony” world vs. the “nice” world and a recurrent motif of the fight between the characters representing each of the two worlds. The very use of the word “phony” was catalogued as a Salingerian “trademark.” One conclusion is that Salinger is more concerned with the effects rather than the causes of the human dilemma of choosing either the “nice” or the “phony” world and this refers to how to get along in a world of “niceness” and “phoniness” or “squalor.”

Another important aspect refers to a recent interpretation which focuses on Salinger’s early characters who view the war as opposed to the phoniness of the Hollywood film industry which did nothing else but present the war in an embellished version in which the actors were filmed from their “nice angles,” offering an unrealistic image which distorts reality making it become “phony,” the exact thing Salinger tries to fight against in his fiction.

There is an important Salingerian recurrent attitude that figures once again in “A Perfect Day for Bananafish,” next to the suicide theme, namely that of the main character’s inability to communicate. Seymour cannot communicate with the world that surrounds him, he cannot talk to his wife, Muriel, whom he calls “Miss Spiritual Tramp of 1948.” He can only find the pleasure of dialogue with the five-year-old Sybil Carpenter. This inability to communicate with the world in which he lives and come to terms with it finally leads Seymour to suicide, or better said, “is what kills him and plagues the rest of the Glass family” (Levine 499).

These two themes are strongly connected given that Seymour’s inability to communicate with anybody around him, especially with his wife Muriel (the only exception being Sybil, a child), leads him to commit suicide in the end. The interpretation of his suicide results in the conclusion that it represents a way of drawing his wife’s attention, a way of “disrupting her composure,” but Salinger never gives (enough) reasons for his characters’ gestures, he lets the readers find arguments and interpret from their own points of view.

Another important recurrent pattern is the adult (as “misfit hero”)—child relationship exemplified by the Seymour - Sybil relationship in which she proves to be the only one capable of understanding him. Closely connected to this Salingerian trademark is that of the “banana fever,” a fever that according to Seymour kills the bananafish. Most critics have interpreted it as a spiritual illness which characterizes an individual who is not able to differentiate between important and unimportant experiences or to understand his inability to retain all of them, leading to suicide in the end.

It has been universally accepted that the climax of Salinger’s literary creations is represented by **The Catcher in the Rye**, which seems to have a unique power on the young readers who discover it for the first time, and also for Salinger’s fans who usually identify themselves with Holden Caulfield and his experiences and feelings. Salinger’s use of colloquial language is present throughout the novel, and it offers humor, pathos, understanding and insight, and a unique view of the world. Holden Caulfield knew the difference between phoniness and truth. **The Catcher in the Rye** was published in New York on July 16, 1951, as the product of a ten-year labor. The *New York Times* reviewed it on the day of its publication, declaring it “an unusually brilliant novel. (...)You’ll look a long time before you meet another youngster like Holden Caulfield” and the *San Francisco Chronicle* called it “literature of a very high order” (Hamilton 116).

Needless to say that there have been a few negative reactions to J. D. Salinger’s novel as well. We may say that the novel was not actually the immediate success we think it was. It had an ascending struggle for two years before establishing itself at the top of post-war fiction. Briefly, there were many reactions; some positive, some negative, and Ian Hamilton managed to encapsulate some of the most important critiques and reviews in his book (111-21). Some publications found the language of the book “an endless stream of blasphemy and obscenity” (Hamilton 120), some found the book essentially a “sentimental” one; others were charmed by its own taste and found it “intelligent, humorous, acute and sympathetic” (Hamilton 121).

Nevertheless, the book has been steeped into controversy since it was banned in America after its first publication. It was banned because it was considered “dangerous” because of vulgarity, occultism, violence, and sexual content. The first attempt to ban the book was in 1955 and since 1960 it has been banned in several states of America, especially from schools and school libraries, or removed from required reading lists of high schools.

The Catcher in the Rye is a novel about the development or maturation of the hero, and it is not a single case in American or worldwide literature, since there are many examples of novel that deal with the same theme: Twain’s **The Adventures of Huckleberry Finn**, Crane’s **The Red Badge of Courage**, Joyce’s **A Portrait of the Artist as a Young Man**, Lawrence’s **Sons and Lovers**, Faulkner’s **The Bear**, Mann’s **The Magic Mountain**, and so on. Although this type of novel has a strong universal appeal, Salinger’s literary creation presents numerous differences when compared to some of the above-mentioned novels, most of them concerning his writing technique, attitudes expressed in the novel, patterns, and symbols, which will be later on developed and which make Salinger’s creations unique. The major theme, and the subject of the novel, is growing up along with all its difficult experiences, including the passage from innocence to experience. Many critics have taken into account the novel’s “shape,” that of a circle, given its starting point, in Holden’s home when he starts telling about the experiences that lead to his breakdown, and its ending point, home again, completing thus the circle. Salinger manages to intensify the circular structure of the novel by repeating the same symbols and themes at the conclusion of the novel that he used at the beginning, and this demonstrates the maturation and development of Salinger’s writing technique.

The language used in the novel has paramount importance. Salinger's colloquial and slang language helps to increase Holden's portrayal and to control the pace of the novel. Holden addresses the reader directly and "[t]his sense of connection between Holden and the reader is one of the key aspects of the novel's power" (Graham 19). Many critics have noticed that Holden's brusque speech serves to show his inarticulate and rebellious personality. Donald Costello in "The Language of *The Catcher in the Rye*," managed to encapsulate the numerous instances of Holden's speech, demonstrating the importance of Salinger's use of italicized words or syllables, Holden's use of the same word in many different contexts, all the subtle aspects that force the reader to pay close attention in order to understand the exact shades of meaning Holden intends. Some of the most important symbols that can be identified in the novel are the song by Robert Burns, the red hunting hat, and the sports images that appear throughout the novel, and so forth.

Salinger used another key symbol in his literary writings—children—who symbolize the unlimited freedom (Lundquist 78). All Salinger's literary creation is populated with such symbols: Sybil, Ramona, Esmé, Teddy, Phoebe, etc. Salinger's repertoire of children "shows how wonderfully Salinger depicts small children, especially girls, mostly through his ability to capture their particular forms of speech and logical illogic" (Gelfant and Graver 497). They are all symbols of the state of enlightenment that stands against the conventional wisdom of the adults. The grown-ups represented by different characters "must struggle with the *koan* paradox until their minds are literally dragged to the edge of Holden Caulfield's 'crazy cliff' and beyond" in order to become like the children embodied by Salinger's characters (Lundquist 79). And because all of Salinger's stories end in a perplexing way, Lundquist explains, the reader is forced to look for the meaning of the story, to ask questions and try to solve the dilemma—just as the Zen student. Thus, Salinger tries to make the reader behave like the Zen student in search of the state of awakening; he tries to make his reader "vomit up the apple of logic" (Lundquist 79).

Sarah Downey wrote an interesting critical essay called "The Etymology and Symbolism of Characters' Names," in which she pointed out that it would be hard to believe that the brilliant J. D. Salinger would have picked the protagonists' names in **The Catcher in the Rye** without reason. She mentioned that the "[a]nalysis of this fact uncovers connections between themes and mannerisms that are far too relevant to have been coincidental." Sarah Downey analyzed certain scenes in the novel, thus reminding the readers of the force of symbolism and of Salinger's insight, imagination and playfulness, especially when dealing with words, meanings and symbols. Referring to the symbolism of Holden's name, which sounds close to something that "holds back," Downey believes it is of utmost importance as Holden "flawlessly portrays his inability to join society because of his high ideals for it." W. Glasser noticed first the symbolism contained in Holden's name and mentioned that "*Holden* is an archaic past participle of *hold*, and *Caul*, traced back to Old French *cale*, a kind of cap, is a membrane sometimes enveloping the head of a child at birth" (104). S. Downey followed Glasser's direction and wrote that Holden's last name "relates to [the] recurring theme of childhood innocence," and that "[a] 'caul' is defined as a part of the amnion, one of the membranes enveloping the fetus, which sometimes is around the head of a child at its birth. The caul protects young children, just as Holden dreams to do when he tells Phoebe his ideal profession would be the catcher in the field of rye. Of course, the second section of his last name represents the field of rye."

