National and European Values of Public Administration in the Balkans

Editors:
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Crina RĂDULESCU

SOUTH-EASTERN EUROPEAN ADMINISTRATIVE STUDIES
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Preface

The current volume represents the outcome of the international conference "National and European Values of Public Administration in the Balkans", organised in Bucharest on 15 – 16 July 2011.
The conference has been organised by Jean Monnet research network dedicated to "South-Eastern European developments on the administrative convergence and enlargement of the European Administrative Space in Balkan states", representing the third edition of the events organised under the above aegis.
The research network, comprising the National School of Political Studies and Public Administration (NSPSPA), Bucharest, Romania, University of the Aegean, Mytilene, Greece, New Bulgarian University, Sofia, Bulgaria, University of Rijeka, Croatia and the European Public Law Organization (EPLO) with headquarters in Athens, Greece has developed and continues to develop studies and researches specific for the development of public administration in the Balkan states.
The keynote speakers of the conference included Mw. Dr. Helena Raulus, EU Law Docent, Faculteit der Rechtsgeleerdheid , Erasmus Universiteit, Netherlands, Prof. Dr. Spyridon Flogaitis, Director, President of the BoD, European Public Law Organization, Greece and Prof. Dr. Lucica Matei, Dean, Faculty of Public Administration, National School of Political Studies and Public Administration, Romania.
The contents of the papers presented have been focused on the following topics:

- EU normative support for sustaining the process of administrative convergence
- European Administrative Space principles – pillars for the mechanisms of evaluation of public administration reforms
- Balkan priorities for European Administrative Space enlargement

Other two sub adjacent topics have been added, aiming especially the doctoral students, emphasising the following themes:

- The process of administrative convergence at EU level
- Efficiency, effectiveness and responsibility in the European Administrative Space
- European Administrative Space. Priorities of the future.

For the international conference, 88 abstracts were received, of which due to the first selection achieved by the Conference Scientific Committee, 56 papers were accepted.
After presentation, the papers have been improved and subjected to double review, so that there were accepted for publication 36 papers, having 46 authors from nine countries: Romania, Greece, Bulgaria, Netherlands, Albania, France, Croatia, Italy and USA and two European organisations: EPLO and EIPA.

The general conclusion expected for the final of our conference could refer to the existence of a Balkan Administrative Space as part of the European Administrative Space.
Even if the area of the Balkan Administrative Space is confined, we have to highlight the unity in diversity as a fundamental feature.

The unity derives from the ideals of European integration of the Balkan states and the diversity derives from the national histories, cultural diversity and their national identity.

The connections of the Balkan Administrative Space become day by day more powerful related to the European Administrative Space.
They are determined by the development of the processes of convergence and administrative dynamics as well as by the internal developments induced by the administrative reforms in the mentioned states.
In this context, we could assert that by means of the research proposed and achieved, our project has open new agendas of research, that partially have been expressed in our research reports, publications etc.

At the same time, as remarked from the contents of this conference, the national and European values of the Balkan Administrative Space are substantiated on the regulatory framework of the European Union, the processes of convergence and administrative dynamics, as well as on the principles of the European Administrative Space.
In fact, as it is well known, the latter becomes a non-formalised acquis of the European Public Administration, representing a standard for assessing the progress in the reforms of the national public administrations.

Our conference has taken place under the auspices of this generous perspective.
I would like to express my kind thanks to everyone for your contribution to conceiving, organising and delivering this scientific event.

Prof.Dr. Lucica Matei
Faculty of Public Administration
National School of Political Studies and Public Administration

July 2011

Chapter I
EU normative support for sustaining the process of administrative convergence

I.1. ADMINISTRATIVE CONVERGENCE IN THE CONTEXT OF EU ACCESSION NEGOTIATIONS: STRUCTURAL NECESSITY OR CREEPING POLITICAL CRITERIA?

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Abstract

Accession negotiations between the EU and the various candidate countries was divided into 31 – 35 negotiating chapters, a significant number of which deals, partially or exclusively, with the alignment of the public administration and the administrative procedures of the respective states to certain EU standards. At the political level, a significant political requirement of the Copenhagen criteria refers to the rule of law, as an important feature of the state structure for candidates.
The presentation explores whether the EU demands for administrative alignment of the candidate states is a necessary step towards full accession by ensuring compatibility of their public administration systems to a set of EU standards, or it amounts to an additional, covert way of imposing additional political terms that would otherwise be deemed unacceptable interference to the internal affairs of independent states, in order to find out the nature of the various EU demands either as structural necessities or as political measures imposing certain patterns of behavior in the internal political scene of the respective states, not only during the enlargement process, but also in the framework of the ENP.

Keywords: administrative convergence, EU standards, Copenhagen criteria

1. Administrative Convergence within the EU System

1.1. Introduction

Back in 2003 an author, examining the efforts of administrative cooperation at various levels within the EU wondered *"Are we witnessing the Europeanization of managerialization or we simply debating an instance of policy convergence?"(*Michalopoulos, 2003*)*. After almost a decade, the question is still crucial and the political and administrative mechanisms of the EU have not been able to answer.

While several terms are being used to describe the various forms or models of administrative alignment in the EU, the most common is "administrative convergence". As the term does not describe a single procedure and is not part of the official EU terminology, it would be difficult to refer to a definition. However, for the purposes of this presentation I will use the definition provided by Nedergaard who describes the European public administration as *"a political hybrid between a national and international administration"*. (Nedergaard, 2007) In reality there is nothing of the kind, since the field of public administration, for its larger part, still falls within the exclusive competence of the Member States.

Since the prevailing prevailing principle in all EU Treaties to now is the one of subsidiarity, in theory no such change can go forward, unless it has the explicit authorization of the member states. Thus, there cannot exist a generalized process under the heading "administrative convergence" in the context of the EU policy making.

Nevertheless, one cannot ignore the fact that there exist many parallel procedures, in various fields of EU activity, that have as a proclaimed objective or as a result the coordination or alignment of sectors of public administration within the member states, which has taken various forms.

1.2. European Administrative Space (EAS)

The term originates back in 1998 and appeared in the proceedings of an expert seminar organized in Athens by SIGMA. Not surprisingly, the main theme of the seminar (and main objective of SIGMA in general) was to address administrative reforms in the candidate and potential candidate eastern European states.

It was in this context that the concept of a "European Administrative Space" was first developed, but no clear definition was provided (Sigma Papers no. 23, 1998). A straight forward definition of the EAS can be found in a later SIGMA Paper, which describes the EAS as follows: *"Constant contact amongst public servants of Member States and the Commission, the requirement to develop and implement the acquis communautaire at equivalent standards of reliability across the Union, the emergence of a Europe-wide system of administrative justice, and shared basic public administration values and principles, have led to some convergence amongst national administrations. This has been described as the "European Administrative Space"*.

