

# **STRATEGII MANAGERIALE**

## **MANAGEMENT STRATEGIES**

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## CUPRINS

### SECTION I

#### REGIONAL DEVELOPMENT STRATEGIES AND POLICIES

<b>IS FEDERALISM BETTER FROM ECONOMIC POINT OF VIEW ? .....</b>	<b>5</b>
Alina Georgeta, Ailincă	
<b>FOREIGN DIRECT INVESTMENTS THE INTERNATIONAL DIRECTLY INVESTED CAPITAL DIVIDED INTO COOPERATION CAPITAL AND LONG- WAY FLOWS.....</b>	<b>16</b>
Liviu C. Andrei Dalina M. Andrei	
<b>ASPECTS REGARDING THE INDUSTRIAL DYNAMICS OF ROMANIA IN THE PERIOD (1878 - 1914) .....</b>	<b>24</b>
Oana Bocănete	
<b>THE NEW EUROPEAN GREEN DEAL AND ITS IMPACT ON THE ROMANIAN COAL INDUSTRY .....</b>	<b>29</b>
Geanina Iulia Boțoteanu (Rădăcină)	
<b>EXTERNAL DEBT MANAGEMENT .....</b>	<b>34</b>
Drăgoi Cătălin	
<b>MERCANTILISM AND ITS ROLE IN FORMATION AND DEVELOPMENT OF THE MODERN CAPITALIST ECONOMY AND THE WORLD MARKET .....</b>	<b>45</b>
Ion Gr. Ionescu Olivia Samoilă	
<b>MONETARY CIRCULATION, THE BANKING SYSTEM AND FOREIGN CAPITAL IN THE ROMANIAN ECONOMY (1878 – 1914) .....</b>	<b>50</b>
Ion Gr. Ionescu	
<b>DEVELOPING ENTREPRENEURSHIP IN RURAL AREAS - A SOLUTION TO REDUCE TERRITORIAL DISPARITIES IN ROMANIA.....</b>	<b>54</b>
Marioara Iordan, Prof. univ. Ghizdeanu Ion, Alexandra Patricia Braica	
<b>IMPLICATIONS AND CONSEQUENCES OF THE GLOBAL CRISIS ON ECONOMIC SECURITY.....</b>	<b>64</b>
Diana, Chiș-Manolache	
<b>A STRATEGIC VISION FOR CONSOLIDATION THE EUROPEAN UNION 'S INTERNATIONAL RELATIONS .....</b>	<b>71</b>
Diana, Chiș-Manolache	
<b>FROM THE GLOBALIZATION TO THE LOCALIZATION: LESSONS AND SOLUTIONS TO THIS PANDEMIC CRISIS .....</b>	<b>78</b>
Titus Suciu	

<b>THE WORLD OF TRANSNATIONAL CORPORATIONS IN THE COVID 19 PANDEMIC .....</b>	<b>85</b>
Alina, Voiculesţ	

**SECTION III  
EUROPEAN LAW AND PUBLIC POLICIES**

<b>THE PRINCIPLE NON REFORMATIO IN PEJUS IN ROMANIAN LEGISLATION .....</b>	<b>90</b>
Grădinaru Nicolae	

<b>OWNER'S SHARES .....</b>	<b>94</b>
Grădinaru Nicolae	

<b>COMPETITION POLICY INFLUENCING MACROECONOMIC DEVELOPMENT .....</b>	<b>97</b>
Laşcov Victor Tiuhtii Constanţa	

<b>SOME CONSIDERATIONS ON THE RESPECT OF HUMAN RIGHTS ISSUES DURING THE PANDEMIC TIMES.....</b>	<b>104</b>
Raluca - Viorica, Lixandru	

<b>NEW CHALLENGES OF ADAPTING TO TEACHING ENGLISH IN THE ONLINE ACADEMIC ENVIRONMENT .....</b>	<b>109</b>
Georgiana Mîndreci	

<b>IMPROVING THE PERFORMANCE OF PUBLIC WATER SUPPLY SERVICES .....</b>	<b>114</b>
Iuliana Parvu Dragoş Mihai Ipate	

<b>THE INTERNATIONAL COOPERATION IN THE STRUGGLE AGAINST THE MARITIME PIRACY .....</b>	<b>121</b>
George Dorel Popa	

<b>THE RESPECT FOR FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS DURING THE PANDEMIC .....</b>	<b>128</b>
Popescu, Alina	

<b>THE CHALLENGES OF TEACHING IN PANDEMIC TIMES .....</b>	<b>139</b>
Camelia Andreea, Rizea	

<b>THE IMPORTANCE OF CLASSROOM MANAGEMENT .....</b>	<b>143</b>
Camelia Andreea, Rizea	

<b>ASPECTS REGARDING THE GENERAL PRINCIPLES OF PUBLIC ADMINISTRATION.....</b>	<b>147</b>
Isabela, Stancea	

<b>THE RESPONSIBILITY OF THE LOCAL CHOSEN - BETWEEN THEORY AND PRACTICE.....</b>	<b>152</b>
Isabela, Stancea	

# SECTION I

## REGIONAL DEVELOPMENT STRATEGIES AND POLICIES

### IS FEDERALISM BETTER FROM ECONOMIC POINT OF VIEW?

Alina Georgeta, Ailincă<sup>1</sup>

#### *Abstract*

*Everything we knew to be well-defined economically, politically and socially before COVID-19 seems like a thing of the past. The pandemic has swept all countries of the world, and Europe and especially the European Union makes no difference. Thus, this article aims to investigate empirically, through quarterly data, before and during the pandemic, whether federalism offers a better economic and social response compared to the unitary state regime, analyzing in tandem the realities of three federal states (Germany, Belgium and Austria) with developments of three states with other political regimes of the EU28.*

**Keywords:** *federalism, stabilization, crisis, EU28*

**JEL Classification:** G01, E63, Z18

#### **1. Introduction**

The COVID-19 crisis has called into question the ability of unitary national states and federal states to meet these epidemiological political social and economical challenges. Therefore, the article tries to investigate on the basis of theoretical hypotheses the ability of these two groups of countries to fit into the paradigm of a superior stabilization through the prism of federalism features. The countries chosen within the European Union (EU28) as a federalist model are Belgium, Germany and Austria and for the model of the unitary state are chosen the Czech Republic, Poland and Romania.

#### **2. Literature review**

A lot of ink has flowed on the issue of federalism all over the world, on its positive and negative aspects. For example, from a political point of view, Bóka (2006) describes the federalism in Europe showing the differences between the oppositional current of EU politics: intergovernmentalism and federalism, concentrating on debating that the federalist ideas can overcome the concept of national state in terms of reducing conflicts and nationalist claims on the history of European countries.

Basically, in theory, federalism emphasizes on the government's ability to intervene strictly in certain issues, and not to interfere with the powers of states in other certain areas and to preserve the rights of individuals as well as possible. From an economic point of view, federalism focuses on the government in solving the failures of private markets and in meeting more the demands of consumers and citizens, debating the ability to centralize or decentralize political structures so as to achieve the goals as best as possible. Thus, Inman and Rubinfeld (2014) state that the choice for an “optimal” level of decentralization depends on the relative importance between economic efficiency and the potentially competing values of economic fairness, personal rights and liberties and political participation. They developed the classic Tiebout framework (Tiebout, C., 1956) taking into consideration the bargaining among governmental units.

According to Dorn (1990) under a federalist structure of government, taxpayer and consumers have greater freedom to respond to tax increases than under a unitary system of government, so the survival of the federal system is closely linked to the survival of the liberal

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economic order. When concerning stabilisation policies Boushey, Nunn and Shambaugh (2019) remark that federal taxes provide a substantial amount of automatic stabilization (and also the discretionary federal policy) but the state and local fiscal policy is slightly procyclical.

Thus, regardless of the perspective of approach (political, economic, ecological or social point of view), the federalism can be investigated by the multitude of its benefits or costs or by the features that it should perform in relation to other governing structures (e.g. unitary states). Therefore, the present study aims for a theoretical and empirical openness in this regard.

### 3. Methodology

The methodology is basically empirical, using correlation for explaining a bivariate relationship and comparisons of means and difference of means, with theoretical arguments and hypothesis formulations. The source of data is mainly Eurostat but they are used also political and economical studies. The sample size uses the data for 3 federative states (federal parliamentary republics and federal parliamentary constitutional monarchy) of European Union: Germany, Austria, and Belgium and three non-federal states (unitary parliamentary constitutional republic and unitary semi-presidential republics) like: Czech Republic, Romania and Poland, over the period 2018Q1-2020Q2. The instrument used was Excel and Excel data analysis. The notations are: AF and ADF- the average value of indicator respectively the average value of consecutive quarterly differential in federal states, ANF and ADNF - the average values respective the average value of consecutive quarterly differential of the indicator in non federal states, GGDS - General Government deficit (-) and surplus (+) as percentage of gross domestic product (GDP), GGGD- General government gross debt as percentage of GDP, UR – unemployment rate, as percentage of active population, RGDP – real gross domestic product growth rate, DINP – Direct investment calculated as net position of the country with the rest of the world expressed as percentage of GDP.

### 4. Results

Taking into account the theory and practice, considering that the Covid-19 determined a strong recession, the federal government must be theoretically able to counteract declines in economic activity by increasing spending (so higher deficits), even while revenues decline—making up the difference with additional borrowing (so higher public debt). At the same time, in recession the public income fall determines a decrease in public (state and local) investments and also a decrease of private investments. Also, bearing in mind the theoretically greater automatic and discretionary stabilization effect in federal states than in non-federal states of the EU28, the increase in government deficit and debt should not be greater than in non-federal states in the EU28. The collapse of public and private investment should also be mitigated in the federal states. The unemployment rate during a recession or crisis should increase but not more than in non-federal states. Economic growth should collapse more slowly in federal states than in non-federal states in crisis conditions.

All these assumptions will be verified on the average values of the above indicators of the three elected federal states (Germany, Austria and Belgium) and of the selected non-federal ones (Czech Republic, Poland and Romania)(see table no. 1).

Thus, regarding the *first indicator of the budget deficit or surplus as a % of GDP*, expressed as the average of the three elected federal states, we notice that the federal states managed the situation better than the non-federal states subject to analysis. Of the 10 quarters analyzed (2018Q1-2020Q2) 7 complied with the stated theory.

**Table no. 1 – The average values of some macroeconomic indicators for three federal states and three non-federal states from EU28**

		2018- Q1	2018- Q2	2018- Q3	2018- Q4	2019- Q1	2019- Q2	2019- Q3	2019- Q4	2020- Q1	2020- Q2
GGDS	AF	-1.6	3.1	-0.5	0.4	-2.4	2.5	-0.9	0.9	-4.3	-11.6
	ANF	-0.7	0.4	-0.5	-2.2	-1.0	-0.6	-1.1	-3.5	-5.3	-11.8
GGGD	AF	82.0	81.2	80.6	78.6	79.2	78.5	78.1	76.3	79.5	88.4
	ANF	40.3	39.8	38.9	38.5	38.8	38.1	38.0	37.2	39.4	45.4
UR	AF	4.9	4.7	4.7	4.6	4.5	4.3	4.3	4.2	4.4	4.7
	ANF	3.6	3.4	3.3	3.3	3.2	3.0	3.0	3.0	3.1	3.6
RGDP	AF	0.6	0.4	0.1	0.6	0.3	0.1	0.2	0.0	-2.6	-11.2
	ANF	0.8	0.9	1.2	0.7	1.0	0.7	0.8	0.7	-1.2	-10.0
DINP	AF	59.7	62.5	58.2	43.3	56.7	56.4	61.3	63.5	46.3	53.9
	ANF	-166.7	-163.3	-164.5	-165.1	-164.0	-161.1	-161.7	-161.0	-158.8	-174.2

*Source: Author's calculation on Eurostat quarterly data. Notes: AF- the average value of indicator in federal states, ANF - the average values of the indicator in non federal states, GGDS - General Government deficit and surplus, GGGD- General government gross debt, UR – unemployment rate, RGDP – real gross domestic product growth rate, DINP – Direct investment calculated as net position of the country with the rest of the world. The federal states chosen are Belgium, Germany and Austria and the non-federal states are Czech Republic, Poland and Romania.*

The public debt expressed as a percentage of GDP does not meet in any year the requirement to be under the public debt of the elected non-federal states, but except for the 2 quarters of 2020, when the pressures of the COVID -19 crisis manifested, the trend of was obviously declining in the federal states. The unemployment rate also underperforms the requirement to be below the level of non-federal states, although even in this case, by 2020, the trend is decreasing. However, the analysis of the difference will tell us something about the stabilization capacity regarding the indicator. Economic growth is also modest and below the average value of non-federal states, which is not surprising either from the perspective of stabilization or from the fact that the comparison is made with relatively emerging EU countries (Poland, Romania and Czechia), with rapid growth rates. What is worrying, however, is that the collapse of the growth of federal states exceeds that of non-federal states, but then we must analyze the pace of recovery of economic growth. The last indicator chosen DINP performs very well, in accordance with the theory, but table 2, regarding the correlations between the two types of countries will clarify us further.

**Table no. 2 – The correlation matrix between some macroeconomic indicators for three federal states and three non-federal states from EU28**

	GGDSF	GGDSNF	GGGDF	GGGDNF	URF	URNF	RGDPF	RGDPNF	DINPF	DINPNF
GGDSF	1									
GGDSNF	0.54	1								
GGGDF	-0.42	0.14	1							
GGGDNF	0.10	-0.14	-0.69	1						
URF	-0.36	0.06	0.86	-0.84	1					
URNF	0.05	-0.36	-0.69	0.31	-0.36	1				
RGDPF	0.74	0.74	-0.17	-0.24	-0.04	-0.11	1			
RGDPNF	0.77	0.74	-0.22	-0.18	-0.12	-0.09	0.97	1		
DINPF	0.21	0.25	-0.31	0.61	-0.45	-0.13	0.11	0.11	1	
DINPNF	0.37	-0.18	-0.99	0.65	-0.84	0.73	0.14	0.19	0.25	1

*Source: Author's calculation on Eurostat quarterly data. The above notations are kept.*

The correlation matrix must be viewed with caution, taking into account that for each pair of indicators (federal - non-federal) there are only 30 observations available, but still we can summarize some conclusions based on it:

- Indicators for federal and non-federal states have correlations with intensities high and generally positive (except the public debt and unemployment rate), suggesting a relatively homogeneous, but time-lagging evolution between the two types of states chosen,

- The correlations between federal and non-federal states regarding public debt and unemployment rate are negative, highlighting reverse trends, suggesting a trade-off between high debt and absorbed immigrant labour (for federal states) and low debt and labour expelled abroad (for non-federal states),

- Although positively correlated, the volume of direct investments expressed as a net position (% of GDP) have an extremely low intensity of correlations suggesting an increased inability of non-federal states to connect to the flow of direct investments that feed federal states,

- Direct investment in non-federal states is incapable of improving in any way the unemployment rate situation in non-federal states under analysis but seems extremely strongly correlated negatively with the evolution of the unemployment rate in analysed federal states,

- The high intensity (over 70%) of the correlations of the economic growth rate in federal and non-federal states with the budget balance in federal and non-federal states suggests the increased importance of budget balance and the spill over effect not only on the welfare of the analyzed group of countries (differences between federal and non-federal countries flattening) etc.

Analyzing the quarterly variation of the averages on the group of countries (federal and non-federal) or delta we can obtain additional information about the macroeconomic stabilization capacity of the federal states (see Table no.3).

**Table no. 3 – The average values of delta or deferential of some macroeconomic indicators for three federal states and three non-federal states from EU28**

		2018 Q2- Q1	2018- Q3- Q2	2018- Q4- Q3	2019- Q1- Q4	2019- Q2- Q1	2019- Q3- Q2	2019- Q4- Q3	2020- Q1- Q4	2020- Q2- Q1
GGDS	ADF	4.7	-3.7	1.0	-2.9	5.0	-3.4	1.8	-5.2	-7.3
	ADNF	1.2	-0.9	-1.7	1.1	0.4	-0.5	-2.4	-1.8	-6.5
GGGD	ADF	-0.8	-0.6	-2.0	0.6	-0.8	-0.4	-1.8	3.2	8.9
	ADNF	-0.5	-0.9	-0.4	0.2	-0.6	-0.1	-0.8	2.2	6.0
UR	ADF	-0.2	0.0	-0.1	-0.1	-0.2	0.0	-0.1	0.1	0.3
	ADNF	-0.2	-0.1	0.0	-0.1	-0.2	0.0	0.0	0.1	0.5
RGDP	ADF	-0.2	-0.3	0.4	-0.2	-0.3	0.1	-0.2	-2.6	-8.6
	ADNF	0.1	0.3	-0.5	0.3	-0.3	0.0	-0.1	-1.9	-8.8
DINP	ADF	2.85	-4.31	-14.98	13.42	-0.25	4.90	2.17	-17.24	7.61
	ADNF	3.38	-1.11	-0.63	1.05	2.93	-0.62	0.74	2.17	-15.35

*Source: Author's calculation on Eurostat quarterly data. The above notations are kept. The ADF is the average value of delta for federal states from EU28. The difference between quarters refers to the consecutive quarters.*

And in this situation, the deficit positions federal states better than non-federal ones; public debt is almost identical during the analysis period in the two groups of states (federal and non-federal) with the nuance that federal states seem to accelerate the trend of debt reduction; the unemployment rate shows decelerations in five of the nine moments analyzed compared to only four decelerations regarding non-federal states; economic growth in the federal states shows only two favourable moments compared to four in the non-federal states out of the nine time moments analyzed and direct investment shows only four favourable



moments of the quarterly differential in the federal states compared to the five of the non-federal states analyzed. This aspect demonstrates that the fiscal and social fiscal elements are well articulated in public policies in the federal states compared to the non-federal states.

At the same time, if we strictly analyze the idea of stability, in the sense of the minimum deviation, in the absolute sense, of the quarterly differential of federal states compared to non-federal states (see Table no. 4) we notice that only the indicator of real GDP growth rate conforms to this concept. Thus, the federal states present a better stabilization effect (automatic and discretionary) of public policies on the economy as economic theory also says. This aspect is also seen through the minimal variations of the indicators belonging to the real economy (unemployment, economic growth, direct investments) during the manifestation of the beginning of COVID-19 crisis (first half of 2020).

**Table no. 4 – The conformity of the average values of delta of some macroeconomic indicators for three federal states from EU28 with the concept of stability**

		2018 Q2- Q1	2018- Q3- Q2	2018- Q4- Q3	2019- Q1- Q4	2019- Q2- Q1	2019- Q3- Q2	2019- Q4- Q3	2020- Q1- Q4	2020- Q2- Q1
GGGD	ADF	0	0	1	0	0	0	1	0	0
GGGD	ADF	0	1	0	0	0	0	0	0	0
UR	ADF	0	1	0	0	1	0	0	0	1
RGDP	ADF	0	1	1	1	1	0	0	0	1
DINP	ADF	1	0	0	0	1	0	0	0	1

*Source: Author's calculation on Eurostat quarterly data. The above notations are kept. The ADF is the average value of delta for federal states from EU28. The difference between quarters refers to the consecutive quarters. Value 1- expresses the fact that the absolute value the delta of federal states is less than of the non-federal states.*

Also we can look at things from the perspective of the higher effort to comply with the real needs of the economies and to align the quarterly differential of the indicators to a desirable level, also comparing the federal states with the chosen non-federal ones (see Table no.5).

**Table no. 5 – The conformity of the average values of delta of some macroeconomic indicators for three federal states from EU28 with the need for greater fulfilment of the indicator in federal states compared to non-federal states chosen**

		2018 Q2- Q1	2018- Q3- Q2	2018- Q4- Q3	2019- Q1- Q4	2019- Q2- Q1	2019- Q3- Q2	2019- Q4- Q3	2020- Q1- Q4	2020- Q2- Q1
GGGDS	ADF	1	0	1	0	1	0	1	0	0
GGGD	ADF	1	0	1	0	1	1	1	0	0
UR	ADF	0	0	1	1	0	1	1	0	1
RGDP	ADF	0	0	1	0	1	1	0	0	1
DINP	ADF	0	0	0	1	0	1	1	0	1

*Source: Author's calculation on Eurostat quarterly data. The above notations are kept. The ADF is the average value of delta for federal states from EU28. The difference between quarters refers to the consecutive quarters. Value 1- expresses the fact that the value the delta of federal states represents the increased effort of fulfillment than of the non-federal states.*

Thus, we can observe that considerable efforts are being made to comply regarding the public debt and the unemployment rate, while other indicators are approaching that desirable level between what indicators should do in federal states compared to non-federal countries.

## 5. Conclusions

The crisis triggered by COVID-19, which is unfortunately still in full development, has so far put pressure on not only the medical system but also the world's economies. Preserving the economic and social parameters as much and as well as possible thus seems a good reason to reflect on the opportunities offered by a federalist model of government. Thus, the article aims at investigating, on the basis of few theoretical assumptions, the ability of these two groups of countries - federal states (Belgium, Germany and Austria) and non-federal (Czechia, Romania and Poland) of EU28 – of fitting into the paradigm of a superior stabilization through the prism of federalism features.

Thus, although at first glance, from the chosen indicators only the budget balance expressed as a percentage of GDP and the net position of direct investment expressed as a percentage of GDP seem to correspond to a good economic compliance for the elected federal states, we note that based on quarterly differential values the analysis changes its conclusion.

We can thus notice that the analysis from quarter to quarter, comparing the federal states with the non-federal ones, pushes from the chosen macroeconomic indicators those of the real economy in the sphere of compliance with what a federal state would imply - a better macroeconomic stabilization.

The results of the study should be viewed with caution in the light of the small number of observations and short-term analysis - a certain limited period of time, only certain EU countries. Sophisticated econometric analyzes, with extended periods, with large groups of countries with well-formulated theoretical and practical hypotheses can constitute new fields of research for future studies.

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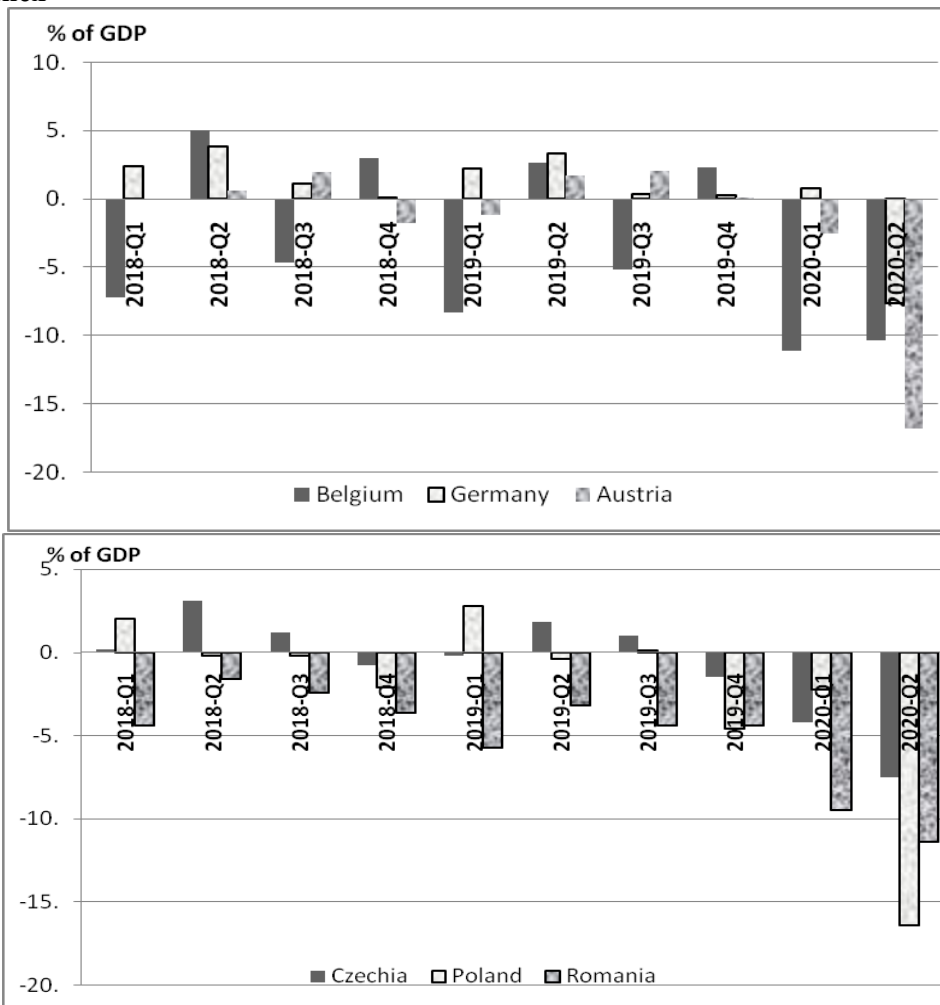
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\*\*\*New Release, 168/2020 - 13 November 2020, GDP and employment flash estimates for the third quarter of 2020 GDP up by 12.6% and employment up by 0.9% in the euro area  
 In the EU, GDP up by 11.6% and employment up by 0.9%

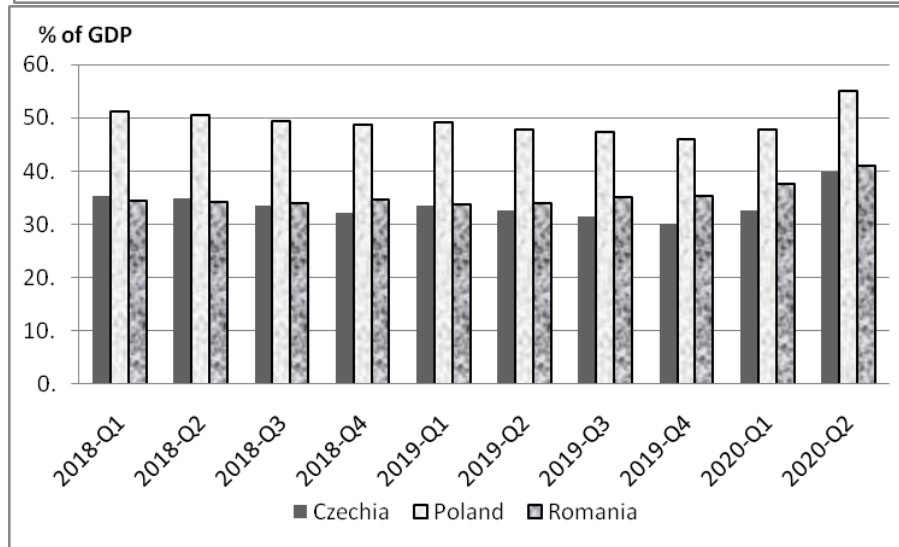
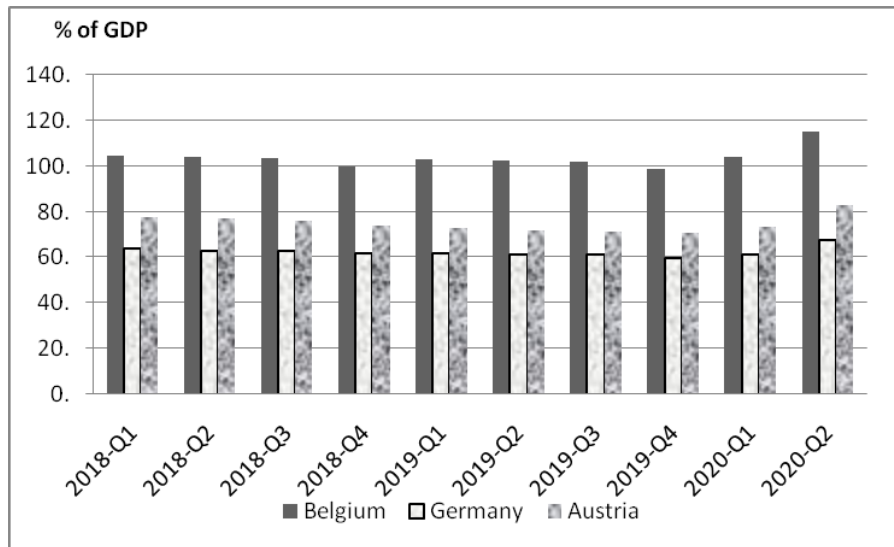
\*\*\*Eurostatistics DATA FOR SHORT-TERM ECONOMIC ANALYSIS 05/2019

## 7. Annex

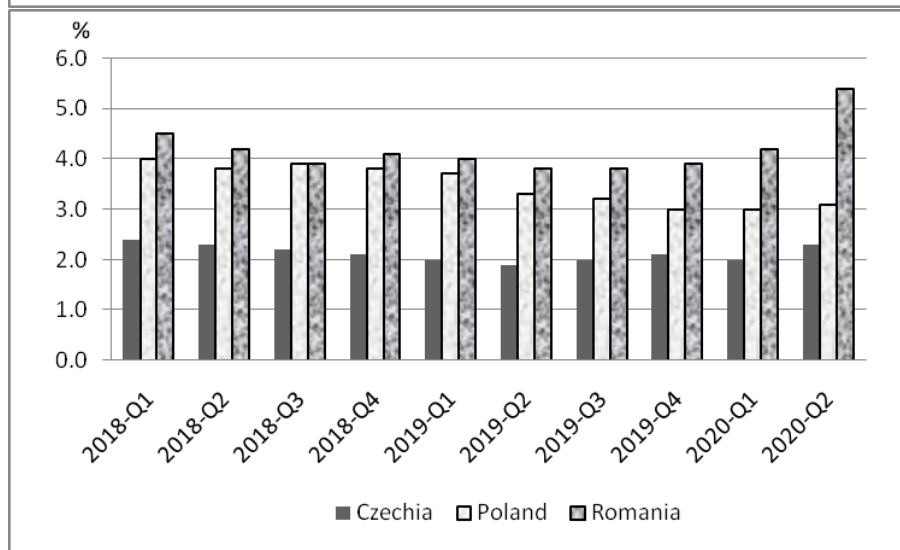
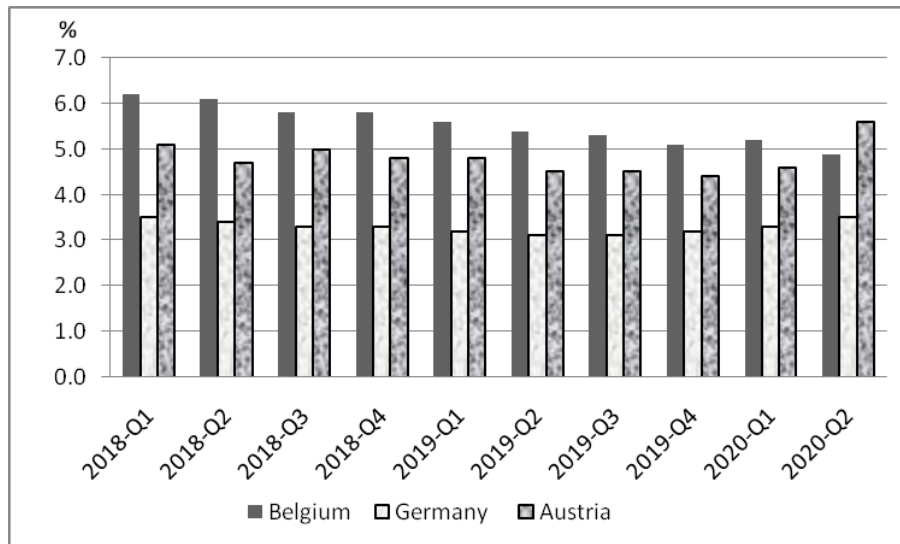


**Figures no.1 – General government deficit (-) and surplus (+) as percentage of GDP for three federal and three non-federal states**

*Source: Eurostat, quarterly data.*

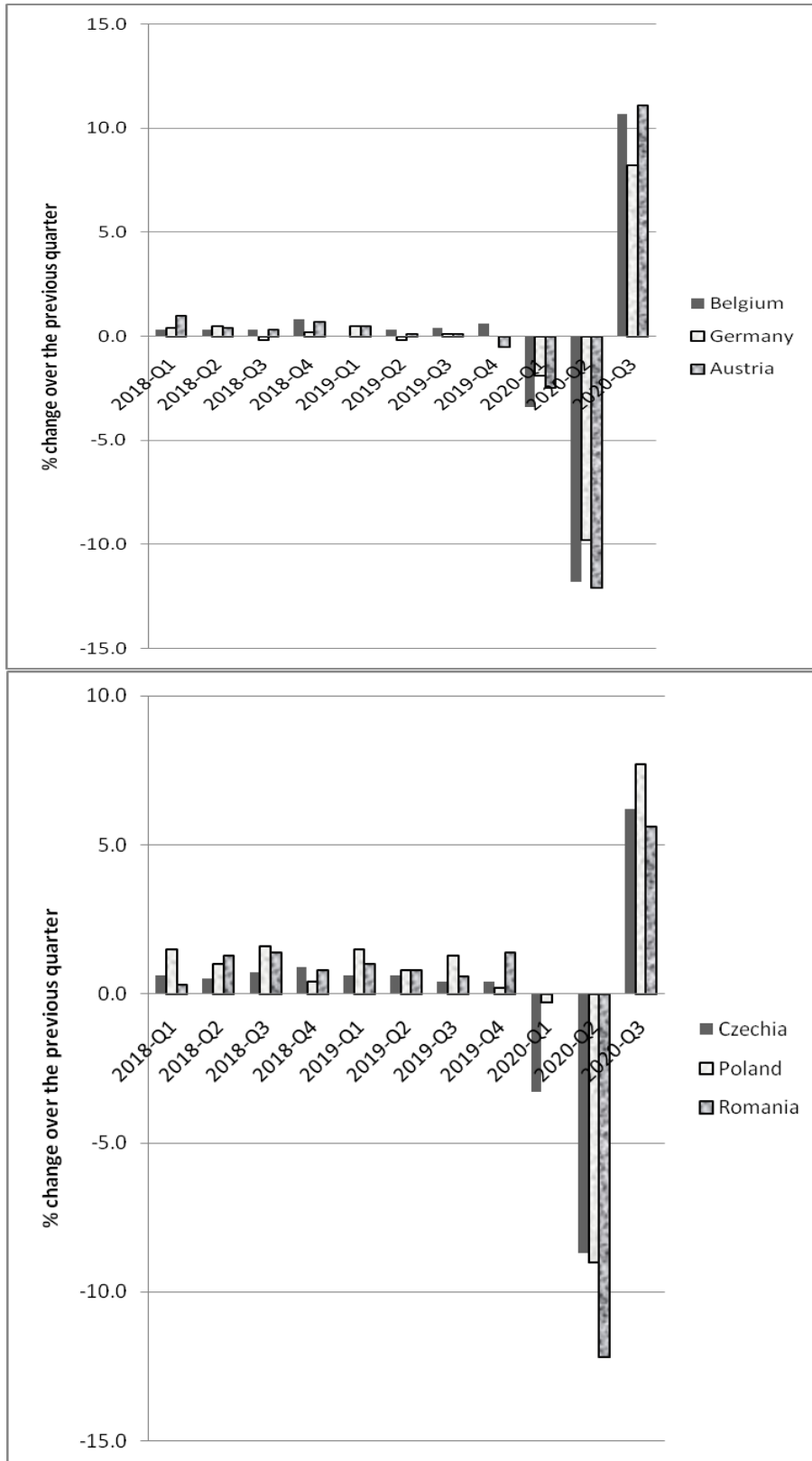


**Figure no. 2 – General government gross debt as percentage of GDP for three federal and three non-federal states**  
*Source: Eurostat, quarterly data.*

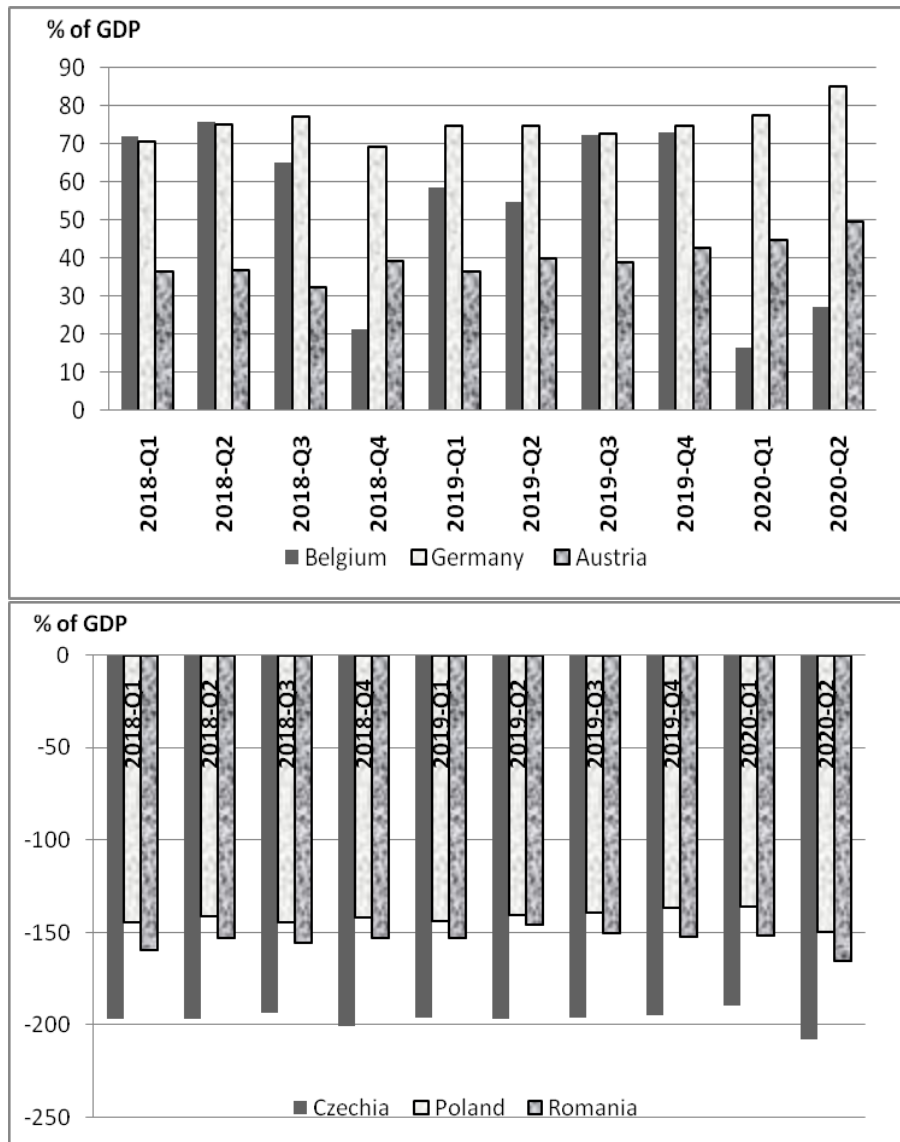


Source: Eurostat, quarterly data, seasonally adjusted but not calendar adjusted data.

**Figure no. 3 – Unemployment rate as percentage of active population for three federal and three non-federal states**



**Figure no.4 – Real GDP growth rate for three federal and three non-federal states**  
*Source: Eurostat, quarterly data, seasonally adjusted.*



**Figure no.5 – Direct investment as % of GDP, net position at the end of the period**  
*Source: Eurostat, quarterly data.*

# FOREIGN DIRECT INVESTMENTS THE INTERNATIONAL DIRECTLY INVESTED CAPITAL DIVIDED INTO COOPERATION CAPITAL AND LONG-WAY FLOWS

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## Abstract

Face to a significant list of theories on the foreign direct investments origins we previously worked on a simple world level FDI=DIA (direct investments abroad) equality on both short and (especially) long terms supporting several approaches: first, the “world top-16”, then the “static-dynamic” difference for world FDI&DIA, an extended analysis on the world area divided in a number of 20 multi-country regions, the Eurasian territory case (taken apart) and specific international capital sections, as a specific structure of this world capital market.

This below paper will be for one more issue : international capital sharing into cooperation capital and long-way flows. These two are new concepts on international directly invested capital, in the larger context of such concepts already introduced in our previous papers on this topic. In a methodological view , cooperation capital and long-way flows, will result as composing the total/global amount of international directly invested capital. In this respect there will be below an analysis if exist or not, more than cooperation capital and long-way flows in the total amount of international directly invested capital.

**Key concepts:** international capital, foreign direct investments (FDI) , direct investments abroad (DIA), flows, stocks, stocks balance

**JEL Classification:** F21

It is by definition that *foreign direct investments (FDI)*- and their pair, *direct investments abroad (DIA)* - mean a capital formed in country X and then invested in another country, Y.

$$a(Y) = a(X) \quad (1)$$

In which ‘a’ is the amount invested, X is the investor (home) country and Y is the investments recipient (host) country.

## 1. Basics and model assumptions

- These amounts of capital are never invested in the same country, but compulsorily in another one;

- And they might be what is popularly called international investment (foreign direct investment) transactions -- but also basically what is called an investments *flow*: FDI inflow and /or DIA outflow – the two latest, as seen by the countries involved in such transactions – see the volume of such transactions done during up to one year time;

- A single transaction, a one-year flow and all that comes to be more than these, as amounts traded – which here are supposed to start from amounts like ‘a’ and ‘b’ -- will be in two postures, i.e. on both sides of the equality sign. And this gets enough important for the modelling practice.

- Hence, each transaction recalls and respects the basic accounting rule -- e.g. between debit (left hand side of the equality) and credit (the right hand sign of the equality).

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- All model equalities let the same inflow on the left and outflows on the right hand sides.

- Despite the two appearances of the ‘a’ basic amount , this is just one flow to talk about that moves between at least two countries.

- Each individual transaction and all transactions cumulated leave the basic amount equality between investments made by investor countries (DIA) and those received (FDI) by the recipient countries.

- And reciprocally, each investment amount or part of amount found throughout data exposed by “World Investment Report”- WIR 2016 is supposed to be investment both made by a country and received by another country;

- There might also be one investor country for several recipient countries, and conversely -- as much as (at the world level, once more) the FDI=DIA equality sees itself valid since each individual transaction, as already seen above, passes through world flows of each year and get to FDI/DIA stocks as such (flows cumulated of all multi-year period). Recall that 'WIR 2016' offers FDI&DIA flow data on all years of the 1990-2015 interval.

- International investments start between neighbouring countries – i.e. member countries of a region. These primary and intra-region investments are likely lower amounts (invested) on the short term.

## 2. Model description

### 2.1 The two variants

It is from the above point (1) that two working variants can be here considered and developed and the difference between starts with the second transaction and with the third country, Z, here involved.

**Variant 1:** The third country Z invests in country X the ‘b’ amount:

$$b(X) = b(Z) \quad (V1/2)$$

And this means several things from this on, e.g. our primary accounting table.

**Table . 1 : V1/ Primary Accounting table**

Chapter \ Country	X	Y	Z	Total
Entries (FDI)	b	a	-	a+b
Issues (DIA)	a	-	b	a+b
FDI flows balance*	b-a	a	-b	0
Turnover(Tv)**	a+b	a	b	(a+b) = ½ (Tv <sub>X</sub> +Tv <sub>Y</sub> +Tv <sub>Z</sub> )

\* There might equally be a>b and a<b.

\*\* Turnover (Tv) is entries and issues cumulated in module numbers on each of columns.

Of which on the *short term* results come up in two different terms:

- the one of *FDI flow balances* – inflows minus outflows / FDI flows minus DIA flows of the same period for each country involved in such transactions – of which sum makes zero;

- the one of *turnover* – also defined as above. Then, in our case the turnover accounting compulsorily starts from the same position of the total (overall) zero FDI stock balances. So, when recording the two (a and b) transactions turnover certainly is a+b – i.e. while FDI balances of flows, by country and total, are like in the above primary Accounting table.

**Variant 2** Opposite to the previous Variant 1, it is country X investing “b” amount in country Z for the same zero overall FDI stocks balance and turnover as above and :

$$b(Z) = b(X) \quad (V2/2)$$

**Table no. 2 : V2/ Primary Accounting table**

Chapter \ Country	X	Y	Z	Total
Entries (FDI)	-	a	b	a+b
Issues (DIA)	a+b	-	-	a+b
FDI flows balance*	-(a+b)	a	b	0
Turnover(Tv)**	a+b	a	b	$(a+b) = \frac{1}{2} (Tv_X + Tv_Y + Tv_Z)$

\* There might equally be  $a > b$  and  $a < b$ .

\*\* Turnover (Tv) is entries and issues cumulated in module numbers.

Or, the difference between the two variants (stories) is just the one of two simple aspects. First, for V2 just one investor country in the area – that is country X, and no more country Z, as in Variant 1. Second, and as by consequent, while in Variant 1 only country Z was the one with negative FDI flows balance, as for sure, and for country X the  $b-a$  total amount might be both negative or positive, Variant 2 replies by the result in which only country X records a negative FDI flows balance.

### 2.2 The turnover

Actually, the concept of turnover – i.e. of FDI&DIA – is just the amount of transactions done, as above:

$$Tv = a + b$$

And this then noticing that turnover (Tv) here originates in the international area – there will be equally individual countries' turnovers and these concomitantly record the same amounts traded on their own.

**Theorem 1:** *The level of international capital transactions – i.e. international or absolute turnover -- is to be searched at the half of the individual nations' turnovers sum.*

Basically, as well, each nation's FDI&DIA turnover cumulates – i.e. as in the above primary Accounting table – entries (FDI/ inflows) with issues (DIA/outflows) in module numbers, so offering them the common algebraic sign and dimension – correspondingly -- at the world level turnover is the same with FDI and with DIA, as each one apart.

As the accounting table procedure, the total – i.e. international -- Tv will be basic for the ones of individual countries. It is from this on that turnover will relate to *cooperation capital* and *long-way flows* computations – i.e. these two being the aimed concepts of this paper – but for now let us treat each of them as different issues.

### 2.3 Cooperation capital and long-way flows

Back to the above Accounting table, once again, to start from, the following accounting tables will record turnover and other two significant sizes – i.e. cooperation capital and long-way flows. Unlike the turnover, *cooperation capital* and *long-way flows* are the two parts of international investment as seen from a point of view different from the ones considered in our previous papers. These two components of international investment work and move differently from one-another – i.e. here including accounting procedures in this paper.

*Cooperation capital* originates in apparently the dominant feature of the international directly invested capital, a double one: (i) deep flow inequality by individual world countries and (ii) high FDI flows belong to countries of high DIA flows as well and conversely – i.e. the apparent flows distribution irregularity linked to the 'regularity' of FDI and DIA flows associated amounts by individual countries. In such circumstances, cooperation capital is supposed to be born on the long term by reciprocal flows between the same countries. It works first between neighbouring countries – i.e. at regional level --, but later on between countries at all distances – e.g. the same rule for what happens between countries of high

amounts of capital to run in the international area. In all circumstances, each cooperation capital basically means two – i.e. a pair of -- opposite flows in the long run.

The ‘higher floor’ cooperation capital will be assumed to be born only after that the previous (regional) cooperation capital has filled the FDI demand of the region. In other words, cooperation capital will maximize on the region side/level and just surplus of it will be admitted in the inter-regional area.

Cooperation capital proves complex behaviour: it just starts (as above explained twice) in the region area. Besides this primary level of it, cooperation capital also meets flows as long as the other category one – i.e. there might be countries in different world regions so ‘playing’ with capital between enough similarly as FDI-DIA working within regions.