Salinger introduced a magnificent character in the novel, one of the best portrayals of his repertoire of children, Holden's sister, Phoebe. Holden loves her very much and this can be seen in his description of her. Phoebe's role in the novel, S. Downey believes, is "to keep Holden anchored to reality; to prevent him from ruining his life completely and losing all hope in his future." W. Glasser associated Phoebe's name with the moon, and "the moon goes

‘around and around,’ it constantly changes, moving through phases that have been used for ages as a standard of time” (112). But Phoebe also uses a pseudonym in the novel, that of Hazel Weatherfield. W. Glasser notes that “Holden says that Phoebe misspells the first name as Hazle, an archaic word meaning ‘dry,’ which can be joined with the initial part of the second name to form a meaningful phrase: Hazle Weather” (102). Thus, by her pseudonym, she can be associated with “dry weather.” This association seems to help “clarify the meaning of wet weather, or rain, which is used throughout the novel to symbolize what the child has not yet been altered by: the inevitably corrupting experiences of this world” (Glasser 102). So, Phoebe can be seen as both a symbol for the moon and for dry weather. W. Glasser pointed out that Phoebe, through her association with wet weather is connected “with the moon, which has been traditionally viewed as having control over the rain” (112). The symbolism of her name also has great value, helping to characterize her, to show how Salinger views children, and to establish her part in Holden’s life.

But Salinger did not stop at Holden and Phoebe with the symbolism of their names; the other characters in the novel prove to bear the characterizations of their personalities in their names. Thus, Robert Ackley, for example, is Holden’s neighbor at Pencey, and he describes him as “one of these very, very tall, round-shouldered guys (...) with lousy teeth. (...) I never even once saw him brush his teeth. (...) Besides that, he had a lot of pimples. Not just on his forehead or his chin, like most guys, but all over his whole face. And not only that, he had a terrible personality. He was also sort of a nasty guy” (Salinger Ch. 3, 16-7). Holden’s frank description disgusts the reader and offers a realistic account of Ackley, whose name, S. Downey says, “sounds like acne, one of Ackley’s more obvious features. It also sounds similar to a reaction of disgust. When hurt, humans use ‘ouch’ as an exclamation of their pain; when disgusted, people tend to make an ‘ecch’ or ‘ack’ noise.” It is easy to believe that Ackley’s repugnant features could easily suggest this type of reaction. Ackley frustrated and disgusted Holden; but even in his distaste for his roommate, Holden admits in the end that despite Ackley’s disgusting features and habits, he still missed him.

From this brief analysis I can draw the conclusion that Salinger paid great attention to the names chosen for his characters as they symbolize the very features that characterize each of them and this attention stands as a proof of Salinger’s attentiveness to detail, his genius and his exquisiteness in creating genuine characters. Thus, one of the most evident uses of symbolism is that of names which seem to encapsulate the essence of the characters that bear them, as I have exemplified above using the studies of important critics to support this idea. I have tried to demonstrate my belief that Salinger’s use of so many symbols throughout his fiction means that he works with philosophical symbols and ideas at all levels, not only in explicit ways, such as lines and his characters’ words, but also on indirect, hidden levels, such as those of symbolism in all its forms to convey messages, Salinger’s own messages.

An important conclusion is that Salinger uses children as major symbols throughout his fiction and they are believed to symbolize unlimited freedom. This is a strong argument in favor of Salinger’s repertoire of children and his tendency to “populate” his literary creations with children as they oppose the adults’ conventional wisdom.

Conclusion

In this article I have tried to focus on J. D. Salinger’s place in world literature, to gather different critics’ opinions in order to discuss Salinger’s writing style and the most important influences on his writing style, the cultural and historical background behind his literary works and how they influenced and were reflected in his literary creations. I have also tried to focus intensely on the most important patterns, themes and motifs in Salinger’s fiction and discuss them, such as the misfit hero, the phony vs. the nice world, the crucial moments of epiphany, alienation and vulnerability, love of different kinds, quest for a moral ideal,

symbolism of names, specific use of language, other major symbols, suicide, marriage, the place of the artist in the society and so forth. I have approached the issue concerning the controversy created around Salinger and his ability to maintain his reputation in the context of his self-imposed reclusive lifestyle. The main reasons behind his “retirement” from the public world refer to his great disappointment with the disturbing elements brought along by success and his desire to find a peaceful existence, most likely as a result of the Second World War experiences and, later on, of the strong influences of Zen philosophy.

I have also presented my belief that Salinger’s secluded lifestyle had its share of contribution and impact on the very popularity he has rejected and on the implicit controversy. A major theme and also influence concerns the war and the army life present throughout his short stories, especially during and after his participation in the Second World War.

The conclusion is that the major themes and patterns that recur in Salinger’s fiction, and which are his trademarks, mainly refer to: Salinger’s pattern of using a cast of characters for dominant families (the case of John “Babe” Gladwaller or the Glass family); the presence of the child and what it symbolizes; Salinger’s predisposition of creating characters that recur in his works; the use of names as symbols for the characters bearing them; Salinger’s attentiveness to details and careful choice of words; his special treatment of colors; his penchant for citing novels, titles, literary characters, authors, songs; Salinger’s use of italics usually to highlight oral speech; the recurrent motif of the letter or note and their repeated reading or memorizing; the pattern of using extended telephone conversations as a way of avoiding direct communication, but also to display his gift for dialogue; Salinger’s use of the sequel pattern; themes of war, army life, squalor, separation from society, death, aversion against physical violence; but also themes of love, niceness, religion and philosophy and so forth.

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IMPORTANCE OF SYMBOLS, INFLUENCES AND PHILOSOPHIES IN SUCCESSFUL LITERARY CREATION

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Abstract:

In the literary world writers have to be able to integrate all their beliefs and life philosophies so that their characters are more credible and realistic. Jerome David Salinger is one example in point. His entire literary legacy, although not very prolific, is an example of the writer's own evolution alongside with the characters'. For this brief article I have focused on the influence of Zen philosophy which is present throughout Salinger's exquisite mature works and it represents the source of his array of themes and motifs: children and what they stand for; oppositions between the phony, material world and the spiritual one; the war and the effects of its traumatic experiences; love and squalor; suicide theme; religion; alienation and vulnerability; reality; idealization of beauty; the quest for a moral ideal; communication and the problems caused by the lack of the ability to communicate directly; the quest for the seer. All of Salinger's themes, which are actually his trademarks, are very well presented against the social and political background of the post-war period and they also stand for the evolution of his characters and writing technique.

Keywords: literary creation; symbols; influences; philosophy; mature works

Many critics agree that Salinger's *Nine Stories* represents the highpoint of his publishing career, generally due to the Glass family and particularly due to the introduction and killing of Seymour Glass. In this collection the readers and the critics can see how Salinger's art and life came together in the best possible way, how Salinger's Zen interests fused with his favorite themes, and how he managed to give a new perspective to the American short story. Salinger's collected stories mainly focused on "genius, spiritual integrity, moral corruption, and the occasional ability of innocence to transform our lives" (Smith).

It seems that all Salinger's mature works represent, more than in his previous writings, a quest, a search for the seer and all his characters have a very well-defined role in helping the reader find this seer.

Salinger seems to be an author accessible to a wide range of students, especially young people. A chronological approach of his literary creations can only help to understand Salinger's repertoire of characters, symbols, patterns, and recurrent themes. All of Salinger's writings demonstrate how he managed to add details in order to improve his writing technique and his characters, who developed from their introductions until they finally emerged as fully developed characters. An outlook of Salinger's entire fiction sheds light on his prose styles, on Salinger's trademarks—such as his direct contact with the reader, his confusing story lines, his being a complete master of dialogue in which the choice of every word seems to be a very well balanced and detailed act, his italicizing words for emphasis, his colloquial language often considered too strong for those who wanted to censor or ban his books, the symbolism of his characters' names and of his stories' titles, the Zen imagery, and the portrayal of honest feelings in characters as Holden, Seymour, Franny, or Buddy, who are all searching for meaning in a crazy and phony world.