It is clear that the authors consider the implementation of the *acquis communautaire* as the driving force for the creation of an EAS, however they emphasize that *"The issue of a common administrative law for all the sovereign states integrated into the European Union has been a matter for debate, unevenly intensive, since the outset of the European Community. No common agreement yet exists"*. The EAS was also promoted and supported by the European Group of Public Administration (EGPA) in 2002.

A more descriptive definition is provided by Carlo D'Orta, who defines EAS as *"Environment-produced European policies and rules that imply an active role of the national administrations – in which the national administrations are called upon, in the name of the uniformity of the rights of citizenship and enterprise within the European Union, to assure tendentially homogeneous levels of service efficiency and quality"* (D'Orta, 2003).

Today, there is a general agreement among authors that a "European Administrative Space" does exist (Balint, Bauer & Knill, 2008), but there is no uniform position on its actual content and method of application. More than a decade after the introduction of the concept, the debate remains practically the same (Olsen, 2003) and the authors emphasize that it is an evolving process that might lead to the creation of a common standard of principles (Matei & Matei, 2011). It should be emphasized that such an outcome already exists, not as a "European administrative law" *per se*, but rather as a combination of the fulfillment of the obligations of member states to enforce EU legislation, the functional necessity for member states to align certain administrative procedures in order to produce the desirable political or legal outcome and the intervention of the ECJ.

1.3. Coordination at the political level

A somewhat more modest and less frequent procedure to occur in the context of EU policy making is the Coordination at the political level. In terms of administrative convergence such coordination would entail agreement on the implementation of certain, common administrative procedures as such.

The main difficulty here lies with the fact that public administration is still under the exclusive competence of member states and the possibility of 27 states finding common grounds in an area that belongs to the core of state sovereignty is rare. There are cases of political decision-making at the Council level that also incorporate certain administrative procedures to ensure the uniform application in member states (eg. EUROJUST, the European Arrest Warrant) but they are isolated cases that cannot be used to draw a generalized conclusion on the existence of a convergence process at the political level.

Nevertheless, the EU Commission applied – at times – significant pressure on member states to impose or (in more politically correct terms) to foster alignment or evolution of administrative procedures that would facilitate the transposition of legal obligations into the domestic systems of

member states. More specifically, in 2005, it adopted a recommendation aiming at the transposition into national law of Directives affecting the internal market. In unusually straight forward language, especially if we take account of the fact that the above document was a recommendation and not a legally binding document, the EU Commission stressed the need for member states to *"… re-examine their administrative procedures and practices to ensure that they consistently meet this legal obligation"*. Going even further, the same document recommended that states *"Take the steps, organisational or otherwise, that are necessary to deal promptly and effectively with the underlying causes of their persistent breaches of their legal obligation to transpose internal market Directives correctly and on time"* and set out a list of good practices *"…that help Member States to transpose internal market Directives into national law in a timely and correct way"*. The recommended list of practices is attached as an ANNEX to the Recommendation.

It is rather clear that the above Recommendation is directed towards the Governments of the member states, urging them to bring about significant administrative changes, which do not depend on the bureaucratic mechanisms of each individual state but require political decisions, which should not necessarily be agreed at Council level, but should be uniform, or have the same effect in each individual state.

However, this type of pressure has not been very successful. As one author correctly observes, *"… common pressure from Brussels has not led national systems to adopt similar methods of organizing the essential institutional dimension of their EU coordination systems"* (Keading, 2007). It would appear that the political leaderships of member states are not willing to accept political pressure to adopt certain administrative measures when this pressure derives from an organ that does not have the necessary political power within the EU structure (Maor & Jones, 1999).

Under the same heading we could also place the alignment of implementing procedures that are agreed together with the legal instruments in order to ensure uniformity of adoption and enforcement. Such measures or procedures may be promoted by the EU Commission, which has the exclusive legislation drafting authority, but again, they are agreed at the political level, rarely outside the intergovernmental decision making processes.

1.4. The Commission Structure as an Administrative model for all?

It would be somewhat ironical to promote the EU Commission as a model of public administration to be exported and followed by the Member states, as well as by the candidate states for several reasons:

(a) The Commission itself does not have a complete administrative structure, (Maor & Jones, 1999) nor does it follow a certain model of administration (Balint, Bauer & Knill, 2008),
(b) The Commission does not have authority over the national administrative systems, since public administration falls under the exclusive competence of member states. Moreover, member states always favoured the adoption of administrative instruments that leave the discretion as to their enforcement to them, at the expense of those imposing specific administrative solutions or procedures, (Kadelbach, 2002) probably as a means to preserve their autonomy. Additionally, the Treaties do not prescribe a model of public administration and, therefore, there is no *acquis communautaire* for public administration. (Olsen, 2003)
(c) The EU Commission itself did not have a clear "administrative orientation" until the resignation of the Santer Commission in 1999, among accusations of corruption, fraud and nepotism. Only then the issue of administrative reform was moved to the top of the Commission agenda, without however managing to apply a solid EU administrative policy until now.
(d) Despite its significant authorities within the EU structure, the Commission still lacks political decision-making power, (Wille, 2007) thus, its function is to a large extent dependent on the political will of external actors (States, Council, EP). Therefore, it is submitted that the Commission cannot export a model of administration which is limited in scope and is designated by others.

2. Exporting Administrative Perfection?

2.1. The Copenhagen Criteria

Without any doubt, the so-called, Copenhagen criteria have become a kind of a "Holy Bible" for the enlargement process. They represent a minimum standard of progress that a candidate state has to achieve in order to become eligible for EU membership.

In response to the general trend of everybody joining the EU, even before its official creation in 1992, the EU leaders established, in 1993, a set of general criteria, applicable for every potential candidate, the so-called *Copenhagen criteria* that would also serve as indicators for the progress of each candidate state. The criteria included economic, legislative and political factors.

At the **economic** level, candidate states are required to have *"… a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union"*.

At the **legislative** sphere, while it is not mentioned *per se* in the criteria, candidates must adhere to the *acquis communautaire*. More specifically, candidate states are under an obligation to align their legislation with the EU before becoming eligible for membership. In the context of the 2004 / 2007 enlargement the *acquis* was divided into 31 negotiating chapters, while for the negotiations involving Croatia, Iceland and Turkey there are 35 chapters to be concluded.

However, the most important category of the Copenhagen criteria are the political ones which require candidate states to achieve *"stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities".* The importance of these criteria is that they are purely political in nature and, as such, the measurement of their fulfillment is subjective, dependent on the various political considerations of the EU and its members. Moreover, the subjective character of these criteria allows for a "flexible" application, without the EU being obliged to uphold certain standards. This became evident in the case of Turkey, which was allowed to start accession negotiations (in 2005), without having fulfilled the political criteria.