*Long-way flows* are some different issue – they seem to rather not have too much to do either with the individual country’s neighbourhood, or with lower amounts invested at the beginning, or with any future come-back of capital to the home country. These flows are assumed to be invested by significant investor countries (only) – capital-laden countries -- in other countries and regions – i.e. in our view, unlike cooperation capital, these flows account just once between their two subject-entities.

**2.4 On the long term,** new specific developments are assumed to occur:  
**Cooperation capital born within a region.**

For **Variant 1:**

$$a'(X) = a'(Y) \quad (V1/1')$$

$$b'(Z) = b'(X) \quad (V1/2')$$

In which it is likely that  $a' \leq a$  and  $b' \leq b$  and  $a$  and  $b$  are, of course, the previous amounts invested, now in way of coming back to their host countries (within time). Zero overall FDI stocks – now, instead of flows – balance actually remade, as the basic rule, but there is something more to mention about here: i.e. a natural trend towards FDI=DIA equality for each country apart, as a long term trend specific to cooperation capital, by its definition. The country’s cooperation capital so identifies with the lower amount of:  $a'+b < a+b'$  – the one for which the country accounts the same amount for FDI and DIA. Country Z keeps the other negative balance as such in the area, and so it accounts for cooperation capital its FDI stocks. Country Y, the (lonely) one with positive FDI stocks balance, is (equally) the lonely one recording its DIA as cooperation capital.

Then, let us also remark – i.e. since turnover ( $T_v$ ) and cooperation capital ( $C_{cp}$ ) resulting from independent computations – the difference resulting as follows:

$$T_v - C_{cp} = a - a' \quad (V1)$$

This difference could actually identify within the international capital a part that might be as ambiguous in concept – i.e. neither cooperation capital, nor long-way flows (these last not yet present in our model so far) – as a residual amount. All that can be asserted so far might be that cooperation capital could be achieved only when  $a = a'$  (already).

**Remark:** Reversing the above  $a'+b < a+b'$  assumption will just replace the last equality by:  $T_v - C_{cp} = b - b'$ .

For **Variant 2:**

$$a'(X) = a'(Y) \quad (V2/1')$$

$$b'(X) = b'(Z) \quad (V2/2')$$

with the same above assumptions for  $a \geq a'$  and  $b \geq b'$ . Correspondingly, the difference between turnover and cooperation capital, in its turn, will be:

$$T_v - C_{cp} = (a - a') + (b - b') \quad (V2)$$

Then, previously to the next step of considering long-way flows, just summarizing facts for the long term international capital. First, it preserves/reiterates basic facts of the short term one: (i) the sum of individual countries’ FDI stock balances stays zero and (ii) total turnover

stays the half of the sum of the individual countries' turnovers. Cooperation capital seems given birth, but not yet achieved, given the above Tv-Ccp differences for the two variants.

To be also added that in the larger view, despite here regarding (i.e. accounting) individual country turnovers, the number of countries might also enlarge without affecting neither this unshaken truth, nor even total amounts recorded whether the added countries prove inactive on international capital invested (with no amount here accounted).

### 2.5 Between regions

Long-way flows made reaches the supplementary double assumption in which the first three countries (X, Y, Z) belong to R1 (multi-country) region, to which another R2 region will be added in the international area, here containing just one country W for the moment. Then, country X of R1 invests in country W of R2 in both variants.

$$c(W/R2) = c(X/R1) \quad (3/V1\&2)$$

And the above difference, here resulting as:

$$Tv - (Ccp + Lwf) = a-a' \quad (V1)$$

Then, let us notice – for Variant 1 -- how both country X and region R1 record negative FDI stock balances, while country W and its region R2 record opposite positive FDI stock balances, both country and region FDI stock balances keep in common the c amount (also in module number). New results are, fist, the overall zero FDI stocks balance and total turnover according to Theorem 1 above.

**Theorem 2:** *The same as the international capital turnover, long-way flows account by their half amount for the multi-country region.*

For Variant 2 the (3) equality makes the above difference as follows:

$$Tv - (Ccp + Lwf) = (a-a') + (b-b') \quad (V2)$$

**Remark:** Introducing the long-way flows does not change the turnover's surplus amount over cooperation capital – plus, this time, the long-way flows – the rule being that this is what makes cooperation capital yet 'imperfect'.

### 2.6 This resulted/residual difference

Deducting as above cooperation capital and long-way flows from international turnover is, of course, assumed to identify what might be included in the international investment total amount besides these two – i.e. what is neither cooperation capital, nor long-way flows. Whether this difference proves substantial it would be for internationally directed invested capital being some more than cooperation capital and long-way flows, as here above presented. – the contrary, i.e. just these two making the whole international investment when no significant difference, as such.

Or what we have here is the key finding of the new FDI-DIA dimension that we look for – let us call it *residual difference* for the moment.

### 2.7 Developments in recipient regions – equally on long term – here refer to the following:

Turning the previous long way flows (c) into regional (level) cooperation capital (d+e) in the FDI recipient region. And this, of course, in the long run, too. Actually, the direct long-way flows recipient country W then invests in some other member countries of *region R2*:

$$R2: d(U) + e(V) = (d+e)(W) \quad (4)$$

but here restricted to  $d+e \leq c$  and again for the two *Variants* here developed. These developments will preserve the above residual differences for the two Variants as:

$$Tv - (Ccp + Lwf) = a-a' \quad (V1)$$

$$Tv - (Ccp + Lwf) = (a-a') + (b-b') \quad (V2)$$

**Remark:** This step – i.e. in region R2, as FDI recipient – is the same as the above case in region R1 that then was going to become an investing abroad region. The difference on the ground is that in recipient regions (the Third World) especially these  $d'+e'$  back-flows stay rather negligible – i.e. that economic force of reinvesting back in comparable while is rather missing in underdeveloped regions.

**2.8 More DIA of country W for cooperation capital:** country W invests back over-borders the  $c'$  amount in country X, as the ‘higher floor’ cooperation capital:

$$c'(X/R1) = c' (W/R2) \quad (5)$$

See for Variant 1 the residual difference as:

$$Tv - (Ccp+Lwf) = (a-a')-c' \quad (V1)$$

meaning, for the first time in such a scenario, that inter-regional cooperation capital plays a little differently than the intra-region one: i.e. it lowers the residual difference between international investments’ turnover and cooperation capital plus long-way flows. And for Variant 2 the residual difference this time is:

$$Tv - (Ccp+Lwf) = (a-a')+(b-b') -c' \quad (V2)$$

Finally, the same circumstance for both variants on this step – i.e. the inter-regional cooperation capital as lowering the residual amount.

**Remarks:** As cooperation capital, this new country W’s business is here assumed to follow traditional (already known) partners -- i.e. country X. In such a way even the status of the previous  $c$  inter-regions amount invested changes its theoretical status of long-way flows into a newly added cooperation capital.

And now see also some specific results for this newly created circumstance:

- Both turnover and cooperation capital will rise and this for all: countries involved (W and X), regions and overall; individual countries and overall by  $c'$ ; regional turnovers and cooperation capital by  $\frac{1}{2} c'$ .

- The assumed:  $c \geq d+e+c'$  will let country W’s FDI stocks balance non-negative and region R2’s FDI stocks balance more highly positive than for country W.

- The rule of cooperation capital is here preserved by no FDI stocks deficit created.

**2.9 More DIA of country W for long-way flows.** We might suppose the same country W in region R2 investing in another region R3, country Q – i.e. this operation is likely, not only over-borders, but equally for non or less traditional business partnerships. Actually, country W invests the amount (flow)  $f$  in country Q of region R3, the third one involved in our scenario:

$$f(Q/R3) = f(W/R2) \quad (6)$$

### 3. The model result and conclusions

See for Variant 1 the final accounting table of all transactions here above figured out:

**Table no.3 : V1/Final Accounting table**

\Country Chapter	X	R1	W	U	V	R2	Q	R3	Overall
Entries (FDI)	$a'+b+c'$	$(a+a')+(b+b')+c'$	$c+(d'+e')$	$d$	$e$	$c+(d+e)+(d'+e')$	$f$	$f$	$(a+a')+(b+b')+(c+c')+(d+d)+(e+e')+f$
Issues (DIA)	$(a+b')+c$	$(a+a')+(b+b')+c$	$c'+(d+e)+f$	$d'$	$e'$	$c'+(d+e)+(d'+e')+f$			$(a+a')+(b+b')+(c+c')+(d+d)+(e+e')+f$
FDI stocks balance*	$(a'-a)+(b-b')+(c'-c)$	$c'-c$	$(c-c')+(d'-d)+(e'-e)-f$	$d-d'$	$e-e'$	$(c-c')-f$	$f$	$f$	0

\Country Chapter	X	R1	W	U	V	R2	Q	R3	Overall
Turnover (Tv)**	$(a+a')+(b+b')+(c+c')$	$(a+a')+(b+b') + \frac{1}{2}(c+c') = \frac{1}{2}(TvX+TvY+TvZ)$	$(c+c')+(d+d')+(e+e') + f$	$d+d'$	$e+e'$	$\frac{1}{2}(c+c')+(d+d')+(e+e')+1/2f$	$f$	$\frac{1}{2}f$	$(a+a')+(b+b')+(c+c')+(d+d')+(e+e')+f$
Cooperation capital	$a'+b+c'$	$2a'+(b+b')+c'$	$c+(d'+e')$	$d'$	$e'$	$c+2(d'+e')$	-	-	$2a'+(b+b')+(c+c')+2(d'+e')$
Long-way flows	$c$	$\frac{1}{2}c$	$c+f$	-	-	$\frac{1}{2}(c+f)$	$f$	$\frac{1}{2}f$	$c+f$

\*Totals of turnovers, cooperation capital and long-way flows by regions will be according to the above theorems. For the overall column, there will be totals of regions accounted.

\*\*There might equally be  $a>b$  and  $a<b$ .

\*\*\*Turnover (Tv) is entries and issues cumulated in module numbers.

with residual difference as:

$$Tv - (Ccp+Lwf) = (a-a')-c'+(d-d')+(e-e') \quad (V1)$$

Let us have also Variant 2 in its final view:

**Table no.4 :V2/Final Accounting Table**

\Country Chapter	X	R1	W	U	V	R2	Q	R3	Overall
Entries (FDI)	$a'+b'+c'$	$(a+a')+(b+b') + c'$	$c+(d'+e')$	$d$	$e$	$c+(d+e)+(d'+e')$	$f$	$f$	$(a+a')+(b+b')+(c+c')+(d+d')+(e+e')+f$
Issues (DIA)	$a+b+c$	$(a+a')+(b+b') + c$	$c'+(d+e)+f$	$d'$	$e'$	$c'+(d+e)+(d'+e')+f$	-	-	$(a+a')+(b+b')+(c+c')+(d+d')+(e+e')+f$
FDI stocks balance*	$(a'-a)+(b-b')+(c'-c)$	$c'-c$	$(c-c')+(d'-d)+(e'-e) - f$	$d-d'$	$e-e'$	$(c-c')-f$	$f$	$f$	0
Turnover (Tv)**	$(a+a')+(b+b')+(c+c')$	$(a+a')+(b+b') + \frac{1}{2}(c+c') = \frac{1}{2}(TvX+TvY+TvZ)$	$(c+c')+(d+d')+(e+e') + f$	$d+d'$	$e+e'$	$\frac{1}{2}(c+c')+(d+d')+(e+e')+1/2f$	$f$	$\frac{1}{2}f$	$(a+a')+(b+b')+(c+c')+(d+d')+(e+e')+f$
Cooperation capital	$a'+b'+c'$	$2(a'+b')+c'$	$c+(d'+e')$	$d'$	$e'$	$c+2(d'+e')$	-	-	$2(a'+b')+(c+c')+2(d'+e')$
Long-way flows	$c$	$\frac{1}{2}c$	$c+f$	-	-	$\frac{1}{2}(c+f)$	$f$	$\frac{1}{2}f$	$c+f$

\*Totals of turnovers, cooperation capital and long-way flows by regions will be according to the above theorems. For the overall column, there will be totals of regions accounted.

\*\*There might equally be  $a>b$  and  $a<b$ .

\*\*\*Turnover (Tv) is entries and issues cumulated in module numbers.

While the residual difference is expected to be:

$$Tv - (Ccp+Lwf) = (a-a')+(b-b') -c'+(d-d')+(e-e') \quad (V2)$$

Or, this is concluding in two complementary ideas regarding the *residual difference* in question:

- This (residual difference) is (a) up pressured by the intra-region capital that hasn't yet go back to the previous investor countries – i.e. imperfect intra-region cooperation capital -- and (b)down pressured by investments from the region to the rest of the world.

- Wherever imperfect cooperation capital within regions that rises this residual difference the last could be equally lowered by cooperation capital invested from the region to the rest of the world

- the way that this same residual difference might also go down to zero or even become negative number.

- These above stay equally valid for the two types of regions picked above. We have chosen in this respect:

- Variant 1 – for some rather diverse types of regions: those that become investor regions – e.g. Euro-zone and West Europe – and/or those on the FDI recipients side, but with some international investor countries within – e.g. East Asia, Near East, North Africa and Oceania (A&A 2019; 2020).

- Variant 2 – for the rest of regions – those in which there might exist one or a narrow minority of active(FDI&DIA significant) countries in international capital working, versus the rest of countries (ibidem).

- Inter-regional FDI-DIA flows stay as significant as to be studied apart and as influencing (back) cooperation capital and its part in total capital turnover, either. Cooperation capital and long-way flows turn into each-another in diverse circumstances. In other words there equally are aspects that become less important for all regions, in context, e.g.:

- how reach or, on the contrary, is that region in (international) capital (?)

- the type of working for this capital – e.g. that the region might be an investor one with high amounts of capital disposable, or, on the contrary, a FDI recipient region...

- The rule for all regions and the whole world is that the residual difference here above studied gets insignificant as a number that sees itself influenced in its both senses and so total international capital investments account for amounts nearby the sum between cooperation capital and, by half, the long-way flows – i.e. irrespective of that these last are entries into or issues off that region.

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# ASPECTS REGARDING THE INDUSTRIAL DYNAMICS OF ROMANIA IN THE PERIOD (1878 - 1914)

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## Abstract

*Our article has the stated purpose of highlighting some essential aspects, regarding the industrial dynamics of Romania, in the period of consolidation of capitalism. The analyzed period (1878-1914) represents a historical stage full of uncertainties, but which generated determination, spirit of initiative, courage, but, above all, good intentions, for the leaders of the time, but also for the great mass of the population. It is an alarm signal, to consider the analyzed stage as a model that worked, even if the structural funds differ in origin and quantity, compared to what it was then, when the spirit of involvement for the country's development dominated, and less, exacerbated individualism of today, when now, with the multitude of possibilities, the interest in what is national, seems diminished and this is not justified in any way.*

**Keywords:** industrial dynamics, production, development

**JEJ Codes** – B15, B19

## Introduction

The period 1878-1914 was a period of modernization of industry and industrial development, although agriculture will continue to dominate the share in the economic life of the country, both in terms of employed population, domestic product and export possibilities.

The development of industrial capitalism took place in the most varied ways. In the extra-Carpathian regions, an important role in the development of various forms of industry was played by political union and the beginning of the formation of the national market (1859), the abolition of guilds (1873), conquest (in fact) and international recognition of state independence the adoption of a protectionist customs tariff (1886) and the law to encourage industry (1887), followed by other measures in this regard, at the beginning of the twentieth century (Axenciuc, 1977).

. The development of the Romanian economy was based on the dowry of ideas accumulated as a result of the efforts of these intellectuals and thinkers who are not only supporters of the industry, but also established how it should be done.

Although late, the political measure of protectionism played a beneficial role even before it became a practice, it was transposed into an ideational and political plan. Their merit lies not only in the elaboration of the concept of protectionism, but in its adaptation to the conditions of the country (Lungu, 2002, p. 381).

The current of industrial protectionism gave expression to the industrial bourgeoisie, whose economic positions were gradually strengthened by the cohesion of manufacturing and then manufacturing, which were affected by increased competition from foreign goods and as such, considered necessary to defend and protect domestic industry (Aurelian, 1967, p. 203). At the same time, the current of ideas and protectionist policy responded to the requirements of the development of the modern organism of our economy and was part of a broader trend that had been outlined in the economic policies of several European states.

## 1 Small manual and serial production

Despite the competition of large enterprises, which eliminated handicrafts and manufactures, in the industrial landscape of the country there were still numerous manufactures and small handicrafts and even a fairly widespread household industry.

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Progress had been made in transforming the craftsman into a small capitalist, so that at the end of the 19th century and the beginning of the 20th century, according to the 1901-1902 survey, out of the 22,517 patron craftsmen, 62.5% - worked alone, 34.2% had between one and five journeymen, 2.5% had between six and eight workers, and 08% - over ten workers (Constantinescu, 1998, p. 297).

In the tannery and leather industry, production was based on small workshops. At the beginning of the twentieth century, there were 85 major enterprises across the country, most of them operating on a manufacturing basis. Capital investment in factories in the leather industry has been greatly hampered by foreign competition - 60% of domestic consumption is covered by imports from Austria-Hungary. (Din istoria Transilvaniei, 1963, p. 201)

## 2 Textile industry

As for the textile industry, Romania remained dependent on foreign countries, most needs being met by imports. The annual import of textile products, at the beginning of the 20th century, represented 50%. In the country, its industry was distributed in Buhuși, Azuga and Bucharest.

The survey, from 1901-1902, revealed that in the large industry, the food industry was in first place, holding 30% of the number of enterprises, ie 44% of the invested capital, 42% of the driving force and 56.7% of the value of the large manufacturing industry. After the beginning of Iași, in 1841, in the south of the country there is a mill with a "machine that works with fire", in 1852. In Bucharest, the first steam mill, rollers and sieve systems was built in 1853 by to the merchant George Asan, long known as the "Obor fire mill" or "Asan's ship." Gradually, the number of mechanical mills increased and the 1869 census recorded in Romania (without Dobrogea) 33 steam-powered mills. Within the food industry, the most widespread enterprises were mills that were concentrated in Bucharest, Craiova, Ploiesti, Botosani, Brăila, Galați. In these conditions, the largest steam mill, built in 1899, in Brăila, by Panajoti F. Viollatos, with 200 workers and a daily grinding capacity of up to 20 wagons (a 10 tons each). By regions, the distribution, technical endowment, workers and capital (Asan, 1896, p. 28) of these mills are given below.

**Table no. 1 Distribution and technical endowment in the milling industry**

Historical province	Number of mills	Daily wagon grinding capacity of 10 t	Steam paths	Wather paths	Workers	Nominal capital paid in new lei
Muntenia	64	124	5 450	1 180	1 356	9 960 000
Moldavia	29	56	2 669	455	639	5 680 000
Dobrudja	5	4,75	165	30	86	235 000
TOTAL	98	184,75	8 284	1 665	2 081	15 875 000

*Source – Adapting author*

In connection with the processing of agricultural products and with state support, the sugar industry has developed. The production of this industry has grown steadily, being driven by foreign capital. It should be noted that under the protection of a protectionist customs tariff and having the advantage of manufacturing premiums from the state, sugar producers sold on the domestic market one kg of sugar for 1.05-1.10 lei, while for export they offered it with 0,45 lei / kg, the main market being the Balkans.

The other food sub-branches were poorly represented. In the vegetable oil industry there were several factories that covered domestic consumption in a proportion of only 25%.

A sub-branch that has acquired a slightly faster pace of development has been the alcohol industry. In 1901 there were 31 alcohol factories, of which 15 were installed after 1880.

The faster development of the economy, after 1887, forced the acceleration of the pace of construction, which resulted in an increase in the importance of building materials. In this respect, the machinery industry has made progress. There were some brick factories that used modern technology - circular mixers and ovens. A very significant fact at the time was the construction of a cement factory in Brăila, which alone covered 3/4 of the country's cement needs.

### **3 Wood industry**

A special place in the Romanian manufacturing industry was occupied by the wood industry. After the invested capital, the driving force used and the value of the production, this branch was ranked third in the manufacturing industry. Most of the timber industry's production, timber production was one of the main export goods. Between 1901 and 1902, there were 54 lumber mills, with over 6,000 workers and technicians.

Closely related to this type of industry, but also benefiting from a tradition meant to acquire a machinist development, was that of paper.

Due to the growth of the state apparatus, population, education, science and culture, the needs of paper in the domestic market have increased greatly. (Vajda, L., A. Egyed, 1959, p. 116) Based on the protectionist policy and in the conditions of the existence of raw materials, in abundance, were established, until the beginning of the twentieth century, a series of factories (Puia, 1991, pp. 137).

In 1881, Ion C. Brătianu and C. Porumbaru created the Letea paper factory, with a capital of 371,055 lei. In order to be able to operate, the factory contracted loans, until 1885, in the amount of 950,000 lei, from the Depository House. In 1885, it already had a capital of 1,496,650 lei, and since 1887 it has benefited from the facilities offered by law to encourage industry.

In 1883, on the estate of Carol I, in Jepsi-Bușteni, a cardboard factory - made of wood, belonging to some Saxon manufacturers, enlarged with new machines and installations, will be put into operation, then moving to paper manufacturing. Other factories were built, so that by 1898 the factories from Câmpulung, Scăieni (near Ploiești), Cheia (Prahova), Cosmești (near Tecuci), all with local capital, also came into operation. 2018, pp. 303).

The metallurgical industry had a lower rate than the average annual rate of the entire large manufacturing industry. Between 1889 and 1893, an average of 1.3 enterprises / year appeared in the metallurgical industry, and between 1893 and 1906, 1.6 each. The 75 enterprises mentioned in the 1901-1902 survey - some of which were simple workshops and manufactures, used 6.4% of the total driving force of the large manufacturing industry and gave a production of 13% of the value of food production, or 7.5 % of the value of the entire large manufacturing industry.

### **4 Extractive industry**

The industrial development of the country, at the end of the 19th century and the beginning of the 20th century, included to a more accentuated extent the extractive industry, well represented in the industrial landscape of the time. In it, oil extraction came first. Until 1895, this branch will know a slow development, due to the lack of investments and local capitals. After this date, in the conditions of the worldwide increase of the use of the explosion engine and of the increase of the domestic needs, encouraged by the foreign capital, the oil industry developed very fast (Sédillot, 1979, p. 58).

An important role in the development of the oil industry was played by the Mining Law, from April 1895. This law laid the foundations of the mining regime in Romania, on the principle of separating the mining subsoil from surface property, establishing that all subsoil wealth belongs to the state, except oil. , ozocherite (Sédillot, 1979, p. 60) and the asphalt that remained the property of the one who owned the soil. As a result of the generous conditions, created by the Mining Law, a series of companies with foreign capital appeared in our country, among which: "Romanian Star", founded in 1889 - with Austro-Hungarian and English capital, "Aurora", established in 1908 - with German and Dutch capital, "International", created by German capital, as well as four companies with English capital, all established until 1900.

## **5 Oil industry**

Greater progress was made in the oil industry after 1900. Due to the growing importance of oil worldwide (Sédillot, 1979, p. 219) and the excellent operating conditions in Romania, starting with 1904, new companies were built. with foreign capital. Thus, the "Standard-Oil" Trust laid the foundations of the first company called Romanian-American. Also in 1904, the German capital, through the big banks "Diskontogesellschaft" and S. Bleichröder ", founded the companies" Concordia "and" Oil Credit ". Two years later, the same capital created the powerful company "Vega", and in 1910, the Anglo-Dutch trust "Royal Dutch Scheel", founded the company "Astra Română".

Due to technical progress in drilling and extraction, the increase in the number of wells, oil production has greatly increased. If the oil production in 1890 was 53,000 tons, it reached in 1990 - 247,487 tons, and then in 1900 to be 1,810,170 tons. Almost all oil production was concentrated in Prahova and Dâmbovița counties.

## **Conclusions**

In the period 1878-1914, one can speak, indeed, of an economic development.

The main feature of the industry dynamics was a more pronounced spread of machinery, accompanied by a pace compatible with the growth of industrial production. The development of the internal market and the increase of the requirements of the foreign market, for some Romanian products, stimulated the capital investments in the industry, which led to the numerical growth of the enterprises and to the increase of their production capacity.

The aim was to encourage those branches in which there were indigenous raw materials, or in which the needs of the state were very high. The encouragement was manifested by: ceding land for the construction of the factory, facilitating the import (exemption from customs) of necessary machines, large facilities for the procurement of raw materials, creating, as far as possible - for goods produced by those factories - a monopoly situation in country (through protectionist laws). The customs tariff used during this period was the one legislated in 1886.

The widening of the protection measures of the industry as well as the increase of the volume of invested capital stimulated the beginning of the process of formation of joint stock companies. If in 1901 and 1902 there were only 25 public limited companies, in 1914 their number had reached 187. Of these, only 18 were smaller. Of the large companies, with a capital of over five million lei, most belonged, in particular, to the oil and sugar industry.

Stronger joint-stock companies were formed in branches in which foreign capital was more interested. Thus, in the oil industry, the company "Astra Română" owned 35% of the oil production, and "Steaua Română", 27%.

The limits of the industrial dynamics and the level reached by the Romanian industry result from some calculations made in 1907 when the driving force, considered per 1,000 inhabitants, was 10-15 times lower than in England and 5-8 times lower than in France.

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# THE NEW EUROPEAN GREEN DEAL AND ITS IMPACT ON THE ROMANIAN COAL INDUSTRY

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## Abstract:

*The European Commission adopted the European Green Deal in December 2019. This document contains new European Union commitments on addressing environmental and climate challenges. One of the objectives is to achieve climate neutrality by 2050. To achieve this goal, it is essential to transform the electricity sector so that it is based in particular on the production of electricity from renewable resources, and the rapid and complete elimination of coal. In this context, the article analyzes the social impact of giving up coal-fired electricity.*

*Keywords: green deal, environment, climate, climate neutrality, coal, renewable resources.*

*JEL classification: L71, Q28, Q32, Q56.*

## 1. Introduction

Efforts to reduce pollution have so far proved insufficient, with climate change accepting and global warming continuing. Thus, it is necessary to take additional measures and intensify the existing ones.

In this context, the European Union has proposed an ambitious plan to achieve climate neutrality by 2050, an objective set out in the European Green Pact, as an integral part of the European Commission's strategy to achieve the United Nations Sustainable Development Goals. In drawing up the Ecological Pact, the European Commission aimed to protect people and ecosystems through better monitoring of pollution, as well as faster prevention, reporting and remediation. The European Union's ambitious zero pollution plan also envisages separating economic growth from increasing pollution. This goal can also support the faster and more sustainable recovery of the economy after the COVID-19 health crisis, by promoting the integration of the zero pollution target in recovery actions, encouraging the adoption of practices that reduce pollution, generate new jobs and reduce social inequalities.

In order for the EU to achieve its ambitious zero pollution target, the use of coal for energy production needs to be phased out by 2050 across the Union.

## 2. Coal consumption and production at European and national level

For 2019, lignite consumption in the European Union is estimated at approximately 308 million tons. The trend followed by coal consumption, since the 1990s, is represented in Figure 1 Lignite consumption at EU level. In the period 1990-1999, consumption decreases rapidly, followed by a period of 2 years in which it was between 400-450 million tons per year. Since 2013, the consumption trend is decreasing (Eurostat, Coal production and consumption statistics).

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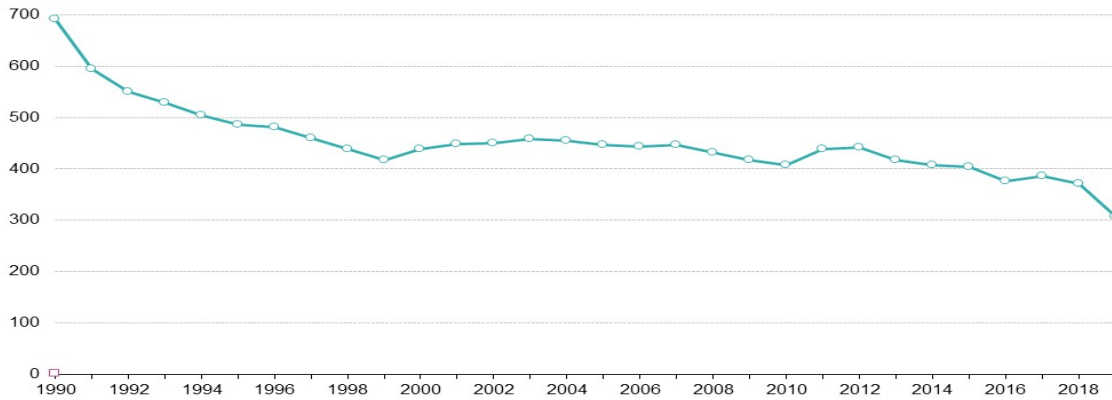


Figure1 Lignite consumption at EU level

Source: Eurostat

Coal production has also been steadily declining over the period 1990-2019, similar to consumption. Figure no. 2 Coal consumption and production at EU level, 1990-2019 graphically represent the trends of the 2 indicators, in the time period 1990-2019.

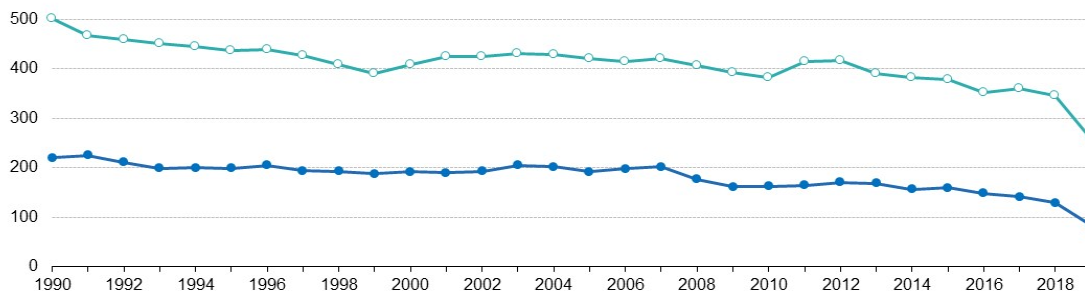


Figure no. 2 Coal consumption and production at EU level, 1990-2019

Source: Eurostat

Lignite is produced in the European Union in countries such as Germany, Poland, the Czech Republic, Bulgaria, Greece and Romania, countries where it is consumed, exports and imports being negligible. Figure no. 3 Lignite consumption by EU Member States, 2014-2019 graphically represents the lignite consumption by Member States of the European Union, in the period 2014-2019.

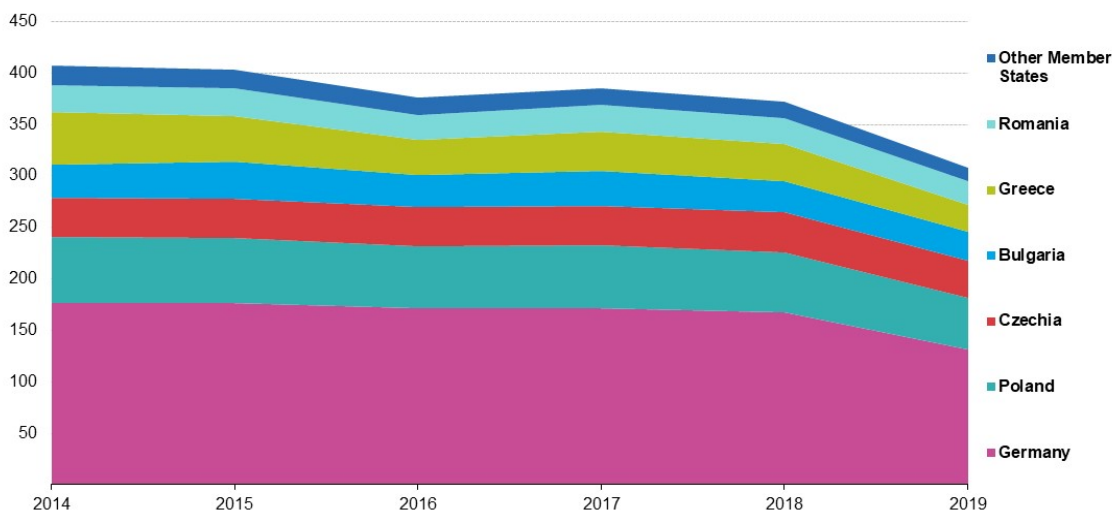


Figure no. 3 Lignite consumption by EU Member States, 2014-2019  
Source: Eurostat

In Romania, the consumption of coal for energy production has gradually decreased since the 1990s as a result of declining energy demand, industrial restructuring, and environmental pressures. Some of the consequences of the closure of mining operations are the weakened economies of those regions and negative demographic trends as a result of labor migration and the aging of the remaining population.

### 3. Implications of the New European Green Pact on the lignite industry

Recent assessments have shown that current trends are less positive. Given the current pace of progress in meeting the climate and energy targets set for 2030 and 2050, there is a clear risk of non-compliance (European Environment Agency, European Environment - State and outlook 2020).

In this context, the current European Commission (2019-2024) has set as a priority the promotion of a New European Green Pact, designed to provide a framework for action to make the transition to sustainable economic development. The objectives of the new pact are to reach the target of zero greenhouse gas emissions by 2050, economic growth to be decoupled from resource consumption and no place, and no one will be left behind.

One of the planned actions is the decarbonisation of the energy sector.

At EU level, coal-fired energy is still an important part of energy needs. Given the ambitious goals set in the New European Green Pact, the transition to renewable energy resources is pursued as soon as possible. In this context, the question arises as to how much coal will count in the future in energy production.

Under the new agreement, by 2050, coal must be phased out of energy production and replaced by green sources. However, giving up coal also has major social implications.

The implementation of the New European Ecological Pact in Romania will endanger approximately 28,000 jobs. The most affected areas are the Jiu Valley and Oltenia. In Gorj and Hunedoara counties, 90% of the workers employed in the mining sector work, and directly dependent on coal mining and energy production based on coal consumption are considered a number of 18,600 people (European Commission, 2020 Country Report on Romania).

Part of the Green Pact is the European Union's Mechanism for a Fair Transition. According to him, the areas affected by the implementation of the new green agreement and which depend economically and socially on coal mining, will be financially supported in order to diversify the economy and the professional reconversion of workers.

One solution identified by Bankwatch experts is "retraining and redistributing former employees of the coal industry in the renewable energy sector, with employment opportunities that are aligned with the EU's climate neutrality target of 2050". The solution is considered very attractive because Romania has a great potential for the development of the energy sector from renewable resources.

The amounts allocated by the European Union to achieve climate neutrality by 2050 over the next 7 years are around € 250 billion. At the same time, the non-reimbursable amount of 7.5 billion euros is available through the fair transition fund, for the direct support of the affected regions and people. Regarding Romania, the affected areas are Valea Jiului and Oltenia. For our country, from the fund for a fair transition, the amount of 750 million euros is allocated.

According to MEP Siegfried Mureșan, "coal pollutes the most". It considers the transformation of coal-fired power plants into gas-fired power plants as one of the solutions for reducing greenhouse gas emissions. In this case, the employees will not lose their jobs, and the refurbishment of the power plants is easy to do.

#### **4. Conclusions**

Although the energy from burning coal is still an important part of the total energy consumed, solutions must be found quickly to completely eliminate it, by 2050. In the context of removing coal from the energy mix, many jobs will be lost and occupants they must be the beneficiaries of the non-reimbursable funds available through the Fair Transition Fund. The economy of areas affected by the transition to a sustainable, low-polluting economy will also be affected and new growth alternatives will need to be found. Thus, it is recommended to make investments, from the fund available to Romania for a fair transition, in the field of energy from renewable sources, research and innovation, to stimulate the growth of the number of new companies.

With regard to employees who are about to lose their jobs due to the transformation of the economy, the fund for a fair transition provides significant sums of money to finance the costs of retraining and assistance in finding a new job.

At the national level, the planned investments aim at converting coal-based facilities into gas-based facilities.

As it results from the Communication from the European Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Ecological Pact, stronger measures are needed to address climate and environmental challenges, which have so far been insufficient.

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# EXTERNAL DEBT MANAGEMENT

Drăgoi Cătălin<sup>1</sup>

## **Abstract:**

*External loans, badly used, don't help the economic development of a country but can have as negative effects the disturbance of the activities in the economy, the reduction of the access to external loans, the flight of the capitals, the diminution of the internal economies and implicitly the economic decrease. Therefore, at the level of each country, solid institutions are needed that can manage the external debt so as to minimize the risk of crises, in order to avoid the increase of external taxation or the need for a rapid increase of the external debt. External debt management has repercussions in many areas of economic policy, and foreign exchange, trade, monetary and budgetary policies directly influence the volume of external loans that need to be contracted. The aim of the paper is to analyze level and structure of Romania's debt and to reveal those methods of external debt management which bring economic benefits to our country.*

**Key words:** Public debt, external debt, debt management

**JEL Classification:** H62, H63, E62

## **1. Theoretical approach of sovereign debt management.**

The financing offer is limited and therefore the beneficiary of loans must choose the best possible combination of financing sources available at a given time, so that they correspond to the financing needs of major projects, but also to the needs of the economy as a whole.

It should also be borne in mind that a debtor country cannot, in general, influence the conditions under which it enters into a debt. They reflect the general characteristics of capital supply and demand and the economic policies of the lending countries.

Between the borrowing rate of a country and the world interest rate, there is a difference that increases in proportion to the worsening of country risk indicators and indebtedness indicators of the country, but also to the value of funds borrowed.

If the country risk approximated by the country rating, given by the rating agencies, is considered to be high (i.e. low country rating), the situation can be reached when the offer of external loans is zero.

Optimizing external financing consists, on the one hand, in obtaining as many loans as possible on concessional terms (this being the cheapest form of financing, but limited by their preferential destination to very poor countries), in the case of public loans, obtained from bi or multilateral sources, and on the other hand, in minimizing the costs of loans obtained under normal conditions (from international bodies, in bilateral relations or on international capital markets), in order to reduce the burden on the economy.

Official loans are usually accompanied by technical assistance, and are granted for longer periods than bank loans, and at fixed and lower interest rates.

Because the terms of a long-term loan are very different, the decision maker has to make some decisions in order to minimize the real cost generated by those funds. The real cost of a loan is a combination of several factors: interest rate, effective interest rate, maturity structure, calculated fees, annual cost, composition of currencies in which the loan is granted, drawdown scheme, grant element, total cost.

In addition to these factors, the decision-maker must take into account other qualitative criteria, such as: withdrawal procedures, planned repayment scheme, nature of the program or

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project being financed, quality of the loan portfolio after the realization of this loan and its impact on debt service.

If the loan is made to finance a certain investment project, the annual cost will have to be analyzed in correlation with the rate of return of the project, considering as a cost element the debt service related to the loan.

The nominal interest rate is part of the terms of the contract, and represents the annual cost paid for the amount actually drawn, less the amortizations already paid from that loan.

A high interest rate on external loans increases the service of external debt, ensuring its sustainability by obtaining other loan sources (uninspired solution given the effect of increasing the level of indebtedness), debt rescheduling (which may mean postponing the crisis) or increasing export earnings.

In order to determine the most appropriate structure of external debt, designed to reduce the burden on the economy, it is important to make decisions on the ratio between fixed-rate and floating-rate debt instruments. It is generally difficult to obtain medium and long term fixed rate loans.

If the interest rate is fixed, the borrower can determine the cost of the loan based on the drawdown schemes. The ratio between future interest payments and the relative projection of export earnings is a useful indicator, especially for forecasting the possibility of vulnerabilities in the country.

If the interest rate is variable (floating), the uncertainty of the costs and, consequently, of the utility and performance of the loan is manifested.

The most important risk that the interest rate introduces in debt management is the influence that the change of the inflation rate exerts on it, as well as of the exchange rate. An effective method of eliminating this risk is to calculate the costs generated by the loan based on the determination of the present value.

The maturity structure is divided into two distinct periods: the grace period and the repayment (or amortization) period, during which the loan is repaid.

When taking out a new loan, it is important to analyze its impact on the total loan portfolio, taking into account the maturity structure.

Thus, care must be taken that the debt service maturities of the new loan do not overlap with those of the other loans, so that the burden of the payment requirement becomes unbearable. The debt manager will have to plan the debt service payments, taking into account the maturities of each credit, in correlation with net foreign exchange inflows from commercial activities (exports) and financial activities (net capital inflows), as well as with reserves available to the National Bank.

Commercial loans involve many types of fees: agency fees, management fees, (for the bank that determines the terms of the loan), fees for the legal part, stamp duties, (according to the law or the country where the contract is concluded).

Some of these fees are in the form of a fixed amount, which is paid on the date of the contract, but most are a percentage of the loan amount and can be paid annually.

The total cost of the loan is used when it is more difficult to determine the present value of the loan, and applies only to loans with variable interest rates. The total cost of the loan is the annual average of the costs generated by a loan, including interest and all related fees. (Expressed in basis points compared to a base rate, such as LIBOR).

In general, the lower the total cost of the loan, the more convenient the loan is for the beneficiary. But in order to judge the effectiveness of a loan, several criteria will have to be taken into account, especially when comparing several lending alternatives.

The loan portfolio that forms the effective external debt (withdrawals minus principal repayments) of a state can consist of a wide range of currencies, depending on the sources of financing and the contractual conditions.

The foreign exchange structure of the external debt is one of the important aspects that must be taken into account in the external debt management process considering both the parity of each currency compared to the other convertible currencies and their predictable evolution.

The determination of the foreign exchange composition of the new loans must ensure that the exposure to foreign exchange risk is minimal, and take into account the structure of the country's foreign trade and foreign exchange reserves. Thus, the country should borrow in the currencies in which its exports are paid, and hold international foreign exchange reserves in the currencies needed to regulate imports.

## **2. The main characteristics of the Romanian external debt**

Total external debt increased extremely rapidly in the first years after Romania's accession to the EU, due to the lack of domestic capital and the fact that EU inclusion gave Romania credibility and allowed it to access funds with favourable credit conditions, reaching 76% of GDP, but subsequently, as a result of economic growth, increased exports and declining budget expenditures (wage cuts), the total external debt reached 48% of GDP in 2019.

From 2013 the external debt and its components started to decrease, a trend that continued in 2014 and 2015 (for total external debt), in 2015 (for short-term external debt) and throughout 2013-2018, for external debt medium and long. In 2019 there are again increases in total external debt, direct public debt and private debt

Medium and long-term external debt accounted for most of Romania's total external debt, which shows a favourable structure for the sustainable development of the national economy, because debt payment is made over a long period of time, does not unbalance the budget of state and does not jeopardize its development projects.

Until 2011, medium and long-term loans were used to offset the current account deficit, which was paid in 2011 (this contributed to the creation of the balance of payments deficit).

Given the different evolutions of public and private debt following the crisis (private debt has been in a downward trend since 2009 and public debt is on an upward trend) and their weights in long-term external debt have changed if at the beginning public loans had the majority share in the period. In recent years, public loans have the majority share. If we take into account the fact that private loans are made to support imports and public loans to support investment expenditures and salary and pension increases, we can say that the structure of public debt has improved in recent years.

A negative situation for the economy is the high level of credit interest rates in Romania, the result of a combination of factors including the lack of a real competitive environment and the reaction of local banks in the lending process to the overvalued real exchange rate of the national currency. Therefore, when they had the opportunity, private sector firms borrowed from foreign markets given the lower costs than the domestic market. This has increased dependence on external financial markets, in conditions of risk and uncertainty for both debtors and creditors.

Private external debt grew rapidly from 2006 to 2009 but then declined in the following years amid liquidity shortages, economic downturn, creditors' risk aversion caused by the financial crisis and its effects, this having a positive effect on the sustainability of external debt.

Direct external public debt increased almost constantly in 2009-2019, with the strongest increase in 2009-2013, when Romania borrowed almost 20 billion euro from the IMF. This loan was intended for domestic financing, given that the economic and financial crisis has increased investor distrust, with the difficulty and price of loans rising rapidly in the period immediately following the onset of the crisis.

Financial loans from multilateral institutions accounted for most of the medium and long-term external public debt until 2013, and since 2014 the share of funds attracted from multilateral institutions in the long-term external direct public debt has decreased, in favour of bonds, which have become the majority, institutional creditors being replaced by private creditors this having a negative impact on the Romanian economy, given that loans from multilateral institutions have certain advantages, instead of repaying existing external debt, they "roll", in more difficult credit conditions. This shows the need for an external debt repayment strategy, in line with the reorganization of the national economy and economic reforms. There is also a need for a debt strategy that establishes and uses an optimal ratio between medium and long-term debt and short-term debt, with due dates designed so that the burden of external debt service is evenly distributed over time, without burdensome peak payment moments.

Level of NBR reserve assets showed a well planned strategy to support a reserve currency that can meet the needs of reimbursement and possible occurrence of economic or financial shocks, reserves that increase financial credibility of Romania. It is noted that although Romania has gone through a difficult period after 2008 due to the financial crisis foreign exchange reserves increased continuously from 2008 until 2011 and then to remain around 32 billion euro with small annual variations. Romania's total foreign exchange reserves had several variations from 28 billion euro in 2008 to a maximum of 37.2 billion euro in 2011 so that in the next 4 years Romania has total reserves of about 35.5 billion euro, in the last 4 years they have been around the amount of 37 billion Euro. (See Annex Table 1.- Table7.)

### **3.International comparisons**

For 2019, Romania's total gross external debt as a percentage of GDP is the lowest of the EU countries of only 49.3%. Eastern European countries have low degrees of indebtedness compared to Western European ones. Thus the same indicator is for Bulgaria 57.4%, Czech Republic 76.2%, Poland 58.8%, Hungary 91.4%, Estonia 73.8%, while Western European countries have a high degree of external indebtedness Luxembourg 5600%, Malta 654.2%, Ireland 724.8%, Cyprus 849%, the Netherlands 473%, MB 301.8%.

Regarding the GDP growth compared to the previous year, Romania is in the leading group with a growth of 4.08% together with Ireland 5.88%, Hungary 4.93%, Malta 4.92%, Poland 4.15%, Lithuania 3.93%, high values compared to those of developed countries in the EU: Germany 0.56%, France 1.51%, Italy 0.30%, Austria 1.6%, the Netherlands 1.7%, MB 1.46 %. So we have countries with high GDP growth and high debt relative to GDP (Ireland, Malta), but also countries with high GDP growth and low debt relative to GDP (Romania, Hungary, Poland), so there is no the link between the growth rate of GDP and the degree of external indebtedness of countries.

In terms of current account deficit (or surplus) Romania has a large current account deficit -4.56% - the third in the EU after Ireland -11.35% and Cyprus -6.72, while many other countries current account surpluses were recorded: the Netherlands 9.95%, Malta 9.61%, Denmark 7.81%, Germany 7.07%. We have countries with a high degree of indebtedness that have current account surplus (ex Netherlands, Malta) but also countries with a current account deficit with a high degree of indebtedness (Ireland, Cyprus), we have countries with a low degree of indebtedness and current account surplus (Bulgaria, Croatia, Iceland, Lithuania), but also countries with a low degree of indebtedness and current account deficit (Romania, Czech Republic)

The relation between the country rating and the external debt relative to GDP: The AAA (premium) quotation is surprisingly received by countries with very high external debts Luxembourg, the Netherlands, Switzerland, but also by a group of countries with average

values of external debts in GDP: Denmark, Sweden, Germany. At the same time, countries with a small share of external debt in GDP have BBB or BBB-, Bulgaria 57.4%, Croatia 75.7%, Romania 49.2%. It is not possible to make a direct correlation between the country rating and the indicator of external debt in GDP, instead it is easy to notice that the higher the GDP of a country and especially the higher the GDP per capita, the country rating is better, and vice versa, the lower GDP per capita and the lower the country rating.