The influence of Zen philosophy is present throughout Salinger's exquisite mature works and it represents the source of his array of themes and motifs: children and what they stand for; oppositions between the phony, material world and the spiritual one; the war and the effects of its traumatic experiences; love and squalor; suicide theme; religion; alienation and vulnerability; reality; idealization of beauty; the quest for a moral ideal; communication and the problems caused by the lack of the ability to communicate directly; the quest for the seer. All of Salinger's themes, which are actually his trademarks, are very well presented

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against the social and political background of the post-war period and they also stand for the evolution of his characters and writing technique.

It is very important to mention that Salinger was working on “A Perfect Day for Bananafish” and on **The Catcher in the Rye** at almost the same time which means that some of the themes and attitudes treated in the short story opening *Nine Stories* also appear in the novel. But Holden Caulfield breaks the model of the Salingerian hero who uses the “written word” as “the mode of communication”—Joe Varioni who is a writer, Raymond Ford who is a poet, Teddy and Seymour who keep diaries (Levine 499). Thus, coming back to Seymour Glass, he is the Seer, he has the gift of vision and this statement is also reinforced by Salinger’s use of symbolism in the choice of his name and in the way Sybil calls him, “See more glass.” This kind of symbolism is characteristic for Salinger and it is used under different forms in all his short stories and especially in his novel. But the real importance of names relies in the symbolism used by Salinger in their choice.

W. French points out to another major symbolism in “A Perfect Day for Bananafish” which starts with the diagnosis of “banana fever” and refers to the fact that bananas symbolize or stand for “a struggle between materialism and spirituality ... ” (French, “Revisited” 67). J. Lundquist believes that the sea in which the bananafish swim “represents the blue world of spirituality in which we may swim freely if we only choose to do so” (80). But he continues by saying that “most of us are bananafish who prefer to swim into some dark place and become such gluttons for sensual pleasure that we cannot swim out again and are trapped” (80). The color yellow used by Salinger in the short story embodies the same idea connected to sensual pleasure. J. Lundquist points out that Seymour, during his conversation, tries to make Sybil “see herself in an alternate way” (82) and that is why he insists that her bathing suit is blue and not yellow. The colors are very important in the story because they stand for two different concepts: “blue is associated with spirituality (the heavens are blue, the Madonna’s cloak is traditionally blue in sacred art) and yellow is associated with various aspects of the physical or carnal (the color is the color of gold and the color of cowardice)” (Lundquist 82), and they can help the reader in understanding or solving the puzzle in this short story taken as an example for Salinger’s mastery of style.

Coming back to the symbolism of names and colors used by Salinger in “A Perfect Day for Bananafish,” it is important to add that next to Sybil’s interpretation of Seymour’s name as “see more,” his last name, Glass, has two important connotations: the word glass denotes the object through which one can see, but it can also be understood as a mirror that reflects one’s image back, and it can also denote another object—a window through which one can see (Lundquist 82). Referring to the first connotation, that of a mirror, J. Lundquist explains that “[t]he image that is reflected is a false one; it is reversed, untrue, and unreal, and obsession with it is nothing more than vanity. In Zen, trying to understand oneself this way is as absurd as are the student’s efforts at discovering his ‘original face.’ But the other sense of *glass* as window is a different matter, because self-understanding can result from *seeing through* oneself” (82). The connection found by Lundquist between this type of thinking and the *koan* is that the latter encourages the former in order to make the student destroy the “glass of illusion” (82). The earlier discussed symbolism of the color yellow becomes all the more important once Seymour and Sybil start talking about the story of the “Little Black Sambo” and then the story of the bananafish. J. Lundquist argues that “[I]like the tigers, the bananafish become [trapped in their own mortality]” and asks the key question, making the analogy between bananafish and man, if man’s fate is not that of becoming trapped in his own mortality, just as the fate of bananafish is of eating bananas (83). His answer to such questions, and thus to the general problem raised by Salinger’s story “is that before the bananafish enters the hole, he is something else—at least he is free to swim the blue depths” (83).

According to J. Lundquist we have become blind, we are no longer in tune with the blue spirituality because “[w]e see only our images as bananafish without seeing through them” (83). But Sybil is not blind because she can see a bananafish with six bananas in its mouth. This is the much-discussed moment when Seymour kisses the arch of her foot, as a sign of blessing because she has managed to understand or see what he himself was trying to understand or see. W. French was talking about a different way of reading “A Perfect Day for Bananafish,” as a metaphor, and this, I believe, needs to be applied to all of Salinger’s writings, while keeping in mind that Salinger opens the *Nine Stories* collection with a Zen koan: “We know the sound of two hands clapping, / But what is the sound of one hand clapping?”

This reference to the Zen koan seems to announce the reader that he or she needs to read the short stories differently, keeping in mind the connection with this type of philosophy. James Lundquist provides an explanatory account about Zen art that stands as one of the major themes in Salinger’s fiction, especially in works like “A Perfect Day for Bananafish,” “For Esmé – with Love and Squalor,” “Teddy,” *The Catcher in the Rye*, *Franny and Zooey*. Actually, J. Lundquist believes that the Zen koan opening Salinger’s collection suggests a different approach and thus Salinger’s short stories are no longer “rather conventional,” but “they become calligraphic paintings, reach their artistic high point in a tea ceremony, and have the arrangement of a Japanese garden” (70). Salinger’s use of Zen philosophy has been a long-debated issue. Some critics believe that Salinger took interest in the mid 1940s in this type of philosophy because it was a fashionable new type of philosophy emerging in America at that time. Other critics believe that Salinger used it as a metaphor in his fiction and as an aid to help him convey his messages better. It is very difficult to agree with just one point of view since it seems that all of them bring to light something new and plausible.

Salinger’s short stories are closely connected to the Zen and koan practice. As the reader starts the short stories collection, some logical questions arise referring to Salinger’s using the “one hand clapping” koan and the implicit paradox implied by such a question—how can one hear the sound of something that cannot make any noise, or how can one hear the sound of a hand that has nothing to hit against? J. Lundquist wonders if one can obtain any knowledge of his or her real nature, or, in other words, if the mind can hit against itself, and the answer found by him is that this is the “final question that Salinger comes down to in his stories as he presents characters who achieve or fail to achieve *satori*, who either do or do not achieve a sudden and intuitive way of seeing into themselves” (78).

An important indication of the Zen influence is the very use of the Zen koan opening *Nine Stories* and it represents a device used by Salinger to announce the reader that (s)he needs to read the short stories differently, keeping in mind the connection with this type of philosophy. Most critics also believe that Salinger’s interest in Zen Buddhism and its use in his fiction represent a metaphor and an aid to help him convey his messages better and more efficiently.

A very important pattern in Salinger’s fiction is represented by what many critics have largely discussed: the crucial moments of compassion and growth or rebirth, or epiphanies. It is noteworthy that W. French mentions the influence or illustration of James Joyce’s theories in Salinger’s works; especially in short stories as “Uncle Wiggily in Connecticut,” “Just Before the War with the Eskimos,” “The Laughing Man,” and these are only a few worth mentioning here. French explains that these stories “serve to illustrate the Joycean concept, explained in *Stephen Hero*, of the ‘epiphany’—‘a sudden spiritual manifestation, whether in the vulgarity of speech or of gesture or in a memorable phase of the mind itself’” (French 97).

In most of Salinger’s literary creations “love” is a central issue, and in the more optimistic ones it brings about growth or rebirth, although critics have different opinions concerning the moment when this “salvation” has been accomplished. W. Wiegand, in his article “Seventy-Eight Bananas,” sees Salinger’s crucial moments of compassion and growth not as Hassan’s “quixotic gesture,” but as “remedies,” since Salinger’s stories are “stories of

the search for relief” (Grundwald 128). Thus, Wiegand sees the “remedy” offered by Salinger for “The Laughing Man,” and implicitly for John Gedsudski as “sublimation in art” (Grundwald 128).