2.2. Nature and content of EU accession negotiations

The enlargement process is unique among EU policies because it is not a stand-alone policy with its own instruments and mechanisms but is a broad, composite policy touching upon many areas of EU activity (Sedelmeier, 2005). There are several main features of this policy that should be underlined:

(a) First, it is the candidate state that is acceding to the EU and not *vice versa*. Consequently, the accession process is not an actual negotiation between two parties with equal standing but rather a process of adjustment of the candidate state to the demands of the EU, including the adoption of the 100,000 pages (or more than 8,000 instruments) comprising the *acquis communautaire,* before becoming eligible for membership. The term "accession negotiations", which is elegantly used to describe the process, is an actual negotiation only insomuch at it refers to technical issues.

According to the EU enlargement website, accession negotiations are described as follows: *"The accession negotiations will be conducted according to a 'Negotiating Framework' that sets out the method and the guiding principles of the negotiations, in line with the December 2004 European Council conclusions. The substance of negotiations will be conducted in an Intergovernmental Conference with the participation of all Member States on the one hand and the candidate State on the other".* It becomes sufficiently clear that there is no negotiation between the candidate and the EU, but only between the EU members as to the fulfillment of certain obligations by the candidate state.

(b) The *acquis* is divided into negotiating chapters, each covering a specific policy area. After a preliminary meeting, a formal consultation takes place between each candidate and the member states. During that session, the candidate country explains its degree of preparedness and its plans with regard to the chapter in question. The information gathered in these meetings serves as a basis for member states to decide on the opening of accession negotiations on individual chapters.

In all areas of the *acquis*, the candidate countries must bring their institutions, administrative and judicial systems up to EU standards, both at national and regional level. This will allow them to implement the *acquis* effectively upon accession and, where necessary, to be able to implement it effectively even before accession.

(c) Even if the candidate state successfully concludes the accession negotiations, it is not guaranteed EU membership, as there has to be a unanimous decision by all member states, according to the domestic procedures of each individual state (through parliamentary vote or referendum). The unanimity rule is applied in every phase of the negotiation process as well.

2.3. Administrative v. political issues in the context of EU accession negotiations

Administrative issues *per se* are not part of the *acquis* and the Copenhagen criteria in general. However, they were included in the negotiation package during the 2004/2007 enlargement as necessary administrative capacities for the functioning of the adopted *acquis*. The candidate states did not seriously object this *de facto* expansion of their obligations, despite the fact that many of them were going far beyond the formal conditions set by the EU itself (Maniokas, 2005). However, as it was elegantly put by one author *"For the full implementation of the* acquis communautaire *it is not the political will that is missing but the administrative capacity to domesticate and implement the former properly"*.

The Commission also issued an "informal" guide of administrative procedures for experts of the Union and the candidate countries [sic] to help them prepare with the administrative aspects involved. Among the "administrative" sectors one can detect the Schengen area, asylum, fundamental rights, citizen's rights, CFSP and ESDP, issues that would hardly be characterized as "administrative". While the above document is labeled as an "informal guide", it is however indicative of the trend of the EU Commission to handle practically every aspect of accession negotiations as "administrative". This is also made evident in the Commission's own words *"…There is now a greater focus on state-building, good governance, the rule of law … as well as the reconciliation and civil society development from the outset. Impact studies have been developed to analyse the progress made"*. (EU Publications Office, 2009).

We cannot ignore the fact that many subjects are purely administrative in nature or they involve significant administrative or bureaucratic procedures that have to be imposed, enforced, implemented and monitored. However, despite the already mentioned willingness of candidate states (in the vast majority of cases) to do "whatever it takes" to eventually become EU members, there is a series of issues concerning the nature of the requested reforms and the mandate of the EU Commission to demand and monitor them. Thus, we can draw a clear dividing line between imposing an administrative structure to facilitate the incorporation and enforcement of the EU legislative framework for the effective functioning of the common market in a candidate state on the one hand and imposing certain rule of law features, the existence or outcome of which is subject to a political assessment by the existing EU members, on the other hand.

The interrelation between economic and political considerations during the Eastern Enlargement of the EU was successfully described in the following terms: *"There is no doubt, however, that the main task of democratic transition has been economic-crisis management and the ensuing social-crisis management, aimed at overcoming the vicious circle between economy and politics"*.

Moreover, while the more technical aspects of EU accession negotiations are susceptible to measured procedures and monitoring standards, the same does not apply to "political" criteria, which are evaluated with a more politicized process. Additionally, if one refers to human rights for example, an objective evaluation standard could be the application by the candidate state of the European Convention of Human Rights (ECHR). However, all member states to the Council of Europe, (including eg. Azerbaijan) are members to the ECHR. Therefore, the mere application of the ECHR could not be indicative as to the actual level of Human rights in each country.

One could also argue for the application of the EU Charter of Fundamental Rights as the minimum human rights legal standard in the EU, but Britain and Poland were exempted from its application. Therefore, how could an instrument of partial application within the EU itself serve as an EU standard to be exported to the candidate states?

If we consider the protection of minorities element, again the only existing "international standard" that could be applied is the Framework Convention for the Protection of National Minorities (FCNM). However, how could the EU apply a Convention that one of its principal members (France) has not even signed, claiming that there are no minorities in its territory, and three other (Belgium, Greece, Luxembourg) have not ratified?

The above and other possible questions reflect the more peculiar nature of the "political" criteria, which merit a different, less technocratic and more politicised approach that the EU Commission is incapable to carry out. Moreover, the "fusion" of democracy and the rule of law in the Commission Reports and Strategy Papers was the object of severe criticism (Kochenov, 2008).

2.4. EU demands in the context of the pending accession cases

If one examines the pending accession cases (The countries having the status of a candidate are: Turkey (Accession negotiations started in 2005), Iceland (accession negotiations started in June 2010), Montenegro (accepted as a candidate on 17.12.2010) and FYROM (candidate status as of 2005, but no accession negotiations until now, mainly due to the problematic behavior of this country regarding the name issue and the bilateral relations with Greece in general). While accession negotiations with Croatia were officially concluded on 30.6.2011, it should also be considered as a candidate state, since its final bid for membership is still pending. The EU has also created a "pool" of potential candidates, including the remaining Western Balkan countries (Bosnia & Herzegovina, Serbia) plus Albania), interesting conclusions can be drawn as to the application of the various accession criteria by the Commission and the EU in general. Thus, in the 2006 screening report on Croatia (Chapter 24 – Justice, Freedom and Security) the Commission devotes a significant part to comment on whether the external borders are guarded by the Border police or by customs officers. The conclusion is that *"Croatia needs to continue aligning its legislation and border checking procedures to the acquis, including its recent developments, and to take the necessary practical measures to fully comply with the standards in the area of border management* [which are not part of the Schengen acquis]*"*.

In Chapter 23 (Judiciary and Fundamental Rights) the Commission considers that there are problems of impartiality of the judiciary in Croatia, based on the fact that *"currently, there is no system in place that would ensure either the uniform, objective and transparent assessment of judges and judicial trainees wishing to enter into the profession (such as a competitive examination and/or interviews)"*. While the overall purpose of ensuring an independent judiciary is an essential part of the rule of law, the Commission went on to criticize the Croatian recruitment system, based on a fact which did not even bother to connect to its –arbitrary- assumption.