(See Annex Table 8.)

#### **4. Recommendations for Romania**

In order to increase the accessibility to loans and to obtain good credit conditions, Romania needs a persistent credible image in terms of political, economic and social conditions. This requires a mix of coherent policies to ensure a positive and predictable political and social environment without fractures and sudden changes.

Romania's main economic problems are the inflation rate one of the largest in the EU, the largest budget deficit in the EU, and as we have seen, the current account deficit one of the largest in the EU. With an intelligent use of budgetary resources, investments in those branches that incorporate high added value, investments in transport infrastructure but also the informational one, (and less the increases of social aids, pensions and salaries as at present), which to stimulate economic growth can be supported and therefore implicitly those economic indicators that have an important weight when granting a rating (GDP, GDP per capita, exports, current account surplus, unemployment, etc.). Regarding the reduction of external debt, we can say that as long as there are sustained rates of economic growth and external loans support this growth if the economic growth rate is higher than the effective interest rate it is more natural to follow the decrease of external debt relative to GDP and not the nominal value of the external debt.

To the extent that this desideratum is achieved in terms of investor perception and country rating, the loan portfolio must focus on advantageous loans, terms, grant element, effective interest, etc. Thus, they must be pursued outside a real fixed interest rate as low as possible so that the maturity of the loan is as high as possible so that the repayment effort is as small as possible.

The currency structure of the borrowed amounts must correspond to the currency sources of exports, so 73% of exports go to the EU (euro) and 27% extra EU (usd).

Current trends (increase in long-term loans and decrease in short-term loans, increase in the share of direct public debt in total debt and decrease in the share of publicly guaranteed debt, decrease in the share of loans obtained from bilateral and multilateral institutions and banks decreases over time on the capital market through bond issues increases) are positive and should be continued in the next period. Also, as the external debt increases, it is essential that the total international reserves held by the national bank increase as a necessary security element.

In terms of loans on the domestic market, they can be a quick way to obtain liquidity, but repeated use of this method can result in increased domestic interest rates, companies' access to loans is reduced, the increased cost of capital makes investments decreases, decreases the profitability of companies and thus slows down economic development, so this can be rather a measure to get out of certain difficult economic circumstances.

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## Annex

**Table 1. Total external debt, long-term external debt and short-term external debt**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>PIB (MIL EURO)</b>	139700	118300	124100	131500	133900	144700	150800	159000	170400	187800	202000	221748
RATĂ CR. ANUALĂ A PIB (%)		-15.32	4.90	5.96	1.83	8.07	4.22	5.44	7.17	10.21	7.56	9.78
<b>DATORIE EXTERNĂ TOTALĂ (MIL EURO)</b>	72467	82304	93624	99926	100857	98069	94744	92069	92910	97361	99841	105873
PONDERE ÎN PIB (%)	51.87	69.57	75.44	75.99	75.32	67.77	62.83	57.90	54.52	51.84	49.43	47.74
RATĂ CR. ANUALĂ (%)		13.57	13.7	6.73	0.93	-2.76	-3.39	-2.82	0.91	4.79	2.55	6.04
<b>1. DAT. EXT. PE T.L. (MIL EURO)</b>	51874.63	66714.14	74075.03	77131.43	79936.24	78859.70	75829.30	71424.50	69644.70	68520.20	68286.40	73646
PONDERE ÎN DAT. EXTERNĂ TOTALĂ	71.58	81.06	79.12	77.19	79.26	80.41	80.04	77.58	74.96	70.38	68.40	69.56
<b>2. DAT. EXT. PE TER SCURT (MIL EURO)</b>	20592.40	15589.40	19548.90	22794.70	20921.10	19209.20	18915.00	20644.00	23265.10	28840.50	31554.40	32226.8
PONDERE ÎN DAT. EXTERNĂ TOTALĂ	28.42%	18.94	20.88	22.81	20.74	19.59	19.96	22.42	25.04	29.62	31.60	30.44

Source: <https://www.bnr.ro>, author's calculations

**Table 2. External debt, components**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>1. DAT. EXT. PE T.L. (MIL EURO)</b>	51874.63	66714.14	74075.03	77131.43	79936.24	78859.70	75829.30	71424.50	69644.70	68520.20	68286.40	73646
<b>1.1. DATORIE PUBLICĂ DIRECTĂ (MIL EURO)</b>	9053.60	12009.10	16184.40	19642.80	23782.00	29069.00	31754.20	30940.80	31752.10	33117.50	34498.40	39192.1
POND. ÎN DAT. EXT. PE T. L. (%)	17.45	18.00	21.85	25.47	29.75	36.86	41.88	43.32	45.59	48.33	50.52	53.22
<b>1.2. DATORIE PUBLIC GARANTATĂ (MIL EURO)</b>	1721.00	1517.20	1708.20	1465.80	1423.60	1224.50	1078.30	668.90	547.10	432.20	351.40	285.1
POND. ÎN DAT. EXT. PE T. L. (%)	3.32	2.27	2.31	1.90	1.78	1.55	1.42	0.94	0.79	0.63	0.51	0.39
<b>1.3.DATORIE PRIVATĂ (MIL EURO)</b>	35549.40	39187.00	37733.20	36133.30	37182.90	36303.20	34311.60	33497.80	32453.30	31330.90	30807.50	32203.2
POND. ÎN DAT. EXT. PE T. L. (%)	68.53	58.74	50.94	46.85	46.52	46.04	45.25	46.90	46.60	45.73	45.12	43.73
<b>1.4. DEPOZITE PE TERMEN LUNG ALE NEREZIDENTILOR</b>	5467.30	7242.50	8227.70	8489.90	7745.00	6452.70	6090.50	4943.10	3637.40	2468.60	1432.80	749.4
POND. ÎN DAT. EXT. PE T. L. (%)	10.54	10.86	11.11	11.01	9.69	8.18	8.03	6.92	5.22	3.60	2.10	1.02
<b>1.5. IMPRUMUTURI DE LA FMI</b>	0.00	5685.50	9082.60	10231.10	8654.50	4708.40	1421.30	122.20	0.00	0.00	0.00	0.00
POND. ÎN DAT. EXT. PE T. L. (%)	0.00	8.52	12.26	13.26	10.83	5.97	1.87	0.17	0.00	0.00	0.00	0.00
<b>1.6. DST DE LA FMI</b>	83.33	1072.84	1138.93	1168.53	1148.24	1101.90	1173.30	1251.60	1254.90	1170.90	1196.30	1216.1
POND. ÎN DAT. EXT. PE T. L. (%)	0.16	1.61	1.54	1.51	1.44	1.40	1.55	1.75	1.80	1.71	1.75	1.65

Source: <https://www.bnr.ro>, author's calculations

**Table 3. Direct public debt, public guaranteed debt and private debt, as a percentage of long-term external debt**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>1.1. DAT PUBLICĂ DIR (% DIN DAT. EXT. PE T.L.)</b>	17.5	18.0	21.8	25.5	29.8	36.9	41.9	43.3	45.6	48.3	50.5	53.2
<b>1.2. DATORIE PUBLIC GARANT (% DIN DAT. EXT. PE T.L.)</b>	3.3	2.3	2.3	1.9	1.8	1.6	1.4	0.9	0.8	0.6	0.5	0.4
<b>1.3.DATORIE PRIVATĂ (% DIN DAT. EXT. PE T.L.)</b>	68.5	58.7	50.9	46.8	46.5	46.0	45.2	46.9	46.6	45.7	45.1	43.7

Source: <https://www.bnr.ro>, author's calculations



**Table 4. Short and long term debt service (millions of euros)**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
SER. DAT. PE T. L.	13056.1	12272.2	14696.4	15138.8	18663.4	26285.7	24103.1	25285.4	21041.8	19440.2	19131.8	16736.6
RATĂ CRES. ANUALĂ (%)		-6.00	19.75	3.01	23.28	40.84	-8.30	4.91	-16.78	-7.61	-1.59	-12.52
SER. DAT. PE T. S.	32519.5	36765.7	29078.9	31093.6	35604.5	33675.1	33915.6	32285.0	49393.9	41450.9	46688.4	50730.8

Source: <https://www.bnr.ro>, author's calculations

**Table 5. International reserves and exports**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
REZERVE INTERNAȚIONALE TOTALE (MIL EURO)	28269.9	30858.6	35950.7	37251.8	35413.0	35434.5	35505.7	35485.1	37905.4	37106.7	36800.2	37450.0
REZERVE VALUTARE INTERNAȚIONALE (MIL EURO)	26133.9	27321.5	31638.0	32737.3	31091.9	32497.0	32199.8	32227.0	34241.6	33494.5	33064.7	32926.7
PROCENT REZ. VALUTARE ÎN REZEV TOTALE (%)	92.4	88.5	88.0	87.9	87.8	91.7	90.7	90.8	90.3	90.3	89.8	87.9
SERV DAT T.L./REZ. VALUTARE (%)	50.0	44.9	46.5	46.2	60.0	80.9	74.9	78.5	61.5	58.0	57.9	50.8
EXPORTURI DE BUNURI ȘI SERVICII (FOB)	42479	36148	43989	52528	53472	57308	61908	65742	70180	77880	85612	89385
RATĂ CR. ANUALĂ (%)		-14.9	21.7	19.4	1.8	7.2	8.0	6.2	6.8	11.0	9.9	4.4

Source: <https://www.bnr.ro>, author's calculations

**Table 6. Solvency indicators**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
DAT. EXT. TOTALA / EXPORT (%)	170.6	227.7	212.8	190.2	188.6	171.1	153.0	140.0	132.4	125.0	116.6	118.4
DAT. EXT. T.L. / EXPORT (%)	122.1	184.6	168.4	146.8	149.5	137.6	122.5	108.6	99.2	88.0	79.8	82.4
REZERVE VAL. / DAT. EXT. T.L. (%)	50.4	41.0	42.7	42.4	38.9	41.2	42.5	45.1	49.2	48.9	48.4	44.7
SERV. DAT. EXT. PE T.L. / PIB (%)	9.3	10.4	11.8	11.5	13.9	18.2	16.0	15.9	12.3	10.4	9.5	7.5
SERV. DAT. EXT. PE T.L. / EXPORT (%)	30.7	33.9	33.4	28.8	34.9	45.9	38.9	38.5	30.0	25.0	22.3	18.7
SERV. DAT. EXT. PE T.L. / REZ. VAL (%)	50.0	44.9	46.5	46.2	60.0	80.9	74.9	78.5	61.5	58.0	57.9	50.8

Source: <https://www.bnr.ro>, author's calculations

**Table 7. Long-term external debt, creditors**

AN	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>DATORIE EXTERNĂ PE TERMEN LUNG</b>	51874.6	66714.1	74075.0	77131.4	79936.2	78859.7	75829.3	71424.5	69644.7	68520.2	68286.4	73646
<b>DATORIE PUBLICĂ DIRECTĂ</b>	9053.6	12009.1	16184.4	19642.8	23782.0	29069.0	31754.2	30940.8	31752.1	33117.5	34498.4	39192.1
INSTITUȚII MULTILAT (CREDITE FINANC)	4687.0	7758.7	11576.9	14143.0	14300.6	14150.0	13269.2	12275.2	11748.3	10505.8	8949.0	7492.4
POND ÎN DAT. PUBL. DIR. (%)	51.77	64.61	71.53	72.00	60.13	48.68	41.79	39.67	37.00	31.72	25.94	19.12
INSTIT BILATERALE (CREDITE FINANC)	65.0	56.2	60.8	47.1	43.6	37.8	34.8	31.8	30.7	26.3	16.4	15.2
POND ÎN DAT. PUBL. DIR. (%)	0.72	0.47	0.38	0.24	0.18	0.13	0.11	0.10	0.10	0.08	0.05	0.04
EMISIUNI DE OBLIGAȚIUNI	2640.0	2773.3	2898.9	4297.7	8458.0	14052.6	17805.4	18137.6	19600.2	22366.7	25433.1	31609.6
POND ÎN DAT. PUBL. DIR. (%)	29.16	23.09	17.91	21.88	35.56	48.34	56.07	58.62	61.73	67.54	73.72	80.65
BĂNCI	689.2	811.3	764.2	806.8	685.2	550.0	425.7	322.0	224.6	126.2	76.6	54.3
POND ÎN DAT. PUBL. DIR. (%)	7.61	6.76	4.72	4.11	2.88	1.89	1.34	1.04	0.71	0.38	0.22	0.14
ALTELE	58.8	609.5	883.6	348.2	294.6	278.6	219.1	174.2	148.3	92.5	23.0	20.7
POND ÎN DAT. PUBL. DIR. (%)	0.65	5.08	5.46	1.77	1.24	0.96	0.69	0.56	0.47	0.28	0.07	0.05
<b>DATORIE PUBLIC GARANTATĂ</b>	1721.0	1517.2	1708.2	1465.8	1423.6	1224.5	1078.3	668.9	547.1	432.2	351.4	285.1
INSTIT. MULTILATER (CREDITE FINANC)	635.9	636.4	931.8	819.6	888.7	816.2	733.7	356.0	284.8	222.4	180.0	144.2
POND ÎN DAT. PUBL. GR. (%)	36.95	41.95	54.55	55.91	62.43	66.66	68.04	53.22	52.06	51.46	51.22	50.58
ALTELE (CREDITE. FINAN COMERCIALE S.A.)	1085.2	880.8	776.4	646.3	534.9	408.4	344.6	313.0	262.4	209.8	171.4	140.9
POND ÎN DAT. PUBL. GR. (%)	63.06	58.05	45.45	44.09	37.57	33.35	31.96	46.79	47.96	48.54	48.78	49.42
<b>DATORIE PRIVATĂ (NEGARANT. PUBLIC)</b>	35549.4	39187.0	37733.2	36133.3	37182.9	36303.2	34311.6	33497.8	32453.3	31330.9	30807.5	32203.2

Source: <https://www.bnr.ro>, author's calculations

**Table 8. International comparisons**

Tara	Dat Ext Tot/PIB	Rata PIB	Cont Curent	S&P	Moody 's	Fitch
Austria	153.7	1.60	2.62	AA+	Aa1	AA+
Belgia	242.7	1.40	-1.23	AA	Aa3	AA-
Bulgaria	57.4	3.37	4.04	BBB	Baa1	BBB
Croatia	75.7	2.94	2.78	BBB-	Ba1	BBB-
Cipru	849.0	3.23	-6.72	BBB-	Ba2	BBB-
Cehia	76.2	2.34	-0.37	AA-	Aa3	AA-
Danemarca	143.4	2.35	7.81	AAA	Aaa	AAA
Estonia	73.8	5.00	2.64	AA-	A1	AA-
Finlanda	222.5	1.15	-0.46	AA+	Aa1	AA+
Franta	230.0	1.51	-0.67	AA	Aa2	AA
Germania	144.2	0.56	7.07	AAA	Aaa	AAA
Grecia	242.8	1.87	-2.10	BB-	Ba3	BB
Ungaria	91.4	4.93	-0.85	BBB	Baa3	BBB
Islanda	78.1	1.94	6.18	A	A2	A
Irlanda	724.8	5.88	-11.35	AA-	A2	A+
Italia	124.6	0.30	2.96	BBB	Baa3	BBB-
Letonia	122.6	2.20	-0.54	A+	A3	A-
Lituania	67.7	3.93	4.27	A+	A3	A
Luxemburg	5,633.2	2.30	4.48	AAA	Aaa	AAA
Malta	654.2	4.92	9.61	A-	A2	A+
Olanda	473.6	1.68	9.95	AAA	Aaa	AAA
(Norvegia)	162.9	1.16	4.10	AAA	Aaa	AAA
Polonia	58.8	4.15	0.41	A-	A2	A-
Portugal	192.1	2.17	-0.09	BBB	Baa3	BBB
Romania	49.2	4.08	-4.56	BBB-	Baa3	BBB-
Slovenia	112.4	2.40	-2.87	A+	A2	A
Slovenia	90.5	2.44	5.67	AA-	A3	A
Spania	169.6	1.98	1.97	A	Baa1	A-
Suedia	164.3	1.26	4.20	AAA	Aaa	AAA
(Elvetia)	259.2	1.25	11.52	AAA	Aaa	AAA
MB	301.8	1.46	-4.01	AA	Aa3	AA-

Source: <https://www.imf.org/en/Publications/WEO/weo-database/2020/October>

**Table 9. International country ratings board**

Grade	Moody's	S&P	Fitch
Prime	Aaa	AAA	AAA
High grade	Aa1	AA+	AA+
	Aa2	AA	AA
	Aa3	AA-	AA-
Upper medium grade	A1	A+	A+
	A2	A	A
	A3	A-	A-
Lower medium grade	Baa1	BBB+	BBB+
	Baa2	BBB	BBB
	Baa3	BBB-	BBB-
Non-investment grade speculative	Ba1	BB+	BB+
	Ba2	BB	BB
	Ba3	BB-	BB-
Highly speculative	B1	B+	B+
	B2	B	B
	B3	B-	B-
Substantial risks	Caa1	CCC+	CCC+
	Caa2	CCC	CCC
	Caa3	CCC-	CCC-
Extremely speculative	Ca	CC	CC
			C
In default with little prospect for recovery		SD	RD
In default	C	D	D
			DD
			DDD
Not rated	WR	NR	

Source: <https://countryeconomy.com/ratings>

# MERCANTILISM AND ITS ROLE IN FORMATION AND DEVELOPMENT OF THE MODERN CAPITALIST ECONOMY AND THE WORLD MARKET

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## Abstract

*The universe has always been in a continuous dynamic and it was the ideas that represented the germs that produced, over time, changes from the most varied, from the simple to the structural, with extremely valuable consequences for populations, peoples and nations. Therefore, we dare say that economic thinking is the forerunner and locomotive that generated transformations, truly revolutionary, hard to anticipate, in the early years of capitalism, with really serious and profound movements. Mercantilism was an easy-to-understand economic theory that allowed intuition and imagination to heat the minds of those with an entrepreneurial spirit, but not without the knowledge of the monarchs of the time who not only proved interested in the new current of thought, also sponsored its implementation.*

**Key words:** mercantilism, current of thought, economic program,, trad, gold, silver

**JEL Codes** B11

## Introduction

The fifteenth and especially the sixteenth centuries gave free rein to the manifestation of the arts, initiatives of many forms, which also included religious wars.

All these aspects, none negligible, changed the content and face of Europe, fundamentally, foreshadowing, at the same time, the emergence of a current of economic thought, called mercantilism, complemented by the quantitative theory of value, which as it is called, expressed the importance of gold. and silver, is able to determine the price level.

The changes of economic origin, which were in full swing and were gaining ground at a fairly high rate, however, were not reflected, from a systemic point of view, as a coherent and complete economic theory.

From a spiritual point of view, some of the thinkers of the time first turned their attention to theology, while philosophy expected deeper, more subtle thinkers, such as Descartes, Leibniz or Spinoza.

History flowed by itself, without political and social evolution following a theoretical path, one thinker or another [Lungu, Cosma, 2002, p. 52].

The end of the Middle Ages and the period we referred to at the beginning, of assertion of capitalism, overlap with the period known in historiography as the Renaissance, starting from the Italian peninsula, became a real phenomenology, scientifically, economically, philosophically, culturally, ethically, aesthetically, morally and religiously.

Big names, extremely famous, such as Leonardo da Vinci, Michelangelo Buonaroti, Niccolo Machiavelli, Galileo Galilei, Giordano Bruno, William Shakespeare and others, have been connected, fundamentally to these transformations of the new modern era.

While art captured reality, through forms and nudity, economics put on the cloak of reality, by recognizing profit as an end in itself. [Lungu, Cosma, 2002, p. 52]

This new type of economy, also known as the Renaissance economy, obviously contained contrasting aspects.

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As a peculiarity, the individualistic aspects, although they emanated a tendency of emancipation, this economy remained subordinated to political and cultural limits and norms that will stop, only, at the same time, with the decline of royalty.

These progressive tendencies were helped by the increasingly accelerated process of the disintegration of the Middle Ages, completely feudal, caused by other factors, such as the plague epidemic of 1347 and 1350 and the War of 100 years (the one hundred-year war) held between 1328 and 1453.

As a result, the mainstays of the feudal-type economy have changed significantly. The nobility acquired, over time, a caste character and received a different orientation, in terms of money.

The church was marked by the crisis of the papacy, simultaneously with the loss of ground of the scholastic current, driven by the coming into force, of the principles of the religious Reformation and by the failure of the crusades.

The more technical work, performed by the associated craftsmen in the guilds, has acquired an oligarchic, coquettish character, more and more often, the need to pay for specific activities and become ferment with a revolutionary, growing accent.

Thus, under such conditions, the germs of the new and progress appeared that were able to coagulate a new one.

The cult of ancient values was still present and dominated thinking in everyday life.

The lack of previous models, be they archaic, has slowed down the obvious progress.

### **1 Discovering of the New World - the motivation for extensive experiences for Europeans**

The dynastic states, but also the new modern states in Europe, wanted to strengthen their internal administration and exert as much influence as possible in foreign countries. This required massive financial resources, primarily for ground forces, naval forces and administration.

Gold and silver had been rare items in the Middle Ages. An ordinary man did not see a gold piece, not even once in his life. It was only the inhabitants of the big cities who knew the silver coin. But the discovery of the New World and the exploitation of mines in Peru changed that. The old recognized commercial cities have lost their financial importance, and the commercial center of the world has moved to the Atlantic coasts. Gold and silver were no longer objects of curiosity.

These precious metals began to enter Europe, through Spain, Portugal, the Netherlands and England. The sixteenth century had its writers, who dealt with political economy, and they spread, concerning national wealth, a theory that seemed very fair and at the same time very useful for their countries. They believed and argued that gold and silver were real wealth. Therefore, a country that has the largest reserve of gold and silver coins in the cellars of the national treasury, or of banks, is the richest country. And since the word currency means the power to maintain armies, it turns out that the richest country is also the strongest and can therefore dominate the rest of the world.

This conception is called "mercantilism," and if we make a similarity it was received with the same absolute confidence with which miracles had been received by the\_early Christians. Economic theory, 1992, p. 45]

As a small conclusion, the mercantilist doctrine has as a cornerstone the axiom according to which gold and silver constitute wealth, par excellence..

Thus, there was a wide interest, not only for kings, but also for those who later became financial and non-financial investors. (Bocănete, 2016, p. 28)

## **2 The practical application of mercantilism**

In practice, mercantilism functioned as follows: if a country aimed at having as large a surplus of precious metals as possible, it had to ensure a favorable balance in its trade with foreign countries. If he could export to the neighbor more than he imported from him, the neighbor would be indebted and forced to send him some of his gold. And so a gain for the creditor country is a loss for the debtor country. The mercantilists understood that profit and wealth are created in the sphere of circulation. The gain of some, meant the loss of others. The wealth consisted of gold and silver bullion, and so large quantities had to be attracted to the country. In order to accumulate these riches, it was necessary to increase the political power of the state, which was given not only the right but also the duty to actively intervene.

## **3 The mercantilist economic program**

As a result of this ingrained belief, the economic program of most states in the eighteenth century was reduced to the following five points [Puia, 2001]:

- to try to collect as much gold and silver as possible;
- to encourage foreign trade rather than domestic trade;
- to encourage industries that transform raw materials into manufactured (finished) and exported materials;
- to encourage population growth, because the factories needed workers and the market, buyers;
- to entrust to the state, the leadership of the commercial movement and the right to intervene when it deems it necessary.

Instead of considering international trade as a force of nature that is always subject to natural laws, regardless of human intervention, the nations of the sixteenth and seventeenth centuries sought to regulate trade by royal laws and decrees, and with the financial help of governments.

## **4 The mercantilism as instrument of accumulation**

In the 16th century, Charles V adopted mercantilism (which was entirely new at the time) and has introduced it into his many possessions. Elizabeth I of England honored him by imitating him, and especially Louis XIV, who were staunch adherents and supporters of this economic doctrine and Colbert, his great finance minister, became the prophet of mercantilism and and thus he became the centre of interest for the whole Europe.

All of Cromwell's foreign policy was the practical application of mercantilism, against his wealthy enemy - the United States - the Netherlands, because Dutch shipowners carrying much of European goods had free trade tendencies and therefore had to be removed at all costs.

## **5 The glorious and bad consequences of mercantilism**

A colony subject to mercantilism, it was a reservoir of gold and silver, of spices for the motherland. The deposits of precious metals from America, Africa and Asia, but also the raw materials from the tropical lands, became the monopoly of the state that ruled the colony. No foreigners were allowed to enter it, and the natives were forbidden to do business with merchants traveling under a foreign flag. Mercantilism encouraged the development of industries in some countries where there had been, no factories before. Thanks to him, roads and canals were built and means of transport improved (infrastructure was created); more skill was demanded from the workers, and the social situation of the merchants rose, weakening, at the same time, the power of the aristocracy.

On the other hand, it caused great misfortunes, subjecting the natives to humiliations, coercion and scandalous exploitation. Secondly, it exposed the citizens of the metropolises to less desirable situations, because it transformed the countries into armed camps and divided

the world into small territories, each working for private gain and at the same time forcing himself to destroy the power of the neighbors and seize their gold. Finally, he attached importance to capital (van Loom, 1993, p. 263), so that for the common man, wealth was considered the only virtue worth fighting for.

In the form above, of early mercantilism, this economic doctrine manifested itself in the fifteenth and sixteenth centuries. A more evolved form, called developed mercantilism (seventeenth and eighteenth centuries), but based, in essence, on the same principles of accumulating surplus profits, with active trade balance, considered that the trade balance is the true balance of power. This conception, based on privileges and obstacles, has materialized in practice under three aspects: customs, colonial and maritime [Ionescu, 2020, Mss].

In the customs field, there were numerous restrictions and even import bans. On export, certain own goods were encouraged, others were limited or banned. In order to keep the secret of production, it was necessary to reach the so-called "customs inquisition" which was maintained as long as trade and production, based on manual labor, were still relatively low.

In colonial policy, the metropolis applied the "regime of exclusivity" or "colonial pact" that suffocated the economic and political life of colonies that were forbidden to maintain foreign relations, to make naval transports with their own means or to develop any competing industry. The revolt of the English colonies in North America, which broke out in 1775 and the explosive growth of trade, after the transition to mechanism, will bring serious changes [Puia, 1993, p. 81] in this system.

The mercantilism in maritime policy is eloquently illustrated in Cromwell's Navy Act - 1651. It was stated that goods imported into England could be transported only by English ships or the countries that produced these goods. The measure was directed mainly against the Netherlands, with which it had had several naval wars [Koslinski, 1993, p. 37, 38] Cromwell's act ensured the hegemony of England in maritime trade. But just like fashion, economic systems come and go, but according to objective and precise laws. The same happened with the mercantilism that gave way to free trade.

## CONCLUSIONS

Under such circumstances, the natural economy that has survived, since prehistory, began to be replaced by the exchange economy, much more mobile and adapted to new requirements, and precious metals - gold, silver, platinum, which had served as ornaments and chlorine standard, has acquired the new role of medium of exchange. This essential aspect has boosted the dynamics of economic life.

Specialized literature attests to the fact that the true monetary principle had become known and functional in the world of elites in the fourteenth and fifteenth centuries.

Religious reform did what economics failed to do. Socially, the struggle between the church and the monarchical institution has sharpened.

It turned out that the old moral virtues, asceticism and piety were replaced by the concern for professional perfection. The thirst for gain demystified and ruined the morals and chivalry of the Middle Ages.

The influx of wealth from the New World to Europe is the result of large amounts of wealth, where mercantilism was an extremely important link, composed of two components: one with the role of producing goods and accumulating wealth and the other of a political nature, because it laid the foundations for the consolidation of state centralism.

Mercantilism has become a practice born of necessity.

At the same time, the wealth due to gold, silver and platinum is the result of creating unprecedented conditions, of exports able to develop industries and increase demographics, against the background of external conditions, extremely favorable, due to the lack of wars in the era. [Economic theory, 1992, p. 65]



The mercantilist doctrine, depending on the country in which it was applied, contains a common fund of ideas, but also many peculiarities.

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# MONETARY CIRCULATION, THE BANKING SYSTEM AND FOREIGN CAPITAL IN THE ROMANIAN ECONOMY (1878 – 1914)

Ion Gr. Ionescu<sup>1</sup>

## Abstract

*In our article, we are concerned to highlight a model of measures capable of producing the rapid integration of Romania, in the economic-financial world, in the conditions of the newly conquered independence, able to recover the handicap imposed by the tutelage of the former conservative empire. functioned as an integral part. In order to argue the veracity of the chosen topic, we referred to arguments such as: monetary circulation and the banking system, the monetary reform of 1890, as measures to consolidate the Romanian banking system and large foreign capital that remained in reserve for a while, compared to industrial investments in Romania, which could not find a suitable market*

**Key words:** *monetary circulation, banking system, foreign capital, bank, loan*

**JEL Codes:** B15, B19

## Introduction

It is known that classical liberalism reached its peak at the beginning of the first industrial revolution, being considered by thinkers of the time, that it has no ability to find solutions, at least in theory, in the late nineteenth century. By no means did he raise the issue of giving up his principles and theories, but his inadequacy was commented on.

Under the influence of specific economic conditions, there was a concern about costs and supply, abstracting demand (Lungu, Cosma, p. 272).

Also, the same period of time was marked by a group of thinkers, school creators, recognized as founders of the marginalist current.

Under these conditions, in Romania, which had just conquered its independence, less theoretical issues were taken into account, and more pragmatic and urgent solutions were sought, to place the country on a favorable path for the development and consolidation of capitalism. and liberal relations.

The monetary and financial problem had to be solved quickly, for the country's integration in the European world, from an economic and financial-banking point of view.

A process of modernization followed, which required a considerable expansion of public institutions, of the administrative apparatus, the state budget remaining one of the poles of attraction of income sources for a growing mass of beneficiaries, of which civil servants represented the category that recorded the most dynamic growth, almost four times, in six decades.

## 1. Monetary circulation and banking system

During the war of independence, paper money was issued, for the first time in Romania, in the form of mortgage notes, guaranteed with state real estate, first of all with estates. The mortgage tickets were printed in Paris, under the direct supervision of Eugeniu Carada and Emil Costinescu, as proxies of the Deposit and Consignment House, which, in this case, fulfilled the role of an issuing bank.

In 1878, in addition to the state-issued mortgage notes, Romanian metal coins and Russian silver rubles, received for the payment of the supply of the tsarist armies, were in circulation, the money circulation being formed by silver coins and paper money.

Immediately after the end of the hostilities, all the coins that did not fall under the monetary law of 1867 began to be withdrawn, so that, in 1879, the Romanian monetary field was cleansed of the fossil remains of medieval money. (Mihai, 1907, p. 67)

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As the bimetallic financial system worked in Romania, the disappearance of gold from the effective circulation was found as a consequence of its hoarding by the population and especially the devaluation of silver over gold, due to the discovery of silver deposits in different countries of the world. The devaluation of silver continued to increase, reaching in 1880, over 16%.

The year 1880 would materialize the results of liberal thinking, dominated by the idea of achieving a strong national credit system. Thus, I.C. Brătianu submitted the draft law on the establishment of a national bank - which received the name of National Bank of Romania - which the legislator voted after long and lively debates. (Brief History..., 2003, p. 79)

The law, of April 17/29, 1880, regarding the “establishment of a discount and circulation bank” established that the state had a participation quota of 1/3 of the initial share capital, the rest being represented by the private capital.

The subscribed capital of the B.N.R. it was only native and belonged to industrialists, merchants and other entrepreneurs, generally enlisted in the National Liberal Party. From 1901, the state was taken out of the stakes, so that the B.N.R. it was a bank with 100% private capital until the First World War. The formula that the initiators stopped at was that of a joint stock company. (Kiritescu, 1964, p. 299)

In accordance with its statute, the new institution was concerned with successively withdrawing the mortgage notes and by virtue of the most important attribution which was the monopoly of the monetary issue, it issued bank notes. (Slavescu, 1925, p. 24) The first banknotes of the B.N.R. they were put into circulation on November 28 / December 10, 1880. In fact, they were old mortgage notes of various values, transformed into banknotes by applying a stamp bearing the bank's title and covering the name of the mortgage note. (Kiritescu, p. 307)

In the first years after its establishment, there was a sharp increase in the mass of banknotes put into circulation.

## **2. Monetary reform**

In 1890, a monetary reform took place (Jinga, 1981, p. 83) through which Romania introduced the gold standard. By another law, from March 1892, in order to strengthen the base of monetary circulation, the transition to the gold-foreign exchange system was made, which became generalized, much later, in the reserve policy of the issuing banks. (Jinga, 1981, p. 51) Monetary reserves were increased from 30% - in the year B.N.R. was established, to 40%, of which 30% were foreign exchange on the London and Berlin money markets.

B.N.R. it also played the role of a commercial central bank which, through discounting and discounting operations, could control the entire Romanian banking system. Its establishment was of great importance for the development of the economy and the modernization of the country. Around the B.N.R. a banking system was created that included all types of known banks: commercial, mortgage, popular banks, insurance companies.

## **3. Consolidation of the banking system in Romania**

As a peculiarity for our country, we can mention the existence of banks that operated with foreign capital, many of them being formed around old loan houses or as subsidiaries of international banks, such as Marmorosch-Blank Bank, as the main pivot. of foreign capital in the Romanian banking system and the Romanian General Bank, with important interests in the Romanian industry.

In Transylvania, the strongest banks belonged to the Austrian, German or Hungarian capital. Romanian banks had a weaker financial strength and were more like popular banks such as: “Albina” (Sibiu), “Furnica” (Făgăraș), “Timișana” (Timișoara), “Victoria” (Arad), “Ardeleana” (Orăștie) and others. These banks encountered difficulties, due to the policy of

the Austro-Hungarian state which sought to limit the scope of action of Romanians in the banking and credit system.

*Public credit* In this field, three practical ways can be distinguished: internal state loans - contracts to individuals, other than B.N.R.; loans made to B.N.R.; loans contracted abroad.

By 1882, the state would contract not only domestic loans but also abroad. The total of the public loans was (nominal capital) of 1,182,524,611 lei, of which: after the amortizations made, a nominal value of 519,013,321 lei remained to be paid, on March 31, 1882. The purposes of these loans were: compensation related to the emancipation of slaves, the application of rural law, coverage of budget deficits, construction of railways, conversion of previously contracted loans and mortgage tickets.

The interest paid by the state was raised well over half of the borrowed amounts representing the external debt.

Between 1882 and January 1900, the public debt increased by 1,400,966,027 lei. Among the internal creditors, an essential place was occupied by B.N.R., the rest of the loans were external. Real interest rates ranged between 4.86%, 6.04% and even 8.18% annually.

The public debt burden has led to increased taxation. But, the taxation fell the hardest on the peasants, because the analysis of the land tax paid on categories of properties shows that at one ha, the peasant paid more than the landlord.

After the incorporation of Transylvania into Hungary, the game would take place to the detriment of the population of Transylvania.

At the beginning of the First World War, the market was the supreme regulator of economic life, through the commodity market and the money market. (Jinga, 1981, p. 54)

#### **4. Foreign capital in the Romanian economy**

Initially, the large foreign capital remained in reserve for a while, compared to industrial placements in Romania, because they did not find the Romanian market, neither attractive nor interesting, in the creation of factories, as it was much more profitable to deliver finished products.

The disaster caused to Romania by the free trade policy, which was the basis of several unprofitable trade conventions, determined the birth of a strong current for a protectionist policy, able to create and encourage a national industry (Savin, 1947, p. 29). The law of 1882, but especially that of 1887, were the expression of these new policies, under the shelter of which began an intense stage of industrialization of the country, encouraging Romanian and foreign entrepreneurs through multiple facilities. . All this was due to the fact that the internal accumulation of capital was weak, so that attracting foreign capital appeared as a necessity.

On the other hand, foreign capital was also interested in penetrating the Romanian economy in some areas. Through concessions, at various German, English, French or Austrian banking groups, railway sections were built, bought after 1880 by the Romanian state.

In particular, after the conquest of state independence, the consolidation of the capitalist economy and implicitly the shaping of its European status, the conditions of participation of foreign capital were relatively improved, some of the loan agreements (previously concluded, being renegotiated, rescheduled and converted into conditions easier to bear by the state budget and the Romanian taxpayer.

In general, capital imports were made through loans to the state - not once accompanied by concessions, the establishment of industrial, commercial and banking enterprises or participation in existing ones and loans to banks, commercial or banking enterprises.

Regarding state loans, it is telling that, in 1914, the Kingdom of Romania owed Germany - 903,075,000 lei, France - 483,790,000 lei, and Belgium, the Netherlands and Switzerland (together) - 64,505,000 lei. In the banking field, of the capital held by the largest

banks in Romania, 60% belonged to the capital of Germany, France, Austria-Hungary, England and Belgium.

In Transylvania, too, foreign capital was predominant in industry and banking and accounted for about 95% - in machine building, 87% - in the chemical industry, 78% - in the textile industry and 56% in electricity production.

### Conclusions

The period of qualitative transformations, profound political-institutional transformations and accumulations on multiple levels, started with the moment of conquest, in fact, of state independence, in 1878, had beneficial consequences on the economic and social development of the country, marking the beginning of a periods of modern, more sustained development of the national economy. Romania has become more and more integrated in the European economic circuit, benefiting on a wider level from increased possibilities for the promotion of its interests in the field of material and spiritual civilization, truly, modern.

There was a more pronounced opening of liberal ideas, to solve tasks arising from the needs of the country's development, a more vivid perception of the pulse and trends of the time, a more pronounced willingness to embrace broader categories of interests and boost the capitalist process. modernization of the country, despite the fact that the monarchy sought to maintain the liberal-conservative balance as an element of alternation and stability of structures and life forms.

Monetary circulation, banking system and foreign capital,

In general, the socio-economic and political evolution of Romania, from the middle of the 19th century until around the First World War, crystallized a type of modern civilization, with distinct constitutive features, whose fundamental characteristic would be the modernization adapted to the interests of the landlord, of the great land property, (Constantinescu, 1998, p. 272) on the background of the increasing share of the interests of the industrial, commercial and banking groups of the country.

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# DEVELOPING ENTREPRENEURSHIP IN RURAL AREAS - A SOLUTION TO REDUCE TERRITORIAL DISPARITIES IN ROMANIA

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## **Summary**

*Entrepreneurship and implicitly the process of setting up and developing small and medium-sized enterprises in rural areas are at low rates and is not a real alternative to agricultural activity in peasant households in Romania.*

*The lack of entrepreneurial initiative in non-agricultural activities hampers the progress of rural communities and thus maintains the largest rural-urban gap in the EU.*

*The evolution is unsatisfactory, even though programmes for the establishment and development of SMEs in rural areas have been operationalized in each Community budget cycle in which Romania has participated.*

*But for successful rural entrepreneurship support policies, it is necessary to target areas and settlements that do not have reliable and easy resources for non-agricultural activities and where free initiative is not based on local comparative advantage.*

*However, the focus and effectiveness of policies and programmes with domestic or Community funding depends on knowing the state of entrepreneurship in rural areas and the local material and human resources that can be grasped in non-agricultural activities.*

*The social and economic gaps between rural and urban areas in Romania have been deep and relative at the same amplitude for many years. Entrepreneurship is one of the main solutions for reducing them, but its development in rural areas is limited by the state of infrastructures, the quality of human capital and, last but not least, by the low demand, in line with the low incomes of rural inhabitants.*

**Keywords:** entrepreneurship, self-employed, active professionals, rural environment, rural/urban gaps

**JEL Classification:** L26, R11, R58

## **1. European policies for entrepreneurship**

The risk of poverty remains a topical issue for the European Union after decades of Community social cohesion policy. The global economic crisis of 2007-2009 and the current health crisis are exacerbating poverty and social disparities between vulnerable and developmentally advantaged regions and areas. Just before the economic and health crisis, the European Commission proposed new directions for monitoring and mitigating social and economic disparities. For faster social convergence and to reduce the risk of poverty, the European Commission has proposed, for example, a substantial increase in the financial contribution from the European Social Fund to promote social inclusion and the fight against poverty. But the allocation mechanisms do not change substantially: there is no option for an active policy, targeting funds especially to vulnerable settlements and areas and prioritizing projects according to local potential. The inter-conditioning between development and poverty reduction projects is also still insufficiently adapted for complementarity of their territorial effects. Finally, it would also be worth highlighting the limited attention paid to rural areas in Community programmes that exceed those for agriculture and rural development.

Among the solutions to streamline European support for cohesion and development envisaged in the Community budget cycle 2021-2027, the European Commission considered that improving the complementarity of the Common Agricultural Policy (CAP) with other

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Community policies was an important line of action<sup>1</sup>. 'CAP is one of the many EU policies contributing to the prosperity of the rural area and needs to improve **its complementarity with other EU policies**, such as cohesion policy, which also provides substantial funding in rural areas. Intensified coordination between these policies would result in simpler mechanisms to achieve the objectives and less red tape for administration and citizens as stated in the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions' on 'The future of the food and agriculture sector' (Brussels, December 12, 2017, COM (2017) 713 final).

It is also important that this document devotes an important space 'to strengthen the socio-economic fabric of rural areas' by developing entrepreneurship and attracting new farmers, given that 55% of its citizens live in rural areas of the EU as a whole.

Proposals for regulations of the European Parliament and of the Council for the reform of the Community agricultural policies in the light of the Multiannual Financial Framework (MFF) for the period 2021 to 2027 address both rural development issues: effective inter-conditioning with other EU policies and balanced territorial development. Thus, in the proposal for a 'Regulation of the European Parliament and of the Council on the financing, management and monitoring of the CAP and repealing EU Regulation No 1306/2013' of June 2018 (COM 339 final), coherence with other Union policy areas is addressed in terms of environment and climate change, health *and* digital technology.

Some of the specific objectives of the new common agricultural policy, applicable from 2021 to 2027, outlined in the abovementioned documents are:

- Attracting young farmers and facilitating the development of enterprises in rural areas;
- Promoting employment, economic growth, social inclusion and local development in rural areas, which implicitly highlights the major role of rural entrepreneurship.

Notwithstanding the reservations raised about the priorities of the European rural development programmes and the structure of Community funds, where non-agricultural rural entrepreneurship is not regarded as the most effective way forward for rural communities, it should nevertheless be pointed out that funds have always been allocated for this purpose. However, Romania has not made sufficient use of European policies for entrepreneurship. There are numerous examples. As such, it was only in 2020, the final year for the 2013 to 2020 multiannual budget, that the Managing Authority of the Operational Programme for Administrative Capacity (MA OPAC) launched the call 'Support for the establishment of social enterprises in rural areas' the main purpose of which is the direct support of non-agricultural activities, processing and distribution of agricultural products obtained by small producers from carrying out individual agricultural activities. As can be seen, in this project there are limitations on the beneficiaries but also on the scope of entrepreneurship (non-agricultural activities in the agri-food chain and not non-agricultural activities themselves that improve the economic profile of rural settlements) which are not a prerequisite for the development of rural entrepreneurship in truly non-agricultural activities.

The fact that the National Rural Development Plan (NRDP) also includes investments for the establishment of non-agricultural activities in rural areas is not an argument for

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<sup>1</sup> It should be noted, however, that in the 2013-2020 Community budget cycle convergence support was linked to other components of development through a vision of the 5 EU Funds and Investment Funds (ESIF) including a unified regulation of their operation and use. The use of the structural funds (European Regional Development Fund, European Social Fund and Cohesion Fund) for rural programmes was also possible in the implementation, which multiplied the available sources, including for entrepreneurship (see European Commission Guide 'European Structural and Investment Funds, 2014-2020', Luxembourg, 2016, ISBN 978-92-79-39447-8)

limitations on the type of beneficiary businesses. That is precisely why the European Commission stressed the need to improve the complementarity of rural programmes.

In this context, it is worth mentioning that the NRDP (*The National Rural Development Programme 2014-2020 provides strategic support for the granting of EU non-repayable funds, responding to the objectives of the Partnership Agreement on Competitiveness, Local Development and Poverty Reduction through 14 rural development measures with a financial allocation of EUR 9.4 billion of which EUR 8.0 billion from EAFRD and EUR 1.4 billion national contribution*) objective of non-agricultural rural development has also been implemented through the 'Rural Non-Agricultural' programme, which finances 100% of European funds any entrepreneurship project in non-agricultural activities (from industrial activities, tourism activities, to services, including IT or medical). But this programme also had failures in implementation: out of the nearly 130 projects proposed for funding in 2017 (with a funding request of about EUR 20 million), about half are projects for the construction or modernization of hostels or agrotourism boarding houses, given that tourism demand in Romania is low.

In the hope of improving entrepreneurship of the rural population, it would also be worth stressing that Romanian entrepreneurs will have at their disposal, in the next 2021 to 2027 budget cycle, more than EUR 3 billion from cohesion funds for new businesses, both in urban and rural areas.

The latest 'Country Report on Romania' (from 2020) of the European Commission stated that one in three Romanians is at risk of poverty or social exclusion, the most vulnerable groups being the most exposed. In this context, the Country Report stresses that '*access to basic services remains problematic **which deepens the gap between rural and urban areas, regional disparities and inequalities. The potential of the social economy is not sufficiently valued***'. These conclusions indirectly respond to the need to increase entrepreneurship in rural areas.

## 2. Gaps between rural and urban areas

The role of non-agricultural entrepreneurship and rural development, as a result of the private initiative, in reducing the social and economic disparities between the village and the city is widely recognized, but its efficiency through the territorial structuring of private initiatives was neither a scientific nor empirical concern. Even statistics do not provide information on SMEs and entrepreneurship residence environments.

The gap between rural and urban areas in Romania has not developed satisfactorily, being among the highest in the European Union. Poverty dependencies are complex and cannot be explained only at macroeconomic level, by the different distribution of income and resources or by the level of development, which otherwise have a historical determination. The higher risk of poverty in rural areas, the social and economic disparities against the city also come from the mono-economic structure of many rural settlements, based on the activity of self-employed agricultural workers and not on entrepreneurship and market economy.

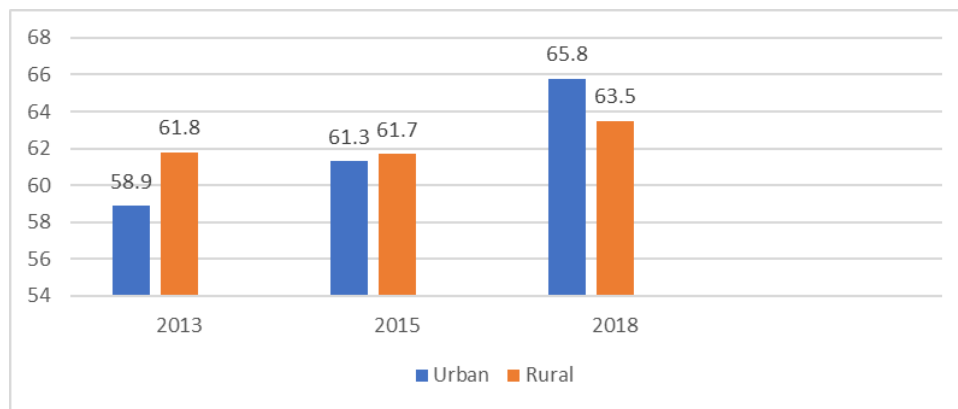
46% of Romania's population lives in rural areas, a population characterized by a high degree of inactivity, underemployment and unemployment. Temporary activity in agriculture is not a viable solution but entrepreneurship and the development of non-agricultural activities. It is worth noting the high stability in the last 10 years of the structure of the total and employed population by residence environments, which shows an improvement in the capacity of the rural environment to provide acceptable incomes for a decent living, based also on a certain progress of entrepreneurship. Since 2009, the share of the population residing in rural areas has been 46.1 to 46.3%. The share of the labour resource and its employment in rural areas remain high and close to the share of the resident population in



rural areas (Chart no. 1). In 2018, the population aged 18 and over, in the total population of this age represented 45.8%, and the employed population had a share of 45.1%.