A significant pattern representative of Salinger’s works is the already mentioned crucial moments of compassion and growth or what James Joyce termed an “epiphany” or revelatory and changing experience for the characters, a kind of conversion through compassion, trust and love, which saves them from real or symbolic death and suggests that they may be able to function more adequately in their world in the future. Martin Bidney in a critical essay entitled “The Aestheticist Epiphanies of J. D. Salinger: Bright-Hued Circles, Spheres, and Patches; ‘Elemental’ Joy and Pain,” states that there have been not too many attempts “to find a pattern that can unite the epiphanies of characters in the works of J. D. Salinger,” and he attempts to provide such a pattern. In a recent book, Patterns of Epiphany, the author mentions that he tried to find “a method for studying the distinctive epiphany patterns of writers and applied it to a series of nineteenth-century authors,” and the above-mentioned essay focuses on Salinger. He believes that the “[s]ources and parallels for Salinger’s literary epiphanies have been sought in many religious traditions,” mostly in Hinduism, Taoism, Zen, and Christianity, “[b]ut such references to other people’s imaginings cannot reveal—may even distract from—what is distinctive about Salinger’s own vision, the epiphanic pattern that underlies his characters’ moments of revelation.”

According to Martin Bidney, every writer develops a unique pattern when producing an epiphany and he defines an epiphany as generally being “a moment in a literary work that affects the reader as (1) intense, (2) expansive in meaning (that is, seeming to mean more than such a brief experience would have any right to mean), and (3) mysterious (its resonance or vibrancy exceeding any apparent explanation offered in the author’s text) [3].” Based on this definition and on his studies, he derives three basic components of epiphanic patterns: “elements (in the ancient sense: earth, air, fire, water); patterns of motion (irrespective of whatever it is that moves); and shapes (most commonly, geometric), together with certain recurrent features that are occasionally linked to the above (thus, in one Salinger epiphany the color green is linked to earth in springtime, but patches of bright, pure color appear often, without requiring any ‘elemental’ cause).” After the identification of the distinctive components in a certain writer, the next thing he has to do is to “locate the author’s ‘paradigm’ epiphany,” and Martin Bidney defines this paradigm as “the one epiphany that manifests the author’s recurrent pattern most completely and vividly.”

Martin Bidney sustains that Salinger’s epiphanies are usually made up of a grouping of two or more elements. The interesting aspect is that one of the elements is suggested “only vaguely by a color-link (as the mention of a gold medallion may suggest the fiery sun).” “De Daumier-Smith’s Blue Period” is typical of Salinger because it contains most of the themes that dominate his work: alienation, phoniness, reality versus fantasy, and so on. The hero is an introverted, alienated young man, with a strong tendency to live in a world of fantasy. During his experience in Canada, he reinforces certain views of himself and of life. There are aspects in the story of the external world that are absolutely hideous, symbolized in the two episodes at the orthopedic appliances shop. The main character finds out that permanent happiness is elusive, since the moments of satisfaction and joy are short-lived; nevertheless, they are possible only if sought and found within oneself. The short story also deals with one of Salinger’s favorite themes, the “nice” versus the “phony” world. Thus, the reader understands, once again, that the universe is so phony and hostile that the bright and sensitive people are forced into a kind of retreat from it (Stone).

Salinger’s symbolism of colors is also very representative in **The Catcher in the Rye**, namely in the carousel scene at the end of the novel when Phoebe is riding the carousel. The two colors present in this scene are blue and brown. W. Glasser points out that Phoebe’s

innocence is also reflected by the color of her coat, namely blue, which “might possibly suggest the height at which she exists in spirit: above the earth, in the sky, or the heavens” (113). The color in opposition is that of the horse she rides, namely brown, “a color we may associate with the earth” (Glasser 113). But this apparent opposition, just as the ying / yang opposition, actually illustrates “the dependency of human existence upon a blending of spirit and matter” (Galsser 113).

Salinger’s novel, as demonstrated by W. Glasser, also contains “movement,” “usually in a straight line, symbolic, not only of aging, but of proceeding from one state of existence to another” (103). In order to achieve this symbolism, Glasser sustains that Salinger uses different colloquial expressions in his novel to reinforce this idea, and that the “symbolic conception of movement” is present in the entire the novel. The second pattern of movement discovered by Glasser in Salinger’s novel is a symbolical one, up and down. He believes that all downwards movements illustrate world related experiences and that is why any type of fall “implies a loss of childhood spirit, which Holden would prefer to keep up, on a cliff, above any involvement with the world below” (104).

The essence of Salinger’s use of movement in a symbolical way is greatly and simply described by Glasser: the movement forward suggests relating to another person, the movement upwards suggest spiritual connotations, and the movement downward suggests “a deeper immersion into worldly experiences” (111). At the end of the novel, Salinger’s use of movement as symbol acquires paramount importance as it makes Holden aware of the fact that he needs to accept “the necessity for movement within a child’s existence” (Glasser 111). Although it is very difficult for somebody like Holden to accept the last type of “movement” in a child’s life because of the material and phony connotations, he finally has to do it since there is no other for a child to have a “complete existence unless it continues ‘becoming’ within this world” (Glasser 111). This dramatic change in Holden’s attitude occurs at the end of the novel when all of the movements blend together in the carousel scene.

This analysis comes to strengthen Martin Bidney’s affirmation that “[t]he geometric shape Salinger prefers in his characters’ epiphanies is always something round: circle, sphere, or cylinder.” The roundness of the carousel and the circular movements that it creates can be one of the most representative patterns used by Salinger, in this case, in his novel.

Glasser has also identified the importance and recurrence of breath in Salinger’s novel as a symbol. Salinger introduced early in the novel references to breath, as in the example used by Glasser, when Holden waits for Sunny in the hotel room and he tests his breath to check if it smelled from cigarettes and alcohol, and many other examples. A deeper examination of Holden’s gesture determined Glasser to establish a connection between it and a “Biblical association of man’s breath with his spirit or soul” (100). Thus, when Holden blows his breath up into his nostrils he does more than simply determining if his breath smells. Glasser explains that Holden tries to see if his “breath has been tainted, in this case by the adult acts of drinking and smoking, is, by implication, the extent to which Holden’s spirit has been corrupted” (100). Glasser gives Holden’s brushing his teeth after the test symbolical meaning, comparing his gesture “to cleansing one’s spirit” (100). By extending the symbolism of the gesture, Glasser continues and gives “spiritual significance” to bathrooms as the place “where one cleanses not only his body, but also his soul, a view that is emphasized when Phoebe’s mother asks her if she has said her prayers, and Phoebe answers that she said them in the bathroom” (100). But many of the characters who populate Salinger’s novel do not take care of their breath. The most useful example in this case is that of Ackley who never brushes his teeth. Another good example in point is the maid of the Caulfield family, Charlene, who always breathes on Phoebe’s food and on everything else, as Glasser mentions (100). But Holden is nothing like these characters; he always checks his breath and tries to keep it clean. That is why he becomes very upset “whenever he breathes

his tainted breath on anyone else, especially if he believes that the other person is untainted” (Glasser 100).

The song played when Phoebe rides the carousel is “Smoke Gets in Your Eyes,” and it is yet another allusion to the above-mentioned symbolism of breath and to “the debilitating effect of cigarette smoke upon one’s breath, or spirit” (Glasser 112). This interpretation allows Glasser to say that the carousel is “a symbol of enduring childhood,” and it “plays a song suggestive of its eventual corruption” (112).

Salinger’s epiphanies “usually generate within the observer, and vicariously in the reader, a vivid mixture of pleasure and pain, of joy and grief” (Bidney).

Conclusion

In this article I have tried to focus on what most critics agree to be a very important pattern in Salinger’s fiction: the crucial moments of compassion and growth or rebirth or epiphanies, focusing mainly on the episodes and literary creations in which they occur. The most common acceptance of an epiphany is that of a “sudden spiritual manifestation” which can take almost any form (a gesture, a phrase, a line, a state of mind). The essence of all these epiphanic moments is love, in all its forms, and such moments can be viewed as a weaker form of the “quixotic gestures” or as “remedies” since Salinger’s stories are in search for relief. Such moments are highly important since they seem to offer the character that experiences them equilibrium, at least a temporary one if not a long-term one.