In the same document, the Commission questions the efficiency of the Croatian courts, underlining the excessive length of proceedings (more than 3 years for criminal cases and more than 5 years for civil cases). What the Commission failed to take into consideration is that, while the various parameters of the administration and application of justice are an essential part of the rule of law and fundamental human rights as stipulated in several articles of the ECHR, the length of the proceedings is considered as a violation in certain, well defined cases even by the European Court of Human Rights, a position which seems to depart from … the innovatory approach of the EU Commission regarding the administration of justice! Moreover, the Commission also failed to take into account the relevant time in the work of the ECJ which, according to the ECJ itself, where the average duration of proceedings in 2009 was 60 months for staff cases and 40 months for other actions (ECJ: *Annual Report 2009*).

In the case of Turkey, what should be noted, *inter alia*, is the way the Commission is assessing the alignment of Turkey to the CFSP statements issued by the EU in a purely quantitative manner stating that out of the 128 CFSP declarations produced by the EU during the monitoring period, Turkey aligned itself with 99 of them, highlighting the points of disagreement.(Turkey 2009 Progress Report) In the Croatian Report for the same period the comment is that *"Croatia has continued to systematically align itself with all relevant EU common positions, declarations and statements"* (Croatia 2009 Progress Report). Thus, a feature such as the CFSP, that is purely political in its nature, is downgraded into statistical data, which could even be considered as insulting for independent states, not yet part of the EU.

The failure of this Commission "administrative" approach on every aspect of accession, or even the Instrument for Pre-Accession Assistance, is more evident in the case of Bosnia and Herzegovina, which is practically an EU colony, where the EU is exercising the ultimate political (through the EU Special Representative) and military (through the EUFOR) control of the country. Despite the amount of control, which would theoretically allow the Commission to impose its "way of things", the consecutive reports display a highly problematic overall and sectoral progress of Bosnia and Herzegovina.

If we would like to comment upon the behavior of the member states towards this attitude of the EU Commission, a plausible explanation is that the members allow for this type of approach because if the Commission was put aside in the negotiations or screening concerning the political criteria, the member states or the Council should undertake this task, a burden that members would not be very happy to assume.

On the part of the candidate states indirect and disguised political pressure is always more acceptable than direct political pressure at the governmental level and can be "sold" to their internal audience bearing significantly reduced political cost. For example, in the case of Croatia, the EU demand for cooperation with the ICTY and the subsequent apprehension and surrender of high ranking officials of the Croatian army was raised at the top political level as the ultimate prerequisite for Croatia's EU bid. The outcome is that the majority of Croatians do not want their country in the EU, partly because of the highly visible political pressure that was exerted upon Croatia for cooperation with the ICTY, given the fact that the public opinion in Croatia considers the arrested and eventually convicted officials to be heroes.

2.5. Application of the various criteria in the ENP

According to the Commissioner on Enlargement and ENP Štefan Füle *"Our Neighbourhood Policy provides us with a coherent approach that ensures that the whole of the EU is committed to deeper relations with all our neighbours. At the same time, it allows us to develop tailor-made relations with each country"*. The Commission explains the ENP in broad terms as follows: *"Within the ENP the EU offers our neighbours a privileged relationship, building upon a mutual commitment to common values (democracy and human rights, rule of law, good governance, market economy principles and sustainable development). The ENP goes beyond existing relationships to offer political association and deeper economic integration, increased mobility and more people-to-people contacts"*.

The *raison d'être* of the ENP has been enlargement, although the two processes are technically independent from each other. The ENP was created to address the fact that upcoming enlargement would make Ukraine, Belarus and Moldova new land neighbours. This raised concerns about security, immigration and political and economic co-operation and, eventually led the EU to apply an enhanced cooperation procedure which was extended to all of its neighbours.

From another point of view, the ENP is also an extension and adaptation of the Commission's active foreign policy role during enlargement, that will enable the Commission *"… to continue playing a significant, and perhaps even stronger, role in external affairs"* (Kelley, 2006). In its capacity as the principal moderator of the ENP process, the EU Commission initially tried to replicate the enlargement process, only to realize that, since the ENP is based upon the principle of conditionality, the incentives should be attractive for the partner states.

If one would like to draw some distinctive lines between the two policies:

(a) The element of negotiations and mutually agreed principles plays a central role in the ENP framework, in contrast to the enlargement process.
(b) The basic feature of the ENP policy is the offer of economic co-operation on behalf of the EU, in exchange for political reforms on the part of the partner state (Vincentz, 2007).
(c) Unlike the enlargement process, the ENP has a strong development component and is strictly bilateral, (Gawrich , Menlynovska & Schweickert, 2010) which is evident in the subsequent initiatives for regional cooperation involving the same states (Union for the Mediterranean, Eastern Partnership, Black Sea Synergy).

Nevertheless, despite the above, differences, the EU copy-pasted the enlargement process into the ENP. While in the case of enlargement the prize was EU membership and this served as the ultimate incentive for the candidates to do whatever they were asked to do, the ENP prizes are much smaller. This might not bother Tunisia or Morocco, but the cases of Ukraine (especially) or Moldova that belong to Europe, according to any definition of its geographical limits, any ENP incentive short of future membership to the EU would be inadequate. In the words of Cremona and Hillion:

"Transplanting pre-accession routines into a policy otherwise conceived as an alternative to accession and intended to enhance the security of the Union, may however undermine both its current effectiveness and its longer-term viability, if not its rationale … the ENP is in fact prone to fuel accession claims rather than offering a genuine alternative to entry, notably for countries like Ukraine. Conversely, as an alleged substitute for membership, the ENP lacks clarity as to its ultimate aims, and credibility as to what the Union can deliver" (Cremona M. & Hillion, 2006).

Even if we disregard the attitude of the partner states towards the ENP incentives, the application of the enlargement criteria presupposes that they were considered to be successful or, at least, functional. In reality, they have never been tested, (Kochenov, 2008) as no candidate state ever dared to question the contents of the process and the methods of the Commission.

Nevertheless, the ultimate success or failure of the ENP *vis-à-vis* the Eastern European neighbours, in particular Ukraine and -to some extent- Moldova, will not depend on the applicable

methods and procedures, but on the ultimate goal. In the words of Romano Prodi (former president of the Commission) the cooperation would be "everything but institutions" (Prodi, 2002). Even if we accepted the latter statement to be 100% true, it is clear that Ukraine and Moldova only perceive the implementation of the ENP as a step towards full membership to the EU (Sasse, 2008). The same conclusion will probably apply for Belarus.

Thus, if the EU will continue to consider the ENP as an alternative for membership, while at the same time it pursues an "enlargement package" towards these countries, where the obligations are there, the "administrative pressure" is there but membership is not the prize, the policy is doomed to fail with potentially irreversible consequences for the EU geostrategic interests in the region.