The gap between rural and urban areas is primarily economically dependent, which is not mitigated by the degree of employment but by the type of employment.

Of the total households, those in which employed persons live represent about 65%, the share being slightly higher in urban than in rural areas (66.1% compared to 64% in 2019). Within households with employed persons, the urban-rural gaps show that in the rural environment the biggest difference occurs in the case of households with at least 3 employed persons (8.4% in the urban environment and 16.6% in the rural environment), which shows that **employment with low incomes or without agricultural incomes represents a disadvantage and not a solution for a decent living**. An explanation is also given by the fact that unpaid family workers<sup>1</sup> (95% of whom are in rural areas, respectively in agriculture), amounting to about 686 thousand persons, represented in 2018 almost 8% of the employed population.



**Chart no. 1.- Employment rate of the working age population (%)**

Source: Statistical research on the workforce in households, NIS, 2019

For a summary image of the territorial social disparities, it should be pointed out that the incomes of households (highlighted by their average monthly level per person) in rural areas were around 62% of the average income per person in urban households in 2018. In the same year, the average monthly income per person in the North-East region represented 79.6% of the national average and 89.5% in the case of the South-East region.

In other words, in 2018 the average incomes per urban household were 45.4% higher than those of rural households. Significantly, the sources of this income differ substantially, which is an additional argument for a new role for entrepreneurship in non-agricultural activities in rural areas.

Thus, in the urban environment in 2018, household incomes accounted for 74.7% of wages, 17.5% of social benefits, and incomes in kind accounted for 4.3% of the total.

In rural areas, the main source of household income was agricultural production, which accounted for 18% of total income. Most of them consisted of the equivalent value of the consumption of agri-food products from own resources (13% of the total incomes), the money incomes from agriculture providing only 5% of the total incomes of rural households.

<sup>1</sup> Since 2011, self-employed workers and unpaid family workers working in agriculture are considered employed only if they own agricultural production (not necessarily agricultural land) and at least part of it is destined for the market or covers more than 50% of the total household consumption.

Moreover, the polarization of welfare gains achieved during robust economic growth in recent years is worrying and is another argument for a new vision in territorial development policies, so that entrepreneurship and the creation of new companies in rural areas become priorities.

Household income inequality has increased. The analysis of the average income per decile reveals a gap of 1:5.8 in 2018 compared to 1:4.4 in 2017 and 1:4.2 in 2015, between the average incomes per first decile household and the average incomes per last decile household (households with the highest incomes).

### 3. Rural entrepreneurship in Romania

Although there is no statistical or administrative information on the level of rural entrepreneurship in Romania, its status and evolution can be indirectly assessed both on the basis of business owners or on their own account and by the number of active professionals, especially in the counties with an agricultural profile.

An indirect assessment of rural entrepreneurship is provided by employment in the rural non-agricultural sector, which also has its source in the jobs created by the rural non-agricultural business environment. According to some estimates, rural non-agricultural employment accounts for around 20% of rural employment, but around 37% of total income associated with rural employment [5].

It is the structure of the employed population by **occupational status** that best reflects the state of entrepreneurship in rural areas and the impact of public policies and the absorption of European funds for business development. **In rural areas, however, private initiative is common and natural behaviour, even if it is located in the agricultural sector**, since the number of self-employed workers (employers, self-employed workers and unpaid family workers) is very close to the number of employees.

*Table no. 1- Employed population by professional status in 2018*

	<b>Total economy</b>	<b>Urban</b>	<b>Rural</b>
Total employed population	8.689	4.769	3.920
Employees	6.497	4.432	2.065
Employers	92	64	28
Self-employed	1.412	233	1.179
Unpaid family workers	688	40	648

*Source: Statistical research on the workforce in households, NIS, 2019*

In 2018, across the economy, the 3 occupational categories employed without employment contracts accounted for 25.2% of the employed population. In rural areas, these categories represented 47.3 of the employed population. At the same time, 87% of the 2.1 million self-employed and family workers in the national economy lived in rural areas.

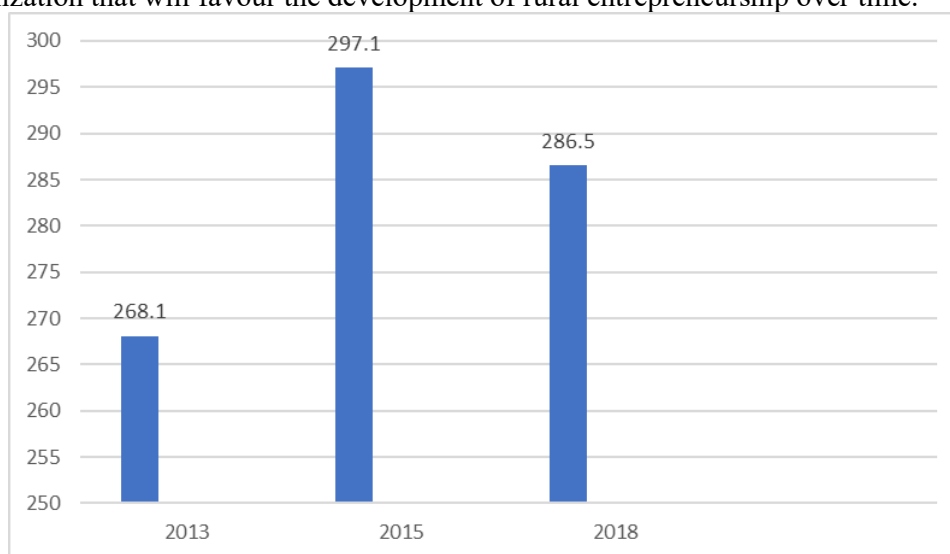
In 2018, self-employed workers accounted for 30.1% of the employed rural population and employers only 0.7% (in urban areas the proportions were 4.9% and 1.3% respectively)<sup>1</sup>.

<sup>1</sup> According to the International Statistical Methodology (BIM) the concepts of 'employer' and self-employed workers are similar in that they express the exercise of an activity in their own individual business or unit (legal person); the difference is given by the fact that employers have one or more employees for their own activity and self-employed workers carry out their activity without employing any employees (helped only by unpaid family members); therefore, in statistical analyses often the two categories are assessed together.

For an assessment of rural entrepreneurship in non-agricultural activities it is worth mentioning that out of a total of 1.2 million self-employed workers in 'agriculture, forestry and fisheries' about 1.1 million people. It results in only a number of private entrepreneurs in non-agricultural activities in rural areas of about 130 thousand (employers and self-employed workers), respectively 3.3 of the population employed in rural areas, half compared to the proportion in urban areas of about 6.7%.

**Private entrepreneurs<sup>1</sup>**, including mainly self-employed workers, who have formalized their work in accordance with the Government Emergency Ordinance No. 44/2008 on the pursuit of economic activities by authorized natural persons, individual enterprises and family enterprises, represents (on the whole economy) only 2.1% of the number of active economic operators (enterprises and private entrepreneurs).

The low number of private entrepreneurs, especially in rural areas, is partly offset by the development of micro-enterprises. As a result, while the number of private entrepreneurs increased by only 6.9% in the period 2014 to 2018, the number of enterprises increased by 18.8%. On the positive side, the dynamics of agricultural enterprises (20.5 thousand in 2018) of 22.4% which means the expansion of the market economy in this sector and a certain specialization that will favour the development of rural entrepreneurship over time.



**Chart no .2 - Number of private entrepreneurs in the economy - thousand units**

*Source: NIS, Statistical Yearbook of Romania 2019*

Regarding the number of private entrepreneurs (entrepreneurship model), the reduced dynamics resulted from the fact that from 2014, when a maximum of 299 thousand entrepreneurs was reached, the number decreased year by year to 286.5 thousand units in 2018.

In the structure, even if the disaggregation proposed by the National Institute of Statistics is not the most appropriate, meaning that most services are aggregated in a single division<sup>2</sup>, it can still be estimated that private entrepreneurs in services (excluding trade) represent 61% of the total.

<sup>1</sup> According to the statistical definition, private entrepreneurs include Self-Employed Persons (SEP), individual enterprises or family enterprises, established under EGO no. 44/2008 but also liberal professions as defined by special laws; according to the law, private entrepreneurs can employ one or more people, in which case they would be assimilated to employers.

<sup>2</sup> See the structure published in the Statistical Yearbook of Romania 2019, published by the NIS in 2020, ISSN 1220-3246.

**Table no. 2-Structure by activities of private entrepreneurs in 2018**  
**-% of the total-**

	<b>Total entrepreneurs</b>	<b>Independent persons</b>
Industry	7.6	7.4
Trade	34.4	31.8
Hotels and restaurants	3.9	3.8
Tourism	0.2	0.2
Transport	8.7	8.9
Other services	45.2	47.9

*Note: Private entrepreneurs do not include self-employed people in agriculture*

*Source: NIS, Statistical Yearbook of Romania 2019*

A profile of rural [2] entrepreneurs shows that most private entrepreneurs have businesses in the field of agri-food production, construction, trade and rural tourism, which in fact means private initiative coverage of the entire cycle of capitalization of local agricultural production. Because of this, a wider development of rural entrepreneurship is limited, and its expansion can only be achieved in certain rural areas, with tourist potential or where household incomes are higher, such as in rural settlements near county seats.

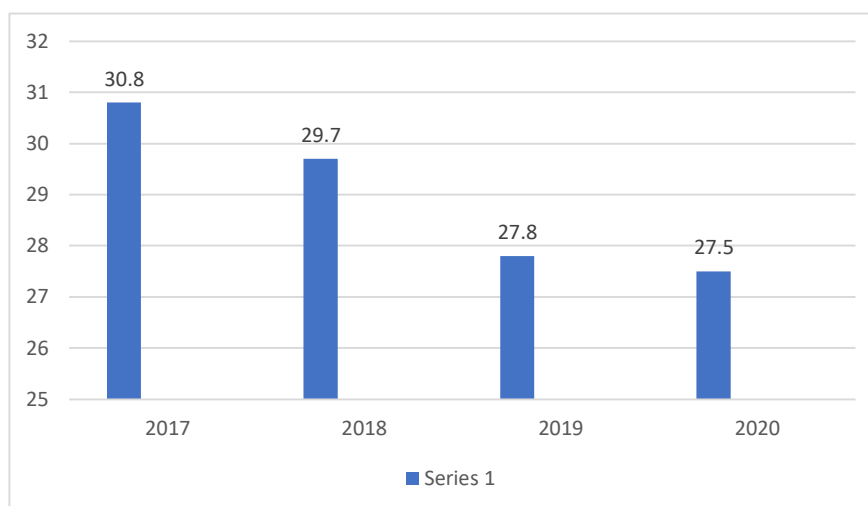
According to the records of the National Trade Register Office (ONRC), the number of active professionals, including Self-Employed Persons and active legal persons (enterprises) is higher than that of active economic operators highlighted by the INS due to the broader scope<sup>1</sup>. It is therefore appropriate to carry out the evaluation of entrepreneurship separately by the 3 methods (employment, private entrepreneurs and active professionals), without correlation between statistical or administrative data. However, for a comparative picture, the analysis in this Article will refer in particular to 2018 and in the case of ONRC data.

Entrepreneurship, illustrated in the ONRC records, in particular through **self-employed persons**, has recorded a lower dynamic in recent years than that of professionals active legal persons (companies). As a result, in 2020 the number of active Self-Employed Persons, of 393.6 thousand, was only 1.4% higher than the number of Self-Employed Persons in 2017.

In the same period, the number of companies increased by 19.1%. As a result, the share of the number of Self-Employed Persons in total active professionals decreased from 30.8% in 2017 to 27.5% in 2020 (Chart no. 3.)

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<sup>1</sup> In the statistical system, the enterprise may comprise several active professionals, which is statistically a group of legal units that is constituted as an organisational entity for the production of goods or services benefiting from decision-making autonomy, especially in order to ensure its current resources.



**Chart no. 3 - Share of the number of Self-Employed Persons in total active professionals (%)**

Source: ONRC, Annual Statement of Active Professionals, 2017-2020

In this context, it should be noted that the number of active professionals (especially Self-Employed Persons) in agriculture has increased by 2.2%, which shows that the progress of entrepreneurship in rural areas is far from satisfactory.

As previously stated, the territorial structure (by counties) of active professionals is characterized by a significantly lower number of Self-Employed Persons and companies in the counties with an agricultural profile and less developed, which confirms the urgency of multiplying public policies and programmes to support rural entrepreneurship.

**Table no. 3- Status of Self-Employed Persons in counties with agricultural profile, in 2019**

County	Share of rural population	Share of Self-Employed Persons in total professionals	Self-Employed Persons per 1,000 inhabitants
Total economy			
Out of which:	43.6	27.8	17.2
Călărași	60.0	36.0	15.3
Giurgiu	43.1	24.4	11.4
Ialomița	52.4	37.8	15.0
Ilfov	54.3	10.8	12.2
Teleorman	63.4	35.8	15.4

Source: NIS; ONRC (population on July 1, 2019)

For example, compared to a county average of Self-Employed Persons existing at the end of 2019, of 9,018 Self-Employed Persons, in Călărași there were 4,732 Self-Employed Persons, in Ialomița 4,292, in Giurgiu 3,114, in Teleorman 5,701 Self-Employed Persons.

However, the prospects for the development of entrepreneurship are favored on the one hand by the flow of urban population to the rural environment and on the other hand by the existence of a young population, with enterprise culture. In those counties, the number of

Self-Employed Persons up to 29 years old significantly exceeds the national average. Thus, if Self-Employed Persons up to 29 years of age represented, at the end of 2019, 10.6% of the total Self-Employed Persons, this share was 21% in Teleorman, 23% in Ialomița, 15.7% in Giurgiu and 11.1% in Călărași.

**Table no. 4-Structure of urban and rural internal migration flows due to change of residence (Rate per 1,000 inhabitants)**

	<b>2013</b>	<b>2015</b>	<b>2018</b>
Total	15.7	16.2	17.4
From rural to urban	5.9	6.2	7.2
From urban to urban	8.8	8.4	9.1
From rural to rural	8.7	7.3	7.8
From urban to rural	10.6	11.0	11.3

*Source: NIS Yearbook, Statistical Yearbook of Romania 2019*

According to the INS data on internal migration, the flow of population to the rural area (assuming also the change of residence) has been very positive in recent years. Nearly 1.1 million people arrived in rural areas in 2013 to 2018 and about 0.9 million people left rural areas. After 2016, the annual values were even higher. 182.3 thousand people arrived in rural areas in 2018 and 163.1 thousand people left, the total flow being 345.4 thousand people compared to 307.6 thousand people in 2013. Significantly, over 50% (53% in 2018) of the population arriving in rural areas is up to 30 years old.

The structure of flows between urban and rural areas reveals that the highest rate among the various destinations of internal migration is the rate of those who left urban areas to rural areas, namely 10.6% in 2013 and 11.3% in 2018.

### **Conclusions**

European rural development policies, by enhancing non-agricultural activities (in particular those supplementing agri-food flows) and rural entrepreneurship, are duly reflected in the National Rural Development Programmes.

However, European non-repayable funds are insufficient for emerging countries in the EU, where gaps between urban and rural areas are very large. Multiple priorities for social and economic development make national public funds that can be mobilized to stimulate rural entrepreneurship also under need.

The analysis carried out also reveals that the expansion of rural entrepreneurship cannot be done faster due to the negative conditionalities given by the human resource in the rural environment, the incomes and implicitly the lower potential demand than in the urban environment. The establishment of new companies is a much slower process than in the urban environment.

However, these developments can be accelerated through public policies, especially since entrepreneurship and individual activity - specific to peasant households - seems quite appropriate for rural entrepreneurship. As mentioned in the article, the highest number of self-employed workers is found in rural areas.

The qualitative leap in the development of rural entrepreneurship can also be achieved by supporting education, all the more so as the reduced skilled workforce is predominant in rural communities. There is also a significant share of school-age young people, over 16, working in agriculture at the expense of education, as family workers.

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# IMPLICATIONS AND CONSEQUENCES OF THE GLOBAL CRISIS ON ECONOMIC SECURITY

Diana, Chiş-Manolache<sup>1</sup>

## **Abstract:**

*The globalization has an extremely important economic dimension, and the economic security has a significant weight within national security. As it is well known, the human society is one par excellence economic, in the sense that it has limited resources to manage. This paper approaches the economic dimension of national security in the context of the global economic crisis, but also of the crisis generated by the COVID-19 pandemic.*

*Globally, the economic security has been threatened by a number of extremely important factors, and the financial crises are those that destabilize national economies.*

*Currently, the economic crisis, coupled with the health crisis generated by the COVID-19 pandemic, is hardly hitting many European countries, aspect that fuels general feelings of uncertainty and leads to stringent measures for economic recovery. The existing financial crisis at international level generates obvious consequences on the Romanian economy, on multiple levels. The economic forecasts for our country in the next period are not at all gratifying, fact for which it is necessary a real strategy in order to overcome this crisis and to recover the entire economy.*

**Keywords:** economic security, health crisis, globalization, financial crisis.

**JEL Classification:** F60

## **Introduction**

The factors that threaten the economical security of a state and its population are both internal and external in origin. The most important of these are unemployment, poverty, financial crisis, lack of social protection, lack of economic competition and finally relocation and externalization.

At a more profound analysis, we can see that the downgrade of economic security is also linked to the damages brought to the environment. Thus, we find it to be impetuous that we research durable development in this work, sustainable in both economic and social terms, but also social responsibility of multinational companies.

Poverty is a national and international problem, that does not have miraculous solutions. This scourge is directly linked to wages, education, health, access to resources, geographic position, ethnic origins and is characterized by a lack of control on resources, knowledge, capital, social relations, through lack of political participation and even loosing dignity. The strategies of fighting against poverty are focused on individual's access to goods they need in order to participate in progress, and for his human capital to be valued.

It should also be noted that the poor are not a homogeneous group. From the documents of international organizations, there are several broad categories of poor people: women, children, the elderly, the sick and disabled, indigenous peoples and the rural poor. As for women, they are considered "the poorest of the poor", constituting an excluded group.

There is talk of a feminization of poverty, challenged by some experts, due to the lack of detailed statistics by sex and data on income distribution within the household. Given that women have lower development prospects than men in the poorest areas and are usually paid less, this concept of the feminization of poverty can be validated.

These categories are outside the community that contributes and benefits from development, progress.

Poverty also has demographic implications, with statistics showing that countries with a high fertility rate, for example those countries without family planning programs, have a

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higher incidence of poverty. As is well known, the fertility rate of developed countries has fallen considerably in recent decades, while poor countries have the highest rates.

Also, population growth is considered an obstacle to achieving social, economic and environmental goals. There is pressure on social services of public authorities, the increase of the population being at the hearth of widening the gap between rich and poor countries.

### **1. Financial crises, social protection deficiencies and relocations**

According to the United Nations Conference on Trade and Development, in developed countries, financial instability takes the form of banking and monetary crises, and in underdeveloped countries it is a mixture of the two, accompanied by growing difficulties in external debt service.

Financial crises show that the free movement of capital can destabilize national economies. The solution found by some economists is to control financial flows. Thus, there is more and more talk about the introduction of a tax (approximately 0.1%) on capital, called the Tobin tax, but the implementation of this solution seems utopian, like the creation of parties to deal with this control.

To combat crises, the IMF recommends, on one hand, raising interest rates, defending national currencies and preventing the hasty departure of foreign capital, and, on the other hand, a massive drop in public spending.

It should be noted that, in overcoming the crises, Asian states followed mainly three strategies to get out of the impasse: the narrowing of the monetary policy, by increasing interest rates; maintaining a significant volume of foreign exchange reserves and credit lines to cope with massive capital outflows; recourse to the IMF, the international lender of last resort.

Another factor that threatens economic security are deficiencies in social protection systems. The perception that the forces of globalization endanger the social security systems of rich countries is widespread. This perception is based on an intuitive idea: social security is expensive, it increases the cost of labor, and companies, out of a desire to maximize their profits, will tend to transfer their activities from countries where labor costs are high to countries where social security systems are less developed. These transfers put pressure on countries with increased social security to reduce social protection. By spreading this trend, a competition of protection cuts begins, and the competitive pressure derived from globalization gradually erodes social security. Thus, in order to face competition from countries where labor is cheap, rich countries should reduce the social protection they provide to their own citizens.

Considered to be beneficial mostly to the non-poor peoples, social protection does not coincide with the fight against poverty. The fight against poverty is a recoil compared to social protection. It is not a complement, but an alternative to social security. It does not offer protection against a market, but a chance and obligation to participate at a market economy.

As concerns relocation, we can understand the transfer of activities, capital and jobs to those parts of country or other countries that benefit from a competitive advantage brought in a number of factors. Actually, it is about those lower costs of production, fiscality, and more attractive rulings, access to superior technologies, better competence of workers involved, a local market that ensures wider or interesting outlets, a better infrastructure or a more attractive business environment.

Relocations have intensified with globalization (Chirovici, Eugen Ovidiu, p. 84) Countries are entering a global competition, trying to offer the most attractive conditions for investors. Relocations can fill the economic "vacuum" in a given region by attracting investors who will open new economic targets. It should be noted, however, that not all investments are relocations. When we are dealing with a relocation, opening one factory means closing another and we have a zero-sum game between the respective regions and between the countries (see the "Jucu case",

with the Nokia subassembly factory). Relocations encourage decentralized forms of management and lead to layoffs, being unpopular among employees.

On the other hand, the products obtained in the new location are cheaper and can be returned to the region or country of origin at a lower price, which is to the benefit of consumers.

Studies show that there are losers among emerging economies due to relocations and outsourcing. There will always be a country with a cheaper labor force or more favorable tax regulations, and companies will move in that direction. In addition, developing countries lose competition with more developed countries and have to outsource their services that they cannot afford domestically.

Thus, even if the most affected by the effect of outsourcing are developed countries, intensive in highly skilled labor, developing countries are more affected by this phenomenon. For example, the USA is the largest importer of services in terms of value, but as a share of GDP, these transferred services are insignificant compared to other countries.

Therefore, in a growing field such as outsourcing of services, globalization intensifies global competition, creating partial winners and losers, both in developed and developing countries (Chirovici, Eugen Ovidiu, p. 84). The latter, although they gain from the provision of services, are at the same time losers in the process, as they fail to provide sophisticated services with high added value, being forced to procure them for their own business in other countries.

## **2. The impact of the global crisis on national security**

The financial crisis, being usually the beginning of an economic crisis, can be defined as a situation in which the demand for money is higher than the supply. This means that liquidity evaporates quickly as available money is withdrawn from banks, forcing banks to sell their own assets and investments to cover their needs and survive in the market.

As a definition, the economic crisis is a situation in which a country's economy suddenly goes through a decrease in its strength, feeling a decrease in GDP, an evaporation of liquidity and a rise / fall in prices due to inflation / deflation. Some economic crises, such as the current one, can take the form of stagnation, an economic recession and sometimes lead to economic collapse.

The economic depression is the result of the worsening economic crisis, more precisely the sustained decline of one or more national economies. It is characterized by a dramatic increase in the unemployment rate, the restriction of credit, the major restriction of industrial production and investment. They are part of the "landscape" and price deflation, hyperinflation, numerous bank failures, reduced trade, very volatile exchange rate, with a tendency to devalue.

In this context, we remind that national security is a complicated process, maintained by political, economic, social, informational, legal, ecological, military, which has as finality the state of security based on the rule of law. It defines the lack of dangers for the nation, for the social communities, for the national state and for its citizens. Fundamental security can be expressed through the following indicators: ([https://cssas.unap.ro/ro/pdf\\_carti/Perspective\\_ale\\_securitatii\\_si\\_apararii\\_in\\_Europa\\_voll.pdf](https://cssas.unap.ro/ro/pdf_carti/Perspective_ale_securitatii_si_apararii_in_Europa_voll.pdf))

- Durable economic development and prosperity for citizens;
- Preventing and combating social and political aggression
- Exerting without limitations the rights and freedoms of citizens;
- Legality;
- Social and political stability and equilibrium;
- Freedom for acting and decisions of a national state.

National security is achieved through adequate measures of a political, economic, diplomatic, social, legal, educational, administrative and military nature, through the activity of security intelligence / counter-intelligence, as well as through the efficient management of crises.

We assume that the beginning of the global economic crisis is known to everyone, but we would like to mention that at the root of this crisis that began in the USA, was the wrong monetary policy adopted by the EDF by lowering the reference interest rate below 2%. In doing so, the EDF gave up its moderate pre-2002 policy, and with the easiest way to raise money, it began to harbor risky loans from banks.

The small signs given by some US lending companies, through layoffs and possible bankruptcies, did not worry the state, erroneously considering that such problems have been registered before. But this time it was different. On Wall Street, investment banks responded to the financial boom by pooling real estate mortgages and using the shares thus obtained to secure complicated financial instruments. Those who created these instruments, the rating agencies that evaluated them and the prestigious institutions that bought them did not notice the enormous risk they posed. The EDF had accustomed everyone to risk through prolonged exposure.

Another mistake of the US Congress was when it used the credit institutions "Fannie Mae" and "Freddie Mac" to expand the risky credit market. The EDF did not notice that the credit freeze was a risky issue shared by all and treated it as a liquidity problem. As a result of this mistake, the government made another one, throwing a "cheap" wave of money and undermining the dollar. The price of oil began to rise uncontrollably. In other words, it all started with the greed of people to have a lot and fast - more and more risky loans were given, from which substantial commissions were stolen and serious banks were attracted in this race of big gains with any risk.

As expected, as a result of this crisis, unemployment has risen through layoffs by companies of all sizes, some to save themselves from bankruptcy, others to try to stay profitable. In economically underdeveloped countries, national currencies have devalued against the euro.

As for Romania, the main cause of the deepening crisis was all excessive consumption on debt. The international financial crisis triggered the domestic economic crisis because it affected funding sources. Romania's economic growth in 2005–2008 was not generated, as it would have been economically efficient, by external demand (exports), but by domestic demand, representing population consumption, government consumption and unproductive investments.

If in 2004 there was an economic growth of 8.5% at an inflation of 9.3%, with a fiscal deficit of 1.5% of GDP and a current account deficit of 8.4% of GDP, in 2008, there was an economic growth of 7.9% at an inflation of 6.3%, with a fiscal deficit of about 5% of GDP (twice higher than projected) and a current account deficit of 13,5% of GDP (after a deficit of 14% of GDP in 2007).

Given that the Romanian banking system is owned, in proportion of 90% by banks with foreign capital, and they recorded financial losses due to the purchase of toxic products on the American market, the ability of parent banks with subsidiaries in Romania to continue to provide generous lines of credit at low cost has dropped dramatically.

Another factor that has made the global crisis more and more acute is the Romanian exports. They are based on metallurgical, petrochemical and subassembly products of complex equipment, including automobiles, and externally, also by the collapse of bank lending, the demand for such products has decreased. All this in parallel with the decrease in domestic demand, amid a substantial contraction in lending.

The economies of Germany and Italy, which together absorb almost a third of Romania's export volume, decreased by 0.5 and 0.3%, respectively, in the second quarter of 2008. During January-August 2009, Romania's exports to the countries of outside the Community they fell by 29.1% compared to the same period in 2008 to 4.87 billion euros, and imports from outside the EU fell by 44% to almost 6.55 billion euros. Romania delivered to the other 26 EU countries goods worth 13.69 billion euros, 14.9% less than in the same period of 2008 and imported one third less, 17.8 billion euros.

The first unit to announce that it was feeling the effects of the financial crisis was the Mittal Arches Plant in Galați, which reduced its production of laminates to more than half.

After an apparent remission in late 2010 and early 2011, the economic crisis has hit most companies hard, with declining sales, hampering access to finance, a sharp drop in liquidity and rising bankruptcies, especially in recent months.

The context of a global crisis can be deciding step in choosing a future direction of behavior of future states, in the multinational environment (Jack Knight, 1992, p. 178). To be more precise, it is about a direction in which states can intervene in their own national economies and can be more careful in choosing their states prerogatives, as they will become less involved in the economy and in the globalization development.

The states intervention in the economy can spread from forced nationalization – as was the case with the forced nationalization in states belonging to the eastern bloc, during the communist era – to the necessary nationalization – to seeing western “models” from the last years of crisis. Thus, recent capitalism is faced with a paradox – taking a private property and moving it to the state property.

As was done in order to avoid a bankruptcy perspective for companies or even multinational corporations and to avoid, at least for a while, dramatic consequences.

### **3. Health crisis generated by the COVID-19 pandemic and its economic impact**

In Europe, the economies of the states are deeply affected by the crisis generated by the COVID-19 pandemic. Obviously, the proportions of the disaster are different, being directly connected with how solid the economic systems of the states are, but also with the capacity of the pandemic management by them.

The pandemic caused by the new coronavirus is a huge shock to economies, both in the EU and globally, with very serious socio-economic consequences.

As regards the gross domestic product (GDP) of European countries, the situation is different, from state to state. At one pole there are the states whose GDP will fall dramatically this year, and at the other pole there are the countries that will experience a slower decline in GDP. In the following, we will carry out a brief review of the main European countries dealing with major economic problems arising from the current pandemic.

For example, Greece is one of the states facing economic problems due to the pandemic, but Greek central bank officials estimate a drop of just 6% in GDP this year. This estimate shows that the situation of this country is more optimistic than that of other European countries. These issues come as Greek Prime Minister Kyriakos Mitsotakis hoped 2020 would finally be the year it would restart the economy, thanks to the pro-business measures that he had considered and thanks to an investment programme to revitalise Greece .

Although the pandemic was an obstacle to the plans of Greek officials, the Greek islands were a favorite destination for many Europeans to spend their holidays, which is why the economy benefited. Obviously, the strict rules imposed by the Greek governments regarding the management of the pandemic have contributed to this: the obligation to submit a negative test in order to cross the border, strict controls at customs.

In terms of gross domestic product in Germany, maybe the largest European economy, it is estimated that it will have a contraction of 6.4% this year. However, there are signs that things will recover and that there will no be an obvious economic crisis.

On the other side, dominated by massive losses, we observe the economic situation in the United Kingdom. In the context of a severe epidemiological situation, this state has had a fairly long period of lockdown, which has generated massive consequences for the economy. London economic analysts forecast a drop of about 21% of GDP by the end of this year. Moreover, the news is still not good today because it seems that British consumer and service industry are dependent on the face-to-face activities, and this aspect largely affects the

country's economy. Mai mult decât atât, veștile nu stau bine nici în prezent deoarece se pare dependența britanicilor de consum și de industria de servicii față în față, afectează în mare măsură economia țării.

Another country heavily affected by the current health crisis is Italy, whose economy is falling dramatically. All measures taken by the authorities to stop the spread of infection with the killer virus led to a temporary cessation of activity for most factories between March and April.

This year, the decline in GDP will be determined, primarily, the decline in domestic demand”, according to NBS - National Bureau of Statistics, which predicts that household expenditures will be reduced by 8.7% and investment by 12.5%. The Bank of Italy anticipates an economic contraction of 9.2%, the European Commission anticipates an economic contraction of 9.5%, while the government forecasts a decrease of 8% in April. The Bureau of Statistics expects the economy to partially recover next year, with GDP growth of 4.6%. The statistics office's forecast for 2020 is based on the estimate that the second quarter GDP decline will be sharper than the 5.3% decline recorded in the first three months of the year and that the economy will begin to recover in the second half semester.

As for Spain's economy, it was dealt a very strong blow, one of the causes being the strict and prolonged lockdown period that the Spaniards had taken in March and April 2020.

Spain reported a historic decline in the economy in the second quarter in 2020, with the economy recording an 18.5% rebound, thus canceling the entire recovery since the financial crisis from 2008, according to data published by the National Statistical Institute (NSI), amid the effects of the coronavirus pandemic.

Analysts' forecasts were outdated by reality, with their estimated decline of 16.6%. This decrease follows another 5.2% decline in the first quarter of 2020, giving rise to the most severe recession ever in Spain's economy.

Regarding our country, it is expected to be registered a significant budget deficit, given that our country was already in a fiscal skid, which overlapped with the financial problems generated by the pandemic. According to the most recent estimates, Romania's government deficit is expected to grow to 10.3% of GDP in 2020, from a revised level to 4.4% of GDP in 2019. Comparatively, in the spring, the Community Executive has estimated that Romania would end the 2020 year with a government deficit of 9.2% of GDP .

The pre-existing expansionist trend, largely determined by the increase in pensions, would be aggravated by the impact of the COVID-19 crisis. Tax revenues will be adversely affected by the recession”, the European Commission says.

In addition, despite the expected return of the economy and the expiry of the support schemes introduced in the context of the pandemic, the Community Executive forecasts that Romania's government deficit will continue to grow in the coming years, reaching at 11.3% of GDP in 2021 and 12.5% of GDP in 2022 .

### **Conclusion**

For the Romanian economy, the 2020 year was a challenging period, and our country did not confront with a similar situation in the last 25 years. The pandemic affected all economy branches, in different proportions. But, unlike the 2008 crisis, monthly data show that the recovery began earlier in May. And in June, the pace of return became particularly strong, paving the way for a robust growth in the third quarter. Subsequently, the pace of return is expected to slow significantly.

At the moment, under a most likely scenario, the economic activity will be able to recover and to return to the pre-crisis level, in a faster than pace than in previous recessions.

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# A STRATEGIC VISION FOR CONSOLIDATION THE EUROPEAN UNION 'S INTERNATIONAL RELATIONS

Diana, Chiş-Manolache<sup>1</sup>

## **Abstract:**

*Considering the international relations that European Union undertakes in the economic, social, political and defense spheres and following the analysis of the position of this organization worldwide, the paper presents a possible strategy that strengthen the international relations of the European Union, on various levels. Moreover, given the importance of the economic, political, defense, and social levels, the proposed objectives, channeled on those levels, aim at emphasizing the importance of the international body in terms of international relations.*

*It is particularly important for the European Union to maintain and to consolidate its position as an important player in international relations. Through the correct and coherent application of a unitary strategy, this goal can be achieved and it is able to generate positive effects, of any nature and at any level of the European Union and its citizens, but also of the world's population. In the current period, marked by the COVID-19 pandemic, there is more than ever the need for strong international relations, based on cooperation and mutual trust.*

***Keywords:** international relations, strategic objectives, resources, cooperation.*

***JEL Classification:** F60*

## **Introduction**

The vision of the European Union concerning international relationships is to ensure sustained development of the community in report with its priorities.

As concerns the mission of the European Union regarding international relationships, it is oriented in three main directions:

- Economical, for ensuring the position as world leader in international transactions, by developing activities of collaboration with greater economic powers of the world.
- Social, ensuring the citizens have a reliable living
- National security, strengthening relations with neighboring countries as well as those from around the world.

From a strategic point of view, the objectives of the EU concerning international relationships is concentrated on three main directions, for ensuring the position of a deciding power worldwide. Due to the complexity of international relations and the effects they generate and directly influence the space of the European Union, consolidation will be based on both classical and new means. Additions will be made and the way of managing international relations will be improved, be they economic, security and defense or social, and their implications.

## **1. Strategic objectives in economic terms**

In economic terms, the priority objectives are materialized in:

- maintaining the highest values of imports and exports worldwide;
- maintaining the position of undisputed leader on a dynamic world market, whose characteristics are rapidly changing;
  - increasing research-development-innovation activities transferable in practice, especially in the context of global transfer to a knowledge-based economy;
  - intense orientation towards a knowledge-based economy in order to align with the leading states that also represent its main competitors worldwide in the knowledge transfer market (USA and Japan). This goal contributes to facilitating access to one of the few current

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unlimited resources, namely knowledge, capable of generating innovation that inevitably leads to the progress of society as a whole;

- Maintaining existing trade agreements and renegotiating their clauses, where appropriate, in order to facilitate and strengthen the European Union's trade in products with its partners;

- Concluding new trade agreements with interested countries around the world in the context of the accentuation of the phenomenon of globalization which makes its effect felt at the level of all markets and further at the level of trade and even of the world economy;

- Increasing the competitiveness of products obtained within the borders of the European Union by ensuring a high level of quality; products at fair prices capable of being absorbed by the target markets;

- Expanding the borders of the European Union by encouraging new states to develop and be able to join the European construction. The proposed objective is to increase the productive potential of the European Union and at the same time to increase the bargaining power with the states of the world;

- Reactivation of entrepreneurship by stimulating and supporting entrepreneurial initiatives that will lead in the next period to increase the number of companies in production and services, active and market-oriented both within the borders of the European Union but especially outside them;

- Strengthening the Common Agricultural Policy, so that it is able to meet the needs of the citizens of the European Union, and not only, and also amplify its reform process designed to ensure three factors of major importance in terms of agriculture: productivity, competitiveness, sustainability;

- Reorganization of the industrial sector by developing production units with small and medium capacities so that they become competitive both on the European Union and on the world market, allowing the reduction of dependence on large industrial suppliers worldwide (China - except Hong Kong, USA, Japan, Russia);

## **2. Strategic objectives in terms of political and defense relations**

In terms of political and defense relations, the priority objectives are materialized in:

- Avoiding conflicts by promoting diplomacy in economic, social and political relations based on identifying potential problems causing conflict and resolving them before they worsen, both at Member State level and in relation to world countries;

- Streamlining the management of conflicts in order to maintain peace by training and directing the competent bodies and agencies;

- Promoting clear and effective communication that does not allow misinterpretation of messages issued by policy makers and that could harm citizens;

- Avoiding internal conflicts of a civil nature by detaching certain responsibilities and functions from newly created bodies that deal strictly with their fulfillment and that have as finality the facilitation of the relations between the state power and civilians;

- Permanent observation and analysis of the factual situation of the political and military context to identify potential sources of conflict for better prevention and in case of conflicts already erupted to be prepared to respond promptly and effectively to resolve them;

- Development and strengthening of civil and military missions and operations, by training personnel involved in their deployment, so that they will be able to fulfill their purpose of crisis management in a fast time and to avoid their accentuation;

- Creating a database on crime at European level linked to international databases that would allow the competent bodies access to information on criminals and crimes committed by them to reduce the crime rate;



- Keeping the European citizen away from crisis areas by mobilizing law enforcement and preparing them to evacuate these areas while minimizing loss of life;
- Correlating the policies of the European Union with the policies of other states in the world in order not to jeopardize peace and to harmonize the development of relations of any kind by making decisions that do not adversely affect other states.
- Ensuring the continuity of policies in order to deepen the reform processes, by elaborating them on long levels of time, able to avoid crises and conflicts worldwide.

### **3. Strategic objectives in social terms**

At the social level, the priority objectives are materialized in:

- Ensuring a fair standard of living for the citizens of the European Union, without, however, adversely affecting that of the citizens outside it. This objective can be materialized by mentioning and creating new paid jobs corresponding to the efforts able to support the needs of each individual;
- Elaboration of a legislative framework regarding the inclusion in activities of any kind of persons who are part of disadvantaged categories (people with special needs, people with disabilities, women, minorities, etc.) or who come from countries with low level of development;
- Increasing the share of energy from alternative sources, designed to protect the environment, in total energy used in the European Union by promoting accessibility to these sources, reducing the costs they involve through measures to support this sector;
- Sustainable development of society by intensifying the attention paid to the rational use of existing resources and by using alternative, environmentally friendly methods to ensure the continuity and prosperity of today's society without jeopardizing the activities of any kind of future generations;
- Strengthen the capacity to mobilize in terms of humanitarian support by responding in a timely manner to the emerging needs of the population of very underdeveloped countries in the world or in those countries where the danger of natural disasters is increased.
- Increasing the level of education and training by creating strong partnerships between schools / universities / research centers / training centers in the European Union and the states of the world and by facilitating students' access to them by formulating measures that support smart growth based on the triangle knowledge: research, development, innovation;
- Maintaining the status of a good neighbor of the European Union in relation to the states in its immediate vicinity of its borders (and not only) by developing diplomatic relations of cooperation and mutual aid, at all levels and oriented in all directions;
- Increasing the degree of representation and involvement of the European Union in internationally established organizations in the field of health in order to contribute to the eradication of diseases with a high risk of spreading and creating pandemics;
- Facilitating people's access to information regarding the movement from / to the European Union to support tourism and travel in the interest of work, by clearly highlighting the conditions and procedure related to these mobilities / trips / secondments;
- Intensify efforts to protect human rights, with special reference to children's rights, by complying with the provisions of the current legislative framework on fundamental rights and warning where appropriate about violations.

All the above-mentioned objectives, both social, economic, political and defense, have as their core the status of the European citizen in relation to the world's population. The purpose of these objectives is to strengthen the position of the citizens of the European Union globally by ensuring a fair standard of living, well-being and security.

These objectives also highlight the role and place of the European Union as an important player in the sphere of its international relations with the states of the world and its intention to consolidate and even improve its position.

#### **4. Options regarding better international relations of the European Union**

These options symbolize strategic methods of action for reaching imposed objectives through this strategy. These options propose assuring with resources: financial, human, information and material.

##### **4.1. Achieving with financial resources**

Achieving the objectives of the proposed strategy requires financial funds, hereinafter referred to as financial resources. In the context of the discussion regarding the financial resources necessary to achieve the objectives proposed by the strategy for consolidating the international relations of the European Union, the way of establishing the budget of the European Union is considered. The strategy can be supported from this budget. When forming the financial resources necessary for the presence of this strategy, a part of the EU budget is allocated, which is formed from the contributions that the member states have to it, in different proportions, according to the GDP.

However, the financial efforts are directly reflected in the results obtained by their recipients, who through them meet their own objectives that will ensure economic growth ultimately reflected on the consolidated budget of the European Union and implicitly on the degree of economic development.

These financial resources can be covered by the Member States of the European Union because they have the capacity to finance such a strategy that generates direct beneficial effects on the social, economic and political and defense context.

It should be noted that the implementation of this strategy cannot materialize without these financial resources and other sources of their origin except for the contribution of the Member States to the EU budget;

Also, the risks, foreseen or unforeseen, generated by any attempt to modify or stabilize the European Union in relation to the states of the world due to the complexity of these steps and the considerable efforts involved, must not be omitted. The coverage of these risks is exclusively related to the correct and at the same time coherent management of these funds whose destination must be permanently clear and transparent.

Failure to take these risks into account can influence and even prevent the application of this strategy or the achievement of some of the objectives listed, which leads to negative effects whose consequences, in some cases can be very serious, on the development of harmonious international relations.

##### **4.2. Achieving with material resources**

Any strategy chosen will involve the need for material resources. The importance of providing these resources derives from the way they are procured and made available, as well as the way they are used. They represent both a framework for carrying out activities and a means of achieving the objectives highlighted by this strategy.

The options regarding the provision of material resources necessary to achieve the objectives of the strategy refer to the possibilities of procuring them. Procurement can be carried out according to the legal framework in force regarding public procurement. It is possible to proceed to free tenders, the adjudication criterion, the tender criterion, the price-quality criterion, the competitive dialogue for the acquisition of the best materials at the best prices. The most appropriate option that represents the optimal solution to obtain a good quality-price ratio is that of free negotiation, the other options favoring corruption in some cases or discounting quality.

The evaluation of these varieties reflects their importance in the possibilities of reducing the costs that the procurement of materials and their provision entails.

In providing material resources, flexibility and adaptability are also required. The provision of material resources allows the improvement of the time for fulfilling the objectives, and in the field of international relations time has an extremely great importance, in this way increasing the European Union's response capacity to world requirements.

The EU 's opportunities for diversification are another option of greater importance, as it allows the activities carried out to allow its range of activities to be broadened by sharing the same resources and skills.

Options regarding material resources are multiple due to the various effects they generate on the one hand and the different and multitude of sources from which they can be procured. An impediment in this respect can be found in the rigorous legislation on public procurement that the European Union promotes and applies and which leads to delays and further to the difficulty of fulfilling the objectives of the strategy.

### **4.3. Achieving with human resources**

In order to achieve the strategic objectives proposed by this strategy to strengthen the international relations of the European Union, the provision of human resources is highlighted as an option. Human resources are the most important resource as they depend on the development of the entire chain of activities and events related to the achievement of objectives. The importance of human resources in achieving the objectives is closely related to its psychological nature and its ability to act directly on the course of applying a strategy. This resource is able to either reduce the time required to achieve the objectives or increase it through the decisions and level of understanding held by each individual participating in the implementation of the strategy.

International relations through this essential characteristic of being based on the human factor as it involves communication, negotiation, diplomacy, collaboration, coordination, etc. gives human resources a special importance in the application of this strategy and the achievement of objectives.

The European Union can move towards a new system of staff recruitment and selection by establishing new selection criteria. Also, the computerization that facilitates the development of activity through the existence of a database that monitors behavior of the employees, but also the hours worked, the due salaries, the productivity and the quality of work acquires a special importance.

This area has high stressors, so staff must be well trained. There is also a direct dependence between strengthening international relations and the intellectual level at its disposal.

The results of a good selection and recruitment of staff as well as an adequate training of them are manifested directly on the time to achieve the objectives by:

- the ability to identify and avoid or, where appropriate, to correct risks;
- complex investigations to anticipate possible unfavorable situations and avoid them;
- decision and control power.

The provision of human resources through the very contribution it brings to the fulfillment of the objectives and the application of the strategy implies an increased attention, but it also has a high degree of sensitivity due mainly to the multicultural environment in which the staff operates.

#### **4.4. Achieving with information resources**

The importance of achieving with information resources derives from the need to constantly know the state of the world environment: political and defense, social and economic.

Providing with these resources consists in collecting, sorting and interpreting all the information in order to achieve the strategic objectives in the shortest possible time and at the lowest possible cost level.

Whether it is about information from the external / internal environment of the European Union, the geopolitical context, the staff area, their finality is directly reflected in the effectiveness of the proposed strategy.

In a society that wants to be based on knowledge, information becomes essential. Information is the center of the knowledge triangle, along with the idea. By analyzing the angles of the knowledge triangle, the role and place of information can be established as follows: research cannot be carried out with and without information, without research there can be no innovation and therefore no development; if there is information needed for research but the results of this research are not passed on, development and innovation cannot be discussed, and if the information flows to innovation and is not passed on, innovation cannot be put into practice.

Thus, information, through its rapid spread facilitated by the development of high-tech industries, helps to achieve the objectives of the strategy and correct them in real time and also generates positive effects by reducing time and costs and contributing to creating competitive advantage.

The application of the proposed strategy and the achievement of its objectives are strictly dependent and directly related to the possession of information and its use.