I have also tried to present Salinger’s pattern of crucial moments of compassion and growth or epiphanies from James Joyce’s perspective which refers to a revelatory or changing experience for the characters, one which can only happen through love, trust and/or compassion and which saves the characters experiencing it from a real or symbolic death and offers an optimistic perspective on the characters’ future existence.

My belief that Salinger’s use of so many symbols denotes his desire to work on multiple levels at the same time: he uses not only explicit ways (direct communication), but also indirect or hidden ways (symbolism in all its forms) to emphasize his ideas and convey his messages more efficiently to his readers. Another device which helps Salinger do the same thing is the use of his Zen interests and influences in his fiction as a metaphor and an aid to transmit his messages easier and better. The conclusion is that Salinger used Zen Buddhism concepts to make the reader achieve the very essence of this type of thinking and which is very similar to the essence of any Zen koan: that of reaching a state of awakening which can help an individual surpass all conscious knowledge and thus achieve the ultimate state of “satori” and the enlightenment necessary to ease the way to achieving “ultimate freedom.”

All the similar or contradictory points of view of different critics presented in this article concerning Salinger’s fiction, which have greatly changed and improved along the decades thanks to the great interest literary critics have taken in analyzing and developing different theories represent a significant aid which eases the readers’ comprehension of Salinger’s literary works from a wider angle and which allow more interpretations.

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CURRENT TRENDS IN THE EUROPEAN EDUCATION SYSTEM

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Abstract:

Education has long been considered a significant tool for development, with various education initiatives designed to work towards eliminating poverty, increasing the health of a population or enhancing local economies, among others. The recent trends have highlighted the ways in which European education has developed into a means to achieve a range of broader goals, ranging from study abroad to improve students' work readiness, the strategic development of international collaborations to drive up research rankings, to using transnational education to build regional identity. These changes are expanding the nature of education at all levels to include personal skill development, new ways of thinking, and practical job preparation in addition to subject-specific knowledge and skills.

The present paper highlights some common characteristics between the educational systems in Europe, the characteristics and differences related to the economic, social and cultural conditions, aiming to achieve educational objectives.

Key words: educational systems, strategic development, European trends, quality of education

Introduction

The European education system represents an integrated component within the framework and general structure of the European society, referring fundamentally to the institutional organization of education and encompassing all the institutions pursuing the achievement of educational objectives. The European systems are diversified and have a general approach in order to provide students with the basic knowledge and skills they need in the future. Although each EU country is responsible for its own education system and subjects, the European Commission supports national efforts to improve the quality of education. Also, the education system has a national and historical character, in other words it evolves and develops in relation to the material development and cultural specificity of each country.

The current and future evolution of education will increasingly be marked by a complex ensemble of trends that is already recorded in all the fundamental components of contemporary societies and civilization. The most profound of these is that of the entry of contemporary society into the era of knowledge and transformation of economic and social systems from systems based on traditional factors of production and labor into systems based on knowledge and computerization, with all the implications of this evolution for the economic, social, political, cultural and spiritual current and future life directions.

The patterns of work, action, organization and development of the social and obvious life of learning are changing more and more profoundly, and faster. The current and future evolution of the world is influenced and will increasingly be marked by the rapid development and expansion of new information technologies, mass communication, which affect the nature of work and cause the replacement of certain types of human work by cars, which will be reflected in radical transformations of occupations and occupational mobility and in the types of skills and competencies necessary for their exercise.

Under these circumstances, contemporary societies are required to create all the necessary conditions and means to be able to prepare their members so that they have the knowledge and skills necessary to participate as actively and efficiently as possible in economic activity and in all the spheres of modern public life, in political and social life, at all levels of local, national and international communities. What changes radically and the position of education in society, it cannot be achieved only as a training course prior to the

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entry of people into work, but as a process that will prove necessary for all people throughout their professional life and not only.

In line with new developments, today's societies have to become more and more inclusive societies, capable of providing equal opportunities to access quality learning throughout their lives for all their members. For this purpose, they will have to act to ensure that all components, compartments and educational social institutions focus and concert their efforts towards the significant development of the educative capacity of each and every one of them as a whole so as to achieve the ideal the completion of the "educational fortress" already proposed in the last quarter of the 20th century.

Simultaneously with this evolution, there are major necessities of reorganization of the educational processes and the institutional systems of education and education, amplified by the emergence and the development of new technologies of the education itself - the computer, the multimedia technologies, the CD-ROM, the video recording, the Internet, the cyberspace etc., which calls for a new organization of learning processes based not on the state in classes and on the passive obedience of teachers, but on the increasingly massive use of new information technologies and their use in "classes with no walls", respectively, at home, away from school.

The European education system is an essential component of the social system, being subordinated and integrated into the overall framework and structure of European society, not only having an internal structure but also having external social impulses. The education system, viewed as a whole, refers fundamentally to the institutional organization of education, in this sense the educational system encompassing the totality of institutions pursuing the achievement of educational objectives. European systems are diversified and have a general approach in order to provide students with the basic knowledge and skills they need in the future. Although each EU country is responsible for its own education system and subjects, the European Commission supports national efforts to improve the quality of education. Also, the educational system has a national and historical character, in other words it evolves and develops in relation to the material development and cultural specificity of each country.

Therefore, there are common characteristics between the European education systems, characteristics and differences related to economic, social and cultural conditions. We can say that education, understood as an institutional organization, cannot be considered as having only an internal structure as a result of the interactions between its components, but it is subjected to independent social and interactional pressures, pursuing the achievement of educational objectives.

Research has shown that it is about implementing educational reforms to reset the system and address another direction by dedicating important funds to education, research and technology. A new education system actually refers to equal opportunities for all children, regardless of the socio-economic environment they come from.

In Europe's collective consciousness, education has a strong value. This value has its historical roots in the French nation's consciousness of its cultural mission to the world that returns to the Enlightenment. Indeed, this idea of Enlightenment has a universal range: "the light of reason" must shine to everyone in the same way without distinction. In addition, the French have long been the old language of crowned heads of Europe and are today the language of diplomacy. Thus, cultural consciousness is closely related to French language, literature and philosophy. This particularity is rooted in the history of French education: in the seventeenth century the French interpretation of European humanism in the collections of Jesuit parents was marked by a rhetorical character (while in Germany it was rather the philosophical part that was emphasized).

The special value of language-based education as a preferred expression of national culture is indicated by broad public debates on curricular reforms in mother tongue education

or, as another example, the particular interest the media has at national level in written examinations (baccalaureate) in the field of mother tongue education and philosophy. The high social value of schooling is also rooted in the revolutionary impulse of the principle of equality as one of the three fundamental concepts of French society. The link between school and society is ensured by the meritocratic principle: the allocation of social positions is ensured by personal achievements, originally based on school achievements.

Thus, school, as an objective institution that distributes life chances according to its own criteria, assumes immense importance in the life of society. The fact that, since the 1960s, European sociologists have demonstrated again and again the subtle social mechanisms through which the school serves the reproduction of existing social conditions is not a contradiction, but rather complementary to the first observation. The undeniable value of the school is also apparently based on student awareness, as students in French schools have a significantly higher degree of satisfaction with their schools than German students.

In its vast majority, the European school system is funded from the public budget. In primary education, the central government pays the teachers, while the costs of auxiliary staff - quite considerable in some systems, where the school day ends in the afternoon - are taken over by local authorities. In secondary education, the financial contribution of local communities is diminishing. The Ministry of Education also covers costs for non-teaching staff, although local authorities have to pay for school transport.

At the level of the curriculum, the central structures are almost uninterrupted. Curricular content is defined for each discipline in the national curriculum. Their implementation is supervised by an inspector. The elaboration of the national curriculum was (and still is formally) the task of the ministry to create a wider platform for developing a curriculum tailored to the needs of society. Thus, the new European curricula were developed by a new type of committee attended by several teachers and representatives of education. Only after a long process of discussion of these curriculum projects among teachers, the new curricula were based on students' competences rather than on curricular content.