Moreover, despite the proclaimed aim of avoiding the establishment of new dividing lines, the ENP is actively influencing perceptions of where Europe is, which has effects on the construction of the borders of the continent. The mere decision, which countries participate in the ENP, creates an important territorially fixed differentiation. As one author correctly observes: *"This inevitably works towards creating different types of countries in respect to their relationship with the EU and more specifically – their prospects for a membership in the Union" (*Kostadinova, 2009*).* To a large extent this is the outcome of ambiguous, and differentiated terminology used in the various Commission strategy papers or other ENP related documents, also copy-pasted from the enlargement process, but also due to a confusion created by the division of the partner countries into geographic categories (SAP countries, eastern partners, etc.) entitled to different perspectives as regards their EU aspirations.

3. Conclusions

There is no doubt that the eastern enlargement has been one of the major challenges in the history of the European Unification process. While there didn't seem to be any serious, visible problems during the process, the internal function of the enlargement displayed a significant amount of shortcomings, and the focus here is the attitude of the EU Commission that (a) arbitrarily assumed political authorities that were never assigned to it and (b) adopted a *modus operandi* that tended to regard every aspect of accession as an "administrative issue", including the observation and application of the Copenhagen political criteria which are not even part of the *acquis*. The same method has been replicated for the ENP process, with the Commission bearing a significantly higher amount of political authority in administering the Policy.

While this attitude did not cause any problems for the EU during the enlargement process, as the candidate states did not have any kind of negotiating power but merely executed the various demands of the EU, this is not the case in the context of the ENP process, where the goal for "political obedience" is not membership and the margin of negotiation for the partner states is significantly higher.

One would ask "do you suggest that we drop the political criteria because the Commission handles them as administrative formalities?" Or "do we give the candidate states an equal negotiating status?" The answer is negative to both questions.

It is submitted that when a state wishes to accede to the EU, it has to conform to a set of standards that are either commonly applicable to EU members (eg. democracy & human rights) or were developed as common EU principles (eg. 4 freedoms, *acquis communautaire*). If the EU were to enter into negotiations with every candidate state about the amount and way of application of these standards, that took 50 years to develop and observe (eg. free movement of workers), then there wouldn't be an EU in the first place. Therefore the compulsory incorporation and implementation of those principles by the candidate states is a *conditio sine qua non* for the enlargement process.

However, the format that this process has taken, where the Commission tends to consider and evaluate everything as an administrative formality is damaging in multiple ways:

(a) In the internal function of the EU, by assuming political powers the Commission goes far beyond its mandate in the enlargement process, thus creating an institutional problem, especially if we consider the prevailing principle of EU law, that of subsidiarity.
(b) Not all issues merit a bureaucratic and quantitative approach, especially when we discuss about human rights, aspects of the rule of law and democracy. The approach that considers these issues as "technical formalities" damages the importance attached by the EU as an institution to the political criteria. Additionally, in most cases, the quantitative assessment of human rights, democracy or rule of law inevitably lead to wrong or artificial conclusions. For example, if one refers to the conduct of the elections in Belarus or Azerbaijan, technically they almost match all

western European standards. Are these countries democratic? Certainly not. The scores for the –only one existing- ruling party or candidate president are above 90%. The same could be said about nominal democracies like Georgia.

In another case, Russia compensates in full all those who have won a case against it before the ECtHR regarding forced disappearances and killings in Chechnya. Therefore, in technical terms, Russia is a model state in terms of executing the ECtHR decisions. In reality Russia prefers to be convicted and pay the compensation than undertake to investigate the cases and bring the culprits to justice.

(c) Additionally, the consideration of the political criteria in "administrative" terms damages both sectors. On the one hand, the European Administrative Law or the wider context of the European Administrative Space has a very specific function and a well defined field of operation. If one follows the Commission reasoning that practically everything is administrative and can be assessed in a quantitative manner, then the function of the EAS or the EU administrative law is destroyed as it applies to areas not belonging to its very nature. On the other hand, it was shown above that the evaluation of most of the political criteria in an "administrative" manner does not produce the desirable results and allows an organ that was never vested with this authority –the Commission- to substitute the States and the intergovernmental organs in assessing the application of these criteria.

Therefore, it is suggested that there should be a very clear distinction as to the method and the competent authorities within the EU to assess each sector since, in the long run, the continuation of this tendency would be hazardous to the EU external initiatives, as in the emerging failure of the ENP towards the eastern European countries, but also would undermine the foreign policy instruments of the EU as a whole.

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I.2. THE USUAL SUSPECT: EUROPEAN UNION AND POST ACCESSION REFORMS OF PUBLIC ADMINISTRATION IN ROMANIA

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Abstract

This paper analyzes the issue of continuation of public administration reform in Romania after the EU accession in 2007. More precisely, the authors take into consideration the civil service framework legislation and assess the degree in which it changed once the deadline for accession was achieved. The main assumption of the paper is that the European Union pressured politicians in Romania towards changing the civil service up to the point where legal politicization was hardly visible. After the accession, Romanian politicians re-established the basis for creating a politicized civil service. To prove this assumption, the authors investigate the Civil Service Statute and related acts between 1990 and 2010, and consider the years 1993 and 2007 as important yardsticks in the European Union's relation with Romania. Furthermore, they make use of the Reports issued by the European Commission during the accession period as well as after it (under the Cooperation and Verification Mechanism), in order to receive a comprehensive image of the Union's assessments of reforms of de-politicization.

Keywords: civil service reform, Europeanization, de-politicization

1. Introduction

Knill and Lehmkuhl (1999) defined Europeanization as the impact of European policies on the internal structures of member states. In their approach, being Europeanized was a consequence of the European impact and a synonym to "being changed by the EU policies". This paper deals with the European Union's impact on the civil service reform in Romania, while addressing a rather interesting question: did the European Union's sticks and carrots mechanism during accession was as important as to guide the recruitment and selection of civil servants in Romania towards a merit-based system? Was the accession to the European Union a turning point in the path of reform for civil servants in Romania?

This inquiry makes use of a redesigned theoretical model based on Reid and Kurth (1998; 1999) which assumes that politicians change institutions when the marginal cost of holding them in place exceeds the marginal benefit of their maintenance; and that these costs are always external to politicians. Regarding to the organization of public administration, our theory argues that in a bureaucracy, the civil servant does not share with the politician the same type of relationship as an employee working in a private firm does with his/her employer. In a bureaucratic organization, the civil servant is not dependent of the politicians and there are far more incentives to efficiently produce public goods, than in spoil systems. The independence of the civil servant from the politicians may cause losses to political firms and it is for this reason that normally, politicians prefer more politicized systems looking as much as possible as bureaucracies, so as the production of public goods to not be visibly affected. This last sentence refers to a problem of the collective action as identified by Downs in (1957). Rational individuals are not motivated to monitor governmental actions, to inform themselves upon costs and levels of public goods production. The problem is called rational ignorance. For this reason, up to some point, politicization may pass unnoticed. Also, as long as for the rational ignorant,

the production of public goods is not visibly affected, then it might arrive in a quantity and with a quality less than optimal, with a budget larger than optimal. From this, politicians will rather have mixed systems of public administration – politicized, but as much as the de-professionalisation to not be visible, and accordingly, the production of public goods to not show any shortages for the rational ignorant. This observation infer the reactivity to costs of politicians – when marginal costs of the politicization exceed its marginal benefits, then politicians will depoliticize the public administration up to the point the marginal costs of the de-politicization (or maintenance of a certain level of de-politicization) exceed their marginal benefits and so on. What may be deduced from here is that if we observe change in the politicians' costs, then we will also see changes in their actions.