#### **5. Establishing the necessary resources to achieve the objectives**

Achieving the objectives proposed by the European Union's strategy for strengthening international relations cannot be done without resources. The necessary resources are those related to: human, material, financial, informational resource. Without these resources the strategy cannot be applied and its objectives cannot be achieved.

The level of resources required is determined on the one hand according to the possibilities of those who contribute to their provision and on the other hand by the European Union's desideratum on the level at which this strategy is applied.

The competitive advantages obtained from the implementation of the strategy are manifested at economic, social and political and defense.

In economic terms, the implementation of the strategy entails a series of competitive advantages. The leading position on the world market (and the global spread) required obtaining products that could be competitive in terms of quality but also in terms of price.

The presence of the strategy aims to obtain a competitive advantage by:

- price;
- the quality of products.

This strategy aims to obtain superior products in terms of quality (which ensures a competitive advantage), and for this purpose are used raw materials and materials, packaging, quality labor. A superior product in terms of quality meets the needs of customers, needs that are constantly changing and growing.

As concerns the competitive advantage offered by the price of the product, it is consolidated in accessibility.

The strategy thus changes the quality in the sense of increasing it and the price in the sense of decreasing, thus obtaining competitive advantages.

Socially, the competitive advantage materializes in focusing on the needs of European citizens and ensuring security, a fair standard of living, favorable jobs and working conditions, opportunities for professional and personal achievement, but without disadvantaging the world's population. Also, another competitive advantage is that of a cleaner and healthier environment through the special attention paid to the protection and conservation of the environment.

In terms of political and defense relations, the European Union's competitive advantage lies in its ability to protect itself and / or defend itself from crises and conflicts. A secure European Union with a low crime rate is also a competitive advantage.

The competitive advantages that the presence of the strategy generates represent strong arguments for maintaining the role of important actor of the European Union in the international relations.

The strategy is a long-term one and is carried out over a period of 10 years in order to achieve the proposed objectives.

Time is of the essence in implementing this strategy as reducing it entails a reduction in costs, but also a faster fulfillment of indicators. Also, the elaboration and permanent monitoring of a time axis with the afferent actions as well as the observance of the established terms mean the success of the present strategy.

### **Conclusions**

The European Union is currently involved in strengthened and stable international relations, which give it an important place and role in the world through economic, social, political and defense guidance. However, these relations must be maintained and, where appropriate, improved. This requires time and resources, but the positivity of the effects generated, fully explains the decision to provide the time and resources needed for the European Union's international relations.

On the other hand, in the social sphere, through its priority of fixing in the center of decisions the European citizen, with his well-being and the increase of his standard of living, implies the development of international relations of cooperation, collaboration, consultation with the states of the world. The EU's power in the economic sphere through its leading position in international trade is also given to it by international relations undertaken by concluding agreements with the states of the world and by establishing the conditions for the harmonious development of trade and commercial transactions.

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# FROM THE GLOBALIZATION TO THE LOCALIZATION: LESSONS AND SOLUTIONS TO THIS PANDEMIC CRISIS

Titus Suci<sup>1</sup>

## Abstract

*The purpose of this study is to compare two different concepts: the globalization and the localization. Globalization means the free circulation of goods, information and technologies. Localization considers that the local plan is the most important, such as: local products and local administration.*

*The Actual Corona Crisis is the case study for better understanding those concepts. This article presents some recent fiscal and monetary policy measures in terms of public spending, taxes, and other financial support both for companies and population in four countries, including Australia, China, Germany and Italy.*

*The risks of actual globalization, means that we have to discuss about a new concept the localization. The definition of Localization is the main contribution of author to the economic literature.*

**Key words:** globalization, localization, crisis, Covid-19, solutions.

**Jel Classification:** B22, F68

## 1. Introduction

We touch a development limit determined by globalisation. This pandemic crisis represents the end of the actual globalization. We have a slowdown for Environment, for Earth, for families, and a decrease of global industries such as: manufacturing made in China, the air and navy transportation, the hospitality industry. Now is time to produce at home, being in harmony with Nature, the Environment, to think ourselves as prosumers. In this respect, the Localisation means that we shall produce in our city, our village, our area, building jobs for our neighbours and citizens.

Firstly, the Localization puts in center the individual as a citizen of citadel, as a creator and a producer. Secondly, the new concept places the individual as a consumer. The concept emphasizes that it is more important to concentrate on the real economy and the interconnected relations of individual as network centre.

The main conclusion is that the economy should be understood from the following holistic approaches: economic, social, cultural, philosophical, political and spiritual. The method of the present work is both the paradox and the case study. The novelty of the paper consists in the development of a new economic doctrine named Localization. This doctrine places the individual in the center as a citizen of the city/village. Thus, the economy is seen in close correlation with social, culture, politics and spirituality. The time has come for an economic system, which focuses on the individual as a citizen of the city/village, seen both as a consumer and as a producer/creator. Education must ensure a balance: to be both a mass financial education and a mass spiritual education.

## 2. The globalization

In our days no one sphere of life can act independent and isolated. All processes and events should be examined and understood in the broad sense of economic, social, political, ecological, technological, legal and demographic context, taking into account their interdependence. Globalization is an approach which expands the economic theory as well as other scientific fields.

Subject of globalizations are: the state, global companies, regional structures, international economic organizations. These are strong influence the market mechanism, the production, the distribution, the competition, the natural environment, the everyday life and

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every aspect of life peoples. When we study the globalization, we have to look her „from the point of view of balance between the results and the impact of long-term increasing”. (Kolodko, p.75)

Countries that do not have strong institutional framework, solid social policies and networks to cope with negative externalities most suffer the negative effects of globalization.

External factors, such as the global trading environment, are crucial in creating greater opportunities or in posing constraints on a country’s economic growth. On the general historical level globalization is effected by several main factors: technical and technological progress, quality of interaction between man/women and nature, culture and communication.

In our days the catalyst factors of globalization are technologies, communication, transportation, financial and internet. The inter-correlations established between states call on the table the main economic actors: the national states, the United Nations, the World Bank, the International Monetary Fund, the World Trade Organization and the transnational companies.

Toffler considers that the tomorrow economy will put the accent on: „hiperagriculture, nanotechnologies, green energy, continuous payments, instantaneous markets”. (Toffler, 13)

The entrepreneurs tend to overestimate the benefits of globalization and underestimate its costs. For this reason Global Acumen is a vital part of any manager’s strategic toolkit. Global Acumen is a „mathematical algorithm that estimates institutional risk spreads between countries in an effective, useful, and flexible way”. (Salomon, 2016)

### **3. Methodology and Method**

The paper is based on both on the paradox method and the case study. We use the paradox in the sense that each school of economic thinking no longer responds to the complexity of the present world. The paradox is an “opinion contrary to the unanimously acknowledged truth”. (Le Petit Larousee, 1995). The paradox seems to contradict, but at the same time it could also be true (Dinu et. al, 2017). Also, the economic paradox breaks down in the economic research the myth of the theory that benefits from generalized applicability.

We use the case study to understand the results of the corona crisis. The case study is „a situation determined by paradox””. (Le Petit Larousee, 1995). This paper studies the global economic impact of COVID-19. The study is based by some recent fiscal and monetary policy measures in terms of public spending, taxes, and other financial support both for companies and population in four countries, including Australia, China, Germany and Italy.

The period of the analysis was May 2020-September 2020. The aim of the research is to clarify the new concept localization as a new way of thinking.

When we study the Covid Crisis, there are four steps:

1. The answer gives by the national and local authorities,
2. The answer gives by medicin and nourses,
3. The answer gives by the researchers,
4. The answer gives by the population.

The medicins are loss or more prepared, but the most importnat is that any pacient give a different answer to the same treatment and to the same illness.

The most important answer come from the authentic reserchers and today we have the cure: the vaccin, but population are afraid because sfe don’t know the answer to that cure.

Generally, the population respect the authorities recommendation, but are some uneducated and the young, that give the illness to appropriate, because they don’t respect the mimimum distance.

A long term strategy includes the „increasing funding for the construction of new hospitals and in the same time, the ability to quickly build temporary hospitals to properly manage the peak of infection”. This would rapidly increase the responsiveness of the National Health System. (Bigiani et al., 2020)

Comparing social distance, hygiene, sharing personal, unnecessary touching things, improper food habits, daily fresh food items and immunity, Singh and Avikal has been seen that „unnecessary travel has the highest impact and the most important factor in spreading virus. Touching own body parts and hand shake are the next important issues in spreading the same”. (Singh and Avikal, 2020)

According to Chase the concept of rapid demand response (RDR) forecasting is based on „updating demand forecasts to reflect real and rapid changes in demand, both during and between planning cycles. It can help also the Internet of Things (IoT), the predictability of the models using MAPE (Mean Absolute Percentage Error) and Demand Planners”. (Chase, 2020)

**Table 1: Fiscal and Monetary Policy Response to Covid Crisis**

Country	Fiscal	Monetary
<b>Australia</b>	Lending facility for SME covered by AUD 9-billion at 25bps	Policy rate cut by 25 bps.
<b>China</b>	( 2.5 percent of GDP) of fiscal measures or financing plans have been announced, of which 1.2 percent of GDP are already being implemented.	The PBC provided monetary policy and acted to safeguard financial market stability. The exchange rate has been allowed to adjust flexibility.
<b>Germany</b>	(4.9 per cent of GDP) which includes: -spending on program of private healthcare equipment, hospital and R&D (vaccine), -expanded access to short-term work ("Kurzarbeit") -50 billion in grants to small business owners and self-employed persons severely affected by the Covid-19	Pandemic Emergency Purchase Program
<b>Italy</b>	(76 percent of GDP) On April 6, the Liquidity Decree for additional state guarantees to 25 per cent of GDP. The guarantee envelope from this and earlier schemes is aimed to unlock close to 50per cent of GDP of liquidity for businesses and households.	Pandemic Emergency Purchase Program

**Source:** Rangan D, Chakraborty L, (2020).COVID-19: Global Diagnosis and Future Policy Perspective, *Prajnan*, Vol. XLIX, No. 1, 2020-21, pp. 9-29.

As we see, the governments make it’s job, helping the companies and the business environment, as the affected population as well. Rangan and Chakraborty consider that according to the last pandemics experiences the „direct public investment in plant expansions should be emphasized and international cooperation” are very important. (Rangan and Chakraborty, 2020)

**Table 2: Other measures related to financial assistance**

Country	Loans, funds and debt	Other financial measures
<b>Australia</b>	Loan repayment deferral for small business for 6 months.	Establishment of Swap Facility with US Federal Reserve of USD 60 million Government allocation of AUD 15 billions to invest in wholesale funding markets
<b>China</b>	Credit extension covered byRMB 350 billion to micro and small enterprises.	Reverse Repos and Medium/term Lending to foster a liquidity injection of RMB 4.6 trillion in the banking system



Country	Loans, funds and debt	Other financial measures
Germany	KfW Quick loan Program: loans for all business at 3% interest for terms of 10 years	Regulatory easing performed by BaFin in reducing countercycle capital buffer for banks to 0%.
Italy	Central Guarantee Fund: Guarantees (90-100%) free of charge to companies suffering loss of income due to Covid.	Postponement of payments for holders of debit accounts.

**Source:** Perasolo L, Schaller D, Stitteneder T and Valeyatheepillay M. (2020). Covid-19: Economic Policy Interventions Across Continents, *CESifo Forum* 3 / 2020 September Volume 21, pp.49-57

The countries like, China and Germany, with a commercial excedent has multiple actions choices in a period of crisis. We have to thinking not when shall stopped the actual pandemic crisis, but when shall starts the next pandemic crisis. For that a good solution is thst each cuntry to invest a every year rate of 0,7% from GDP to the Word Bank for future equipment and vaccin.

#### 4. The localization

Britain's outpouring of the European Union and the election of President Donald Trump marks the end of the process of contemporary globalization, launched by Prime Minister Margaret Thatcher in the UK and President Ronald Reagan in the United States. As the two countries have begun this process, it is natural that they will finish it.

What comes next after globalization? The location follows, meaning the community becomes more important than the overall. In this context, the man/women stands out as a citizen of the fortress, who becomes aware of the birth of the New Consciousness, to which he contributes precisely by becoming a producer, player and member of the local community, not only a consumer. The artistic spirit of the citizen awakens and produces, in addition to economic goods, artistic creations. For these reasons the authors have called this concept Localization.

Rojey considers that we have to built „flexible and rezilient capabilities”. Because the actual organization „based on profit maximization, lead to loss rezilience”. (Rojey, 164-165) Flexibility is corelated with culture, religious, geography, history, in a one word with localization.

Erwin Laszlo believes that 2012 marks the gateway to a *new world*, a new *civilisation*, based on a new way of thinking and a more evolved consciousness because the current distribution of wealth, the global financial system and the current social system changed (Laszlo, 2008, pp. 139-140)

The New Consciousness takes into account the other, the neighbor and does not focus on pursuing the own interest at any cost. Mankind gradually awakens from the sleep of reason, selfishness and greed, and discovers spirituality, co-operation, and altruism. These values constitute the cornerstone of Localization.

D Korten in „From Ghost Rich to Real Rich” makes a real action plan for a new economy: „restoring the sovereignty of the national economy; restructuring financial services to serve the Main Branch.” (Korten, 2009, pp. 128-129)

Korten (2009) developed a true Constitution of Spiritual Localization, in which the primary focus is on the real economy rather than on the symbolic, the individual and not the state. Inthe center of this concept is the communitie.

Chang identifies: „a better balance between finance an real economy”, and production shallbe the key. (Chang, 2011, pp. 254-261). Chang focuses on long-term, honest, cooperative, salient, and real economy.

Aivanhov (1991) discusses about the economy of the future by pointing to the wound and against the current debauchery consumerism. „ ... The leaders of the countries should first learn:

how man is built, as he is bound to the whole Universe, which are the hierarchies in the Universe.” (Aivanhov, 1991, pp.110-113). Here, Aivanhov shows that nature is wiser than politicians. Today's politicians need to know the laws of the spirit, and what they will do will be perfect.

Mascouse considers that „people want companies to believe in something beyond maximizing profits”. (Mascouse, 270) We have to integrate the social costs and the ecological costs. On the local plan is best possible „the general equilibrium between the total demand and the total supply”. (Jesusa, Labrouse, Vitry, 326) A free market economy can lead to inequality. A socialist economy „ensures more equal distribution of wealth but can hamper economic growth and development”. So, a social market economy aims to make markets fair, by creating a middle way. (Kishtainy, 2012, 222)

However, Georgescu-Roegen noticed that the essence of development consists of „the organizational and flexible power to create new processes rather than the power to produce commodities” (Georgescu-Roegen, 1971: 275).

This law in the economic field take into consideration the natural resources that „take place in the production process and we have as a result pollution”. (Gheorghiu, 136) The development of intelligent communication systems can lead to the emergence of a global “brain” capable of dealing with Earth's problems. Tomorrow's company must be able to integrate social, affective and spiritual values, not just economic ones (Rojey, 2011, p. 160-162). Lovelock suggested that „the entire planet makes up a single, self-regulating, living entity, which he called Gaia”. (Hart-Davis, 2014, 315)

Companies can do „high-quality components and design plus added value this with new features, innovative function or add-ons designed to benefit.” (Mascouse, 2014, pp. 320-323). The *dao*, or *Way*, is the fundamental principle of the universe. „The *dao* sustains all things. The *dao* remains unchanged, while all else flows around it. Through meditation and inaction individuals accept the *Way* of the universe.” (Ambalu *et.al*, 2013, p. 66)

E. Laszlo identifies a New Conscience defined by: „crossing from extensive development to intensive development; crossing from external authority to internal authority; crossing from mechanics system to life system. (p 99)

The curator of Neanderthal Museum in Germany, when asked what factors are responsible for human race survival, replied: „intelligence that allowed adaptation and innovation; synergism; spread to avoid critical density; diversity of food sources; the unique culture that defined the motivation, sacrum, socialization; spirituality consisting in collective consciousness”. (Bran, p.194).

Economics can not be a natural science. It is closer to „the quaternary structure of reality and being: the human-cosmic-God and the unfathomed equation of existence”. (Brăilean, pp.83-86) Essential is the human-society equation-Cosmos-God. Basically, the answer to all the problems of mankind is this: the return to the sacrament and the consciousness that we are stardust. The old man-society paradigm has brought us to the crises of our day: that is, a sum of economic, spiritual, ecological, social, political, environmental crises.

## 5. Conclusions

The solutions to the next crisis are on the hands of researchers, medicines, authorities and entrepreneurs. Of course, are important also, the medical infrastructure: new hospitals, the research institutes, labs, the academic personnel.

The people must be conscient that the cure are in their hand doing: sport, prevention, minimum of medical education, positive thinking, healthy nutrition, fresh air, walking in nature.

This paper demonstrate that among the principal actors-the state and the market, we have a new actor: the network. Also, the two opposite concepts – the globalization and the localization can be understand in correlation with the network. In this situation the network is the central element of the today and tomorrow economy.

Men/women can leave both in globalization and in localization. The dynamic men, which has a lot of connections with partners from abroad, live in globalization, but the static men, the spiritual men, live in localization, because the last is get on together with God, Cosmos, Environment, people, animals.

The recent covid crisis requires rethinking the economy as a materialistic discipline and addressing the economic realities of holistic overview: spiritual-political-social-cultural-economic. The political economy itself is in crisis, and this is due to its very basic foundation. The symbolic economy overinflates the real economy, just as the political economy negatively affects the religion. The starts can be give by: the open workhops, the fabrication labs, the Fab Cities, the do-it-together and 3D printer, those makink possible the local production.

It is the time for a modern human being to no longer worship to the money, the greed, and the chaos. Human beings should turn to themselves, to the divine self, to the search for the meaning of life. Life is here and now and is waiting to discover it, giving up the illusions and discovering what is eternal in men. The time has come for a new economic system which places the individual as a citizen of the city, viewed both as a consumer and as a producer/creator. The organization for today and tommorow is the horizontal network. That is why the authors introduced the term Localization.

Education must ensure a balance: to be both a mass financial education and a mass spiritual education. In conclusion, Localization concept offers a new economic direction, which is focused more on the individual, and his (spiritual) needs, the economy will provide significant growth that will be proven through macro and micro economic indicators.

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# THE WORLD OF TRANSNATIONAL CORPORATIONS IN THE COVID 19 PANDEMIC

Alina,Voiculesţ<sup>1</sup>

## **Abstract:**

*We are aware by now that, when talking about transnational corporations, we refer to global economic agents, to giant companies that are operating on extremely varied international markets. However, they are guided, like any economic agent by the hedonistic principle. Companies of the type have come to have such an expansion that they have, in a sense, lost their national character. The world of transnationals is extremely varied, although, in the current context, in which the world economy suffers from the ongoing pandemic, all large companies are forced to rethink their investment policies, to be able to adapt to the new global challenges. We can say with certainty that, the year 2020 will mean for many transnational corporations, a year of balance sheet and a year of fundamental change in the means of approaching to various international markets. It is clear that pharmaceutical or IT companies will have a different take compared to those in the food industry, for example. It is certain that, companies that will be more create, innovative, competitive, those that will adapt to the new changes, will be able to succeed into a new world of globalization.*

**Key words:** *transnational corporation, pandemic, foreign assets, globalization*

**JEL Classification:** *F23, F60*

## **1. Introduction**

Transnational corporations do not resemble individual capitalist firms in the nineteenth century or even trusts and other international monopolistic associations formed on the threshold of the nineteenth and twentieth centuries, which developed until after the second world war as dominant forms. Transnationals are economic systems developed with their own geography. They include parent companies and subsidiaries in the country of origin and in other countries. These systems generate not only goods and services, but also money capital for new technologies, investments, innovation and training skills, self-organization and management practices. Such a system is not closed, but is in interaction and exchange relations with the systems of other transnational companies. The current global situation, generated by the COVID - 19 pandemic, contributes to a totally different approach to investment markets by these giant companies.

## **2. Recent developments in investment flows**

Foreign direct investment represent a barometer of the health of transnational corporations and their ability to generate global growth, according to the World Economic Forum. Transnational corporations have proven in recent decades to be the main carriers of cross-border capital, the formation and modification of different types of capital flows.

In recent years, foreign direct investment has been one of the most important features of the world economy and globalization. These involve the creation of new enterprises abroad or the acquisition of significant shares in foreign companies. The increase in foreign investment over the past decades is due to increased liberalization, caused by reduced barriers to trade and investment.

Foreign direct investment is defined according to the UNCTAD / 2003 Report as an investment that involves a long-term link, reflecting the interest and lasting control of a unit resident in one economy over an economic unit resident in another economy. Foreign direct investment assumes that the investing company exerts an important influence on the management of the foreign enterprise. The evolution of direct investment flows is determined by the following "concrete objectives":

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➤ *for FDI supplier countries:*

- supply of raw materials and energy resources from host countries;
- the use of production factors available in the receiving states;
- the possibility to sell the products on the markets of the host countries.

➤ *for FDI recipient countries:*

- obtaining top technologies;
- creating new job opportunities;
- development of new branches;
- efficient management;
- refurbishment with effects on the modernization of production and on the generation of technical progress.

The evolution of the flows of foreign direct investments formed according to the presented objectives reflects the expansion of the activities of the transnational companies.

The global economic crisis of 2009 and rising investment uncertainty have led to a steady decline in global direct foreign investment in the immediate future.

In 2019, global FDI flows increased modestly to \$ 1.54 trillion, following significant declines in 2017 and 2018. According to UNCTAD, FDI flows to developed economies increased by 5% to \$ 800 billion in 2019, while flows to developing countries fell 2% from \$ 699 billion in 2018 to \$ 685 billion in 2019. Global foreign direct investment flows will be under severe pressure this year as a result of the COVID-19 pandemic. These flows are expected to fall well below the threshold reached during the global financial crisis and offset the already lacking growth in international investment over the last decade. Flows to developing countries will be particularly affected, as export-oriented and commodity-related investments are among the worst affected. The crisis generated by the coronavirus pandemic, which is felt in most sectors of activity, will also affect the segment of foreign direct investment.

UNCTAD predicts that the economic uncertainty created by the global pandemic of COVID-19 will force multinational companies to restrict their capital expenditures, directly hitting FDI flows. As these companies have declining profits, they will have fewer resources to reinvest.

But COVID-19 is not the only cause of declining FDI flows. The new industrial revolution, the change of policy towards more economic nationalism and sustainability trends, will have far-reaching consequences for the configuration of international production by 2030.

Global foreign direct investment flows decreased by 49% in the first half of 2020 compared to 2019, according to UNCTAD.

The largest decreases were registered in developed countries (figure no.1), affecting all the main forms of foreign direct investment.

The COVID-19 crisis will cause a dramatic decline in foreign direct investment in 2020 and 2021. Global FDI flows are projected to decline by up to 40% in 2020, from their 2019 value of \$ 1.54 trillion. This would bring FDI below \$ 1 trillion for the first time since 2005. FDI is also expected to fall by another 5-10% in 2021.

The top 5,000 transnationals, which together account for a substantial proportion of global FDI, have reduced their profit estimates for 2020 by an average of 30%. The areas most affected by the COVID - 19 crisis are car production, energy industry, air transport. Imposing restrictions on international travel has caused airlines to record a rapid decline in revenue, and industry-wide gains have been drastically revised in the negative. Automakers are implementing emergency procedures, so Ford, Fiat Chrysler, Toyota and General Motors are targeting capital markets in a bid to secure \$ 55 billion in credit lines.

However, the global pharmaceutical industry is expected to grow positively, as leading pharmaceutical companies are at the forefront of the fight against COVID-19.

### FDI inflows by region - the first 6 months of 2020 compared to the 6-month average of 2019

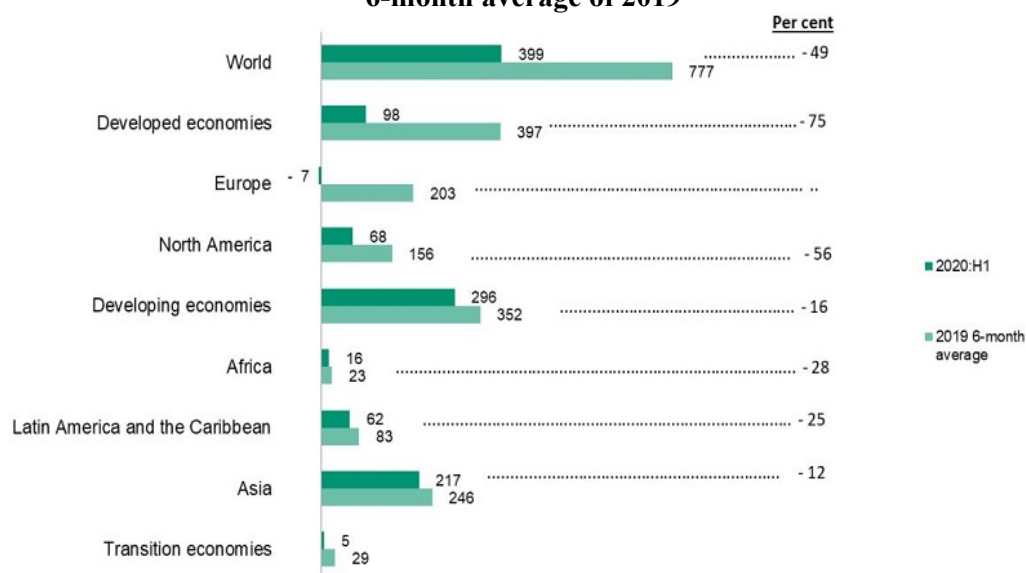


Figure no. 1

Source: <https://unctad.org/news/global-foreign-direct-investment-falls-49-first-half-2020> [accessed on 25 November 2020]

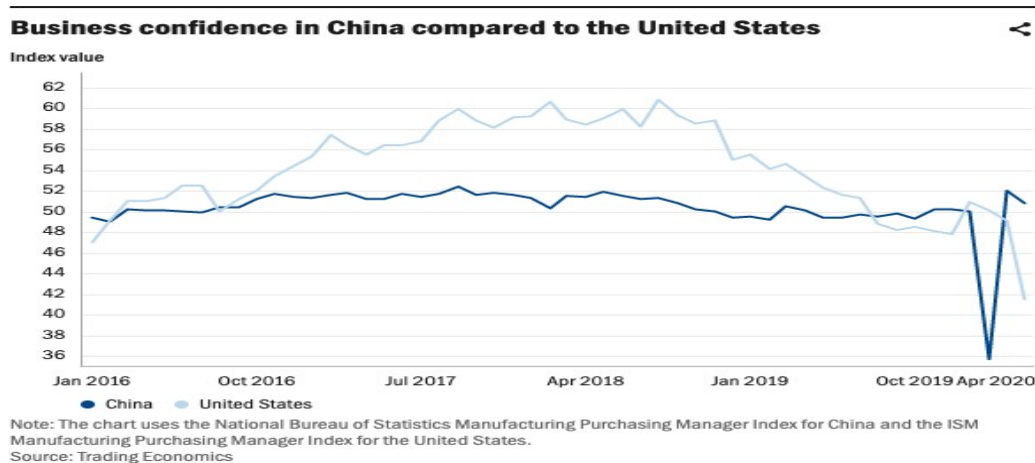
For example, Pfizer, with annual revenues of \$ 51.75 billion, saw slight revenue declines in the first quarter of 2020 due to restrictions and declining patient visits. The company has increased investment in research and development by \$ 500 million for the discovery of anti-infective products and a COVID-19 vaccine and it is estimated that the company's profit will increase in the next period.

The COVID-19 crisis has had immediate effects on FDI and will have long-term consequences. Sudden and simultaneous supply disruption, as well as demand shocks, combined with political reactions to the crisis around the world, have triggered a number of effects on FDI.

Against this background, in 2020, FDI flows to Europe are expected to decrease by 30% - 45%, significantly more than those in North America and other developed countries, as the region has entered the crisis on a relatively more fragile basis.

Flows to developing Asia will be severely affected due to their vulnerability, although Southeast Asia, mainly China, will be less affected. For example, in 2019, China was one of the countries that attracted more direct investment (\$ 141 billion) than in 2018 (\$ 138 billion).

For example, according to the World Economic Forum, comparing recent data on transnational confidence in China and the United States - two countries that have a significant impact on global investment flows - could give us a suggestion about the future of global investment flows. From the chart below (figure no. 2), we see that China is following a different trend from the United States: the confidence of Chinese wine companies is improving to pre-pandemic levels.



**Figure no. 2**

Source: <https://www.weforum.org/agenda/2020/06/coronavirus-covid19-economics-fdi-investment-united-nations/> [accessed on 25 November 2020]

What does this mean? Well, in practice, China resumes production earlier than other countries, while business confidence in most other countries shows similar trends to the United States. Monthly production data from China confirm this trend. This situation could indicate that Chinese companies are using this crisis as an opportunity to further expand their global influence.

According to the latest UNCTAD data, in the first nine months of this year, FDI in China rose by 2.5%. Most foreign investment in the Asian state has been in the field of e-commerce, specialized technology services and research and development.

FDI, which includes cross-border mergers and acquisitions such as loans and investments within a company, is an indicator of globalization and a possible signal of the future growth of supply chains at the company level.

### 3. Conclusions

Making predictions about the economic consequences of COVID-19 is an ungrateful task. It is not known how soon economic activities will resume, the extent of the damage caused by declining global supply and demand cannot yet be determined, and the nature of potential future fiscal incentive packages cannot be predicted.

COVID-19 dismantles economic globalization. Both supply and demand face simultaneous shocks due to isolation measures, global production networks are disrupted on a scale that has never been recorded before. The pandemic has revealed how countries are now rethinking their international trade strategies to reduce their vulnerability to global economic shocks.

Certainly, the year 2021 will mean a change of perspective in approaching the international activity of these transnational companies. However, their world continues to be just as competitive. The COVID-19 pandemic causes the process of globalization to be rethought and international interdependencies to become increasingly insecure, even if companies of this type have come to have such an expansion that they have lost in a sense, national character.

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## SECTION III EUROPEAN LAW AND PUBLIC POLICIES

### THE PRINCIPLE NON REFORMATIO IN PEJUS IN ROMANIAN LEGISLATION

Grădinaru Nicolae<sup>1</sup>

**Abstract**

*The principle non reformatio in peius (non-reformation for the worse, ie no one can worsen the situation through their own appeal) must be respected both when judging the appeal and at the retrial of the case, following the annulment or quashing of the decision, because retrial is the consequence exercise of the appeal, and the party must have the certainty that it will not worsen its situation, not only in the appeal it has promoted, but also in the procedural stages subsequent to the admission of this appeal.*

*The principle non reformatio in pejus is regulated in this way, according to art.481 of the Code of Civil Procedure, the appellant cannot be created in his own appeal a worse situation than the one from the contested decision, unless he expressly consents to this or in the specific cases provided by law.*

**Keywords:** *appeal, appeal, recourse, express, res judicata authority.*

**Jel clasification:** K0 K1

The principle non reformatio in pejus (non-reformation for the worse, ie no one can worsen the situation through their own appeal) is a Latin expression that expresses the principle of procedure according to which the use of an appeal can not aggravate the situation of the one who exercises it. This rule is justified by the fact that carrying out judicial review of judgments, instituted as a guarantee of compliance with the law, would be restricted if the parties face the risk of creating a more difficult situation by exercising a remedy.

This is a principle of procedural law, according to which the court cannot create a more difficult situation for the party who declared an appeal.

The principle non reformatio in peius must be observed both in the appeal and in the retrial of the case, following the annulment or quashing of the judgment, because the retrial of the case is the consequence of the appeal, and the party must be sure that it will not worsen its situation, not only in the appeal it has promoted, but also in the procedural stages subsequent to the admission of this appeal<sup>2</sup>.

Although in civil procedural matters, unlike criminal procedural law, this principle did not have an express regulation - until the adoption of GEO no. 138/2000, it was unanimously recognized in the doctrine and in the judicial practice, the necessity of applying this principle, for reasons of equity and legal logic also in this field.

The application of the principle non reformatio in peius, according to the old Code of Civil Procedure, could not be opposed by absolute exceptions, the court not being able to invoke ex officio or admit the absolute exceptions invoked by the respondent, if their admission would worsen the situation the party who brought the appeal. Only the exceptions of absolute incompetence, incompatibility or nullity of the decision regarding aspects related to the development in legal conditions of the litigation could be opposed to the principle regulated by art. 296, the second sentence of the Code of Civil Procedure, "the appellant cannot, however, create in his own appeal a situation worse than that of the contested decision".

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<sup>2</sup> Decision no. 683 of October 4, 2004 - Civil Section IV. Court of Appeal Bucharest.

Underlying this principle are two other fundamental principles of the process, namely: the principle of ensuring for the party, the right to defense and the principle of the role of the judge in finding the objective truth, the application of which guarantees the proper conduct of the judicial process, ensuring the protection of rights and interests. the parties, the validity and legality of the solution contained in the civil court decision<sup>1</sup>.

In the absence of this principle, the parties, knowing the possibility of worsening their situation, could be determined to refrain from appealing the decision, in order not to take a risk, even if the decision would be illegal and unfounded. The role of this principle is not only to protect the particular interest of the person who declared the appeal, but also to ensure a fair conduct of the civil process, ie the issuance of a legal and sound decision. That principle is now enshrined in express provisions, according to which the use of an appeal may not create, for the party who has exercised it, a more difficult situation than that in the judgment under appeal. The judgment under appeal, if any, may be reformed only in favor (in melius) and not against (in peius) of that party. The new Code of Civil Procedure contains a different regulation of the principle non reformatio in pejus (of the non-aggravation of the situation of the party in its own appeal). The principle non reformatio in pejus is thus regulated, according to art. 481 of the Code of Civil Procedure, the appellant cannot be created in his own appeal a worse situation than that of the contested decision, unless he expressly consents to this or in the specific cases provided by law<sup>2</sup>.

The principle non reformatio in pejus has two limitations:

a) when the appellant expressly consents to the worsening of his situation in that appeal which he has used. The consent can be expressed by the appellant by means of the appeal request or by express request addressed to the court and its recording in the conclusion of the hearing. The judge must build on the manifestation of the appellant's will in this regard, pursuant to art. 22 paragraph 2 of the Code of Civil Procedure, on the role of the judge in finding out the truth, because the law requires the express consent of the appellant and not be deduced from documents and facts that would imply that agreement.

b) in certain cases provided by law. Such a situation is the exception of the res judicata authority provided by art. 432 of the Code of Civil Procedure, and as an effect of admitting the exception, the party may create in its own appeal a worse situation than that of the contested decision, without the express consent of the appellant may be required, but this rule operates against his will.

The exception of the res judicata authority is a substantive, absolute, public order exception, the exception can be invoked by the court or by the parties in any state of the process, even before the appellate court. The court has the obligation to respect and invoke the authority of res judicata, regardless of the conduct of the parties.

The exception is intended to ensure the stability of legal relations and the efficiency of judicial activity.

The effect of admitting the exception is that the parties may create in their own appeal a worse situation than the one in the contested judgment.

This effect is justified by the fact that the party intended to override the res judicata authority and initiated a new trial on a case that was definitively resolved by a previous court.

The exception of the res judicata authority is one of public order and requires the observance of a court decision and the maintenance of public order.

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1 Civil decision no. 640/2009 of the Bucharest Court of Appeal, Civil Section III and for cases with minors and family.

2 Gabriel Boroï, Octavia Spineanu-Matei, Andreia Constanda, Carmen Negri lă, Veronica Dănăilă, Delia Narcisa Theohari, Gabriela Răducan, Dumitru Marcel Gavriș, Flavius George Păncescu, Marius Eftimie - The new code of civil procedure. Comment on articles. Ed.Hamangiu. București.2013. p.918.

The Code of Civil Procedure provides in art. 431 paragraph 1 that no one may be sued twice in the same capacity, on the basis of the same cases and for the same object.

Either party may object to a previous judgment in another dispute, if it is related to the settlement of the latter.

The *res judicata* authority concerns the device, as well as the considerations on which it is based, including those by which a litigious issue has been resolved (art. 430 para. 2 of the Code of Civil Procedure).

The exception of the *res judicata* authority can be invoked:

- in the reasoned appeal, when the exception has not been resolved by the first instance and can be invoked both by the respondent or *ex officio* by the court, the appellant having no interest in invoking it so as not to aggravate his situation in his own appeal .

If the exception has been debated in the court of first instance, the parties may invoke it in the appeal but not as a reason of public order, nor can the court invoke it *ex officio* but may re-evaluate it within the limits of the return of the appeal. According to art.477 paragraph 1 of the Code of Civil Procedure, the appellate court will proceed to the retrial of the merits within the limits established expressly or implicitly by the appellant, as well as regarding the solutions that are dependent on the part of the decision that was appealed.

The High Court of Cassation and Justice ruled that the reassessment of some findings and assessments made by the court of first instance on the evidence of the case is allowed in resolving the appeal only to the extent that the defendant, through the grounds of appeal, made criticisms of these findings. given by the first instance. In addition, even if both parties brought an appeal, the solution adopted was not permitted in resolving the applicant's appeal, as it is contrary to the principle of *non reformatio in peius*, (the appellant cannot be challenged in his own appeal than in the judgment under appeal). The High Court also emphasized that the provisions of C. proc. civ., allow the court to invoke *ex officio* reasons of public order, but in this situation, the appellate court, in order to respect the principle of adversariality and the right of the parties to defense, had the obligation to debate the parties' reason for adopting the solution, or, In the case brought before the court, the court did not exercise its active role in that sense<sup>1</sup>.

- in the unmotivated appeal, the court will rule, on the merits, only on the basis of those invoked at the first instance, so that the appellate court will not invoke the exception *ex officio* and will not reassess the exception of the *res judicata* authority debated by the court of first instance. will rule on the merits only on the basis of those invoked at first instance (art. 476 paragraph 1 of the Code of Civil Procedure). If the exception was not invoked in the first instance, the appellate court may invoke the exception *ex officio*, according to art. 479 paragraph 1 of the Code of Civil Procedure, the reasons of public order may also be invoked *ex officio*. When the court admits the appeal, retaining the grounded nature of the exception of the authority of the *res judicata*, it will annul the appealed decision and will reject the request as inadmissible. Likewise, according to the provisions of art. 502 of the Code of Civil Procedure, at the trial of the appeal, as well as at the retrial of the process after the cassation of the decision by the court of appeal, the appellant cannot be created in his own appeal a situation worse than that of the contested decision, unless he expressly consents to it or in the specific cases provided by law. The violation of the *res judicata* authority represents a reason for illegality for which the civil appeal can be promoted according to art. 488 paragraph 1 point 7 regarding the grounds for cassation, from the Code of Civil Procedure.

The High Court of Cassation and Justice ruled that, if the request for dissolution of the company has as legal basis the provisions of art. 237 of Law 31/1990, the law establishes the way of appeal, and in case the dissolution cases provided by art. 227 of Law 31/1990, the

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<sup>1</sup> Decision no. 1265/2012 High Court of Cassation and Justice. Civil Section I.

special law does not provide the appeal, so that the common law in the matter is applied, the appeal being the appeal. In this case, by the request for summons, the plaintiffs invoked as reasons for the dissolution of the company, both the provisions of art. 227, as well as the provisions of art. 237 of Law no. 31/1990. The High Court has ruled that, since the appeal is unique, considering the more favorable nature of the provisions of common law, it is correct to apply these provisions and the cases of dissolution provided by art. 237 of Law 31/1990. In this way, the principle non reformatio in pejus is not violated, which enshrines the guarantee for the person who formulates the appeal not to create a more difficult situation in his own appeal.

From the analysis of the texts it results that the appellant or the appellant cannot create in his own appeal a situation worse than that of the contested decision. The party challenging a decision must be assured that his action will not result in a worsening of his situation not only in the trial of that appeal, but also in the procedural steps subsequent to the admission of the appeal, which are nothing but the effect of the initiative on which played a part in exercising its right of appeal.

The principle of non reformatio in pejus is limited only in the use of its own remedy. If the same appeal is used by another party, with contrary interests, or by the prosecutor in favor of another party, the outcome of the trial may be unfavorable to the first party, by admitting the appeal of his opponent.

In criminal proceedings, the appellate court, resolving the case, cannot create a more difficult situation for the person who declared the appeal.

The principle of non-aggravation of the situation in one's own appeal applies both to the judgment of the appeal and to the trial on the merits after the quashing.

It also applies in the case of an appeal by the prosecutor in favor of a party. Therefore, the court admitting such an appeal, will not be able to quash the decision against that party. This principle also applies to the appeal.

The principle non reformatio in pejus is expressly regulated in the Code of Criminal Procedure, which is why it has been extensively examined in the doctrine of criminal procedural law. Thus, according to art. 418 of the Code of Criminal Procedure, the appellate court, resolving the case, cannot create a more difficult situation for the one who declared the appeal. Also, in the appeal declared by the prosecutor in favor of a party, the appellate court cannot aggravate its situation.

The appellate court examines the case by extension and with respect to the parties who have not filed an appeal or to whom it does not refer, and may decide on them without being able to create a more difficult situation for them.

According to the provisions of art. 444 of the Code of Criminal Procedure, the court, resolving the case, cannot create a more difficult situation for the one who declared the appeal in cassation.

In the appeal in cassation declared by the prosecutor in favor of a party, the court of appeal in cassation cannot aggravate its situation.

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<sup>1</sup> Decision no. 2581 of June 27, 2013 pronounced on appeal by the Second Civil Section of the High Court of Cassation and Justice having as object the dissolution of the company.

# OWNER'S SHARES

Grădinaru Nicolae<sup>1</sup>

## Abstract

*Possession action is that action by which the person who has owned a property for at least one year can request the court to prevent or remove any disturbance of his possession or, as the case may be, to return the property. The holder is also entitled to claim compensation for the damage caused.*

**Keywords:** *possessory action, grievance, reintegration, violence.*

**JEL Classification:** K0 K1

According to art.1003 of the Code of Civil Procedure, the possessor's requests are admissible only in the cases and conditions provided by the Civil Code. Possession action is that action by which the person who has owned a property for at least one year can request the court to prevent or remove any disturbance of his possession or, as the case may be, to return the property. The holder is also entitled to claim compensation for the damage caused. Conditions for exercising the possessory action In order to be able to exercise the possessory action, the following conditions must be cumulatively met: - the person has owned the property; - a possession disorder must have occurred; - possession of the good has been exercised for at least 1 year. The possessor is considered the one who owns the good, in fact exercises the prerogatives of the property right over a good, thus behaving like an owner. Persons against whom the actions of the possessor may be brought

The owner's actions can also be brought against the owner.

However, the possessory action cannot be brought against the person against whom there is an obligation to return the property.

The term for exercising the possessory action

In case of disturbance or dispossession, peaceful or violent, the action is introduced within the limitation period of one year from the date of the disturbance or dispossession. Therefore, only within the term of 1 year from the date of the peaceful or violent disturbance or dispossession, the possessory action can be introduced. The introduction of the possessory action after the expiration of the term of 1 year, will lead to its rejection as being prescribed.

If the disturbance or dispossession is violent, the action may be brought by the person exercising a vitiated possession, regardless of the duration of his possession. The vices of possession are: discontinuity, violence and secrecy. Possession is discontinuous as long as the possessor exercises it with abnormal intermittencies in relation to the nature of the good. The discontinuity can be opposed to the possessor by any interested person. Possession is disturbed as long as it is acquired or preserved through acts of violence, physical or moral, that have not been provoked by another person. Possession is clandestine if it is exercised in such a way that it cannot be known. Only the person to whom the possession is disturbed or clandestine can invoke these vices. Defective possession becomes useful as soon as the vice ceases.

Taking measures for the preservation of the owned property

If there are reasonable grounds to believe that the property owned may be destroyed or damaged by something in the possession of another person or as a result of work, such as erecting a building, cutting down trees or digging on adjacent land, the owner may call for the necessary measures to be taken to avoid danger or, if necessary, for the cessation of work. These measures are necessary for the preservation of the substance of the property in his possession.

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Until the application is settled, the holder or, as the case may be, the other person may be obliged to pay a security<sup>1</sup>, left to the discretion of the court, only in the following situations: a) if the court orders, provisionally, the movement of the work or the cessation of the works, the bail is established in the charge of the possessor, so that the damage that would be caused to the defendant by this measure can be repaired; b) if the court approves the maintenance of the work in its current state or the continuation of the works, the bail is established in the charge of the defendant so as to ensure to the possessor the amounts necessary for the restoration of the previous situation. It follows from the provisions set out above that the holder may request only through the court that the necessary measures be taken to avoid the destruction or damage to the property which he possesses. The measures for the preservation of the good are temporary, more precisely until the state of danger on it disappears. According to art.1004 of the Code of Civil Procedure, the possessor's requests are judged urgently and especially. The counterclaim and any other claim for the protection of a right in relation to the property in dispute are inadmissible. The decision given on the request of the possessor is subject only to appeal. The Civil Code establishes two possessory actions: the general possession action also called the complaining action and the special possession action or the reintegration action. Complaint action By the action in complaint, the possessor requests the cessation of any act of disturbance of possession or regaining possession, unless the dispossession was done by violence. Possession disturbances can be, in fact, what consists in committing any material act by which the possession is violated (eg passing on someone else's land without the owner's approval) or law, which consists in any judicial or extrajudicial act by which a person has claims against to the landlord (eg the summons sent to a tenant by a third party requesting that the rent be paid to him and not to the landlord). In order to be able to exercise the general possession action (action in complaint) the following conditions must be fulfilled cumulatively:

- the possession must have lasted at least one year, ie the holder claimed to prove that before the disturbance or dispossession he owned the property for at least one year;
- not more than one year has passed since the disturbance or dispossession;
- the plaintiff's possession to be useful, ie to meet the conditions provided by art. 922 para. 1 Civil Code. Regarding the proof of possession, the rules inscribed in art. 919 para. 1 Civil Code, ie, until proven otherwise, the one who owns the property is presumed possessor.

Reintegration action The reintegration action is used by the possessor when the disturbance or dispossession took place through violence. Violence means any act contrary to order and good relations in society. In the doctrine, the acts of violence that justify this action in reintegration are considered: - the acts of occupying a building without the permission of the owner; - acts of obstruction by which a person prevents the owner from owning the building (eg erecting a wall in the way of the owner); - acts of destruction (eg demolition of a wall, destruction of the crop). For the exercise of this action, only one condition is required, namely not to have passed one year from the disturbance or dispossession. Therefore, only within 1 year from the date of peaceful or violent disturbance or dispossession, the possessory action can be exercised. If the disturbance or dispossession is violent, the action can be introduced by the one who exercises

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<sup>1</sup> art.1057 of the Code of Civil Procedure

When the law provides for the provision of a deposit, the amount owed by the party with this title is established by the court in accordance with the law and is deposited with the State Treasury, CEC Bank - S.A. or to any other credit institution which carries out such operations, on behalf of that party, at the disposal of the court or, as the case may be, of the bailiff.

Unless otherwise provided by law, the security shall not represent more than 20% of the value of the object of the application, and in the case of applications whose object is not assessable in money, it may not exceed the amount of 10,000 lei.

The deposit is usually deposited in cash.

a vitiated possession, regardless of the duration of his possession (art. 951 paragraph 2 of the Civil Code)<sup>1</sup>.