Quality monitoring is traditionally carried out by the Inspectorate, on the one hand, and national exams, in particular the baccalaureate giving access to higher education, on the other. In the collective consciousness of Europeans, the anonymity of the examination is the guarantee of its objectivity. It distinguishes not only successful students but also their schools and teachers. Another old way of quality control is visiting the school inspectorate during classes. Inspectors must assess the quality of teaching and make suggestions for improvement; thus, they are an important criterion for promoting teachers.

The most important new form of student assessment is the national assessment of student performance introduced in 1990 in Europe. The evaluation consists of national tests targeted at the beginning of each new learning cycle to see if students have reached the educational objectives of the previous cycle. These evaluations should not classify the individual performance of students and teachers, but inform teachers about new classes about possible shortcomings, to enable them to attack these issues through more individualized and modularized teaching. In other words, these are diagnostic evaluations. Moreover, these evaluations have a second function, namely to evaluate the performance of the key elements of the national system of education as a whole.

The issue of school failure was considered as a special challenge by all European governments. School failure often goes along with social deprivation. Especially in the suburbs of large European agglomerations, but also in many medium-sized cities, there is a high density of immigrants and people without work - with all signs of social anomaly (vandalism, violence, etc.) and its consequences on schooling.

Currently, European countries have begun to react to this by defining priority areas for education. Therefore, disadvantaged areas or rural areas are usually helped by positive

discrimination. Positive discrimination measures included special funding for special pedagogical measures, special training of teachers in smaller classes, projects, opening of schools in neighborhoods, etc. Thus, special pedagogical measures have served to relaunch young people to go to school and to get a taste for learning.

The new trends of the European education system also focus on another main direction: the workforce. This goal is addressed by improving education and training in society. For this purpose, the new education curriculum creates a new kind of vocational school that includes different levels from basic vocational training to higher education and which has a special partnership with various fields of activity. Introducing such a systemic career education should serve to better integrate young people into the labor market.

As far as the Romanian education system is concerned, the benefits are from the free of compulsory education and the provision of textbooks to the scholarship system awarded, the scoring system and the final examination, as well as the organization of the classes. So if in Romania, all the way of the compulsory education period, the bibliographic resources are distributed free of charge, in Italy, even in primary education, school textbooks are not provided so that the acquisition of these tasks is the responsibility of the parents. A big difference between the system of organizing classes in Romania and Italy is that although the pupils may have seven hours, they have only one 20-minute recreation and the lesson time is 55 minutes, whereas in Romania course classes last for 50 minutes followed by 10-minute breaks. A small advantage for Romania and the Bacculaureate Exam, as compared to other countries, has a degree of difficulty in increasing subjects so that it can be taken not only by those with high school performance. Compared to other European countries, Romania's scoring system is more permissive, the pass mark being 5, both for the subjects during the year and for exams, except for the Bacculaureate, where the average grade should be higher than 6.

Conclusions

The European world of learning and education is moving with the times – and so it should. Thanks to many significant improvements in mobile and cloud technologies, digital transformation has invaded virtually every area of life and work – and the 21st century classroom has not been passed by. Schools at all levels are in need of modern, tech-savvy graduates to take on leading roles. The future of education is set to become even more personalized, mobile and hands-on.

European schools in increasing numbers are implementing new electronic programs and allowing students and staff to use mobile devices on the Wi-Fi network and it's not hard to see why. These programs come with many benefits, including greater student engagement, more opportunities for personalized learning, access to a host of uber-trendy pedagogical apps – not to mention the savings on tech, free-flowing information and data, and greater independent learning. While digital transformation comes with many benefits, it also presents schools with a challenge: how can we foster a love of books in an increasingly digital age? To tackle the challenge, some schools have begun rethinking their libraries as open spaces, or learning hubs conducive to rest, independent learning and creativity.

While many schools continue to use outdated phonics-based methods to teach students suffering from dyslexia, the picture is looking better than it did only a few years ago – thanks to the rise of computer-based assistive technologies such as text-to-speech programs and predictive spellers, as well as changes in attitudes surrounding dyslexia and improved awareness of dyslexic brain processes. In the years to come, teachers will be focusing on new ways to support children.

Teachers are increasingly becoming the facilitators of their students' education and learning experience. Schools in our mobile age are moving away from rote learning toward valuable skill-based wisdom. It is not just about *what* you know, but rather *how* you know it,

and what you are planning to do with that data. By presenting students with deeper-level questions and instant access to almost infinite data and information, teachers are able to encourage children to become inquisitive problem-solvers and innovators.

In today's global economy, it has become a basic requirement for those working in the education sector to have cross-cultural skills and perspectives. Educators can access various programs in education that could prepare them for all the challenges and opportunities ahead – providing an invaluable global understanding of education, access to jobs abroad, and an international community of passionate educators from all four corners of the world.

The European trends in education are of growing significance, with economic, political and social changes driving an increasingly global knowledge economy.

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APPLICATION ON THE NATIONAL LEVEL OF THE EUROPEAN REGULATION NO. 679/2016

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Abstract

In order to ensure a uniform level of protection for individuals throughout the Union and to prevent discrepancies that hinder the free movement of data within the internal market, a regulation is needed in order to provide legal certainty and transparency for economic operators, including micro-enterprises and businesses small and medium-sized enterprises and to provide individuals in all Member States with the same level of legal rights, obligations and responsibilities legally binding on operators and their empowered persons in order to ensure a consistent monitoring of the processing of personal data , equivalent sanctions in all Member States, and effective cooperation of the supervisory authorities of different Member States.

Keywords: *personal data, privacy, data protection.*

JEL CLASSIFICATION K0 K3 K30

European regulation no. 679 of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data states that the processing of personal data is a fundamental right.

The principles and rules on the protection of individuals with regard to the processing of their personal data should, irrespective of the nationality or place of residence of natural persons, respect their fundamental rights and freedoms, in particular the right to data protection personal.

This regulation aims at contributing to an area of freedom, security and justice and economic union, to economic and social progress, to the consolidation and convergence of economies within the internal market and to the welfare of individuals. The effective protection of personal data throughout the Union requires not only to consolidate and establish in detail the rights of data subjects and the obligations of those who process and decide to process personal data, but also equivalent competences to monitor and ensure compliance with the rules on protection of personal data. personal data and equivalent penalties for offenses in the Member States.

In order to ensure a uniform level of protection for individuals throughout the Union and to prevent discrepancies that hinder the free movement of data within the internal market, a regulation is needed in order to provide legal certainty and transparency for economic operators, including micro-enterprises and businesses small and medium-sized enterprises and to provide individuals in all Member States with the same level of legal rights, obligations and responsibilities legally binding on operators and their empowered persons in order to ensure a consistent monitoring of the processing of personal data , equivalent sanctions in all Member States, and effective cooperation of the supervisory authorities of different Member States.

For the proper functioning of the internal market, the free movement of personal data within the Union should not be restricted or prohibited on grounds of the protection of individuals with regard to the processing of personal data. In order to take into account the specific situation of micro-enterprises and small and medium-sized enterprises, this Regulation includes a derogation for organizations with fewer than 250 employees in keeping records.

In addition, the institutions and bodies of the Union and the Member States and their supervisory authorities are encouraged to take into account the specific needs of micro, small and medium-sized enterprises in the application of the Regulation.

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In order to ensure that natural persons are not deprived of the protection to which they are entitled, processing of the personal data of the data subject located within the Union by an operator or a person empowered by him not established in the Union should be subject to regulation where processing activities are related to the supply of goods or services to such targeted persons, whether or not they are linked to a payment. In order to determine whether such an operator or such person empowered by the operator offers goods or services to persons concerned within the Union, it should be determined whether the operator or person empowered by the operator intends to provide services to the data subject from one or more Member States of the Union.

Since the mere fact that there is access to a website of the operator, the person empowered by the operator or an intermediary in the Union that an e-mail address and other contact data are available, or that a language generally used in the third country where the operator is established is insufficient to confirm such an intention, factors such as the use of a language or coin generally used in one or more Member States with the possibility of ordering goods and services in that language or mentioning clients or users within the Union may lead to the conclusion that the operator intends to offer goods or services to persons targeted in the Union.

Directive 95/46 / EC of the European Parliament and of the Council aims at harmonizing the level of protection of the fundamental rights and freedoms of natural persons with regard to processing activities and ensuring the free movement of personal data between Member States.