Our assumption is then that the European Union pressured politicians in Romania towards changing the civil service up to the point where legal politicization was hardly visible. After the accession, with the stick gone, Romanian politicians re-established the basis for creating a politicized civil service. To prove our assumption we investigate the Civil Service Statute and related acts between 1990 and 2010, and consider the years 1993 and 2007 as important yardsticks in the European Union's relation with Romania. Furthermore, we make use of the Reports issued by the European Commission during the accession period as well as after it (under the Cooperation and Verification Mechanism), in order to receive a comprehensive image of the Union's assessments of reforms of de-politicization.

The time frame 1990-2010 coincides with the Romanian project to return to Europe. In 1993, this project received a clear shape once Romania signed the Association Agreement to the European Union and got acquainted to the accession criteria.No sooner than 1996, the European Parliament in its Resolution reply to Agenda 2000 (C4-0371) suggested that Romania, along with the rest of the candidate countries should continue the process of developing the capacity and quality of administrative procedures, and should reduce corruption (paragraph 47).For the civil service, as later on revealed by the Regular and Monitoring reports issued by theEuropean Commission, Romania was expected to provide evidence of equal access to civil service, merit-based competitions, politically neutral service, decentralized personnel management and sustainable development of a professionalized civil service. Our theory implies that these formal demands were at least partly translated into institutional changes. The theory suggests also that after the accession to the European Union (January 2007), a new re-politicization began.

2. On the way to the European Union: Creating a Civil Service Statute

By 1993, Romania had already become a member of the Council of Europe (1993), and it was formally engaged in acceding NATOand the European Union. It was then thatanother Government decision (GD 281/1993) brought by a somehow interesting change (but far from being consistent with a depoliticized system): it reconsidered the political appointee positions held as of 1991 by the general directors, directors and deputy directors and acknowledged the need for organizing an appropriate competition (Annex 12, paragraph 12). However, this very competition consisted in appraisal of the results obtained by the candidates on their recruitment selection (!) as well as during their professional activity after being in the system, and the testing of their organizational and managerial skills. Each budgetary unit was given the right to establish the scale for testing the criteria presented above. Overall assessment of the personnel was to be made by the head of the organization, upon the proposal initiated by the candidate's hierarchic superior. Surely, this type of regulation allowed political interference with what were then top management positions in the civil service system.

Until 1999, no significant change in the public recruitment and promotion procedures was recorded. However, at the European Council in Helsinki, in December 1999, Romania received its acceptance as a formal official candidate to the European Union. Since, till the moment of the actual accession (in January 2007), the European Commission elaborated annual regular (then monitoring) reports on Romania's progress towards accession. The opinions expressed by the European Commission in these reports will be treated as formal demands, which at least partly and presumably will be translated into institutional changes.In 1998, for instance, the European Commission stated that: Reforms need to be further underpinned by a […] public administration reform based on the adoption of the Civil Service Act" (R 1998: 10).

At the end of 1999, Romania adopted its first post-communist Statute on civil servants (L188/1999). With 104 articles, the new Statute spoke of merit base selection, stability and political pressure-free civil service (article 4). Recruitment to the office was recognized to all Romanian citizens above 18 years old, proficient in Romanian, proving their good health and the absence of criminal record, who

managed to pass the entry examination (article 6). The latter was to be organized and validated upon the rules established by the Government (article 49.5), at the proposal of a National Agency of Civil Servants. If compared to Romanian first Statute on Civil Servants (1923), the existence of a national body managing the public personnel policies – as the National Agency was announced to be – could be seen as an important breakthrough. In fact, the Agency seemed more of a Government's arm, as it was subordinated to it, and ruled by a State Secretary directly appointed by the prime minister. Moreover, it was designed as an organization holding the responsibility of elaborating and implementing the rules on organizing recruitment (articles 20 and 21). Additionally, the Statute contained no explicit information on the composition of the examination committees for recruitment, nor did it referred to the substance and procedures of the entry competition (article 49). Also, the Statute only briefly discussed the assessment of civil servants (to be made again by their direct superiors), and announced that the Agency was to establish the proper methodology for selection (articles 59 and 61). However, it clearly pointed that in the case of administrative restructuring, the civil servant whose job would have been lost was to be relocated, on the proposal of the National Agency; should the relocation be rejected, he/she would be fired (article 92).

The comments so far might not offer a direct image of the politician – civil servant relationship: in this regard, article 42 proclaims that obligation of the civil servant to restrain himself/herself from expressing their political beliefs. Articles 88 and 89 on the other hand, allowed civil servants to be elected or appointed in political positions with the interruption of their civil activity (granted upon request), while stating that the reintegration in the service would be rightfully made, at the time demanded by the civil servant.

Not really substantive in terms of assuring a non-political access to the civil service system (as it lacked specific details regarding, for instance, the recruitment selection and the individual professional assessment), the Statute marked however the beginning of a long process of public reforms (until 2003, the year the Statute knew a major amendment it would have been already modified seven times already).

The European Commission seemed at its turn rather optimistic on the matter: "The Statute, if fully implemented, will be a step forward towards creating a more stable, professional and independent civil service." (Regular Report, 2000: 16). As years passed, the enthusiasm diminished: "Little substantial progress on civil service reformcan be noted since last year [2000]" (Regular Report 2001: 18). […]No progress has been made in making the funding of political parties more transparent or in addressing potential conflicts of interest of politicians and civil servants" (Regular Report, 2002: 28).

The year 2003 finally brought substantive changes: the measures for ensuring transparency in exercising public offices and public functions (L161/2003) proclaimed the incompatibility between the civil service and any other public function or office (article 94), but allowed civil servants to run for a public office or be appointed to a public function, provided he/she suspended their activity within the civil service system (article 97). Additionally, civil servants were recognized the right to have party membership cards, but were restricted in accessing top-management party positions (article 98).

Another true legislative novelty was the act on the organization and development of civil servants' career(GD1209/2003). According to it, professionalism and competence, yet not political neutrality was included among the fundamental principles of the civil service (article 3). The National Agency grew stronger, as it became responsible for approving any specific conditions raised by public institutions needing certain categories of civil servants (article 8). Additionally it became the only institution organizing the recruitment competitions for management civil service positions (except for the head of bureau and compartment) (article 7), and it was the only authority to give public institutions organizing recruitment competitions for executive positions, the official consent. The Agency again, was (indirectly) involved in the actual recruitment competition, as upon its consent, representative civil servants associations could designate a member in the examination committee (article 15). The same act (of 2003) brought another significant addition when introducing (next to management and executive civil servants), the high-level civil servants. They would be recruited annually, by a special organized Committee, testing their proficiency in one official language of the European Union, and their level of theoretical and practical knowledge of public administration, the capacity to analyze and synthesize and ground their strategic decision-making vision and predict the impact of their policy-making (article 20). Once in position, they would not become members of any political party, under the sanction of being dismissed of office.