The actions of the possessor are used when a disturbance or dispossession has occurred, and the victim seeks to obtain the cessation of the disturbance or the return of the property. In accordance with the provisions of the Civil Code, the possessor is entitled to claim compensation for the damages caused. Usually the actions of the owner are exercised by the owner of a real estate, but art. 949 paragraph 2 of the Civil Code also regulates the possibility of the precarious holder to file this action. A precarious holder may invoke the effects recognized in possession only in the cases and limits provided by law. At the same time, the legislator regulated the fact that the possessory action cannot be brought against the person against whom there is the obligation to return the good (art. 950 Civil Code). Also, a special legal protection of possession was established according to art. 952 Civil Code, which consists in taking measures for preservation of the owned property. These measures are intended to prevent the occurrence of the disorder<sup>2</sup>.

In order to be able to be promoted and admitted a request based in law on the provisions of art. 952 of the Civil Code, two conditions must be met cumulatively: - there are reasonable grounds for proving the imminent danger of destruction or damage to the property in possession, and - the danger to be generated by the action of a thing in the possession of another person or as a result of some works, such as the erection of a construction, the cutting of some trees or the carrying out of some excavations on the neighboring background. The owner, or as the case may be, the other person may be obliged to pay a bail until the settlement of the request, the bail being at the discretion of the court only in the following situations: - if the court provisionally orders the removal of the work or the cessation of the works, the bail is established in the charge of the possessor, so that the damage that would be caused to the defendant by this measure can be repaired; - if the court approves the maintenance of the work in its current state or the continuation of the works, the bail is established in the charge of the defendant, so as to ensure to the possessor the necessary amounts for restoring the previous situation. The person requesting the taking of such measures will have to prove the possession, without the need to prove a main real right over the endangered property, these measures being made available to the possessor.

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<sup>1</sup> The owner's actions can also be brought against the owner.

However, the possessory action cannot be brought against the person against whom there is an obligation to return the property.

<sup>2</sup> If there are reasonable grounds to believe that the property owned may be destroyed or damaged by something in the possession of another person or as a result of work, such as erecting a building, cutting down trees or digging on adjacent land, the owner may call for the necessary measures to be taken to avoid danger or, if necessary, for the cessation of work.



# COMPETITION POLICY INFLUENCING MACROECONOMIC DEVELOPMENT

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## Abstract

*Measuring the overall economic effects of competition policy is a matter of particular importance. The quantification of the competition policy impact on the economy as a whole bases on macroeconomic models to assess the direct and indirect effect of competition policy on GDP growth and other macroeconomic performances.*

*In addition to calculating consumer benefit, information on the impact of competition policy on macroeconomic variables, such as GDP growth and productivity, is also essential for the debate on competition and liberalization. Although there is a consensus in the literature that rivalry provides welfare gains, it is less clear from an empirical perspective that competition policy favors competitiveness, which in turn contributes to economic growth. The paper presents an analysis of studies on how the application of competition policy influences macroeconomic development.*

**JEL Classification:** L4, L40, K2, K21

**Keywords:** Competition policy, Macroeconomic development, Efficiency of competition policy

## 1. Introduction

In order to analyze the macroeconomic impact of the competition policy, there should be distinguished the difference between the competition policy's impact and competition and identified the main reasons the competition has a positive impact on the economic growth.

The economic theory that explains why competition contributes to productivity and growth is widely known and accepted. However, to ensure fair conditions of competition, public authorities may be required to intervene, which explains why most countries have adopted competition law and set up a competition authority to enforce it. A comprehensive analysis of the impact of competition policy must examine the impact of competition authorities' decisions to combat anti-competitive practices on competition and assess the effects of increased competition on macroeconomic performance.

*Competition policy*, in the narrow sense, is the competition law that covers the prohibition of the cartel, the abuse of a dominant position, and the control of economic concentration [EC, 2015]. In a broader sense, the competition policy promoted by the competition authority seeks to protect competition against anti-competitive practices or any other actions that may affect the free exercise of competition; to control economic concentrations with possible anti-competitive impact; adjusting public policies if they have an anti-competitive impact; and promoting a competitive culture [Dinu, 2017].

## 2. The efficiency and the impact of the competition policy

The effectiveness and impact of competition policy depend on several factors, including the human and budgetary resources available for its implementation, competition laws and institutions, and the quality and number of interventions made by competition authorities.

It is expected that competition policy interventions will have a direct positive effect on conditions of competition, for example by removing a cartel or abuse of a dominant position that has affected competition and led to higher consumer prices. However, other economic

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policies, such as trade liberalization and better regulation, also promote competition. Thus, it is not easy to delimit the impact of competition policy from other policies that affect competition and economic growth.

Moreover, competition policy interventions not only have direct positive effects on competition but also have an indirect benefit through their effects of discouraging anti-competitive conduct. For example, the imposition of heavy fines in cartel cases is expected to discourage other companies from concluding such illegal agreements. Analyzes of the macroeconomic impact of competition policy focus on the direct effects of public interventions and ignore the deterrent effects that are more difficult to measure while ignoring these effects underestimates the total impact of competition policy.

The increase in the level of competition resulting from the application of competition policy affects macroeconomic performance in three ways, allocative, productive, and dynamic efficiency.

First, the competition will lead to an improvement in the allocation efficiency of enterprises through the entry of new firms and the exit of the least efficient firms from the market. An increase in the number of competitors or the threat of entry of new competitors reduces the market power of operators and leads them to set prices closer to marginal costs. As a result, growth values tend to decline as the allocation of both inputs (labor and capital) and the output becomes more efficient, i.e. limited resources are allocated to the production of goods and services that best meet the consumer needs. Greater competition can also lead to increased allocated efficiency, as less productive companies leave the market, and when they leave the market, the share is taken over by the most productive companies.

Second, the competition will improve the productive efficiency of enterprises. Productive efficiency is the ability of any firm to allocate internal resources in a way that makes it possible to reduce or eliminate the underutilization of factors of production. Productive efficiency results from the introduction of better production methods within the company, including organizational changes, as managers and workers have greater incentives to reduce losses and increase performance. Incentives for improving production efficiency result from the benefits of greater efficiency in terms of market share and profits being higher in competitive markets, where demand elasticity is high, but because the probability of bankruptcy is higher in a more competitive environment.

Third, the competition will increase the dynamic efficiency of businesses, pushing them to innovate. Increased competition can act as a stimulus for businesses to develop product and process innovations and therefore accelerate the development of modern technology. However, the link between competition and innovation is a very complicated one. There are studies that confirm an inverted U-shaped relationship between competition and innovation, thus too little or too much competition reduces innovation [Aghion, 2005]. In addition, the technological gap and the type of industry will influence this relationship: the positive impact of competition on innovation is greater in more technologically developed countries and in industries with less differentiated products.

### **3. Competition policy's impact on the macroeconomics' competition and performance**

It is necessary to distinguish between two categories of studies:

1. Studies analyzing the impact of competition policy on the degree of competition;
2. Studies analyzing the impact of competition policy on economic performance at the national or sectoral level.

The difficulty of researchers is determined by the fact that economic growth at the national or sectoral level is influenced by many factors. It is very difficult to distinguish the effects of competition policy interventions from other pro-competitive state measures.

1. competition policy's impact on the competition

There are several studies analyzing the link between the power of competition policy and the perceived intensity of local competition, measured by the World Economic Forum survey, which concludes that the power of competition policy (perceived by business representatives or measured by the quality of laws and institutions competition) has a positive impact on the perceived intensity of competition. Other variables, such as the size of the economy, its openness, and GDP per capita, have a positive impact on the perception of competition, suggesting that having rich, large, and open markets are as important for competition as the competition laws.

Krakowski's study analyzes the link between the two indicators of the World Economic Forum survey, the one that measures the perceived effectiveness of competition policy and the one that measures the perceived intensity of competition [Krakowski, 2005]. He points out that the perceived intensity of local competition is positively affected by the perceived effectiveness of competition policy. The size of the economy also has a significant impact on the perceived intensity of competition.

Hylton and Deng analyze whether the power of competition laws has an impact on the perceived intensity of competition. The power of competition law is measured by the "Application Index", which reflects the characteristics of competition law. Two other input indicators of the quality of competition regimes are considered: the "age of competition law" as representative of a competitive culture and the budget of the competition authority in relation to GDP. Two variables are used to assess the intensity of competition: the first is the World Economic Forum survey on the perceived intensity of local competition, and the second is the purchasing power exchange rate as evidence of the effect of competition on prices [Hylton, 2007].

Sama's research examines the impact of the power of de jure and de facto competition laws on the perceived intensity of local competition, as measured by the World Economic Forum survey, confirming the result of Hylton and Deng, that the power of institutional features of competition laws (de jure and de facto) has a positive impact on competition [Sama, 2013].

## 2. *Competition policy's impact on the macroeconomics' performance*

Several studies are trying to assess whether countries achieve faster economic growth depending on the existence and application of competition law. A distinction is made between studies that analyze the impact of competition policy on economic growth, productivity and GDP growth (GDP per capita) or other intermediate growth factors, such as investment or foreign direct investment (FDI).

Kee and Hoekman's study analyzes the impact of competition policy on the capitalization of the industry and on the number of companies. For competition law to be a priority, it must make a greater contribution to the development of competition than other policy options [Kee, 2003]. The analysis suggests that the establishment of trade barriers and government regulations that restrict internal competition by preventing companies from entering and leaving will generate a higher rate of return than the adoption of competition law. The results suggest that the direct effect of competition law on the profit margin is not significant, even if the analysis is limited to the sub-sample of more concentrated industries. However, we find that competition laws have an effect on entry by domestic firms, which may indirectly affect the level of competition in the industry. In the short term, with a fixed number of firms in the industry, the effect of the adoption of competition laws on the profit margin is ambiguous. On the one hand, the adoption of competition laws should increase competition between domestic firms and reduce margins, but on the other hand, competition laws can increase profit margins if competition encourages firms to innovate, creating new products priced above marginal costs. In the long term, an increase in competition that reduces barriers to entry should lead to an increase in the number of companies. Empirical

results show that import competition and the number of companies are important determinants of the profit margin.

A similar study was conducted by McCloughan, using the GCR ranking as an indicator of the power of competition policy. Unlike the previous study, McCloughan finds that countries where competition policy is considered more effective are characterized by a lower profit margin [McCloughan, 2007]. Other variables, such as market growth, have a positive effect on the profit margin, which seems irrational, as market growth should stimulate the arrival of new competitors. There is also little evidence to suggest that import penetration is associated with lower profit margins. Moreover, a more disaggregated analysis carried out at the sector level identifies a number of markets in which there is no apparent relationship between the quality of competition policy and the profit margin, such as the chemicals sector and tobacco. This is a counter-intuitive result, as these sectors are highly concentrated and therefore competition policy should have a greater impact on these sectors.

Other studies examine the effect of competition policy on productivity. Borrell and Tolosa rely largely on the subjective indicator of the World Economic Forum survey to assess the perceived impact of the effectiveness of cross-border competition policy on productivity. They believe that the application of competition law has a strong positive impact on Total Factor Productivity (TFP) [Borrel, 2004]. An important contribution of this paper is to show that it is important to consider competition policy as an endogenous policy. Thus, effective enforcement of competition policy can increase productivity, but countries that are more productive are also more likely to enforce competition law. Specifically, the impact of competition on productivity is up to 18%. The paper also shows that countries with an effective antitrust policy open their economies more strongly, while open economies have a less effective moderate antitrust policy.

In the transnational study conducted by Professor Ma Tay-Cheng, a sample of 101 countries is used to analyze the impact of competition policy on productivity growth [Ma Tay-Cheng, 2011]. Unlike the previous study, he concludes that there is no statistically significant impact of the quality of competition law (measured by the Hylton and Deng application index) on productivity growth. However, it finds a positive relationship between the effective application of competition law (measured by a term of interaction between the indicator of the power of competition policy and an index of government efficiency) and the increase in productivity in rich countries. He concludes that the existence of competition laws is a prerequisite for tough competition, but an institutional support framework is essential for effective law enforcement.

The study coordinated by Buccirossi adopted a three-dimensional approach (an industry, a country, and a period) to determine the impact of the power of competition policy (measured by a composite index of its deterrent properties) on competition (measured by profit margins) and TFP [Buccirossi, 2011]. Data from 22 industries in 12 OECD member countries for the period 1995-2005 were used. Empirical results show that competition policy has a significant positive effect on TFP growth. For example, improving competition policy in the UK is responsible for up to 20% of TFP growth in 2002. Disaggregated indices can measure the effects of institutional characteristics (such as independence, quality of law, sanctions), competition law enforcement characteristics (resources CA and the number of cases) and to distinguish the impact of anti-competitive practices. Their conclusion is that institutional characteristics and the limitation of anti-competitive practices seem to have the strongest impact on productivity growth. The study also shows that there are complementarities between competition policy and the quality of the legal system.

In his 2006 paper, Voigt used the indicator he built on the de facto and de jure characteristics of competition law and institutional policy to analyze the effects of competition policy on TFP [Voight, 2006]. As a result, the index measuring the strength of

competition policy is found to have a positive effect on TFP, but this result is not rugged, as the effect disappears when indicators representing the quality of institutions are introduced. In the subsequent study, the focus was on developing countries, and the result was quite similar: the control of standard economic variables as well as institutional variables, the effect of competition policy on TFP is not particularly strong [Voight, 2009].

Another group of studies examines the impact of competition policy on growth or other growth factors, such as investment or foreign direct investment (FDI). Thus, Aiginger finds a very high correlation (0,6) between two composite indicators: a composite indicator of competition power and a composite indicator of macroeconomic performance [Aiginger, 2008]. He also introduces the composite index of the power of competition into an equation linking GDP growth to innovation (R&D ratio) and investment (share of physical investment in GDP) and notes a strong positive effect of his index on macroeconomic performance.

Clougherty uses the annual budget of competition authorities as a measure of a country's commitment to ensuring the implementation of competition policy with sufficient resources and finds a positive relationship between this variable and economic growth. For example, the strongest commitment of the United Kingdom in terms of resources for the implementation of competition policy compared to France should allow the United Kingdom to grow by 0,14 pp higher than in France (all other constants) [Clougherty, 2010].

In his study to measure the impact of competition law, Petersen shows that competition law has a long-term positive effect (after 10 years) on economic development (measured by GDP per capita) and economic growth. Yet he failed to find any significant effect on democracy [Petersen, 2013]. As the effects of competition law take place after 10 years, he concludes that institutions need time to start operating efficiently and have a noticeable effect on the economy.

The research conducted by Gutmann and Voigt (2014) estimates the effects of competition policy on the growth rate of GDP per capita, the growth rate of TFP, investment, and foreign direct investment. The authors confirm previous results that competition policy has no effect on increasing TFP [Gutmann, 2014]. However, the result shows a very substantial effect of the competition policy on investment and GDP growth per capita. They also find that there is no effect on FDI and this result is different from that found by Dalkir, which shows that the attractiveness of a country as measured by FDI inputs is positively influenced by the perceived effectiveness of competition policy [Dalkir, 2015].

## **Conclusion**

In conclusion, most of the studies described show a positive impact of competition policy on economic growth, mainly due to a positive effect on productivity. Other studies show positive effects of competition laws on other intermediate variables, such as the number of enterprises, margins, investments, and foreign direct investment. Therefore, regardless of the object of influence, the impact of competition policy is significant. For example, it is found that an improvement in competition policy can lead to one-fifth of productivity growth in the UK. However, we can consider the results of shared studies, as other studies do not find a significant impact of competition policy on productivity. Therefore, research analyzing the impact of competition policy should be further developed.

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# SOME CONSIDERATIONS ON THE RESPECT OF HUMAN RIGHTS ISSUES DURING THE PANDEMIC TIMES

Raluca - Viorica, Lixandru<sup>1</sup>

## **Abstract**

*The respect of human rights represents an imprecise structure. At European Union level, the concerns related to human rights regulation are quite recent. Human rights, democracy and the rule of law are the essential values of the Council of Europe.*

*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.*

**Key words:** *human rights, European convention, charter, European Union.*

**JEL classification:** *K 38*

Human rights in Europe have become more and more known, also influencing the states beyond the European borders. This process has also been strengthened by the trauma caused by two world wars, determining the need of the emergence of some international bodies and organizations to support the protection of these rights. The emergence of the international documents – starting from the Universal Declaration of Human Rights and the Pacts on human rights – were meant to mark in their provisions the fact that people are equal in rights and that they are born free and equal in dignity and rights regardless of race, language, sex, religion, national or ethnic origin or any other features. The first important step towards what did not bear the name of human rights protection was made at the end of World War I, but the strengthening of this protection was made after the Second World War (Gherghina, 2010).

The emergence of the Council of Europe was a milestone in developing the protection of human rights. Within the Council of Europe the fundamental text is represented by the European Convention on Human Rights and Fundamental Freedoms protection. Romania ratified through Law no.30/1994 Law (Official Gazette of Romania, Part I, no. 135 of May 31, 1994) the Convention for the defense of Human Rights and Fundamental Freedoms and of the additional protocols to this Convention, and through Law no.79/1995 (Official Gazette of Romania, Part I, no. 147 of July 13, 1995) it also ratified Protocol no. 11 at the Convention for the defense of Human Rights and Fundamental Freedoms on restructuring the control mechanism established through Convention.

This is reinforced by a number of additional texts, such as: the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (November 26, 1987) which very well completes article 3 of the European Convention on Human Rights, the Framework-Convention for the national minorities' protection (Convention November 10, 1994), the European Convention on cross border television (Convention April 5, 1989), the European Convention on the child's rights, adopted on January 25, 1986.

The European Social Charter, Signed at Turin on November 18, 1961, entered into force on February 25, 1965, and was amended by several additional protocols, also complements the European Convention on Human Rights, establishing the civil and political rights. The Charter stipulates a number of social rights, such as the right to work, the right to organize unions, the right to collective bargaining which includes the right to strike, and not least the right to social security, the right to social and medical assistance, the rights of the

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migrant workers and of their families to protection and assistance. The original text of the European Social Charter was completed with a revised European Charter, signed at Strasbourg on May 3, 1996 and entered into force on July 1, 1999, which brings together the rights established by the Charter of 1961 and the Protocol of 1988.

The European Union is a community of law having democratic vocation, a fact reflected in the principle according to which the observance of fundamental human rights is one of the essential elements of a state's belonging to the Union ( Renucci, 2009).

The totality of initiatives of the EU bodies on human rights observance were first represented by the Single European Act (1986), in whose preamble references are made to the fundamental rights recognized in the constitutions and laws of the Member States, in the European Convention on Human Rights and the European Social Charter, which thus becomes the first EU treaty in which the principle of respect for human rights is mentioned.

On December 7, 2000, the Nice European Council adopted the EU Charter of Fundamental Rights. Being considered a modern document, the renewal of the fundamental rights protection was launched "around six core values: dignity, liberty, equality, solidarity, citizenship, justice" (Sudre, 2006).

The content of the EU Charter of Fundamental Rights provides a series of rights, such as: the right to life, to human dignity, the right to bodily physical and mental integrity, being mentioned the banning of using the human body as a source of income, as well as of human cloning for reproduction purposes, the banning of torture and inhumane and inhuman treatments, of forced or compulsory labor, the prohibition of human trafficking, the right to liberty and security, etc.

In human rights there was a series of important documents adopted by the Organization for Security and Cooperation in Europe during the Budapest summit in December 1994: the Helsinki Final Act of August 1, 1975, the Vienna Document from 1986, the Charter of Paris for a New Europe of November 21, 1990, the Copenhagen Declaration of 1992, and so forth.

Through the Maastricht Treaty, signed on February 7, 1992 and entered into force on November 1, 1993 and the Amsterdam one, signed on October 2, 1997 and entered into force on May 1, 1999 as well as the Nice Treaty and the Charter of Fundamental Rights, the Union got involved more in the sense of community protection of the human rights.

In the treaty establishing the European Union its preamble reiterates the importance of observing the human rights in the Community judicial order. Thus, article F explains the Union's commitment in this matter and this issue is inserted in the Treaty: "The Union shall observe the human rights as guaranteed by the European Convention of Human Rights and Fundamental Freedoms, signed in Rome on November 4, 1950, and as resulting from the joint constitutional traditions of the Member States, as general principles of Community law." Thus, the privileged position of the European Convention of Human Rights is emphasized, taking into account the constitutional provisions of the Member States. By article J.1 paragraph (2) final line, found in Title V – "Provisions on joint foreign and security policy", it is provided as objective of joint foreign and security policy the development and consolidation of democracy and of the rule of law, as well as the observance of human rights and fundamental freedoms.

The treaty amending the Treaty on the European Union, the treaties establishing the European Communities add a new paragraph to the preamble of the Treaty on the European Union, according to which the party States confirm their attachment to the fundamental social rights as defined in the European Social Charter signed at Turin October 18, 1961, and in the Community Charter of the fundamental social rights of workers from 1989. It also provides the expansion of powers of the European Communities Court of Justice in respect of protecting the fundamental rights and extending that power to the third pillar of the European Union.

The Amsterdam Treaty, reviewing the Treaty establishing the European Union, includes important provisions regarding the protection of human rights. The contents of the treaty establishes a general provision dealing with the non-discrimination based on sex, race or ethnic origin, religion or beliefs, disability, age or sexual orientation.

The Treaty of Nice (February 26, 2001) strengthens the protection of fundamental rights, intensifying the fight against discrimination.

The jurisprudence of the European Communities Court of Justice was an important factor in the development of the Community protection of human rights. The European Union has a lower activity in establishing the human rights and more extensive in defending them, through the work of the European Communities Court of Justice. Although there have been many initiatives, there are not yet law texts to specifically protect the human rights within the EU legal order.

In order to avoid conflicting interpretations and in order to unify the sources of inspiration of the European Communities Court of Justice the idea of drawing up a Charter of Fundamental Rights in the European Union (1999) was reached. The Charter represents a restatement of the general principles of Community law, including both the civil and political rights and the economic and social rights. At the same time, the Charter brings the issues of fundamental rights into the focus of the community's concerns, making them become essential. From an accessory of the construction of the Common Market, the protection of fundamental rights becomes the main interest of the whole legal document prepared under the Community law. This document could be regarded as fundamental European Act, a fact which results from its wording manner, which indicates that in the future the Charter will get such a value.

Although it was mentioned above, it should be stressed that one of the important documents on the protection of human rights in the European area is the European Convention of Human Rights and Fundamental Freedoms, being the first treaty concerning human rights (Gherghina, 2010).

The Convention has a special significance for international law of human rights and for the entire human rights movement, developed after the Second World War (Steiner, Alston, 2000; Leach, 2001; Pettiti, Decaux, Imbert, 1999):

- it was the world's first treaty on human rights;
- it established the first proceedings and international court where complains can be made in the field of human rights (in article 33 of the Convention an interstate case is regulated, and in article 34 the individual claims procedure);
- it is the most developed of all human rights systems;
- jurisprudence is more extensive and richer compared to any other international system.

The legal literature lists three reasons that led to the development of such a European human rights treaty (Keon, 1999):

- it was a regional response to the atrocities committed during the Second World War and the hope that by respecting the human rights, governments will no longer trigger as easily wars against their neighbors;
- both the Council of Europe (founded in 1949) and the European Union (formerly the European Communities) were based on the idea that the best way for Germany to become one of peace forces, along with Great Britain, France and other Western countries, was that of the regional integration and the adherence to a set of common values;
- another reason was to bring together the non-communist European countries in a common framework that is based on the same fundamental values and their consolidation when facing the communist threat.

The European Convention on Human Rights was signed on November 4, 1950 at the Palazzo Barberini in Rome. Then nobody could have predicted how successful would the

Convention be in the next 50 years. Today, the Convention includes more than 40 signatory states and a growing number of citizens resort to the Court; at the same time the importance of the Convention for the national legal order from the States of the High Contracting Parties is growing. Few are those who have foreseen the legal impact the Convention was to have on the traditions of their internal law.

But we also have to say that it was not immediately noticed what would be the legal relevance of the Convention in terms of the future development of the national law from the various countries involved. Over the first 25 years of existence the importance of the Convention was primarily theoretical. As a result of the direct confrontation with the systematic violation, on a large scale, of the most basic human rights by the Nazi regime, the European states were convinced that the effective protection of human rights could not only be entrusted to national authorities. It required the establishment of an international control mechanism. This political conviction strongly facilitated the introduction of a document, revolutionary at the time, a legally binding document concerning the human rights. For the first time in history an international monitoring mechanism was introduced, and the citizens could address complaints to an international tribunal concerning the human rights violations directed against their own states. It was an important step in the evolution of public international law, substantially altering the role assigned to the natural person in the classical international law.

Many states continued to consider the human rights issues as a matter of internal law, being one of the most delicate areas of political strategy. The atrocities committed in the Second World War emphasized the need for an international mechanism such as the European Convention on Human Rights, although the states continued to have concerns about the possible violations of such a treaty on human rights by certain elements even from within their societies. The Strasbourg institutions were aware of this ambivalent attitude, so that they acted with restraint and care in the first years of their existence. The fact that the states became accustomed in time with the existence of an international supervision mechanism (including the individual right of petition) proved to be a reasonable approach. Only when both the necessary confidence in the cautious approach of the Commission and of the Court and the cooperation of the High Contracting Parties were provided, the emphasis moved on ensuring a more effective protection of the complainants.

Just as in the first 25 years of existence the importance of the Convention is primarily theoretical, in the next 25 years it becomes more practical. The Court is becoming increasingly a legislative body with impact on the national policy of law in the Member States. The emphasis of the jurisprudence of the European Court of Human Rights moves towards the idea of offering as much as possible an *effective* protection of the rights protected by the Convention.

The European Court offers a dynamic, teleological and extensive interpretation of the Convention. The legal protection provide by the Court thus attracts more applicants. But, at the same time, we can notice an interesting change in the national mentality. Lawyers have begun to understand the significance of the Convention for their clients, so they began to resort more often to the Convention (justified or not) and the national judges must therefore submit their views on the compatibility of the legal stipulations with the Convention requirements, while the legislative bodies systematically check if the legislative proposals are made “according to Strasbourg.”

### **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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# NEW CHALLENGES OF ADAPTING TO TEACHING ENGLISH IN THE ONLINE ACADEMIC ENVIRONMENT

Georgiana Mîndreci<sup>1</sup>

## Abstract

*March 2019 will definitely be remembered as the trigger of a historic event worldwide. Needless to say that the Romanian society as well had to learn almost overnight how to adapt and face such a dramatic situation in an already weakened and unstable social and political context. The pandemic caused by the COVID-19 virus brought along not only fear for individual health and social security, but also an urgent need to switch to an almost exclusively online environment. The main focus of this paper is to highlight the empirical observations connected to teaching foreign languages in the online Romanian academic environment. These observations are based on personal experience and informal interviews and discussions with students and other teachers, as well as conclusions drawn from listening, watching and attending other online events, webinars and conferences on this topic. The short period of time we have had since the beginning of this regrettable situation has forced teachers worldwide to learn how to adapt, how to face and how to find solutions to the challenges raised by this swift shift to digitalisation and online teaching and learning. The interest, the solutions and the adaptations found so far emphasise the desire to improve and to balance the many concerns and shortcomings connected to this type of teaching and learning process. This, in turn, will lead to new ones in the future and even if, sooner or later, people happily manage to return to the traditional teaching system, many of them will most likely be further considered and integrated in new teaching and learning methods and techniques, as part of a natural technological and scientific process.*

**Keywords:** *Challenges, online teaching, academic environment, digitalization, adaptation.*

**JEL Classification:** *I21, I29.*

Nobody had foreseen such a dramatic change at such short notice. The news of the worldwide spread of the COVID-19 virus had not only taken everybody aback and frozen almost all activities, from the economic to the social ones, but had also greatly challenged the educational system. It was clear from the very beginning that the medical system would be shaken and tested to the extremes, although nobody had all the necessary resources, both human and material, to deal with such a terrifying situation. The educational system had to undergo the same situation, being forced to step into a very blurry scenario - never tried before - that of exclusive online teaching. And this was topped by the social lockdown, fear, insecurity and lack of clear guidelines, since everything had to be adapted and created to suit what was happening and changing every day.

March 2019 will definitely be remembered as the trigger of a historic event worldwide. Needless to say that the Romanian society as well had to learn almost overnight how to adapt and face such a dramatic situation in an already weakened and unstable social and political context. The pandemic caused by the COVID-19 virus brought along not only fear for individual health and social security, but also an urgent need to switch to an almost exclusively online environment. The short period of time we have had since the beginning of this regrettable situation has forced teachers worldwide to learn how to adapt, how to face and how to find solutions to the challenges raised by this swift shift to digitalisation and online teaching and learning.

The first moment of switching to online teaching was during the lockdown started in March 2019 in Romania and it was a very difficult moment since little was known about where to start and how to handle this online teaching and learning. But due to extensive digitalization it was soon possible to create tutorials and virtual meetings with peer teachers, to prepare online platforms and to start learning, step by step, how to use them and the online resources at the fullest. Nevertheless, the biggest issue was to have access to a reliable

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Internet connection and at least “decent” devices or gadgets to allow this type of process. Thus, this would be one of the biggest issues related to online teaching: connectivity, access to gadgets and computer literacy. They are essential for being able to be part of a two-fold process: teaching and learning, but at the same time they can also be quite easily and effectively solved if a financial issue does not add up to the already started list of challenges and difficulties. Even though, solutions can include the use of more reliable gadgets either provided by an institution or borrowing some if available. The ideal situation would have the government deal with the problem by giving enough gadgets for both teachers and students who do not have the possibility to purchase any on their own, as is the case in most villages, remote or poor area in Romania. Unfortunately this is a very lengthy process with very slim chances of becoming reality in a span of time that would allow students and teachers in question to even start preparing for the process of virtual teaching.

Technical issues may occur anytime and they can increase both students’ and teachers’ frustration but that is why it is always a good idea to use simple platforms, with simple programmes that do not involve downloading or creating accounts that may render the whole learning process unnecessarily difficult. As teachers, we have to double check everything before the online class, starting from planning the lesson and the time available – online classes take longer in terms of what can be delivered to students in the teaching-learning process – to the sound, the materials, the appropriate games, trying to avoid materials that have to be downloaded or printed out too often since it can make the whole process more difficult and more frustrating for some of the students. The simpler things are the better for everybody.

Computer literacy or better said, illiteracy, can be a very frustrating issue for teachers, for students or for both. It is very unlikely to expect everybody to be able to use efficiently virtual teaching or learning without prior training. Needless to say that the degree of training greatly depends on the previous computer skills and experience, which, unfortunately, will never be the same for all the students, let’s say, in a class or for all teachers in a school or other educational institution. Training sessions for the use of different platforms and other online resources have been very useful and the feedback after each session can be very valuable in improving computer literacy and the use of platform, especially Zoom since it was and still is one the most popular and widely used platforms for online connections. Tutorials for both teachers and students are also valuable since they can show how to use different tools so that everybody is accustomed with them and knows how to make use of them in real time. Moreover, a general and understandable characteristic is that the younger generation is more skilful at everything related to computer literacy and hence a continuous exchange of ideas and skills in the online classes between teachers and students and the other way around as well. In fact, this can be considered something that can bring students and teachers closer together and increase the interaction between them.

The connectivity issue is not something that can be easily dealt with since the national network has to provide support for a reliable connection. Most common troubles refer to the unstable Internet connection that in turn leads to temporary disconnections, poor quality of sound and video, delays in connecting and delivering content, overloaded platforms, loss of signal or power cuts. These are some of the most common digital issues that all teachers and students have come across, but another interesting concern regards the passive students who are not interested or captivated enough by the online classes and blame their lack of interest and participation on poor connections without the teachers’ being able to prove whether it is true or not, just an excuse for not attending the class. The passive students are usually those who choose not to activate their video either by saying that they do not have a gadget with a camera or simply by saying that there is something wrong with it and they cannot fix it. There are, of course, real cases in point, but they are far less than what happens in real virtual classes. One solution for this problem is the necessity for the institution or person organizing

the online classes to stipulate the exclusion from class of the participant who refuse to activate their cameras and participate as equals to their colleagues.

But the issue of passive students does not confine only to the refusal to turn the video camera on; it goes much deeper, to the refusal to interact, to answer questions, to do home assignments, to learn at least as well as they did during the traditional classes. In online English-teaching classes, as in most online classes, the lack of physical, face-to-face interaction decreased significantly the bond between teachers and students and it was reflected in the teaching – learning process. And the rather slow adaptation to this system of virtual teaching made it all the more difficult as well. Students can be easily distracted by so many other more interesting and entertaining things than studying and the shift to virtual teaching did not make this challenge any easier, on the contrary, it became worse. Now teachers need to find all sorts of ways to engage students in virtual interactions. For English-teaching classes there are numerous online resources and tips, tutorials and webinars from experts and professionals who share their experience and strategies to help other peers deal more successfully with such inevitable challenges. Among the most engaging strategies we can mention PowerPoint presentations, videos, short films, quizzes, break-out rooms in Zoom, for example, for pair or group discussions, easier and clearer structure of the taught units, continuous feedback, games, contests and, why not, where possible and appropriate, especially with young students, physical movement since it can compensate for the lack of face-to-face interaction and it can break the long hours spent in front of the computer.

The big number of hours spent in front of a gadget, both by students and teachers, is yet another important issue that has often been brought up in discussions and webinars by teachers. The long process of planning the lessons and finding suitable resources for the virtual classes takes a long time which adds to the countless hours of teaching online and this unfortunately represents another important disadvantage. In some cases it is possible for the teacher to go to school and deliver the class from there and this allows for some physical movement. There was also the alternative, for a brief period in Romania, to have mixed classes, meaning the teachers and half of the class were at school, while the other half of the students were at home, watching the teaching process online. This “hybrid” or “mixed” type of teaching had numerous challenges in itself, because of the difficulty of engaging the students who got access to the teaching process from home: difficulty to see what the teachers were writing on the board, difficulty with the sound, lack of interaction, lack of engagement in the lesson from teachers who mostly focused on the students attending the class physically, lack of assessment and feedback. On the other hand, one of the advantages for the students who went to school was also the physical movement, which is no longer possible when in front of the computer. It is thus easy to understand why so many teachers, students and parents complain about this huge challenge – sitting for hours on end in front of screens topped with the banning of going out during the three-month lockdown.

The lack of engagement and motivation leads to boring classes and this, in turn, makes students give up or become less and less interested. English online classes can make use of all kinds of humorous resources and find more dynamic and interactive ways of teaching, at least once in a while if not possible for each lesson because otherwise students will gradually lose interest and find ways to stop interacting. Fortunately, there are many links to online resources that can help teachers find solutions or inspire them to become more creative. Unfortunately, all the search and analyzing takes a lot of time that adds up to more hours spent online, in front of the computer, which in turn can prove a little de-motivating for teachers as well. Nevertheless, one solution is to be part of the numerous online webinars and online international or national conferences or training sessions where teachers have access to experts and professionals who provide links to such online resources, together with pieces of advice and personal experience which can be of great help.

Some students fear the lack of intimacy with online classes and this represents a delicate issue since it depends on the teacher to handle such matters. One of the reasons why students refuse to stay connected with a video camera is the fact that they may be afraid to show or to share with other people where they live. It would be very important to have access to a virtual meeting where we can see each other's faces since there is no other way to take notice of body language and to assess students' reactions based on that. Without such virtual face-to-face interaction, the only possibility to interact is the audio input and the written one, but it is by no means enough for teachers to have successful interaction and feedback. Thus, the issue of being able to see at least the students' faces and to hear them online becomes extremely important. Teachers have to work out some of the reasons why students refuse to open their cameras or find excuses not to do it and try to talk to them offline and individually to see the different solutions available. Here, a big role can be played by the whole group dynamic, how well they know and accept each other and how easily and openly students can interact among themselves and with their teacher. English classes allow for such interaction through games, pair work, quizzes, break-out rooms, as mentioned before, and so forth. Making sure, as teachers, that we have all students with video cameras on can facilitate the entire process of teaching and spare us the difficulty encountered when students log on just for the attendance, without being there physically – which teachers cannot always check, but they can easily realise their absence when they keep calling out names and most of times with no response.

One more delicate issue is when students have to share the room with some other members of the family, siblings, parents or grandparents, and there is not enough intimacy for a normal learning process. Teachers too have to learn to deal with this problem and there are cases when the members of the family can interfere with the teaching process online; such cases must be dealt with diplomacy by teachers. Another issue may be the constant presence or disturbance in the background of a family member, even a sibling having simultaneous classes, and this may interfere with the student's being able to pay attention or may even cause the turning off of the video camera. As teachers, it is important to understand every situation as it is and be able to find the best solution for each challenge in order to adapt to all situations and learn everyday new ways to adapt to and improve the online teaching classes.

In the hope that this is just a way to adapting to new teaching techniques and future learning possibilities opened by the constant development of technology and not the exclusively way of teaching in the future, I deeply believe that both students and teachers cannot wait to safely go back to classes and really interact, hear, feel, connect with each other, because the teaching process is much more than merely conveying information, it is about creating long-lasting relationships based on mutual trust.

### **Conclusions**

The interest, the solutions and the adaptations found so far emphasise the desire to improve and to balance the many concerns and shortcomings connected to this type of teaching and learning process. This, in turn, will lead to new ones in the future and even if, sooner or later, people happily manage to return to the traditional teaching system, many of them will most likely be further considered and integrated in new teaching and learning methods and techniques, as part of a natural technological and scientific process. Thus, as teachers, it is important to understand every situation as it is and be able to find the best solution for each challenge in order to adapt to all situations and learn everyday new ways to adapt to and improve the online teaching classes.

This regrettable situation has taught people worldwide many things about life in general, about themselves, about reconsidering the real values of life and in terms of teaching it made it very clear that the lack of physical, face-to-face interaction decreased significantly the bond between teachers and students and it was reflected in the teaching – learning process.



That is why it is highly important to find ways to combine technology and integrate it into the class, but the interaction teacher-student has to be face-to-face to have a 100% successful teaching process.

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# IMPROVING THE PERFORMANCE OF PUBLIC WATER SUPPLY SERVICES

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## Abstract.

*Water supply services as well as their administration are essential to support the sustainable development of the society. For this reason, both at the European level and at the level of Romania, it is necessary to find the most suitable management methods and models for their administration. As regards European Union various managerial strategies are adopted in connection with water supply services that differ depending on the local specifics, history, culture and local traditions etc. This paper presents relevant issues regarding the management of water services in the member states of the European Union, in order to understand the current European perspective on the water services administration and to identify good practices for our country.*

**Keywords:** water supply services, public services, sustainability, public ownership

## Introduction

According to European Union directives, "water is not a commercial product like anything else, but rather a heritage that must be protected, defended and treated as such". But even if water is a public good, the provision of water services is an activity that involves important technical, economic, managerial and regulatory aspects - whether they are performed by public or private operators.

In the context of the sustainable development, the proper functioning of water distribution systems is a fundamental objective for any public system, especially because the water supply services function as public services in the vast majority of states. Thus, in 2015, a worldwide statistic on the role of the public sector in water supply shows that 90% of drinking water suppliers are public suppliers, both in developed and least developed countries, with the exception of France and the United Kingdom.(according with PSIRU database)

On the other hand, even in those countries where systems have not been privatized at all, water supply services are managed similarly to private corporations. For example, in the Netherlands, municipal water supply companies are set up and operate as commercial companies, although they are 100% public companies and the tariffs for these services are regulated by the state. Over time, attempts have been made to implement a strategy for the privatization of water supply systems in developed countries, but this experiment has failed because the expected improvements in service efficiency have not been achieved. The failure of the water supply services privatization confirmed that the management must be ensured by the public system, of course in terms of efficiency and managerial performance.

## 1. Public vs. private ownership over water supply services in the EU countries

The impact of the privatization of the water supply services was analyzed in the case of certain European countries, the results being presented below.

In the **UK**, in 1989, all water / sewerage suppliers in England and Wales were privatized. The main reason for this change was the need for substantial investments in water / sewerage infrastructure, because of the implementation of EU standards. As a result of this process and inflation adjustments, water / sewerage prices in England and Wales have risen by 50% since 1989.

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In **France**, after the Second World War, water services were privatized to help (re) develop the sector that required a high level of investment. However, since 2000, it can be observed that France is undergoing a process of re-municipalization, which leads to a relatively fair distribution between private and public operators in the water sector. The reasons for re-municipalization vary from political will, to the desire for greater control, to litigation or conflict. On the other hand, the sewerage sector has experienced, in recent years, a certain transfer from the public sector to the private sector.

In **Spain**, about 50% of water supply services are privatized. The main motivation for privatization was the serious situation of municipal budgets, especially since the onset of the economic crisis, which thus found a way to obtain funds from the budget through the concession fee. In some cases, these services have shifted from the private to the public sector as a result of civic movements opposing the privatization of water services because it is an essential public good and because of dissatisfaction with the quality and price of providing these services by the private providers. This process is, however, costly because it involves the purchase of the private supplier, the reimbursement of the concession fee, whose revenues have, in most cases, already been spent by the municipality and a compensation for lost profits. In Spain there are a growing number of civic movements calling for the return of water services to the public sector.

In **Germany**, until 2008, there was an intensification of privatization in the water sector, which is associated with the burden of municipal debt. But in recent years, the trend is toward re-municipalization. For example, in 1999, Berlin privatized water services to facilitate debt payments, selling 49.9% of the water company to a consortium of a French multinational (Veolia) and a German multinational (RWE). After the citizens campaigned for a re-municipalization of water utilities and organized a referendum on this issue, the shares of RWE were bought first, in 2011 and then those of Veolia, in 2013.

In **Sweden**, municipalities are the main providers of public water and sanitation services, but since the late 1990s, there has been a trend towards privatization, especially through private management contracts. This aimed at more efficient use of resources, increasing the level of efficiency, considered ideological reasons, but also the need to finance the debts of the municipality. Thus, the largest water company owned by the municipality was privatized in 2001. However, only a few years later, in 2005, the company returned to the municipality. The motivation was that, in the new form of organization, the company does not achieve the expected profit and the legislation that came into force in 2007 through which the water sector in Sweden is under the control of public property.

In **Hungary** there have been different trends in private sector participation in the water sector over the years. Following the change of the 1990 regime, ownership of the water sector was decentralized and transferred to the municipality and subsequently to the private sector. The main reason for allowing private sector participation was related to the expected income from privatization. In 2007, private sector participation in the water sector was almost 40%; however, in 2009 the renationalization of the sector began. The reason was that the government decided to reduce dependence on foreign investment in utilities in Hungary, not only in the water sector.

In **Poland**, the first public-private partnerships in the water and wastewater sector are more recent, but the privatization process continues. The privatization process in Poland is justified by the need to increase the volume of investments in this area.

As previously presented, the level of private sector participation in the EU varies greatly. Research has also shown that private investment in the water sector often comes from abroad. The largest private suppliers in Europe are Veolia Environment (France), Thames Water (UK), RWE (Germany), FCC (Spain), Suez Environment (France), ACEA (Italy), which have important customer bases outside the internal markets.

Nationally, the private market in England and Wales is attractive for foreign investment, with about half of all private investors being from outside the UK. In Spain, about half of private companies in the water sector are owned by French parent companies, while the French market is dominated by domestic private investment. The participation of the private sector in Hungary, Poland and Sweden is lower, but it belongs entirely to foreign investors. An interesting finding of the research conducted at national level is that the French company Veolia has investments in water suppliers in all European countries, including Romania, except Spain.

Another relevant aspect of the specific studies reveals that in most countries where there have been higher levels of private sector participation, there is a trend of re-municipalization in terms of water supply. The reasons for this transfer are: political intervention; the involvement of civic movements (opposing privatization for fear of tariff increases and of the negative impact on the quality of services that privatization could generate); the desire for greater public control over the provision of services; lack of experience of private operators in providing such services with a high level of complexity; lack of private funds for the development of this sector; government policies aimed at consolidating public property and discouraging foreign investment (e.g. Hungary) etc.

### **1. Indicators for measuring the performance of water supply systems at European level**

In the perspective of identifying measures regarding the improvement of the managerial performance of the organizations providing water supply services, we will present a series of indicators able to indicate the performance of this system in Romania. From all the available data, we highlight the first and last 5 places, as well as Romania's position.

**Table 1. Drinking water network / per capita (m)**

<b>Rank at the European level</b>	<b>Country</b>	<b>Indicator value</b>
1	Finlanda	19,4
2	Slovenia	15,09
3	Franța	15,00
4	Portugalia	11,3
5	Irlanda	10,6
21	Malta	5,6
22	Slovacia	5,5
23	Spania	4,8
24	Estonia	4,73
25	România	3,5

Source: EurEau, 2018, *The governance of water services in Europe*

The European average of the indicator is 8.35 m / capita of drinking water network. As can be seen from the data presented, Romania ranks last among European countries for which data are available. The first 5 places are occupied by Finland, Slovenia, France, Portugal and Ireland, and the last places next to Romania are Estonia, Spain, Slovakia and Malta.

**Table 2. Water network used in industry / per capita (m)**

Rank at the European level	Country	Indicator value
1	Irlanda	19,1
2	Danemarca	15,9
3	Croația	14
4	Austria	11,28
5	Finlanda	11,00
21	Malta	3,83
22	Spania	3,54
23	Belgia	2,6
24	Slovacia	2,4
25	România	1,3

Source: EurEau, 2018, *The governance of water services in Europe*

The European average is 6.92 m, and Romania with a network with a length of 1.3 m / capita is also in last place. The first 5 places are occupied by Ireland, Denmark, Croatia, Austria and Finland, and the last 5 are occupied, in addition to Romania by Slovakia, Belgium, Spain and Malta.

**Table 3. Average residential consumption (l / capita / day)**

Rank at the European level	Country	Indicator value
1	Italia	245
2	Portugalia	204
3	Croația	150
4	Grecia	150
5	Cipru	149
11	România	136
21	Polonia	94,17
22	Republica Cehă	88,5
23	Malta	79,36
24	Slovacia	79
25	Estonia	78

Source: EurEau, 2018, *The governance of water services in Europe*

The European average for residential consumption is 127.22 l / capita / day, Romania ranking 11th, with a consumption higher than the European average.

**Table 4. Average rate (€ / m3)**

Rank at the European level	Country	Indicator value
1	Danemarca	9,00
2	Finlanda	5,89
3	Luxemburg	5,5
4	Belgia	4,53
5	Suedia	4,44
19	Portugalia	1,82
20	Spania	1,78
21	Italia	1,5
22	România	1,42
23	Grecia	1,4

Source: EurEau, 2018, *The governance of water services in Europe*

The average tariff at European level for the consumption of one m<sup>3</sup> of water is 3.24 €, Romania having one of the lowest tariffs in Europe, respectively 1.42 € / m<sup>3</sup>, a lower tariff being registered only in Greece, respectively 1.40 € / m<sup>3</sup>. The highest tariff in Europe is registered in Denmark, respectively 9 € / m<sup>3</sup>

### 3. Coordinates of the managerial reform of water supply services

In accordance with the literature and specialized practice an efficient management of public water supply services must ensure the following:

#### Strategic directions for the efficient management of public water supply services

- Funding stability - without funding, water supply systems deteriorate, or being affected the quality of the provided services;
- Improving operational and commercial efficiency;
- Reducing the negative impact on the environment;
- Professionalizing the management of the water services companies and minimizing the political intervention in the development of these services;
- Ensuring the transparency of water services delivery;
- Identifying clear performance measurement targets and indicators that can be monitored and reported regularly;
- Measuring national level performance and comparison with other states;
- Identifying measures and developing strategies to ensure improved performance;
- Reporting to trans-national indicators such as those included in the Recent Economic Developments in Infrastructure (REDIs), or in the International Benchmarking Network (IBNET).