The processing of personal data should be at the service of the citizens. The right to the protection of personal data is not an absolute right; it must be taken into account in relation to the function it performs in society and in balance with other fundamental rights, in accordance with the principle of proportionality.

In Romanian national law, European Regulation no. 679 is enrolled through Law no. 190 of 18 July 2018. The aforementioned normative act lays down the measures necessary for the implementation at national level, mainly, of the provisions of art. 6 par. (2), art. 9 par. (4), art. 37-39, 42, 43, art. 83 par. (7), Art. 85 and art. 87-89 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC , published in the Official Journal of the European Union, L series, no. 119 May 4, 2016.

Law no. 190/2018 regulates special rules for the processing of certain categories of personal data, such as:

- a) Processing of genetic data, biometric data or data on the health;
- b) Processing of a national identification number;
- c) Processing of personal data in the context of working relations;
- d) Processing of personal data and special categories of data with personal nature in the context of performing a task that is in the public interest;
- e) Processing of personal data for journalistic purposes or purposes academic, artistic or literary expression;
- f) Processing of personal data for purposes of scientific research or historical, for statistical purposes or for purposes of archiving in the public interest¹.

In order to ensure proportionality and balance between the right to the protection of personal data and special data and the processing of such data by political parties and citizens' organizations belonging to national minorities, to non-governmental organizations, the following guarantees will be achieved:

¹ The art. 9 par. (1) of the Law no. 190 of 18 July 2018.

- a) informing the data subject about the processing of personal data;
- b) ensuring the transparency of the information, communications and ways of exercising the rights of the data subject;
- c) guaranteeing the right to rectification and erasure.

The processing of personal and special personal data is allowed to political parties and citizens' organizations belonging to national minorities, non-governmental organizations, in order to achieve their objectives, without the express consent of the data subject, provided the appropriate guarantees are provided.

Operators and persons empowered by the operator designate a data protection officer. Where the operator or the person empowered by the operator is a public authority or a public body, a data protection officer, unique to several of these authorities or bodies, may be designated, taking into account the organizational structure and size.

According to the law, the right to be forgotten implies that natural persons may require the deletion of personal data if they have been illegally processed without their consent or if the data are no longer necessary for the purpose for which they were initially processed. In the case of the right to be forgotten, particular consideration was given to the processing of data in the on-line environment.

The right to be forgotten is not an absolute one - the circumstances of each case will always be analyzed. The law allows the continued storage of personal data if it is necessary to respect freedom of expression and the right to information, to comply with a legal obligation, to carry out a task which is in the public interest or which results from the exercise of public authority with the public interest in public health, for purposes of archiving in the public interest, for scientific or historical research purposes or for statistical purposes, or for the establishment, exercise or defense of a right in the courts.

The right to data portability - provides the possibility for the individual to request the transmission of the data to another operator or to receive the personal data which concern him and which he has provided to the operator. The data operator must provide the data in a structured format, currently used, automatically processed and interoperable, just so that another data operator can process it later. The right to data portability is applicable to the extent that the data subject has provided the data controller with the personal data and he processes them on the basis of his or her consent or the performance of a contract.

The right to data portability may not be exercised in the case of data processors who process data of individuals in the exercise of their public functions if processing is necessary to comply with a legal obligation to which the operator is subject or when performing a task which serves a public interest or which results from the exercise of a public authority with which the data controller is invested. In exercising the right to data portability, the rights and freedoms of others must not be impaired - for example, the case of a data set involving more than one person or the right of someone else to obtain the deletion of the data concerning it. When the data portability is exercised, the data controller may transmit the personal data directly to another data operator chosen by the data subject.

The law establishes the obligation of the operator to prove the person's consent for the processing of personal data. The data subject has the right to withdraw his / her consent at any time if it is a data processing ground.

The law establishes the obligation of the operator to prove the person's consent for the processing of personal data. The data subject has the right to withdraw his / her consent at any time if it is a data processing ground. The absence of a clear agreement can not be regarded as a form of expression of consent.

For example, in the case of ticked boxes (through which the agreement is preset), an informed consent can not be presumed. If data is processed for multiple purposes, it is

important that the data controller can demonstrate that he has obtained the consent of the person to process the data for all purposes.

The law establishes the obligation of the data controller to ensure a certain level of transparency vis-à-vis the data subjects. They need to know who the data operator is, the purpose of processing the data, what data are used, what rights are guaranteed, how they can exercise those rights, and who they are / will be third parties to whom the data will be disclosed, if appropriate. Where personal data of minors are processed, the data controller must provide that information in a simple and clear language so that the child / minor can easily understand the purpose and the way personal data will be processed. Minors under 16 can not give their consent.

Regarding the responsibility of data controllers, the emphasis is on the transparency of the data subject and the data controller's responsibility towards the way it processes the data. In the case of data processing that may involve a high risk to the privacy of individuals, the operator must carry out an impact study on privacy. The outcome of such a study will allow it to identify specific risks and adopt measures that prevent or arise from these situations. The processing of categories of 'sensitive data' may often entail the emergence of specific risks to the privacy of individuals.

Such assessment will always begin with the inventory of data / categories of personal data the operator intends to process. These will be subject to a need analysis to verify that all those data / categories of data are indeed needed to achieve the purpose of the operator in order to comply with the data minimization principle. Later, the risks involved in the processing of those data, such as unauthorized / accidental / unlawful disclosure of the data, and the implications of such a risk can bring the person's right to privacy can also be identified.

Violation of legal provisions results in the application of contravention sanctions. The main contravention sanctions are the warning and the fine for the contravention.

In the event of a breach by the public authorities / bodies of the provisions of the General Regulation on Data Protection and this law, the National Supervisory Authority shall conclude a report on the detection and sanctioning of the offense by which the sanction of the warning applies and to which it annexes a remedial plan¹.

The remedial deadline is determined by the risks associated with the processing, as well as the steps to be taken to ensure compliance with the processing.

Within 10 days of the expiration of the remedial period, the National Supervisory Authority may resume control.

Responsibility for the remedial measures is the responsibility of the public authority / body which, according to the law, bears the contravening responsibility for the established deeds.

If the audit reveals that the public authorities / bodies did not fully implement the measures set out in the remedial plan, the National Supervisory Authority may, depending on the circumstances of each case, apply the sanction of the contravention of the fine.

¹ Article 13 paragraph (1) of the Law no. 190 of 18 July 2018.

ASPECTS ON THE PROMOTION OF CITIZENS 'FREE CIRCULATION BY SIMPLIFYING THE REQUESTS FOR PRESENTATION OF CERTAIN OFFICIAL DOCUMENTS IN THE EUROPEAN UNION

Isabela, Stancea¹

Abstract

The Union has set the objective of maintaining and developing an area of freedom, security and justice without internal frontiers, within which the free movement of persons is ensured. In order to ensure the free movement of official documents within the Union, thus promoting the free movement of Union citizens, the Union should adopt concrete measures to simplify the existing administrative requirements relating to the presentation in a Member State of certain official documents issued by authorities of another Member State.

Key words: *regulation, civil status acts, simplification measures.*

Jel Classification: K0 K3 K30

The Union has set the objective of maintaining and developing an area of freedom, security and justice without internal frontiers, within which the free movement of persons is ensured. In order to ensure the free movement of official documents within the Union, thus promoting the free movement of Union citizens, the Union should adopt concrete measures to simplify the existing administrative requirements relating to the presentation in a Member State of certain official documents issued by authorities of another Member State.

This Regulation should not apply to passports or identity cards issued in a Member State, as such documents are not subject to the requirement of legalization or similar formalities when they are presented in another Member State.

To this end, Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of citizens by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

The subject of this Regulation relates to certain official documents issued by the authorities of a Member State and to be submitted to the authorities of another Member State, a system of:

- a) exemption from the obligation to legalize or similar formalities;
- b) simplification of other formalities.

These provisions do not prevent a person from using other systems applicable in a Member State with regard to the legalization requirement or similar formalities and also lay down the standard multilingual forms to be used as translation aids accompanying official birth documents, that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence, and the absence of a criminal record.