Most interesting, for the post-communist Romanian administrative system, the act of 2003 promised a major change: the transformation of former political appointees (with mandates of representing Government locally) into high-level civil servants: "For the functions of prefect and sub-

prefect only persons appointed under the provisions applicable to high-level civil servants would be considered. Their appointment is to be made starting with 2006, in intervals, based on Government's decision".The choice of words in this legal text is quite surprising: while the act of 2003 makes a promise of change towards a less politicized system (one kept as the Law on the institution prefect would eventually prove), it gives assurances that the change would be gradual, in intervals, and would depend upon the Government's decision. Surely, both of the legal texts of 2003 contributed to the progress of the civil service reform in Romania. To what extent an Agency ruled by political appointees was able to manage, in a politically neutral manner almost all competitions for management positions within the civil service, or how prestigious personalities of public administration, proposed by the ministry of internal affairs and appointed by the prime-minister were to impartially recruit high-level civil servants, judging their strategic vision and capacity to analyze, remain debatable issues. Certainly however, the Romanian civil service was changing. To this, the Code of conduct for civil servants(L7/2004) brought its contribution; it regulated impartiality and independence as principles of the civil service act and grew the importance of the National Agency, by involving it into the monitoring of the implementation of the norms of conduct for civil servants. By now, the Civil Servants' Statute had been already modified too many times to still offer a coherent picture of the Romanian civil service reform; in March 2004 it was thus republished.

The new Statute enshrined its part of changes, one the most significant referring to the recruitment of high-level civil servants. Part of the pre-selection criteria, the latter were now asked to (also) provide proof of graduation of training programs offered by the National Institute for Public Administration or of doctoral studies relevant to their sought position and to certify at least seven years of seniority in the area relevant to the position they pursued (article 15). A rather interesting addition (made in article 50.j.) was that of demanding candidates to the civil service to declare their lack of involvement in any activities of the political police. And if for the case of the selection procedures or examination committees, the new Statute simply reaffirmed the amendments brought by in 2003, in return it provided quite important information regarding the assessment procedures for high-level civil servants. As such, according to provisions laid down in article 60.4, high-level civil servants were to be professionally evaluated by a committee of five personalities, proposed by the minister of internal affairs and administration and appointed by the prime minister. Surely, this sounds familiar; same procedural requirements (rather debatable in light of a depoliticized system) were provided for by the Government decision of 2003 for the case of recruitment of high-level civil servants.

Overall, 2003 and 2004 contributed to making the civil service reform in Romania progress. To continue, while in 2005 no significant amendments were brought to the Civil Servants' Statute, the situation changed for better in 2006. According to the amendments of the Statute in 2006, to pursue a high-level civil servant position one no longer needed a doctoral degree (paragraph 19), the state councilors returned at being political appointees (paragraph 16), and the examination committee for recruiting civil servants was to contain seven members with an overall mandate of ten years and half, appointed on rotation basis (paragraph 21). More importantly, high-level civil servants were to be assessed once at two years, by a committee to be appointed by the primeminister at the proposal of the minister of administration and internal affairs (paragraph 23). And last but certainly not least, high-level and management civil servants were compelled not to pursue any public function or office without dismissing themselves first from the civil service (paragraph 33).

Considering the consolidated version of the Statute by 2006 and judging in comparison all the legal texts amending it (as briefly described in this section), one could assess that the 2006 version is by far the less politically influenced text. In this regard, our comment seems in line with the European Commission's remarks on the matter (Monitoring Report, 2006: 39).

3. In the European Union: The Reform of Civil Service at full stop?

With 2007 arriving, Romania became a full member of the European Union. As of that date, the European Commission stopped providing detailed feedback such the one given between 1998-2006. With no more specific recommendations concerning the desired way of reform (at least not as specific as in the Regular and Monitoring Reports), Romania continued its civil service transformation and adopted an act on Recruitment of high-level civil servants, their career management and mobility (GD341/2007). As announced by the amendments of the Statute in 2006, the examination committee for recruitment into service was reformed as to comprise seven members appointed for ten and a half years, with no evident connection to any public office. However, to recruiting the secretaries general and their deputies in Government and other bodies of central administration, the prime minister,

respectively the ministers may raise specific conditions for selection (article 37). Although these conditions need to be communicated to the National Agency, a possible political influence might be considered.

With ten more full amendments made since 2004, the Statue was once again republished in May 2007. Since, and in direct relevance to the subject of our investigation, two more major amendments were being brought. In terms of recruiting procedures, the first amendments (2008) recognized the right of the Agency and public institutions to impose specific conditions for entering the civil service (article 20). In terms of performance assessment, the principle applied was: the superior is the evaluator. In practice, that usually meant that a political appointee was called to assess a civil servant (e.g. the mayor assessed the secretary of the city-hall; and the public officer, the civil servants from his/her cabinet). The act amending the Statute in 2009 on the other hand managed to produce incentives for further discussing the issue of politicization, as it successfully transformed the former high-level civil servants into political appointees. For a clearer picture of the current form of the Civil Servants' Statute, its 2009 consolidated version brought forward several issues of interest; namely, in dealing with the high-level civil servants and their recruitment, it equated the pre-selection condition of graduating training programs suitable to their rank to having a full mandate as a member of the Parliament (!). The recruitment of the secretary of the commune, on the other hand became the obligation of the city halls (respectively, the mayors) (article 58). Finally, while the high-level civil servant cannot be a party member but may candidate to a parliamentary seat should he/she resigns from the civil service, management civil servants may now just suspend their civil service (just as back in 2004) while choosing a political function (article 94).