**Funding stability** - is a central element of the managerial strategies, whether they are addressed at the central or local level. Water supply services companies must provide sufficient revenue for current operations, maintenance costs, repairs but also investments to modernize the quality of service. These revenues come from payments made by consumers, transfers from local and / or central budgets and subsidies. The strategic approach to funding must include analyzes of the extent to which tariffs can be increased so that they can be borne by different segments of the population; consider performance-based budget allocations; criteria for allocating justified subsidies; incentives for suppliers to improve their performance and reduce costs.

As a rule, revenues from consumers are well below the costs, but, given that water supply services are aimed at all categories of the population, any changes in tariffs can only be made after a substantiated impact assessment. For the low-income population, in most countries, subsidies are granted, but this is also a subject to be analyzed in order to highlight their correct allocation, because, ultimately, subsidies are provided by taxes paid by citizens, fact which generates a number of social costs.

**Improving operational and commercial efficiency** - it essentially means ensuring a better response to the requirements and needs of current and potential consumers. Direct public management models have generally proven to perform poorly, but changes in institutional structures can improve performance. Increasing the level of autonomy in the water supply services involves:

- *An independent organizational structure* - this means that, although it is part of a public system, the organizational structure is self-financing and has a certain level of autonomy for managing current activities. However, this operational model of water supply companies has proved to be unable to operate in a long-term sustainable way as it is prone to political interference.

- *Existence of an autonomous government department in order to supervise the water supply services corporations* - The existence of an autonomous statutory body offers opportunities to improve efficiency by allowing the replacement of bureaucratic administration with commercial administration, by facilitating the introduction of clear objectives of financial and operational performance and cost accounting systems, by creating greater managerial autonomy, by that it allows the replacement of centralized decisions based on supply with those based on demand. The model is quite common around the world and has had mixed performance.

- *The companies organization as public enterprises, run similarly to commercial companies* - however, they must be monitored by competent and independent management and mechanisms must be put in place to encourage managers and staff of service providers to meet the objectives and take responsibility for poor performance.

**Involvement of the private sector in the water supply services** - There is a wide range of private participation options in the field of water supply services, ranging from a smaller transfer to a larger transfer of risks and responsibilities to the private partner. However, most public-private partnerships in the water supply and sewerage sector will continue to require public funding, either due to difficulties with the possibility and opportunity to increase tariffs to a level that ensures short-term cost coverage, or because of the social objectives or other conditions that cannot be met by private operators. Responsibilities, risks and rewards must be carefully allocated in public-private partnerships. National or regional public companies should be able to compete for public-private partnerships. In countries with low levels of water supply coverage for private consumers, the gap between connected and non-connected households is often filled by small private sector providers. Community programs focused on on-site sanitation are a necessary complement to network sewerage systems, and the local private sector can play an important role in providing the services needed for on-site sanitation. Recent initiatives to integrate these providers into utility contracts and to invite small operators to provide a range of services have yielded positive results for consumers, especially those in poor households.

**Legislative framework for water supply services** - Water supply and sewerage services have the characteristics of a natural monopoly, as well as a significant impact on public health and the environment. Therefore, specific legislative regulations on the provision of services are needed, whether the provider is a public or private entity. These will refer to the structure and levels of tariffs, to the qualitative standards of service provision and to the objectives related to the extension of the water supply network. With regard to legislative measures, the appropriate division of roles between national and local authorities needs to be clearly defined.

Regulating public sector suppliers is a unique challenge, as public sector entities do not typically respond to economic incentives that have an effect on the private sector. However, better oversight and monitoring of the performance of public sector service providers can lead to greater transparency and pressure to continue the reform. Where private financing is desired, the regulatory framework must provide financiers with sufficient comfort to achieve a return on their investment commensurate with the risks involved.

Developing robust regulatory frameworks and strong institutions to implement them takes time. It is also necessary to ensure the stability and predictability of the regulatory regime by limiting the volume of discretion that regulators have in setting key prices and parameters, especially during the first years of public-private partnerships. Robust and functional dispute resolution mechanisms, which allow for a credible and timely review of regulatory decisions and contribute to the accountability of regulators, are an integral part of these measures. Placing contracts and other regulatory instruments in the public domain will also improve transparency

**Expanding water supply services to poor communities** - managerial reforms of the water supply sector must generate increased resources for investments in expanding the system. However, it is not guaranteed that the poor will be connected to the general water supply system. Extending services for the poor requires special attention and specific interventions. This would include the initial assessment of poverty, the assessment of demand and availability for payment, the development of contractual arrangements to encourage the operator (public or private) to serve customers, regardless of the expected level of consumption, and a tariff structure that favors access and minimum consumption of water.

Poor people in urban areas often have specific requirements that cannot be met by single approaches. Therefore, successful reforms require transparent and well-informed stakeholder consultation, so that programs can be developed to meet the needs of the poor. A number of regulatory and policy approaches can be used to expand access and accessibility. These include the use of direct or cross-subsidies, the liberalization of entry into underutilized areas, allowing the level of services to be differentiated according to consumer preferences and their ability to pay. Very often, existing subsidies are mostly captured by non-poor households and appropriate measures must be taken to redirect them to lower-income consumers.

**Environmental impact** - Sector reform must provide an opportunity to improve environmental monitoring and assess the relationship between economic regulation and environmental impact in terms of standards, institutional roles and decision-making processes. It is particularly important to ensure that environmental standards are in line with economic and social policies and regulations and that compliance with them is within the financial capacity of the operator, the customer base and the government.

### **Conclusions**

This paper highlights an area of economic activity, that of water supply services, which, par excellence, is managed in the public system. The main objective of the paper is to raise the issue of an approach based on efficiency and performance in the public system. The paper presents a series of proposals on the managerial reform of the public drinking water supply system, but the directions of approach have the potential to transfer to other public areas to be approached from a similar perspective to the private sector.

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# THE INTERNATIONAL COOPERATION IN THE STRUGGLE AGAINST THE MARITIME PIRACY

George Dorel Popa<sup>1</sup>

## Abstract

*Pirates are sea robbers who attacked other ships and rob their goods and sometimes capture the attacked ship or the crew and passengers for their own purposes. Piracy as illegal activity is attested over 2000 years ago in ancient Greece; pirates threatened the trading routes of Greece. Later, Roman ships were attacked by pirates who stole their cargoes of wine, grain, clothing and olive oil. Piracy has the highest point between XVII-XVIII centuries being the “golden age of pirates”. Unfortunately, even today the pirates still exist and create huge problems in certain area of the world. Any act of piracy is a direct threat for maritime security by endangering, the welfare of seafarers and the security of commerce, tourism and navigation. The piracy could lead at the loss of lives and injured persons or hostage-taking situations. The results of the piracy are affecting directly the commerce and navigation causing serious financial losses for ship-owners. Another side effect of the piracy is the spectacular increasing of the vessels insurance and increasing of the security expenditures and humanitarian assistance. At the end the cost of the sea transport will dramatically increase and the producers and consumers will suffer financial and economic losses.*

**Keywords:** *International cooperation, Vessels, Piracy, Maritime safety, Maritime law.*

**JEL Classification:** *K, N, Z.*

## 1. Introduction

The maritime piracy was an offence against the law of any society since the beginning of the world. Usually, when we are referring to a pirate we are referring to a sailor, who attacks, robbes, seizes or destroys any vessel at high seas or sometimes even situated on ports or stationing at the shore. Moreover, the pirates are involved in many other illegal activities like slave trading or smuggling. The pirates are doing that for personal interest, even sometimes during the history were mentioned pirates-government secret agreements or understanding in some certain points against some certain common enemies. Anyway, the pirates' attacks were always treated as unauthorized acts and they were considered criminals all over the world. In their golden age period periods when those robberies were very common on the seas of the world, piracy was punished with death penalty and the goods of the pirates were always confiscated. From legal point of view it was a real distinction between pirates and the privateers or buccaneers (some kind of pirates, but not treated exactly like common criminals). Although, privateers or buccaneers have been considered and treated usually like pirates, they were more like navy soldiers acting based on written orders and deals concluded in advance with different governments. Privateers or buccaneers had the approval of a government of a country to attack certain type of vessels belonging to another country (war enemy). Usually, their tasks were to capture or destroy ships of the enemy nation and confiscate their merchandises. From legal point of view their authorization consisted from a letter of marque and reprisal. These letters were a written contract who brought benefits for both sides – privateers and government. For privateers was an easy high-profitting job without the huge risk of potential punishment from government side. From government's perspective the privateers were contributing to the navy power of the mentioned nation. Moreover, the government contracting party didn't have to add any additional budget expenditures for the crew member, weapons or supplies of the privateers. More than that periodically, the privateers were offering to government side a consistent percent of their pray in exchange for their so called “immunity”.

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## **2. Short History of the Maritime Piracy**

It is important to underline, from the beginning, that maritime piracy was a very usual issue during the ancient Greek and the Roman period. The vessels of those periods had precarious technical capabilities and were forced to navigate pretty close to the sea shores, which made them the convenient easy reachable targets for the pirates of that time. The main bases for the Greek pirates were the Lipari and Crete Islands and for the Roman pirates was the Istria peninsula. Other famous pirates were the Lycians (located on the shores of present Turkey). They have been active in this area early as 1194 BC right up until the 19th century. Being a real trouble for ancient commerce is well known that the Ramses the third, Pharaoh of Egypt managed to assemble a large fleet of vessels and decisively defeated the Lycians, leaving the coast free of piracy for a while. Another important historical mention of Lycians has been issued by Herodotus. He mentioned that the Lycians contributed to the invasion of Greece in 480 BC by Xerxes with 50 vessels. Roman soldiers were also often involved in the fights against Lycian coast pirates. After the fall of the Roman Empire, the Lycian pirates "flourished" once again until the 18th centuries when the British military vessels managed to defeat them and to clean up the Turkey shores. Other famous ancient pirates were the Cilician pirates, situated on the southern coast of Asia Minor (on Turkey territory). In 300-200 BC they had a very powerful fleet causing a lot of troubles for the commerce of Egypt and the Roman Empire. An important historical event was involving Cilician pirates and the Julius Caesar Emperor in 78 BC. At that particular moment, Julius Caesar wasn't yet Emperor; he was on a vessel and tried to return to Rome. Pirates captured the vessel and kidnapped Caesar among other persons. For their release the pirates asked for ransom. The history tells us, Julius Caesar was insulted at the low level of the ransom demand. At his insistence, the pirates raised the ransom demand to a level in accordance with his status. The Julius Caesar's family paid rapidly the requested sum. After the release moment, Julius Caesar managed to assemble an army, which captured all the pirates and crucified them.

Another important period for the history of piracy was the Caribbean period. The so-called Caribbean era began in the 1500s and lasted until the 1830s after the maritime nations of Western Europe and North America with colonies and economic interest in the Caribbean area began fighting the pirates from this area. Piracy flourished in the Caribbean area during the period 1660-1730, because of the permissive attitude of the nations of that time and because of the existence of pirate harbors such as: Nassau in the Bahamas, Port Royal in Jamaica and Tortuga in Haiti. Maritime piracy has been considered as "legal activity" by some nations, especially France under King Francis I (king between 1515 and 1547). He encouraged the piracy in his hope to weaken the maritime power of Spain and Portugal's in the Atlantic and Indian Oceans. This official name of the pirates "working" under French legal protection was known as "privateering". The French privateers were alone in the year 1520 in their fight against the Spanish armada, but later they took advantage of the English and Dutch vessels, involved, as well, in the war against Spanish supremacy on seas. The French privateers were interested especially in the silver shipment of the Spanish Empire, coming from the New World to Seville. The Spanish maritime authorities tried to diminish the pirates' threats using the convoy system during sea transport. Nevertheless the Spanish Empire, despite being the most powerful military nation at the time, could not afford a permanent military vessel presence to control a tremendous area of ocean or to permanently protect their commercial fleet. Moreover, whenever a war was declared in Europe between the Spain, England, France and the Dutch Kingdom the result was always encouraging of the piracy and privateering in the Caribbean area. The trans-Atlantic Spanish maritime power started to decline and step by step English, Dutch and French traders could violate the Spanish rules imposed on seas. England, France and the Netherlands started to

set up their own colonies aiming new commodities - tobacco and sugar. Another very well-known pirate of the history was Madame Ching or Ching Shih (1775–1844). She inherited the commanding position from her husband and terrorized the middle Qing China for decades. She commanded over 300 junks (traditional Chinese sailing ships) and had under her leadership from 20,000 to 40,000 pirates, known as the Red Flag Fleet. Because of her extraordinary power, she had a lot of battleships with the major nations of those times: Chinese Empire (Qing dynasty), the British Empire and the Portuguese Empire. She was one of the few pirate captains to retire without any major defeat in battle and is considered to be the most successful pirate in history. By 1804, this coalition was a formidable force, and one of the most powerful pirate fleets in all of China. This huge fleet under command of Ching Shih established hegemony over many coastal areas and managed to impose taxes on settlements and other dues as a real state administration. According to some historical sources, she died at 69 after a life behaving as a real queen of China. Unfortunately, all this history of violence at sea has not disappeared even today, so there are still pirates in our days. Among them, the best-organized and those who pose the most problems of shipping are those on the Somali coasts. Today, only the piracy in Somalia costs nearly \$ 7 billion worldwide in 2011, of which 2 billion in military operations, armed equipment and armed guards to protect vessels.

### **3. The United Nations Law Provisions Regarding the Maritime Piracy**

Today, according to the international maritime law (United Nations Convention on the Law of the Sea), piracy may be defined as one of the following acts committed on the sea:

- any illegal acts of violence or holding, or any act of robbery, committed against the passengers of a private ship or a private aircraft;
- at the high seas, against another ship or against persons or property on board of the ship or aircraft;
- against a ship, persons or property in a place outside the jurisdiction of any state;
- any act of voluntary participation or giving help to a ship knowing that is a pirate ship or involved in this kind of piracy activities;

A vessel may be considered a pirate vessel if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts mentioned above or has been used to commit any such act. Once defined as a pirate vessel, anybody in the high seas or in any other place may seize a pirate vessel or a vessel captured previously by pirates or under the control of pirates. Anybody may seize and arrest the persons and confiscate the property and existing goods on board. The penal law of the state which carried out the seizure may decide upon the penalties for pirates and other legal aspects in this regard. More or less, the same treatment will receive the vessels involved in the illicit traffic in narcotic drugs and psychotropic substances. The Security Council of United Nations reaffirmed in repeated cases “that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities” (Security Council resolution 1897 (2009), adopted on 30 November 2009). The United Nations Convention on the Law of the Sea, at article 100 of determined that ‘all States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.’ In this respect, the General Assembly of the United Nations invited the states of the world to cooperate to fight maritime piracy and armed robbery at sea in different resolutions. The best example in this regard, is the resolution no. 64/71 of 4 December 2009, when the General Assembly recognized “the crucial role of international cooperation at the global, regional, sub-regional and bilateral levels in fighting and combating, in accordance with international maritime law, threats to maritime security, including the maritime security piracy”.

#### **4. International Law Cooperation on Maritime Piracy Issue**

During the history, different states tried to work together, especially based on regional ground, in order to fight and combat the maritime piracy. Step by step the state of the world realized the military actions are not good enough to fight against this scourge. Cooperation on daily basis and international maritime law proved to be very valuable tools in this domain. One important method in this respect was to report as prompt as is possible piracy incidents to enable accurate information on the scope. In the modern times a key element in fighting efficiently the maritime piracy was the information-sharing with states potentially affected by incidents of piracy and armed robbery against any vessels. After the creation of International Maritime Organization, this information exchange has been enhanced and proved to be more effective. Another important role was played by the international law specialists who constantly call upon the states of the world to take appropriate measures under their national law system in order to facilitate the arresting and prosecution of individuals who are alleged to have committed acts of maritime piracy.

United Nations, in close cooperation with the International Maritime Organization, actively worked to fight piracy and armed robbery at sea by adopting legal provisions, including those relating to personnel assistance with capacity-building. Training of seafarers, port staff and increasing the number of security personnel in the area of prevention, were only few mandatory issues regulations in the fight against piracy. United Nations and International Maritime Organization realized the importance of reporting and investigation of all these incidents, charging and bringing the alleged pirates in the front of the justice, in accordance with international and national law. Another important stage was for the states of the world to permanently modify the national legislation according to international legal provisions adopted by United Nations, as well as to enforcement the ships with necessary anti-piracy equipment and monitoring against fraudulent ship registration. Another important step in fighting contemporary piracy has been the establishment of the Contact Group on Piracy off the Coast of Somalia on 14 January 2009, following the adoption of Security Council resolution 1851 (2008). Until a reform process was initiated in 2014 the Contact Group had five "special sections":

Naval Cooperation - "for effective naval operational coordination and supporting the building of the judicial, penal and maritime capacity of Regional States to ensure they are better equipped to fight piracy and maritime security challenges" (having as Chair: United Kingdom)

Legal Issues - "ensuring specific, practical and legally sound guidance to the Contact Group, states and organizations on all legal aspects of fighting piracy" (having as Chair: Denmark.)

Self-Defensive Actions - "providing know-how for states, maritime industry and labor entities regarding the actions that should be taken to provide self-defensive actions to protect the ships from hijacking by pirates in the high risk waters of Somalia" (having as Chair: Republic of South Korea.)

Public Diplomacy - "enhancing the awareness of the dangers of maritime piracy and highlighting the best practices to eradicate this criminal phenomenon" (having as Chair: Egypt.)

Flow of Illegal Funds - "coordinates international efforts to identify and disrupt the financial networks of pirate leaders and their financiers" (having as Chair: Italy.)

After 2014 the Contact Group has been re-organized in three working groups: capacity building, operations at sea and tracing of the financial networks of piracy. Civil war in Somalia creates conditions favorable to the actions of well-armed pirates, supported by reach businessmen involved in the smuggling of modern weapons and ammunition. Since the Somali Provisional Government does not have the necessary

means to prevent these criminal acts, some states started to send their own military vessels in the region, to protect the maritime transport. Nevertheless, only in 2011, pirates operating in the Somali area carried out over 200 attacks and the total amount of redemptions requested was up to 160 million dollars.

Another important judicial tool against contemporary piracy was the adoption on 29 January 2009 of the Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden (Djibouti Code of Conduct) under the auspices of the International Maritime Organization. This Code of Conduct has been signed by majority of the African countries and implemented few mandatory legal provisions on national level:

- criminalizing the piracy and robbery at sea;
- development of the regional frame to counter piracy and robbery at sea;
- development of the safety and security of the navigation in accordance with international law;
- national maritime security policies to safeguard the maritime trade from any unlawful acts;
- safe and secure operations of port facilities and ships at all levels;
- effective protection of marine environment;
- arresting, investigating and prosecuting persons suspected to be pirates;
- seizing pirate ships and the property onboard;
- coordinating and information sharing;
- reporting of all relevant incidents;
- mutual assistance and support among signatories countries;
- sharing training and education methods in this area;

## **5. International Maritime Organization and Fight Against Maritime Piracy**

Is a well-known fact that International Maritime Organization is a United Nations' specialized agency, having as a main goal the establishing of the standard-setting authority for the safety, security and environmental performance of the shipping on international level. Another important role is to issue a regulatory framework for the worldwide shipping industry that is fair and effective, universally adopted and universally implemented. The great threat of maritime piracy and armed robbery against vessels has been on the official agenda of the leadership of the agency since the beginning of 80s. In first decades the attention was focused on the South China Sea, Straits of Malacca and Singapore. Due to the latest evolution, after 2005, the agency has been focused on maritime piracy of the coast of Somalia, Indian Ocean and the Gulf of Aden. At the time being, the attention of the agency is directed to implementing an efficient strategy for ensuring maritime security in Central and West Africa. International Maritime Organization, with the support and cooperation of the shipping industry, managed to develop and implemented a significant number of security measures against pirates. Today, information and data about acts of piracy and armed robbery against vessels are 24/7 available on IMO's Piracy and Armed Robbery module within the Organization's Global Integrated Shipping Information System (GISIS). International Maritime Organization permanently promotes the cooperation and provides permanent assistance, to the states of the world aiming to create and develop their own national and regional measures to eliminate the threat of maritime piracy, armed robbery against vessels and other illegal maritime activities. Eloquent cases in this regard are the Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden (Djibouti Code of Conduct), agreed between a lot of African countries (25) in and around the western Indian Ocean and the Code of Conduct

concerning the repression of piracy, armed robbery against vessels. As an UN agency, IMO is working on daily basis in close cooperation and coordination with other UN bodies: UNODC, UNHCR, FAO, regional offices of UNOCA and UNOWA. Due to the aim of combating piracy and illegal activities on seas, IMO is cooperating with other international partners: Interpol and WCO. From this perspective, IMO member states situated in West and Central Africa have the general scope is to criminalize on national level piracy, attacks against ships and other illegal maritime activities and acts.

Another specific aim of IMO is to harmonize the general procedures in this area and to create common training programs in maritime safety, taking advantages from Maritime Security Trust Fund, to achieve the above-mentioned goals. The common fund was created based on financial contributions to the IMO West and Central Africa countries. From this point of view, to enhance the efficiency in the area of fighting maritime piracy the financial contribution should be substantially increased and the UN should have a serious financial and material contribution in order to tackle this worldwide scourge.

## **6. Conclusions.**

To increase the efficiency of the counter-piracy world-wide campaign the international cooperation between states of the world, between international organizations and between major maritime powers should be increased. United Nations, the International Maritime Organization (IMO) and the European Union (EU) and North Atlantic Treaty Organization (NATO) should be still in the future the main actors of the war against pirates and piracy. From this perspective, the activity of European Maritime Safety Agency (EMSA) is still not very visible, because the agency is not sufficiently involved in the suppression of this phenomenon, although the Member States of the European Union are among the most suffering “entities” because of the piracy. Only a couple of nations have supported piracy repression efforts. The international effort should definitely include a campaign to deter and defeat the crime of sea piracy, money laundering result of this type of crime, interception of money transfers involving ill-gotten ransoms and juridical support of different lawyer houses. After the U.S.-flagged M/V Maersk Alabama was seized with twenty American citizens on board, calls for expeditionary military action in select coastal towns and villages in the Puntland state of Somalia, started to intensify on international level. Many nations, including France, Denmark, Malaysia, India, and Russia, have sent battleships to the mentioned area. But to increase the effectiveness of these international military operations intelligence collaboration could also improve maritime domain awareness, and reduce the threat posed by pirates. The well-known Nairobi Report suggested creation of a specialized intelligence system, aimed at penetrating the piracy organizations and gangs. Generally speaking, Somali clan and tribal leadership are in opposition to the piracy organizations operating from the country. Therefore the local intelligence gathering could prove to be a valuable source of counter-piracy intelligence. The IMO reports and the Security Council resolutions provide an effective basis for a more integrated, institutionalized international maritime security efforts in the Horn of Africa. Regional models—including ReCAAP and Mowca—can be “exported” to East Africa to create a new maritime security model for that geographical area. Instead, of using huge, slow battleships and ineffective large military forces, small, rapid patrol vessels and corvettes would represent a better solution for counter piracy patrols and actions. Answering effectively to the threat of piracy along the coast of Somalia will require not only occasionally patrolling of that the area, but rather attacking the root, deep causes of piracy, by providing comprehensive support for operations (financial, military, logistics, investigations, and prosecutions). This means aside the maritime powers should start the long-term regional task-force actions with

numerous maritime patrol craft, suitable weaponry, soldiers training, modern communications tools, and a unique international maritime security coordination center. Another important tool would be to increase the judicial cooperation via United Nation and national judicial systems to include identifying of a more effective judicial tools (international treaties, world-wide criminal prosecuting of certain doings etc). The states of Africa, with the financial, military and logistical support of international community should take the lead in eradicating maritime piracy in the Gulf of Aden and the Red Sea, taking in consideration the fact this is a great, permanent challenge of our days.

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# THE RESPECT FOR FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS DURING THE PANDEMIC

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## Abstract:

*2020 was a challenge for the entire society, which is facing an unprecedented sanitary crisis. This affected all the sectors of social life, including the law-making process. All the states had to adapt their legislative framework to the new social realities, and legislative acts were adopted on a national level that would regulate this unprecedented situation and establish proper social conduct.*

*Against this background, the social reality, the sanitary crisis and the response of authorities resulted in legislative changes or in the adoption of new legal regulations that generated controversies not only in the legal environment, but in the entire society.*

*This study aims at analysing how the constitutional principles were observed within the procedures for adopting legislative acts and how were the citizens' fundamental rights and freedoms affected, since the restriction of such rights and freedoms must be an exception and it should not affect law itself.*

**Keywords:** *fundamental rights and freedoms, state of emergency, constitutional principles*

**JEL Classification:** *K10*

## 1. Introduction

In the first quarter of 2020, mankind had to face an unprecedented medical emergency. On January 30, 2020, the World Health Organization<sup>2</sup> decided to declare that the outbreak of the novel coronavirus in China, 2019, was a Public Health Emergency of International Concern<sup>3</sup>. Initially, the opinions of WHO specialists were divergent regarding the seriousness of the outbreak; thereafter, given the significant increase in the number of cases and the number of additional countries reporting confirmed cases, it was decided that it would be considered a PHEIC. ([https://www.who.int/news/item/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news/item/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)))

On March 11, 2020, WHO declared the COVID-19 outbreak a “pandemic”, as 118,000 cases were reached, along with more than 4,000 deaths, in 110 countries, all across the world, except for Antarctica.

(<https://edition.cnn.com/2020/03/11/health/coronavirus-pandemic-world-health-organization/index.html>)

According to WHO, “a pandemic is the worldwide spread of a new disease”.

([https://www.who.int/csr/disease/swineflu/frequently\\_asked\\_questions/pandemic/en/](https://www.who.int/csr/disease/swineflu/frequently_asked_questions/pandemic/en/))

The first decisions of the Technical and Scientific Support Task Force for the management of highly contagious diseases on the Romanian territory were issued at the beginning of March 2020, on a national scale<sup>4</sup>. Based on the attributions awarded by Government Emergency Ordinance no. 21/2004 (on the National Management System for Emergency Situations), the Task Force proposed that the National Committee for Emergency Situations should take some first action to manage the evolution of the spread of COVID-19

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<sup>2</sup>The World Health Organization (WHO) was established on April 7, 1948 (a date celebrated as the World Health Day) and currently has 150 member states. The headquarters of the organization are in Geneva and its role is to promote health all across the world, to keep the world safe and to serve vulnerable persons. <https://www.who.int/about/what-we-do>, <https://www.who.int/about/who-we-are>

<sup>3</sup> Public Health Emergency of International Concern (PHEIC).

<sup>4</sup> Hereinafter referred to as the “Support Task Force”.



infections all across Romania. By means of Decision no. 8/09.03.2020 of the Support Task Force, the first measure to be proposed was “to declare a state of alert”.

As of that date, the text of G.E.O. no. 21/2004 defined the state of alert as follows: “state of alert – to be declared based on this emergency ordinance, referring to the immediate enforcement of plans of action and measures to prevent and warn the population, to remove and do away with the consequences of the emergency situation;”

It can be appreciated that, in practice, this definition failed to include all the elements required for an efficient management of the situation, which resulted in an avalanche of legislative changes, that attempted at ensuring an alignment of the legislative acts to the social situation.

Furthermore, seeing the succession of the issued legislative acts, we can notice that, from a legal point of view, Romania was not ready to face such a medical emergency.

The Order of the Minister of Health no. 414/2020 on the establishment of quarantine for persons in an international public health emergency determined by the infection with COVID-19 and the establishment of measures to prevent and limit the effects of the outbreak was published in the Official Gazette of Romania on March 12, 2020. The Order was subsequently amended, but it is relevant when it was adopted, since this was the first legal act establishing certain restrictions of fundamental rights and freedoms.

Until the deep analysis of these legislative acts in the Romanian legal area, adopted and repeatedly amended in the last months, we should stipulate the benchmarks lying at the basis of this study.

On December 10, 1948, the United Nations General Assembly adopted and proclaimed the *Universal Declaration of Human Rights (UDHR)*. Art. 29 point 2 of the UDHR stipulates that “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”.

Art. 52 of the *Charter of Fundamental Rights of the European Union* – Scope and interpretation of rights and principles mentions that: “Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.”

Article 53 of the Romanian Constitution - The restricted exercise of certain rights or freedoms, also stipulates that: “The exercise of rights and freedoms can only be restricted according to the law and only if required, as the case may be, in order to: protect national security, order, health or public morals, the citizens’ rights and freedoms; perform criminal instruction; prevent the consequences of a natural disaster, of an act of God or of a highly serious event. The restriction can only be decided if required in a democratic society. The measure should be directly proportional to the situation generating it, it should be enforced without discrimination and without affecting the existence of the right or the freedom.”

The analysis of these legislative provisions shows that, irrespective of the actual situation, measures to restrict fundamental rights and freedoms can only be adopted based on a law, and the notion of law must be interpreted in a strict sense, i.e. As a legislative act issued by the Parliament – “the supreme representative body of the Romanian people and the only law-making authority of the country” (art. 61 par. 1 of the Romanian Constitution).

As shown, the medical situation on an international level was becoming more and more concerning, and a decision was made to establish the state of emergency all across the country. According to the constitutional provisions (art. 93), the President of Romania established the state of emergency all across the country and asked that the Parliament should

approve the adopted measure. To this purpose, the Decree no. 195 of March 16, 2020 was issued regarding the establishment of the state of emergency all across Romania, and the Decision of the Romanian Parliament no. 3/2020 approved the state of emergency all across Romania, for 30 days, starting March 16, 2020, as an exceptional measure adopted by the President of Romania, Mr Klaus-Werner Iohannis, by means of Decree no. 195/2020.

Based on art. 1 of the Decree of the President of Romania no. 240/2020, starting April 15, 2020, the state of emergency was extended by 30 days all across Romania, as established by means of Decree no. 195/2020. By means of its Decision of April 16, 2020, the Romanian Parliament approved the extension of the state of emergency all across Romania for 30 days, as established by the President of Romania by means of Decree no. 240/2020 on the extension of the state of emergency all across Romania. Now, the Decision of the Parliament explicitly stipulates that: “For the duration of the state of emergency, the restriction of rights or freedoms shall only be imposed by means of legislative acts with the force of law”. Furthermore, the restricted exercise of rights or freedoms “must be exclusively determined by the prevention and combating of the COVID-19 outbreak, thoroughly motivated and in strict compliance with the requirements of art. 53 par. (2) of the Romanian Constitution, as republished” and “the duration of the restricted exercise of rights and freedoms cannot exceed the duration of the state of emergency” (art. 2 of the Decision).

At the same time, the Parliament decided that: “Amending, supplementing or repealing, as the case may be, provisions stipulated in legislative acts with the force of law, motivated by the prevention and combating of the COVID-19 outbreak, shall only be decided by means of legislative acts with the force of law”.

We can see that the lawmaker focused on the compliance with the balance and proportionality of the measures to restrict the exercise of rights and freedoms, as well as the explicit mention that the restriction shall only take place by means of *legislative acts with the force of law*.

## **2. Analysis of the Solutions Pronounced by the Constitutional Court Regarding the Legislation Adopted During the Pandemic**

As shown, the Constitution provides the President with the prerogative of establishing the state of emergency, by means of decrees subsequently subjected to Parliament control. The Constitution does not provide for any means to censor the presidential decree for establishing the emergency state; the only way to correct the content of the latter is the Parliament’s Decision for approval.

Both Decree no. 195/2020 and Decree no. 240/2020 include provisions that are genuine restrictions of rights and freedoms. The Constitutional Court held that “the Presidential Decree is nothing but a legislative administrative act, hence a secondary regulatory act, which enforces a primary regulatory act” (<https://www.ccr.ro/comunicat-de-pres-a-6-mai-2020/>); hence, the exercise of rights and freedoms shall not be restricted by means of a Presidential Decree, during the state of emergency, but by means of an organic law (based on the provisions of art. 75 par. 3g of the Romanian Constitution). The fact that the two decrees were approved by means of Parliament Decisions does not cover the major flaw of not having adopted a legislative act with the force of law.

Moreover, in order to enforce the two presidential decrees, the Romanian Government issued emergency ordinances that also imposed the restriction of rights or freedoms. The Romanian Constitution concretely establishes the boundaries of legislative delegation, art. 115 par. (6), explicitly stipulating that emergency ordinances cannot be adopted: “in the field of constitutional laws, and they cannot affect the status of the fundamental institutions of the states, the rights, freedoms and duties set out in the Constitution, electoral laws, and cannot refer to measures for the forced transfer of goods to public property”.

Based on the competences awarded by art. 146d of the Constitution, the People's Advocate notified the Constitutional Court with exceptions of non-constitutionality regarding several legislative acts issued by the Romanian Government. Furthermore, Parliament members and the Romanian Government filed notifications regarding the non-constitutionality of some legislative acts. We shall analyse some of these exceptions and how they were settled.

I. The Decision of the Constitutional Court no. 150 of March 12, 2020 regarding the exception of non-constitutionality of the provisions of the Government Emergency Ordinance no. 26/2020 on the amendment and supplementation of legislative acts for elections for the Senate and the Chamber of Deputies, as well as measures for the proper organization and development of anticipated parliament elections, published in: the Official Gazette issue 215 of March 17, 2020.

Although the Government Emergency Ordinance no. 26/2020 was adopted prior to the sanitary crisis, the decision pronounced by the Constitutional Court (which admitted the notice and decided that the emergency ordinance as a whole was non-constitutional) is of interest regarding the criticisms of non-constitutionality, which were invoked subsequently, as a foundation for the analysis of other exceptions of non-constitutionality.

Thus, the Court held that "the constitutional norm establishes genuine limitations of the competence assigned to the Government". The Court referred to its case law, by means of which it established that "it can be deduced that the prohibition to adopt emergency ordinances is total and unconditional when it mentions that 'they cannot be adopted within the scope of constitutional laws' and 'cannot refer to measures for the forced transfer of goods to public property'. In the other fields stipulated by the text, the emergency ordinances cannot be adopted if they 'affect', if they have negative consequences, but, instead, they can be adopted if, due to the regulations they include, they have positive consequences in the relevant fields". In the following the Court showed that "the verb 'affect' can be subject to various interpretations, as shown by some dictionaries. From the Court's viewpoint, they shall only hold the legal meaning of the concept, from various points of view, such as: 'to suppress', 'to harm', 'to damage', 'to prejudice', 'to entail negative consequences'".

The Court held that any harm to electoral rights by means of the applicable legal provisions affects the electoral procedure and the outcome of elections and found that the legislative act of the delegated lawmaker affects the citizens' electoral rights and the Parliament's constitutional system.

Consequently, the Court decided that G.E.O. 26/2020 as a whole was non-constitutional.

II. The Decision of the Constitutional Court no. 152 of May 6, 2020 regarding the exception of non-constitutionality of the provisions of art. 9, art. 14 c<sup>1</sup>-f) and art. 28 of Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency and of the emergency ordinance as a whole, as well as of the Government Emergency Ordinance no. 34/2020 on the amendment and supplementation of the Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency, as a whole, published in: the Official Gazette issue 387 of May 13, 2020.

The People's Advocate notified the Constitutional Court regarding the exception of non-constitutionality of the above-mentioned provisions and filed criticisms regarding extrinsic non-constitutionality and intrinsic non-constitutionality.

Analysing the filed criticisms, the Court held that "starting from the assumptions set out in Decision no. 150 of March 12, 2020", "regarding this legislative act (G.E.O. no. 1/1999 – our note), its very assumption of incidence – crisis situations requiring exceptional measures to be established in cases generated by the appearance of serious dangers regarding the defence of the country and national security, of constitutional democracy or to prevent,

restrict or do away with the consequences of disasters – aims at restricting the exercise of rights or fundamental freedoms. The purpose of the legislative act is to create the legal framework of the exceptional measures required by the management of the crisis situation, which, by themselves, affect rights and freedoms of the citizens. In other words, the very reason of law is to establish the legal basis for the restricted exercise of fundamental rights or freedoms, in agreement with the constitutional prerequisite set out in art. 53 par. 1. Regulating on the legal status of the state of siege and the state of emergency, the Government Emergency Ordinance no. 1/1999 is the primary regulatory act deciding on the restricted exercise of fundamental rights or freedoms, based on which the public authorities with competences to manage the crisis situation (the President of Romania, the Romanian Parliament, the Ministry of Administration and Internal Affairs, military authorities and public authorities, as set out in the decree establishing the state of siege or emergency) issue administrative acts of a legislative nature (the President's decree to establish the state of siege or emergency, military ordinances and orders of other public authorities) enforcing the primary rule, identifying, depending on the specificities of the crisis situation, the fundamental rights and freedoms whose exercise is to be restricted”.

“As for the Government Emergency Ordinance no. 34/2020 on the amendment and supplementation of Government Emergency Ordinance no. 1/1999, the Court holds that it was adopted with the infringement of art. 115 par. 6 of the Constitution” and considers it is obvious that: “deciding that the legal guidelines regarding decision-making transparency and social dialogue are unenforceable, actually suspending them during the state of emergency or state of siege, affects the fundamental rights for whose consideration these laws were adopted, as well as the status of a fundamental institution of the state, so that the emergency ordinance resulting in such suspension is contrary to the prohibition set out in art. 115 par. 6 of the Constitution”.

Furthermore, the Court held that art. 28 par. 1 of the Government Emergency Ordinance no. 1/1999 is “confused, unclear and unpredictable” (recital 126). At the same time, the Court held that “the determination of facts whose performance is an offence is arbitrarily left at the discretion of the determiner, as the lawmaker has not set out the required criteria and conditions for establishing and sanctioning offences. Furthermore, in the absence of a clear representation of the elements of the offence, the judge himself does not have the required benchmarks to enforce and interpret the law, so as to settle the complaint against the protocol determining and sanctioning the offence.” (recital 130)

Thus, the Court admitted some exceptions of non-constitutionality and found that “the provisions of art. 28 of Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency and of the emergency ordinance are non-constitutional” and that “the Government Emergency Ordinance no. 34/2020 on the amendment and supplementation of the Government Emergency Ordinance no. 1/1999 on the state of siege and the state of emergency is non-constitutional as a whole”.

III. *The Decision of the Constitutional Court no. 157 of May 13, 2020* regarding the exception of non-constitutionality for the provisions of art. 2 f) and art. 4 of the Government Emergency Ordinance no. 21/2004 on the National System for the Management of Emergency Situations, published in: the Official Gazette issue 397 of May 15, 2020.

“The People’s Advocate files criticisms of non-constitutionality regarding the provisions of Government Emergency Ordinance no. 21/2004 in relation to art. 1 par. (4) and (5), art. 53 and art. 61 par. (1) of the Constitution, as they allow to establish measures for the restricted exercise of fundamental rights by means of administrative acts (regulations, plans, programmes or operative documents approved by decisions or orders), issued by primarily administrative bodies (the National Committee for Emergency Situations, county committees for emergency situations). They show that the legislative act regulates the National System for

the Management of Emergency Situations, more accurately the establishment of structures with attributions in terms of managing emergency situations, i.e. to coordinate, plan and support decisions. Moreover, the delegated lawmaker regulates the state of alert. This new 'state' is established when there is an emergency situation and it implies taking actions."

"Starting from the assumptions set out in Decision no. 150 of March 12, 2020 and taking act of the regulatory purpose of Government Emergency Ordinance no. 21/2004, the Court holds that this legislative act regulates, in terms of managing the prevention and management of emergency situations, a partially coherent institutional system, which becomes active as emergency situations arise and which operates on a temporary basis, for their duration. The purpose of the legislative act is to create the legal framework of the exceptional measures required by the management of the emergency situation, with a view to quickly restoring the state of normality. Regulating on the legal status of the state of alert, the Government Emergency Ordinance no. 21/2004 is the primary regulatory act deciding on the actions and measures required to manage emergency situations, based on which the entities with competences in the management of emergency situations issue administrative acts of a normative or individual nature enforcing the primary rule" (recital 78)

Since art. 4 of G.E.O. no. 21/2004 stipulated, on that date, that "a decision to evict from the affected or partially affected area" may be made (par. 1 c) and that "the decision to declare the state of alert includes (...) the obligations of citizens and business operators regarding participation in activities to the benefit of local communities" (par. 5 d), the main criticisms referred to the fact that such provisions may affect the inviolability of the residence or of the ownership right (par. 1 c), respectively of the right to work (par. 5 d).

In this situation, the Court decided to "admit the non-constitutionality exception (...) and finds that the provisions of art. 4 of the Government Emergency Ordinance no. 21/2004 on the National System for the Management of Emergency Situations are constitutional provided that the actions and measures decided during the state of alert do not aim at restricting the exercise of fundamental rights or freedoms".

After the Decision of the Court, G.E.O. no. 68/2020 was adopted on the amendment and supplementation of normative acts with an incidence on the management of emergency situations and civil protection, whereby par. 5 of art. 4 of G.E.O. no. 21/2004 was repealed.

IV. *The Decision of the Constitutional Court no. 457 of June 25, 2020* regarding the exception of non-constitutionality of the provisions of art. 4 par. (3) and (4), as well as art. 65 s) and §), art. 66 a), b) and c) regarding the references to art. 65 s), §) and t) and art. 67 par. 2 b) regarding the references to art. 65 s), §) and t) of Law no. 55/2020 on certain measures for preventing and combating the effects of the COVID-19 pandemic, published in: the Official Gazette issue 578 of July 1, 2020.

The People's Advocate notified the Constitutional Court regarding the exception of non-constitutionality of the provisions of art. 4 par. (3) and (4) of Law no. 55/2020, which they claim to infringe the principle of separation of powers, the constitutional status of Government decisions, the constitutional guidelines setting out the relation between the Parliament and the Government, those regarding the judicial control of the administrative acts of public authorities by means of administrative disputes and, by this, the free access to justice of the persons whose rights were affected, by means of Government decisions.

The lawmaker stipulated (our note: in the criticized article) that the measure established through Government decision has to be subjected to Parliament approval, and the latter can approve of it in full or with changes, which implies the Parliament's intervention on the Government's decision to establish the state of alert. (recital 45)

The institution of the state of alert is an exclusive creation of the lawmaker; therefore, in the absence of a derogatory constitutional status for the Government's decisions establishing the state of alert, such a status cannot be awarded as an exception, by means of infra-

constitutional acts (our note: parliament control). Therefore, the Government's decision establishing the state of alert can be only a legislative administrative act, hence a secondary regulatory act enforcing a primary regulatory act. (recitals 48 and 49) By approving/amending the measures adopted through Government decisions, the Parliament cumulates the legislative and executive functions, which is incompatible with the principle of the separation and balance of powers in a state, as set out in art. 1 par. 4 of the Constitution. (recital 50)

The Court found that the regulation regarding the Parliament's "'approval' or 'change' of the measures adopted by the Parliament by means of the decision lacks any constitutional basis and distorts the legal status of Government decisions, as acts enforcing the law".

Furthermore, the Court held that "a Government decision amended and supplemented by a decision of the Parliament, (our note: is) a hybrid act with no constitutional basis, only created by means of a confusion of attributions regarding the Parliament and the Government and by ignoring the principles governing the relations between these public authorities, with an uncertain legal status in terms of the provisions of art. 126 par. (6) of the Constitution".

Therefore, the Court held that the provisions of art. 4 par. 3 and 4 of Law no. 55/2020 are non-constitutional.

Furthermore, the People's Advocate notified the Constitutional Court on the exception of non-constitutionality of the provisions of art. 65 s) and ș), of art. 66 a), b) and c) and art. 67 par. (2) b) of Law no. 55/2020, which they claim are unclear, imprecise and unpredictable, going against constitutional provisions.

A serious negligence of the lawmaker is seen here, since the text of the law refers to art. 5 par. 4, which does not exist, as art. 5 only has three paragraphs. At the same time, since art. 65 has no letter t), the provisions of art. 66 c) and art. 67 par. (2) b), referring to the non-existing letter t) of art. 65 are practically devoid of scope, which is classified by the Court as an imprecision of the lawmaker. (recital 63) At the same time, the Court establishes the non-constitutionality of the criticized articles since they fail to meet all the requirements regarding the quality of the guideline: accessibility, clarity, precision and predictability.

V. *The Decision of the Constitutional Court no. 240 of June 3, 2020* regarding the objection of non-constitutionality of the Law approving the Government Emergency Ordinance no. 44/2020 on the extension of the mandates of local public administration authorities for 2016-2020, certain measures for the organization of local elections in 2020, as well as amending the Government Emergency Ordinance no. 57/2019 on the Administrative Code and the Government Emergency Ordinance no. 44/2020, published in: the Official Gazette issue 504 of June 12, 2020.

The objection of non-constitutionality was filed by 73 deputies and by the Romanian Government, who assessed that the draft law approving the Government Emergency Ordinance no. 44/2020 was adopted infringing the bi-chamber principle and that the legislative solution is opposed to the purpose envisaged by the delegated lawmaker as the emergency ordinance was adopted.

Analysing whether the mandates of local public administration authorities can be extended by means of an emergency ordinance by the delegated lawmaker, the Court found that "since a legislative action to extend the mandates of local public administration authorities is required, the Parliament, exercising national sovereignty as a supreme representative body of the Romanian people and as the only law-making authority of the country, is the sole public authority able to establish whether a derogation is required from the natural legislative framework to ensure elections are held on a regular basis, resulting in the extension of local election mandates, the conditions for such derogation and its content". At the same time, the Court held that "the Government only maintains its purely administrative competences, i.e. to organise the enforcement of laws and does not have the functional competence to extend the normal duration of the mandates of local elected officers and,

hence, to derogate from the existing legislative framework. The Government could, instead, initiate a draft law to this purpose, that would be subjected to Parliament approval.

Therefore, since the scope of reference could not be regulated by means of an emergency ordinance, as it affects the right to vote and the right to be elected, the Parliament should have adopted a law to reject G.E.O. no. 44/2020.

The Court decided that both the Law to approve G.E.O. no. 44/2020 and G.E.O. no. 44/2020 as a whole are non-constitutional.

### 3. Conclusions

We can conclude that no public authority was prepared for the actual enforcement of a situation of an unprecedented seriousness, that legislative acts were adopted exceeding the prerogatives of the issuer, as well as acts infringing fundamental principles of the Constitution, such as the principle of separation of powers or the principle of judicial control.

Furthermore, the legal actions taken in such special situations were subjected to the analysis of law theoreticians and practitioners (<https://www.conseil-constitutionnel.fr/node/1989/pdf>, <http://www.droit-union-europeenne.be/427772766,file:///C:/Users/home/Downloads/red-les-droits-humains-a-lepreuve-du-covid-19.pdf>, <https://www.asfcanda.ca/medias/nouvelles/asfcanda-declaration-covid19-droits-humains-crise/>, <https://www.maxicours.com/se/cours/l-usage-des-libertes-et-les-exigences-sociales/>, <https://www.defenseurdesdroits.fr/fr/covid-19-et-urgence-sanitaire-le-role-du-defenseur-des-droits>), as well as international organizations focused on protecting human rights and fundamental freedoms during the sanitary crisis.