Simplifying the requirements for the presentation in one Member State of official documents issued in another Member State brings benefits to Union citizens. Given their different legal nature, documents issued by private persons should be excluded from the scope of the Regulation. Official documents issued by third country authorities should also be excluded from its scope, including where they have already been accepted as authentic by the authorities of a Member State. The exclusion of official documents issued by third-country

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authorities is also extended to certified copies made by the authorities of a Member State on the basis of official documents issued by the authorities of a third country.

This Regulation shall apply to official documents issued by the authorities of a Member State in accordance with its national law which must be submitted to the authorities of another Member State and the principal purpose of which is to establish one or more of the following: the fact that a person is alive, death, name, marriage, including marital status and marital status, divorce, legal separation or marriage annulment, registered partnership, including the ability to conclude a registered partnership and registered partnership status, the dissolution of a registered partnership, legal separation or cancellation of a registered partnership, affiliation, adoption, domicile and / or residence, nationality, absence of the criminal record, provided that such official documents are issued to a Union citizen by the authorities of the Member State whose citizenship n is it.

The Regulation also applies to official documents the presentation of which may be requested to citizens of the Union who reside in a Member State without being nationals of that Member State if they wish to vote and / The European Parliament or the local elections in their Member State of residence under the conditions laid down in Directive 93/109 / EC and Council Directive 94/80 / EC respectively. However, the Regulation does not apply to: official documents issued by the authorities of a third State in the case of certified true copies of the documents referred to in point (a) drawn up by the authorities of a Member State, nor in respect of the recognition in a Member State of the legal effects associated with the content of the official documents issued by authorities of another Member State. Therefore, official documents covered by this Regulation and their certified copies are exempt from all legalization and other similar formalities.

Translation is not required if¹:

a) the official document is drawn up in the official language of the Member State in which the document is presented or, where the Member State concerned has more than one official language, in the official language or one of the official languages of the place where the document is presented or in any other language which the Member State has expressly accepted;

b) an official document on birth, the fact that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence or absence of the criminal record is accompanied, in accordance with the conditions laid down in this Regulation, with a standard multilingual form, provided that the authority to which the official document is submitted considers that the information included in the multilingual standard form is sufficient for the processing of the official document. An authorized translation by a person qualified to carry out such translations under the law of a Member State is accepted in all Member States.

The purpose of the Regulation is not to alter the Member States' material right to birth, the fact that a person is alive, death, name, marriage (including marital status and marital status), divorce, legal separation or marriage annulment, registered partnership (including the ability to conclude a registered partnership and registered partnership status), the dissolution of the registered partnership, the legal separation or the cancellation of registered partnership, parentage, adoption, domicile and / or residence, citizenship, absence of the criminal record or official documents whose presentation may be imposed by a Member State on a candidate in elections to the European Parliament or in municipal elections or an elected voter in that

¹ Article 4, Chapter II, adopted Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of persons by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

election who is a national of that Member State. Moreover, the Regulation should not affect the recognition in a Member State of the legal effects associated with the content of an official document issued in another Member State.

The official birth certificates, the fact that a person is alive, death, marriage (including marital status and marital status), registered partnership (including the ability to conclude a registered partnership and registered partnership status), domicile and / or residence, as well as the absence of a criminal record, communicated by the Member States are accompanied, at the request of the person entitled to receive the official document, to a standard multilingual form.

Where the authorities of a Member State in which an official document or certified true copy is in fact duly substantiated as to the authenticity of the official document or its certified copy, they shall take the following measures to put an end to the doubts: , checks the available document templates from the Internal Market Information System (IMI) database.

If the doubt persists, I am sending a request for information through IMI:

a) the authority which issued the official document or, where appropriate, the authority which: made the certified copy or both;

b) the competent central authority. These doubts may concern: the authenticity of the signature, the quality of the document's signatory, the identity of the seal or the stamp. If the authenticity of the official document or its certified copy is not confirmed, the requesting authority shall not be obliged to process it. For the implementation of the Regulation, each Member State shall designate at least one central authority. Where a Member State designates several central authorities, it shall designate the central authority to whom communications of any kind may be addressed in order to be forwarded to the competent authority of that Member State¹.

The central authorities shall provide assistance in relation to requests for information made and, in particular, transmit, receive and, if necessary, respond to such requests and provide the necessary information on such requests.

The exchange and transmission of information and documents by Member States under this Regulation serves the specific purpose of verifying the authenticity of official documents by the competent authorities through IMI and its provisions are without prejudice to the application of the laws, regulations and administrative provisions of Member States on public access to official documents.

Thus, by 16 August 2018, Member States should have communicated to the Commission:

a) the languages it accepts for the official documents to be submitted to their authorities;

b) an indicative list of official documents covered by the Regulation;

c) list of official documents to which multilingual standard forms may be attached as an appropriate translation assistance mechanism;

d) the lists of qualified persons, in accordance with national law, to carry out authorized translations, where such lists are available;

e) an indicative list of the types of authority empowered under national law to make certified copies;

f) information on means of identification of certified translations and certified copies;

g) information on the specific characteristics of certified children.

Therefore, this Regulation does not oblige Member States to issue official documents which do not exist under their domestic law. As a result of this Regulation, on 8 December 2016, the Commission adopted a Communication on an Action Plan to strengthen the European response to fraud in travel documents in order to improve the overall security of travel documents issued in the EU. The Action Plan addressed the increasingly important

¹ Article 15, Chapter IV, adopted Regulation 2016/1191 of the European Parliament and of the Council on the promotion of the free movement of persons by simplifying the requirements for the presentation of certain official documents in the European Union and amending Regulation (EU) 1024/2012.

issue of document fraud, which became more relevant in the context of terrorist attacks and migration flows. It was therefore essential for the EU and, in particular, the Member States to step up their efforts to improve the security of travel documents, thereby contributing to better border protection and better management of migration and to paving the way for a true and genuine security union.

Concerning on primary documents and document verification, including mobile technologies, the Commission has funded three major projects under Horizon 2020 for secure companies: ORIGINS, which ended in mid-2017, FIDELITY, concluded in 2015 and ARIES, launched in 2016. These research projects address aspects of combating identity fraud, protecting existing identity, image metamorphosis, and falsifying digital fingerprints. Monitoring activities include the continuity of the ORIGINS project through the European Committee for Standardization (CEN) GL19 on Standardization of Primary Documents; a consortium on a research project on metamorphosis of images; the SIRIUS project, which aims to capture standard document reference data and ENLETS Mobile, which examines new developments and exchanges best practice on mobile solutions for front-line law enforcement agencies¹.

Conclusions

Regulation (EU) 2016/1191 of 6 July 2016 on the promotion of the free movement of citizens by simplifying the requirements for the presentation of certain official documents in the European Union will apply from 16 February 2019. Under this Regulation, official documents such as certificates of birth, issued in one Member State and presented to the authorities of another Member State, shall be exempt from the obligation to apply the apostille.

The Regulation will strengthen the fight against fraudulent public documents by allowing the authorities of the receiving Member State, if they have doubts about the authenticity of the official document submitted, to consult the issuing authority through the Internal Market Information System. Issuing of documents is the responsibility of the Member States.

Work on creating a Best Practice Guide for Correct Enrollment of Biometric Identification Elements that examines the enrollment of biometric facial image and fingerprint data and underlines the importance of direct enrollment of facial images to effectively combat identity fraud through metamorphosis image. The guide also addresses the quality of biometric data and highlights the practical challenges and lessons learned.

This activity is supported by CEN, which will establish a technical standard for the enrollment of biometric identifiers together with Member State experts in the committee set up for this purpose.

Member States have supported this holistic approach. Progress made includes: sharing information on national identity practices and the enrollment process for biometrics, strengthening the security features of uniform visa and residence permits, and ongoing discussions on improving book security identity.

Smarter travel management and better control will help improve borders protection, manage migration and move towards a genuine and genuine security unity.

¹ Report from the Commission to the European Parliament and the Council on the implementation of the Action Plan to strengthen the EU response to fraud in travel documents, Brussels, 16.10.2018.