With the opportunity of the Third Committee (October 14, 2020), the United Nations High Commissioner for Human Rights (<https://www.un.org/press/en/2020/gashc4294.doc.htm>) assessed that “the COVID-19 pandemic has also caused ‘profound, multi-faceted blows’ to fundamental freedoms worldwide”. Michelle Bachelet outlined the “profound, multi-faceted blows” faced by fundamental freedoms all across the world and emphasized the importance of freedom of expression and the media, as well as the fact that “human rights-based policy is profoundly useful”, since restrictions were required regarding political and civil rights, as a consequence of the sanitary crisis.

In an interim report, the Venice Commission <sup>1</sup> ([https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)018-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)018-e#)) analysed the measures taken in the EU member States as a result of the COVID-19 crisis and their impact on democracy, the rule of law and fundamental rights and concluded that the member states were acting within the boundaries of legal provisions when restricting certain rights or freedoms.

The previous report, ([https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)003-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)003-e#)) analysed the restricted exercise of fundamental rights, assessing that “experience has shown that the gravest violations of human rights tend to occur in the context of states of emergency”. However, the report considers that international documents on human rights contain a derogation clause with regard to emergencies. Thus, for instance, the European Convention of Human Rights and Fundamental Freedoms (ECHR) stipulates, under art. 15 – Derogation in time of emergency, that: “In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.” ([https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf))

On a national level, despite all the protests laid out in the public area (against fundamental public institutions – the Constitutional Court, the People’s Advocate...)

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<sup>1</sup> European Commission for Democracy through Law (Venice Commission)

(<https://stirileprotv.ro/stiri/actualitate/raed-arafat-zavocatul-poporului-o-sa-intre-in-istoria-pandemiilor.html>), it seems that the institutions with attributions to manage the state as a whole and the pandemic in particular have finally understood by means of which democratic mechanisms could the exercise of certain fundamental rights or freedoms be restricted.

The final conclusion can only be that any restriction of the exercise of fundamental rights or freedoms can only take place by means of a law, as a formal act of the Parliament and that, in any state claiming to be democratic, legislative acts should be subjected to independent control, so as to guarantee their legality and avoid any abuse in the context of emergency situations.

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# THE CHALLENGES OF TEACHING IN PANDEMIC TIMES

Camelia Andreea, Rizea<sup>1</sup>

**Abstract:**

*The COVID-19 pandemic has shuttered schools across the world, upending traditional approaches to education. The sudden shift to remote teaching and added caretaking responsibilities at home have created a uniquely stressful and demanding context for teachers' work. Major concerns exist about teachers' wellbeing during the pandemic and their ability to successfully deliver instruction remotely. Teachers have also expressed apprehension about their willingness to return to the classroom when schools are able to reopen. Even more troubling are projections of substantial student learning loss and the likelihood that differential access to technology and learning supports at home are exacerbating longstanding achievement gaps along racial and socio-economic lines.*

*The present paper outlines the substantial challenges created by the sudden move to remote teaching, the difficulties encountered by teachers in their work and the limited degree to which students can engage in learning. We have also tried to discover the supportive working conditions which have been far more successful at helping teachers maintain a sense of success during the pandemic.*

**Keywords:** *remote teaching, education, classroom instruction, educational challenges, learning environment, future trends.*

**JEL Classification:** *I21, I29.*

On March 11, 2020, the World Health Organization declared the coronavirus outbreak a pandemic. This virus, also known as COVID-19, has dramatically changed the lives of people around the globe, touching all aspects of life, from health care to education and economy. In the field of education, this emergency has led to the massive closure of face-to-face activities of educational institutions in more than 190 countries in order to prevent the spread of the virus and mitigate its impact.

Despite the overwhelming consequences of the pandemic, this global crisis has also been an extraordinary time for learning. We are learning how adaptable and resilient educational systems, policy makers, teachers, students and families can be. Although the COVID-19 pandemic has shuttered schools across the world, it led to a decrease in using traditional approaches to education. The sudden shift to remote teaching and added caretaking responsibilities at home have created a uniquely stressful and demanding context for teachers' work. Major concerns exist about teachers' wellbeing during the pandemic and their ability to successfully deliver instruction remotely. Teachers have also expressed apprehension about their willingness to return to the classroom when schools are able to reopen. Even more troubling are projections of substantial student learning loss and the likelihood that differential access to technology and learning supports at home are exacerbating longstanding achievement gaps along racial and socio-economic lines.

The present paper outlines the substantial challenges created by the sudden move to remote teaching, the difficulties encountered by teachers in their work and the limited degree to which students can engage in learning. We have also tried to discover the supportive working conditions which have been far more successful at helping teachers maintain a sense of success during the pandemic. In the sphere of education, many of the measures that the countries have adopted in response to the crisis are related to the suspension of face-to-face classes at all levels, which has given rise to three main areas of action: the deployment of distance learning modalities through a variety of formats and platforms (with or without the use of technology); the support and mobilization of education personnel and communities; and concern for the health and overall well-being of students. In this context, the main

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challenges were focused on the perceived effectiveness of remote learning solutions, forthcoming and on teachers and how they had to quickly reimagine human connections and interactions to facilitate learning. The role of teachers is rapidly evolving becoming in many ways more difficult than when learning took place only in person.

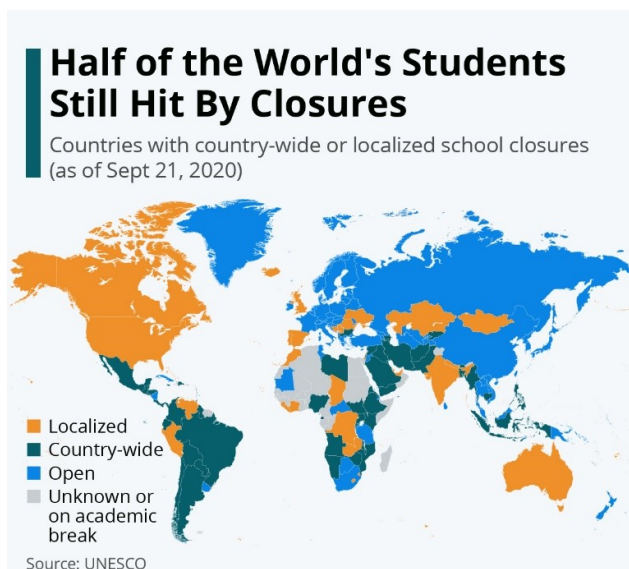
While countries are at different points in their COVID-19 infection rates, worldwide there are currently more than 1.2 billion children in 186 countries affected by school closures due to the pandemic. Nevertheless, there were two crucial factors that have shifted due to the pandemic. First, pedagogical adaptations have proven to be pivotal as the traditional lecturing in-person models do not translate to a remote learning environment. No matter the type of channel used (radio, TV, mobile, online platforms, etc.) teachers need to adapt their practices and be creative to keep students engaged as every household has become a classroom - more often than not - without an environment that supports learning. Some countries are supporting teachers with this.

Secondly, the pandemic has recalibrated the way teachers divide their time between teaching, engaging with students, and administrative tasks. A large percentage of teachers did not consider being prepared to teach remotely, they were anxious and felt tired, and less than only a small percentage were happy or satisfied. The pandemic has highlighted the need for flexibility and more time for student-teacher interactions. In some countries, teachers were given autonomy to adjust the curriculum, lesson plans, and their time allocation which spread the teachers' feelings of pessimism and self-doubt.

Almost 90% of countries that responded to the survey of Ministries of Education on National Responses to COVID-19 conducted by UNESCO, UNICEF, and the World Bank (2020) supported teachers by sharing guidelines stressing the importance of: providing feedback to students, maintaining constant communication with caregivers, and reporting to local education units to keep track of learning. As teachers started to implement these guidelines and recommendations, they found themselves balancing educating and providing feedback to students remotely, filling administrative reports, and taking care of their families. Some governments recognized early-on that their well-intentioned teacher support systems ended up generating burnout. Some educational systems decided to reduce teacher's administrative workload or encouraged teacher-student interaction during designated time after each class, avoiding a situation in which students contacted teachers through WhatsApp or text message throughout the day.

A high number of more than 800 million learners weren't able to attend class (as of mid-September) due to the COVID-19 pandemic. According to UNESCO, that figure represents 48.6 percent of all learners worldwide - almost half of all students in the world. At the height of the pandemic in early April, 1.6 billion students - over 90 percent in the world, did not attend in-person classes. At that point, there were national school closures in 138 countries which later fell to 52.

Beyond providing guidelines and tools, some governments have leveraged existing professional development programs that worked before the pandemic. Thousands of primary



school teachers were trained to effectively use digital technologies in the classroom; during the pandemic, this in-service teacher training program transitioned from in-person to remote training. Similarly, other countries took an existing coaching program online to provide remote pedagogical support and strengthened their teacher training program. A large percentage of teachers were satisfied with the remote training received during the pandemic, but others expressed the need for further training.

Faced with the pandemic, countries have combined high-tech and low-tech approaches **to help teachers better support student learning**. Education leaders also designed a strategy that combines SMS, printed handouts, and continuous teacher feedback, taking advantage of the high mobile phone penetration in the country. The approach goes beyond providing low-tech materials: it gives information on how to access learning programs, ensures students access paper-based learning materials, and includes home visits to monitor distance learning activities. Teachers are also expected to provide weekly paper-based resources to students and meet them weekly to provide their marked worksheets and issue new ones for the week ahead.

Technology has also enhanced **government-teacher support**, adapting existing coaching programs to be delivered remotely, creating spaces for peer support programs or establishing EdTech hotlines for teachers (an educational technology information line to solve any technological question teachers might have).

Technology interventions should **enhance teacher engagement with students**, through improved access to content, data and networks, helping teachers better support student learning, as laid out in the World Bank's Platform for Successful Teachers, where effective use of technology is one of the key principles to ensure cadres of effective teachers.

In order to build back stronger education systems, countries will need to apply **those teaching initiatives that have proved to be effective** during the remote learning phase and integrate them into the regular education system. It is critical to empower teachers, investing in the necessary skills development and capacity building to exploit the full potential of remote and blended learning.

Equally important is to free teachers' time from administrative tasks, focus on what is pedagogically effective, and provide socio-emotional support for teachers. The pandemic and the extended school closures have changed the role of teachers and most of them were not prepared for such change; a comprehensive strategy is required for socio-emotional monitoring and psychosocial support to ensure teacher wellbeing and avoid burnout.

## **Conclusions**

With a sudden move to remote and online teaching due to COVID-19 pandemic, teaching has become more challenging for both students and teachers with the emergence of new technological challenges and instructional strategies. Classroom learning was shifted to online learning in an attempt to mimic face-to-face teaching as well as maintaining active learning. A combination of asynchronous and synchronous teaching methods was found to be effective for content delivery, active learning and increasing student's engagement.

Trying to identify some of the problems encountered in online teaching, we have found out that many students and even teachers have low digital literacy. They find difficulties in operating the applications and platforms used for online learning. A logical reasoning behind this is that they did not use to study or teach through online learning and interact with the respective applications and platforms. On the other hand, some students were not punctual in attending the online learning as scheduled by the schools at certain time in a week. They are absent at the classes scheduled by schools and ask the teachers or their colleagues about what had been taught before. Other students use to submit their works after the deadline or complain about the workload they have to do in online learning. The absence

of adequate facilities for high technology integration becomes another problem in the online learning. It has been known that many students get troubled with unstable internet connection, inability to afford adequate internet quota, and lack of smartphones. Without adequate facilities, the teachers cannot carry out an interactive online learning. They can only give materials for independent learning at home, tasks or projects, and quizzes.

Planning and preparation should inevitably be done for better online learning in the future since online learning requires more time than face-to-face class to be well-prepared and ready. The teachers must be trained and prepared with sufficient knowledge and skill to maximize their practices in carrying out the online learning. The students have to be familiarized with online learning to enhance their digital literacy and refine their misperceptions about online learning.

The challenges encountered must inspire students and teachers to be reflective, open, creative, and adaptive to dynamic changes. It reminds them to keep exploring technology to enhance learning. To select and utilize suitable applications timely, teachers need practical preparation and learning on recognizing applications, organizing activities, maintaining students' engagement, and evaluating students' learning. Teachers and students are encouraged to have active participation in educational development opportunities to extend their competency on technology integration in all teaching or learning processes.

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# THE IMPORTANCE OF CLASSROOM MANAGEMENT

Camelia Andreea, Rizea<sup>1</sup>

## **Abstract:**

*Organizing and guiding a class of students has constantly turned out to be a laborious and complex activity that involves a multitude of individual resources, efforts and actions taken by the teacher. Regardless of the way in which every teacher describes the activity in the classroom, there is a consensus regarding the recognition of the importance of classroom management. Education is extremely important nowadays and, therefore, classroom management has to integrate different aspects and strategies such as leading, interacting, organizing the learning environment or the interpersonal relations and has to respond efficiently to the coordination of these factors.*

*The purpose of the present paper is to highlight the importance of classroom management which provides the possibility to analyze and solve various issues regarding the social interaction in the classroom as well as the opportunity to understand and become aware of the teacher's and student's roles in the classroom, and last but not least, the development of teachers' conceptions with regard to authority and responsibility in terms of different theories of classroom management.*

**Keywords:** *classroom management, education, learning opportunities, teaching strategies, learning environment.*

**JEL Classification:** *I21, I29.*

Classroom management is the process by which teachers and schools create and maintain appropriate behaviour of students in classroom settings. The purpose of implementing classroom management strategies is to enhance prosocial behaviour, increase student academic engagement and promote positive outcomes for students.

Organizing and guiding a class of students has constantly turned out to be a laborious and complex activity that involves a multitude of individual resources, efforts and actions taken by the teacher. Regardless of the way in which every teacher describes the activity in the classroom, there is a consensus regarding the recognition of the importance of classroom management. Education is extremely important nowadays and, therefore, classroom management has to integrate different aspects and strategies such as leading, interacting, organizing the learning environment or the interpersonal relations and has to respond efficiently to the coordination of these factors.

The purpose of the present paper is to highlight the importance of classroom management which provides the possibility to analyze and solve various issues regarding the social interaction in the classroom as well as the opportunity to understand and become aware of the teacher's and student's roles in the classroom, and last but not least, the development of teachers' conceptions with regard to authority and responsibility in terms of different theories of classroom management.

First of all, classroom management is often defined as being a field of research in education sciences, which studies both the perspectives of approaching the classroom (didactic and psychosocial) and its dimensional structures, in order to facilitate the interventions of teachers in crisis situations (indiscipline, violence, non-involvement, etc.) and the avoidance of their negative consequences, through the exercise of educational micro-decisions.

The role of the class manager, i.e., the teacher or the professor, is to supervise the class and its proper functioning, to organize, without reducing the managerial activity at the production level. Also, another role of the manager is to create a management strategy with a minimum of resources (i.e., they must be chosen qualitatively, not quantitatively, on the principle of efficiency), encouraging communication.

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The decision-making process must not be delayed, the manager establishing the strategy according to the goals he wants to achieve, performance factors, quality, etc.

The strategies, of course, will be different depending on what the class manager wants. For example, if the target is a pragmatic one, focused on looking at the class as an educational tool, then the manager will pay attention to arranging the space so that it suits cognitive objectives and facilitates intellectual learning, the class will be organized in such a way as to responds to students' attitudes and skills, students' behaviour being monitored and encouraged for improvement. If the manager's goal will be a psychosocial one and will take into account the importance that the student attaches to social interaction, then the goal will aim at the harmonious development of students' personality, but also an equally harmonious learning process.

In any case, the class manager, as its coordinator, will in fact be the example that guides students in the process of self-education. Education, for example, is one of the most powerful forms of education, so the teacher has the ability to influence student behaviour. This influence is also based on certain factors, as attested by specialists in the field: the emotional climate installed between teacher and students, how the student perceives the teacher, how often or how rarely this is exercised we influence, how the teacher's strategy is individualized.

However, the class itself, the collective, has an even greater impact. It functions as a social microsystem, which in turn has statutes and is organized into groups. A class with a larger number of students will be organized into several groups and small groups. Between them, all kinds of interactions will be established, depending on the activities, the free time spent together, friends, dislikes, etc. In general, the activities carried out in the classroom will be accepted if the largest group accepts them. Thus, the dominant group will dictate the attitude of others, regardless of whether we are talking about the refusal or acceptance with pleasure of uniting activities or work tasks.

We can also talk about some separate features that can customize the group - class:

- cohesion: the degree of unity, mutual understanding between group members;
- autonomy or dependence: the group may act independently or in close connection with the aims and / or activity of another group;
- conformity or nonconformism of the members: the degree of submission and acceptance of the group norms;
- permeability and impermeability: class readiness to receive and accept new members;
- stability and instability: the durability of the class group over time;
- the personality of the class group.

From the analyzed aspects it can be deduced that the psychosocial perspective represents a solid complement of the didactic perspective and at the same time a subject of great importance in the study of student class management.

The issue of effective classroom management acquires new values in the context of disadvantaged schools, when teachers face complex situations in which students in a class are mostly in a difficult situation, and thus different learning needs from other children.

The association of the role that a teacher has at the level of a class of students with that of a manager is not out of place because the teacher successfully fulfills the role of manager considering that he manages an organization (class of students) where he coordinates the resources (human, materials, financial and IT).

In a broad sense, if we look at the activity carried out by the teacher in the classroom as a leading activity (as pedagogy has always supported), any person (educator, teacher, teacher, foreman, instructor) who actually leads the instructive-educational process, which guides, organizes it, directs it and evaluates it, is concerned with the educational climate of the team he leads is an educational manager.



In a narrow sense, the educational manager is only the person (the principal) who leads an educational unit, regardless of its size and profile. Modern skills of teachers must be focused on identifying optimal intervention strategies for solving and managing micro-educational crisis situations (in the classroom), and from this point of view, the initial training of teachers must be made in the spirit of student class management. This study discipline orients the teacher towards the elements of educational leadership, helps to form specific skills for building the socio-emotional dimension of the class of students, intervention and evaluation in special crisis situations.

In class, the teacher not only performs teaching-learning-assessment, but also relates to students, influencing their learning behaviour, intervenes in directing their general evolution.

Thus, the teacher will fulfill a series of roles and functions, in the context of class management:

- planning: regarding the instructive and educational activities, determines the tasks and objectives on various levels, structures its essential contents and composes the class schedule, etc.;
- organization: regarding the class activities, fixes the program of instructive-educational work, structures and forms of organization;
- communication: regarding the scientific information, the axiological sets in the form of messages, establishes the common communication channels and repertoires; establishes interpersonal relationships with students through a formative dialogue;
- leadership: regarding the activity carried out in the classroom directing the process of assimilation but also of the students' training by appealing to the educational normativity;
- coordination: in their globality the instructive-educational activities of the class, permanently following the achievement of a synchronization between the individual objectives of the students with the common ones of the class, avoiding the overlaps or waste and contributing to the strengthening of the group solidarity;
- guidance: through punctual interventions adapted to the respective situations, through advice and recommendations to support students' behaviours and reactions;
- motivation: uses verbal appreciations and nonverbal reactions in support of consolidating positive behaviours; orients in value through a series of humanistic interventions the negative tendencies identified in the students' behaviours; encourages and shows solidarity with some soul moments of the class;
- counseling: supports the orientation of students in school activities but also in extracurricular ones, through help, advice, through their cultural and axiological orientation;
- control: in order to know the stage in which the activity of achieving the objectives is as well as the performance levels of the students. Control has only a regulating role and adjusting the activity and attitude of students;
- evaluation: the extent to which the goals and objectives of a stage were achieved through tools of summative evaluation, by statistical processing of the collected data and by the elaboration of the synthesis of the final assessments. The value judgments it will issue will be a solid basis for the process of characterizing students.

In the context of disadvantaged schools, when the class includes students with special educational needs, due to the economic and social problems they face outside the school, there is the problem of using creative ways of managing the class, which should be adapt to the special communication needs that these children may have.

An efficient management will suppose the increase of the degree of involvement of the students in the class activities and implicitly the volume of time allocated to the actual learning activity. Increasing the time in which students are engaged in learning allows the evaluation of the degree of success of the techniques of leading a class.

## **Conclusions**

The ability of teachers to organize classrooms and manage the behaviour of their students is of utmost importance to positive educational outcomes. A thorough preparation of the teacher and professional development in effective classroom organization and behaviour management is therefore needed to improve outcomes for students in general and special education.

One of the basic responsibilities of the teacher is to plan and structure the learning environment, so as to facilitate progressive, desirable changes in the student's learning behaviour and style. Such an environment should provide as many opportunities as possible for successful experiences. Studies show that students who experience success want to get involved in solving new tasks and at the same time develop positive feelings towards their own person. Instead, students who consider themselves overwhelmed by situations and unable will most likely develop feelings of helplessness.

Consequently, the main goal of classroom management is to create an educational environment that maximizes students' learning potential and encourages their active engagement in learning. At the same time, teachers must ensure a climate in which students feel comfortable and ready to associate school with feelings of success.

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# ASPECTS REGARDING THE GENERAL PRINCIPLES OF PUBLIC ADMINISTRATION

Isabela, Stancea<sup>1</sup>

## Abstract

*The principles regulated by the Administrative Code unfortunately do not say anything in addition to the other regulations, nor do we appear to be competent to produce any effect, seeming to have only a strictly theoretical vocation. These principles will come to be configured as mere desideratum, if they are not perceived by the recipients as authentic values in relation to which to constantly coordinate their activity; precisely because of this, considering the administrative reality in which we live, the idealistic character in which these principles are regulated, we consider that their utility remains debatable.*

**Keywords:** *principles, public interest, public administration, codification.*

**Jel Classification:** **K0; K1**

The principle of legality, an essential rule that requires the observance of the fundamental law and of the other existing normative acts by all state bodies, by all legal persons of public or private law and by all citizens. From a philosophical point of view, legality is a component of the normative field and, due to this affiliation, it is necessarily also a component of the field of governmental attributions, legality being defined from this perspective as a system of norms and rules of conduct that impose or prohibit human actions and inactions, which are applied by the state by exercising its powers in the organized framework of the judicial process, under the threat of the use of specific sanctions. In this exhaustive sense, legality would also imply the state monopoly on the right to use even physical violence (Stănilă L.M., 2019).

Article 6 of the Administrative Code enshrines the principle of legality, according to which the public administration authorities and institutions, as well as their staff have the obligation to act in compliance with the legal provisions in force and the international treaties and conventions to which Romania is a party<sup>2</sup>.

The principle of legality is also enshrined in the Fundamental Law within art. 1 paragraph 3, in the form of the principle of the rule of law, but it is found in all branches and institutions of law, such as the branch of civil, fiscal, procedural law, etc.

For example, in the field of fiscal financial law, the principle of legality is contained in art. 4 of the Fiscal Procedure Code, which stipulates that "(1) The fiscal receivables and the corresponding obligations of the taxpayer / payer are those provided by law. (2) The procedure for the administration of tax receivables shall be carried out in accordance with the provisions of the law. The tax authority has the obligation to ensure compliance with the legal provisions regarding the realization of the rights and obligations of the taxpayer / payer or of other persons involved in the procedure. "

Regarding the principle of legality, the Code of Civil Procedure, in art. 7 states that: The civil process is carried out in accordance with the provisions of the law. The judge has the duty to ensure compliance with the provisions of the law on the realization of rights and fulfillment of obligations of the parties to the process. In the civil process, this principle presupposes that, both regarding the organization of justice and its administration, the

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<sup>2</sup> The administrative code was adopted by Government Emergency Ordinance no. 57/2019 which was published in M. Of. of Romania, Part I, no. 555 of July 5, 2019.

fundamental law and the other normative acts subordinated to it must be strictly observed by all those interested.

Therefore, the Administrative Code, like other normative acts, declaratively establishes the principle of legality, as a mandatory rule for the subjects to whom it is addressed, respectively for public authorities and institutions and citizens, without establishing obligations in addition to other normative acts.

Against these arguments, knowing the importance of the Administrative Code and its impact on public administration, in general, it would be useful if the principle of legality clearly stated the obligation of public administration authorities and institutions to, by the normative acts that will issue them, to normative act with the greatest legal force.

Therefore, the rule of law presupposes, on the one hand, the principle of legality, without being reduced to it, and, on the other hand, allows the public administration, implicitly the local one, to exercise its discretion, namely "that margin of freedom left at the free discretion of an authority so that, in order to achieve the purpose indicated by the legislator, it can resort to any means of action within the limits of its competence" (Tofan D. A, 2014).

The principle of equality presupposes that the beneficiaries of the activity of public administration authorities and institutions have the right to be treated equally, in a non-discriminatory manner, correlated with the obligation of public administration authorities and institutions to treat all beneficiaries equally, without discrimination on the basis of provided by law.

As in the case of the principle of legality, the principle of equality is also established by the constituent legislator in Article 16, which stipulates that citizens are equal before the law and public authorities, without privileges and without discrimination. No one is above the law. Public positions and dignities, civil or military, may be occupied, in accordance with the law, by persons who have Romanian citizenship and domicile in the country. The Romanian state guarantees equal opportunities between women and men for holding these positions and dignities. Under the conditions of Romania's accession to the European Union, the citizens of the Union who meet the requirements of the organic law have the right to choose and to be elected in the local public administration authorities.

If in the case of the Administrative Code equality takes into account the non-discrimination in any aspect of the citizens from the way in which the public authorities and institutions have the obligation to treat in the relations between them, in the case of the Fundamental Law this principle is more detailed. opportunities for men and women to hold public office and dignity, but initially the principle was enshrined in the 1976 Directive on equal treatment for men and women. As more and more women enter the labor market, the EU and the Member States reaffirm their commitment to promoting gender equality, progress in women's education and progress in eliminating the pay gap and discrimination in employment between women and men.

The principle of equality is found in all spheres of social and professional life, in areas such as working conditions, labor relations, labor market developments, quality of life and public services, wages and incomes, health care, labor market participation, leave, skills and training. professional, work organization, working time, work-life balance.

In fact, the promotion of equality between women and men is a task of the European Union, in all its activities, as provided for in the Treaties. Gender equality is a core value of the EU, a fundamental right and a key principle of the European Pillar of Social Rights. It is a value that represents us and, at the same time, an essential condition for an innovative, competitive and prosperous European economy. In business, in politics and at the level of society as a whole, we cannot fully realize our potential unless we use all the talent and diversity we have. Gender equality creates extra jobs and generates increased productivity - a potential that needs to be harnessed as we prepare for the transition to a green economy and

the digital transition and face demographic challenges ([https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52020DC0152 & from = EN](https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52020DC0152&from=EN)).

Unfortunately, it is not absolutely certain that progress will be made on gender equality, and if progress is made, it is not irreversible. We must, therefore, give a new impetus to gender equality. Although gender disparities in education are about to be eliminated, they persist in other areas, such as employment, pay, household chores, influential positions and pensions. Too many people continue to violate the principle of gender equality through sexist hate speech and by blocking actions to combat gender-based violence and gender stereotypes. Gender-based violence and harassment continue at alarming levels.

The principle of transparency implies that, in the process of drafting normative acts, public authorities and institutions have the obligation to inform and submit to public consultation and debate the draft normative acts and to allow citizens access to the administrative decision-making process, as well as to data and information of public interest, within the limits of the law. The beneficiaries of the public administration activities have the right to obtain information from the public administration authorities and institutions, and they have the correlative obligation to make available to the beneficiaries information *ex officio* or upon request, within the limits of the law.

The principle of transparency is found mainly in the field of public administration, as citizens demand more and more transparency and accountability from those who manage their interests.

This principle is put into practice in the possibility for citizens to participate in decision-making processes and is internationally recognized. Intergovernmental organizations and European countries have adopted, through various documents, rules to strengthen, guide and ensure the participation of the public and various civil society organizations in the adoption of their decisions. Although some of these documents are not binding, they set out a framework of clear rules to strengthen the legal framework and participatory practice.

From the specialized literature it is noted that the principle of transparency also presupposes, as a whole, the idea of correct information of the society regarding the organization and functioning of the public administration.

Decision-making transparency in public administration is a *sine qua non* condition for good administration; its lack could lead to serious shortcomings in regulatory activity and, implicitly, to a decrease in citizens' trust in public authorities and institutions and in the normative acts they issue. The lack of consultations with citizens means that these normative acts are frequently amended or repealed, creating legislative instability and depriving citizens of the certainty of a well-developed legal framework.

The real application of the principle of transparency would lead to a greater trust in laws and regulations, since they were adopted in consultation with stakeholders. Confidence in the legal framework will result in a higher degree of compliance with the law, with positive consequences on economic development and the maintenance of cooperative relations between the government apparatus and society.

The principle of proportionality, according to the Administrative Code, presupposes that the forms of activity of the public administration authorities must be corresponding to the satisfaction of a public interest, as well as balanced from the point of view of the effects on the persons. The regulations or measures of the public administration authorities and institutions are initiated, adopted, issued, as the case may be, only following the assessment of the needs of public interest or of the problems, as the case may be, of the risks and impact of the proposed solutions; this principle is for the first time regulated as such and as having this meaning.

This principle should be understood in the light of the idea of balance, fairness, fairness and reasonableness, but also an adoption in an adequate report of some measures

taking into account the aim pursued and the factual situation considered; this proportionality must exclude disproportionality, abuses, excess in general.

Even if the principle of proportionality is applicable to the entire system of administrative law, the field in which it is required and completely required to be applied and respected is the administrative process. Thus, the activity carried out by the administrative authorities must be carried out in proportion to the objective pursued and, respectively, not depriving the citizens of any aspect that would facilitate the achievement of the proposed and legally correct goal. The principle of proportionality involves two main aspects: on the one hand, the fact that the extent to which certain rights and legitimate interests of individuals are limited must be determined by a general interest of society, and on the other hand, the measure must be proportionate to the objective followed. The assessment of proportionality will be made for each specific case by analyzing alternative means of protecting the public interest in question, respectively, measures that do not involve any limitation of human rights or the necessary limitation to be as small as possible (Vacarenco I. 2016).

Another principle regulated in Article 10 of the Administrative Code is the principle of satisfying the public interest. According to him, the public administration authorities and institutions, as well as the staff within them have the obligation to pursue the satisfaction of the public interest before the individual or group one, and the national public interest has priority over the local public interest.

The interest is in itself the concern of the individual to obtain a success, advantage or a zeal deposited in an action to satisfy certain needs<sup>1</sup>.

The notion of interest also has a content related to the individual, respectively the personal interest, but also one related to the social group, collectivity - social interests. There is an interconditioning between individual needs and social interests, in the sense that any action behavior of the personality is supported by a psychosocial motivational system, with mobile function of personality action, in the structure of which psychological motivation is the result of internalizing social needs, social interests (Pînzaru P, 1971).

By public interest we could understand those activities that are necessary to meet social needs, considered as such by political power and which constitute the very *raison d'être* of public administration. The purpose of public administration authorities and public institutions can not be other than to meet general needs. of the company, ie, the satisfaction of the general interest, as opposed to that of private entities that aim to make a profit.

It should be mentioned that not every activity that is useful to society is of public interest. The appreciation of a social need as being of public interest, necessarily implies the existence of a legislative regulation in order to allow and even impose the action of the administration.

Therefore, as long as there is no specific legal norm, we cannot speak of the public interest and, as a consequence, the public administration authorities are not legally obliged to satisfy this interest. We conclude by pointing out that the public interest is different in its content in relation to the political will existing in society at a given time.

The principle of impartiality presupposes that the personnel from the public administration has the obligation to exercise their legal attributions, without subjectivism, regardless of their own beliefs or interests.

Also, in accordance with the provisions of art. 368 of the O.U.G. no. 57/2019 on the Administrative Code, with subsequent additions, one of the principles applicable to the professional conduct of civil servants and contract staff in public administration is that of impartiality and independence, a principle according to which persons holding different

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<sup>1</sup> Explanatory Dictionary of the Romanian Language - Romanian Academy, "IORGU IORDAN" Institute of Linguistics, - 2nd Edition Encyclopedic Universe, Bucharest, 1998, page 498.

categories of positions are required to have an objective attitude, neutral to any interest other than the public interest, in the exercise of the function held.

Two other principles provided by the Administrative Code are the principle of continuity, which presupposes that the activity of public administration is exercised without interruption, respecting the legal provisions and the principle of adaptability, according to which public administration authorities and institutions have the obligation to meet society's needs and adapt to these needs.

As for the principle of continuity in public administration, it should be the basis of public services, because the satisfaction of the general interest must be achieved continuously and not discontinuously, in the latter case there would be serious disturbances to the smooth running of public affairs.

The principle of continuity requires public authorities to ensure the regular functioning of public services. The state, in case of refusal or negligence on the part of the obliged agents, may provide certain public services or even replace them in order to ensure the uninterrupted provision of public services. Of course, the principle of continuity should not be absolutized considering that the public service once established is eternal. If the public interest no longer justifies such a public service, it can be abolished (Iacob I. 2016).

The principle of continuity of public services, theoretically, is the most important principle of public service, which derives from the permanence of the state, as well as from the need to ensure the needs of general interest without interruptions. By definition, the public service responds to needs of general interest, and the satisfaction of the general interest cannot be discontinuous, the interruption being able to cause disturbances in the life of the community. As a result, it is inconceivable for the service to operate intermittently, and it must operate at all costs. In France, this principle has been given a constitutional value, being applied by the court (Iacob I. 2016).

As can be easily seen, the principles regulated by the Administrative Code unfortunately do not say anything in addition to the other regulations, nor do we appear to be competent to produce any effect, seeming to have only a strictly theoretical vocation. These principles will come to be configured as mere desideratum, if they are not perceived by the recipients as authentic values in relation to which to constantly coordinate their activity; precisely because of this, considering the administrative reality in which we live, the idealistic character in which these principles are regulated, we consider that their utility remains debatable.

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# THE RESPONSIBILITY OF THE LOCAL CHOSEN - BETWEEN THEORY AND PRACTICE

Isabela, Stancea<sup>1</sup>

## Abstract

*Although, in practice, disciplinary offenses are quite common, in particular, the absence of counselors from meetings, however, their sanctioning, including by non-payment of sitting allowance, occurs very rarely. Moreover, although there are disciplinary sanctions applicable to local councilors if they leave the local council meeting without reason, this phenomenon is quite common in the activity of local councils and prevents timely and efficient decision-making. In fact, the legislation in force only provides for the rights of the president during the meeting of the local council, namely: to call to order; to withdraw the word; to order the elimination of the councilors from the hall, which prevents the development of the works. Compared to the councilors who in the exercise of the mandate committed deviations from the provisions of the legislation or of the regulation, although the law provides sanctions, these, for political reasons, we believe, do not apply.*

**Keywords:** *locally elected, meeting, president, mayor, responsibility.*

**Jel Classification:** **K0; K1**

According to article 231 of the Administrative Code, the local elected officials are responsible, as the case may be, administratively, civilly or criminally for the deeds committed in the exercise of their attributions, in accordance with the law. Responsibility of local councilors and county councilors.

The local councilors, respectively the county councilors are responsible in their own name, for the activity carried out in the exercise of the mandate, as well as in solidarity, for the activity of the council of which they are part and for the decisions they voted.

The minutes of the meeting of the local council, respectively of the county council shall record the result of the vote, and, at the request of the local councilor, respectively of the county councilor, its vote shall be expressly mentioned.

Disciplinary sanctions applicable to local councilors and county councilors

For the violation by the local councilors, respectively by the county councilors of the provisions of this code, of the legal provisions regarding the conflict of interests and of the provisions of the organization and functioning regulation of the local council or of the county council, as the case may be, the local council or county council may apply the following disciplinary sanctions:

- a) the warning;
- b) the call to order;
- c) withdrawal of the word;
- d) removal from the meeting room;
- e) temporary exclusion from the works of the council and of the specialized commission;
- f) reduction of the monthly allowance by 10% for a maximum of 6 months;
- g) withdrawal of the monthly allowance for one or two months.

The sanctions that are applied by the chairman of the meeting are: warning, summons, withdrawal of the word, removal from the meeting room, and the others are applied by the local council, respectively by the county council, by decision.

All sanctions except for the reduction of the monthly allowance by 10% for a maximum of 6 months and the sanction of withdrawal of the monthly allowance for one or two months are also applicable to the deputy mayors and vice-presidents of the county councils, as the case may be.

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In order to apply the sanction of temporary exclusion from the work of the council and the specialized commission, the case is sent to the specialized commission that has in its object of activity also the legal aspects, this presenting a report .

Regarding the sanction of the warning, this is the easiest of the sanctions that can be applied to local elected officials and, assuming that the act committed has reached a low degree of social danger.

Thus, at the first deviation, the chairman of the meeting draws the attention of the local councilor, respectively of the guilty county councilor and invites him to respect the regulation; therefore the warning is verbal and is inserted only in the content of the minutes of the hearing in which it is applied, even if the law does not explicitly mention this aspect.

The summons procedure presupposes that the local councilors, respectively the county councilors who disregard the warning and the invitation of the chairman of the meeting and continue to deviate from the regulation, as well as those who seriously violate, even for the first time, the provisions of the regulation are called to order . The summons shall also be entered in the minutes of the meeting.

Before being called to order, the local councilor, respectively the county councilor is invited by the chairman of the meeting to withdraw or explain the word or expressions that generated the incident and that would attract the application of the sanction.

If the expression used has been withdrawn or if the explanations given are assessed by the chairman as satisfactory, the sanction shall no longer apply.

Withdrawal of the floor and removal from the courtroom is the sanction that implies that, if, after the call to order, a local councilor or county councilor, as the case may be, continues to deviate from the regulations, the chairman of the meeting will take the floor during the council meeting. In the event that a councilor persists to deviate from the rules, the chairman of the meeting will remove him from the room. Elimination from the room is equivalent to an unjustified absence from the meeting.

The sanction of temporary exclusion from the works of the council and of the specialized commission presupposes that, in case of serious, repeated violations, or of particularly serious deviations, the local council, respectively the county council can apply the sanction of temporary exclusion of the local councilor, respectively of the county councilor from the works of the local council or of the county council, as the case may be, and of the specialized commissions.

The gravity of the deviation is established by the specialized commission which has in its object of activity legal aspects, within 10 days from the notification.

The temporary exclusion from the works of the local council, respectively of the county council and of the specialized commissions cannot exceed two consecutive meetings.

The exclusion from the works of the local council, respectively of the county council and of the specialized commissions has as a consequence the non-granting of the monthly allowance.

In case of opposition, the prohibition of participation in the meetings is executed with the help of the personnel that ensures the local public order.

The application of the sanctions regarding the temporary exclusion from the works of the council and of the specialized commission and the diminution of the monthly allowance by 10% for maximum 6 months is carried out by decision adopted by the local council, respectively by the county council with absolute majority. During the application of these sanctions, the local or county councilors in question will not be counted in the quorum for the meeting.

In order to maintain order in the meetings of the specialized commissions, their chairmen have the same rights as the chairman of the meeting, in the sense that they can apply the sanctions applied by the chairman of the meeting.

All the sanctions listed above can be applied accordingly to the vice-mayors, presidents and vice-presidents of the county councils, for the violations committed in their capacity of local councilor, respectively of county councilor.

However, for serious and / or repeated violations, committed in the exercise of the mandate of vice-mayor or vice-president of the county council, the following sanctions may be applied to the persons concerned:

- a) reprimand;
- b) warning;
- c) reduction of the allowance by 5-10% for 1-3 months;
- d) dismissal.

The first three sanctions are applied, by decision of the local council, respectively of the county council, to the motivated proposal of the mayor, respectively of the president of the county council. The reasons justifying the sanctioning proposal shall be notified to the local councilors or to the county councilors, as the case may be, at least 5 days before the meeting.

In this case, the decision is adopted by secret ballot by a qualified majority of two thirds of the number of local councilors or county councilors in office, as the case may be.

According to art. 152 paragraph (5) of the Administrative Code, the dismissal of the deputy mayor may be made by the local council, by decision adopted by secret ballot, by a two-thirds majority of the councilors in office, at the duly motivated proposal of the mayor or a one third of the number of local councilors in office. The dismissal of the deputy mayor cannot be done in the last 6 months of the mandate of the local council.

The local councilor who is running for the position of deputy mayor, respectively the deputy mayor in whose position the proposed change is proposed, participates and votes in the deliberation and adoption of the decisions regarding the election or dismissal of the deputy mayor.

According to art. 188 paragraphs (4) and (5) of the Administrative Code, the dismissal of the vice-presidents of the county council may be made by the county council, by secret ballot, by a two-thirds majority of the number of councilors in office, at the duly motivated proposal of at least one third of their number. The dismissal of the vice-presidents of the county council cannot be done in the last 6 months of the mandate of the county council.

The county councilor who is running for the position of vice-president of the county council, respectively the vice-president of the county council whose dismissal is proposed, participates and votes in the deliberation and adoption of the decisions regarding the election or dismissal of the vice-president of the county council.

The application of these sanctions has no effect on the mandate of local or county councilor, as the case may be, of the deputy mayor or of the vice-president of the county council.

The mayor, the president of the county council, respectively the chairman of the meeting of the local council, as the case may be, by signing, invests with authority formula the execution of the administrative acts issued or adopted in the exercise of his attributions according to the law.

The assessment of the necessity and the opportunity to adopt and issue administrative acts belongs exclusively to the deliberative and executive authorities, respectively. The preparation of reports or other substantiation documents provided by law, countersigning or endorsement for legality and signing of substantiation documents commits the administrative, civil or criminal liability, as appropriate, of the signatories, in case of violation of the law, in relation to specific responsibilities.

The acts of the local public administration authorities engage, in accordance with the law, the administrative, civil or criminal liability, as the case may be, of the civil servants and the contractual staff from the specialized apparatus of the mayor, respectively of the county council which, in violation of legal provisions, substantiates technically and legally their issuance or adoption or countersign or approve, as the case may be, for legality these acts.

In case of which by an administrative act of the local public administration authorities issued or adopted without being substantiated, countersigned or endorsed from a technical point of view or of legality, harmful consequences have occurred, the legal responsibility of the executive authority or the deliberative authority is engaged, as the case may be. .

The law also establishes an exception; thus, according to art. 490 paragraph (3) of the Code, the civil servant or the contractual staff has the right to refuse the signing, respectively the countersigning or the endorsement of the acts and documents given by law in its competence, if it considers them illegal.

The refusal to sign, respectively to countersign or endorse the acts and documents is made in writing and motivated within 5 working days from the date of receipt of the documents, except for the situations in which other normative acts provide special terms, and register in a special register intended for this purpose.

Civil servants who refuse to sign, respectively to countersign or approve or who object to the legality of acts and documents, without indicating legal grounds, in writing, in compliance with the term of 5 working days, are liable under the law.

These legal provisions also apply in the case of other administrative acts or assimilated to them under the conditions of the issued law, respectively adopted by the local public administration authorities.

According to art. 241 paragraph (1), constitute contraventions, if they are not committed in such conditions as to be considered, according to the criminal law, offenses:

- a) non-implementation, in bad faith, of the decisions of the local council by the mayor;
- b) the non-implementation, in bad faith, of the decisions of the county council by the president of the county council;
- c) the non-presentation, within the term provided by the legislation regulating the local public finances, of the draft budget of the administrative-territorial unit by the mayor, respectively the president of the county council, through their fault;
- d) the non-presentation by the local elected officials of the reports provided by law, due to their fault;
- e) failure to take the necessary measures, established by law, by the mayor or the president of the county council, in their capacity as representatives of the state in the administrative-territorial units;
- f) the non-transmission by the general secretary of the administrative-territorial unit within 30 days to the chamber of notaries public of the notification for the opening of the succession procedure.

These contraventions are sanctioned with a fine from 1,000 lei to 5,000 lei, and the finding of contraventions, the establishment of remedial measures, the pursuit of remedial measures and the application of fines are made by the prefect, in his capacity as public authority, representative of the Government , according to the law.

At the same time, the administrative-disciplinary responsibility of the local councilors, mayors, deputy mayors, presidents and vice-presidents of county councils is provided in the legislation and in the Regulation of functioning of the local council.

Thus, in Section 3 of the Regulation on the organization and functioning of the local council, the same sanctions are established, as well as the procedure for their application.

Thus, the violation by the councilors of the provisions of the Regulation of Organization and functioning of the council, attracts the application of the following sanctions:

- warning;
- call to order;
- withdrawal of the word;
- elimination from the meeting room;

-temporary exclusion from the works of the council and of the specialized commission;

- withdrawal of the meeting allowance for 1-2 sessions.

The first four sanctions are applied by the chairman of the meeting during the meeting in which the deed was ascertained, and the other two are applied by the local council by decision. For the application of the sanction the temporary exclusion from the works of the council and of the specialized commission, the case will be sent to the specialized commission that has in object of activity and the legal aspects, these presenting a report drawn up on the basis of the researches . If it is the first offense, the chairman of the meeting draws the attention of the guilty counselor and invites him to comply with the rules.

Advisers who disregard the President's warning and invitation and continue to deviate from the rules, as well as those who seriously violate, even for the first time, the provisions of the rules, will be called to order. The summons shall be entered in the minutes of the meeting. Before being called to order, the counselor is called by the president to withdraw or explain the word or expressions that generated the incident and that would withdraw the application of the sanction.

If the expression used has been withdrawn or if the explanations given are assessed by the President as satisfactory, the sanction shall no longer apply. If, after the call to order, a councilor continues to deviate from the regulations, the president will withdraw his word, and if he persists, he will remove him from the room. Elimination from the room is equivalent to the unmotivated absence from the meeting. In case of serious, repeatedly committed violations, or of particularly serious violations, the sanction of temporary exclusion from the works of the council and of the specialized commissions may be applied to the council. The gravity of the violation will be established by the specialized commission which has in its object of activity legal aspects within maximum 10 days from the notification.

The temporary exclusion from the works of the council and of the specialized commissions cannot exceed two consecutive meetings. The exclusion from the works of the council and of the specialized commissions, has as a consequence the non-granting of the sitting allowance during the respective period.

In case of opposition, the prohibition to participate in the meetings is executed with the help of the public force made available to the president.

A form of termination of the local elected office before the expiration of the normal term of office is found in practice in the event that it is registered in a party other than the one for which it ran and was voted.

If the normative regulation is updated by the entry into force of the Administrative Code, regarding its application it is not found in the administrative practice almost at all.

Thus, these sanctions, although coherently regulated and pertinently elaborated, are not applied in the activity of the local elected officials only in the hypothesis in which they conflict with interests; for the other deeds incriminated by law, the sanctions are not found in practice, except in a completely isolated manner.

The literature mentions that local elected officials, as representatives of power, should be established and applied clear measures of responsibility for non-execution or incorrect execution of competencies. Of course, they can be held legally liable only according to concrete legal acts and / or based on a final court decision to prove the guilt of the local elected official in committing illegal acts (SaitarII. N., 2018).

Although, in practice, disciplinary offenses are quite common, in particular, the absence of counselors from meetings, however, their sanctioning, including by non-payment of sitting allowance, occurs very rarely.

Moreover, although disciplinary sanctions are provided for local councilors if they leave the local council meeting without reason, this phenomenon that is quite common in the

activity of local councils and prevents decision-making on time and efficiently, in practice it is not sanctioned. In fact, the legislation in force only provides for the rights of the president during the meeting of the local council, namely: to call to order; to withdraw the word; to order the elimination of the councilors from the hall, which prevents the development of the works. Compared to the councilors who in the exercise of the mandate committed deviations from the provisions of the legislation or the regulation, although the law provides sanctions, they, for political reasons, we believe, do not apply (SaitarI. N., 2018).

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