A similar reading may be seen in light of the Reports the European Commission as part of the Cooperation and Verification Mechanism (CVM). In 2007, the Union raised the safeguard clause against Romania because of two major problems: corruption and weak judicial system. In the same year, the National Strategic Framework of Reference (2007) very directly stated that: "Corruption and the perception of corruption were major factors holding back the economic development of Romania" (p.16). One would say that such remarks would trigger immediate and sustainable reforms; that was not the Romanian case. In February 2011, EU concluded: "The review of the strategy on anti-corruption identified a lack of national and unitary approach in preventing and fighting corruption, insufficient monitoring and reporting mechanisms and an absence of impact indicators which impedes evaluation of the strategy" (p.7). What happened in between? Judges and prosecutors were trained so as to unify the national jurisprudence (2008), the Parliament adopted the Communication Strategy of the Superior Council of Magistracy and of the Romanian Judiciary (2007), the National strategy on counteracting local corruption (2008) and the new versions of the Civil and Criminal procedure codes (2010). Additionally, the National Integrity Agency (2008) appeared as a high-rank institution focusing on protecting the system from corruption and political abuses. Yet, (other) concrete results were still expected: in 2008 the CVM Reports declared: "Romania presents a mixed picture. It has put the fundamental elements of a functioning system in place. But the foundation is fragile and decisions on corruption are highly politicized. Each step in the right direction endangers a divisive internal political debate, fostering legal uncertainty. Commitment to reform by Romania's key institutions and bodies as well as with regard to different benchmarks is uneven" (July, p.6). One year later, the situation got worse: while in February 2009 maintaining the rule of law became a sensitive issue, in July the Commission raised the question whether the safeguard clause should be triggered (6) Several steps, very concrete once were suggested (CVM July: 7-8) and immediate action from the Romanian authorities was recommended. The year of 2010 did not bring sufficient proofs of appropriate behavior: "Romania did not show sufficient political commitment; it also suffers from a degree of unwillingness within the leadership of the judiciary to cooperate and take responsibility for the benefit of reform" (CVM March: 7).

4. Preliminary conclusions

Between 1990 and 2010, Romania experienced a large number of civil service related reforms. The most condensed years were probably those assimilated to the national reforms aiming at having a more professional, experienced and consolidated administration (between 2000 and 2006). If to judge solely on the basis of the examples provided in this section, a pick of the de-politicized reforms may be possible to trace; it roughly concentrates around the year of 2006. Since, regulations approaching mainly the high-level civil servants and the relationship between them, the management civil servants and the political environment tend to challenge the limits of a not-politically-neutral civil service. Is this

consistent with our preliminary assumption? Summing up our findings, we have provided a starting point in analyzing the institutional changes the Romanian (or, possibly, any other Central and Eastern European) public administration has faced before, during and after the accession to the European Union. Scholars relevant in the area of social sciences argue for the existence of a European driving force behind national reforms in countries that are experiencing or have experienced the accession to the European Union. The Europeanization literature for instance (Featherstone and Radaelli, 2003), speaks of candidate countries talking the talk, but missing the walk of the European Union. This article draws from all these contributions and suggests that in the case of the Romanian civil service reform, one can speak of performance (change) according to the European standards along the accession period. After it however, it revels a contradictory tendency of replacing the newly ("more" European) implemented structures with the old ("more" traditional) ones. Such conclusion surely deserves a further inquiry, and as such we advance the possibility of future analysis in the Central and Eastern European region and the Balkans.

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I.3. E-GOVERNMENT IN THE BALKANS. COMPARATIVE STUDY

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Abstract

In Europe, e-government is considered as one of the main goals for the future. Lately, we have witnessed the revolution in the provision of e-government services for citizens. Citizens benefit of e-government services, better access to information, improved interaction with government, especially due to the increase of using ICT. The paper analyses the current state of the art of e-government in the Balkan countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Macedonia, Montenegro, Romania, Serbia, Slovenia, Turkey. The paper achieves a comparative analysis on e-government development in the Balkan countries, based on data provided by UN e-government Surveys. At the same time, we make a comparative analysis concerning ICT development in the Balkan countries, using data provided by ICT Development Index - Measuring the Information Society 2010. The methodology of research comprises bibliographic studies, analysis of specialised reports achieved by relevant international organisations, statistic analyses and evaluations, interpolation.

Keywords: e-government, ICT development, comparative analysis

1. Introduction

The economic and financial crisis has been present in all European countries, after years of economic and social progress and it has exposed structural weaknesses in Europe's economy.

In March 2010 the European Commission launched the Europe 2020 Strategy in view to exit the crisis and prepare the EU economy for the challenges of the next decade. Europe 2020 sets out “a vision to achieve high levels of employment, a low carbon economy, productivity and social cohesion, to be implemented through concrete actions at EU and national levels. This battle for growth and jobs requires ownership at top political level and mobilisation from all actors across Europe”.

The Digital Agenda for Europe is one of the seven flagship initiatives of the Europe 2020 Strategy, defining the key enabling role that the use of Information and Communication Technologies (ICT) will have to play if Europe wants to succeed in its ambitions for 2020.

The objective of this Agenda is “to maximise the social and economic potential of ICT, most notably the internet, a vital medium of economic and societal activity: for doing business, working, playing, communicating and expressing ourselves freely”. Successful delivery of this Agenda will trigger innovation, economic growth and improvements in daily life for both citizens and businesses. Thus, wider deployment and more effective use of digital technologies will enable Europe to address its key challenges and will provide Europeans with a better quality of life.

The ICT sector is directly responsible for 5% of European GDP, with a market value of € 660 billion annually, and it contributes to overall productivity growth (20% directly from the ICT sector and 30% from ICT investments). This is because of the high levels of dynamism and innovation inherent in this sector, and the enabling role the sector plays in changing how other sectors do business. At the same time, the social impact of ICT has become significant – for example, the fact that there are more than 250 million daily internet users in Europe and virtually all Europeans own mobile phones has changed life style.

In *Europe*, e-government is considered to be one of the main goals for the future.

Governments in Europe are embracing the digital revolution to enhance services for their citizens.

As European governments are looking at the digital future, e-government has become an important area of research.

In 2002 the European Commission launched "e-Europe 2005 action plan: An information society for all". In June 2005 the European Commission launched the "i2010—A European Information Society for growth and employment", as "a policy framework for promoting the positive contribution that ICTs can make to the economy, society, and personal quality of life". In 2002, the European Commission launched eSEE Agenda for the Development of Information Society in SEE.

Main issues in the EU agenda on ICT strongly relate to three elements in between government and citizen/business relations, which are attaining information, downloading forms, and returning filled-in forms.

According to the statistical information provided by Eurostat (2008), nevertheless, only 25.5% of individuals are frequently accessing information via e-government's establishments in the European Union (EU27), while 15.9% are downloading official forms, and even less (11.7%) are returning filled-in forms. During the last years, however, each European country has taken significant steps towards the directions specified by the European Union.

2. Background

The field literature provides several definitions for e-government. The e-government definitions have evolved over the last ten years and the efforts to comprehensively describe it in a single statement seem impossible. However, a common understanding is that e-government refers to the "use of ICTs, particularly Web-based applications, to provide faster, cheaper, easier, and more efficient access to and delivery of information/services to the public, businesses, other agencies (non-profit), and governmental entities" (Biancucci et al., 2001; Dearstyne, 2001; Palvia & Sharma, 2007). During the last ten years several ideas of providing modern administration and democracy in public service delivery have emerged with a major component of bringing transparency to public dealing. E-government is considered as a "guiding vision toward modern administration and democracy" (Wimmer & Traunmuller, 2000). E-government has been "reportedly instrumental in bringing transparency to public dealing" (Cho & Byung-Dae, 2004). The focus of e-government has also shifted towards "constituencies and stakeholders at all levels including government of the city, county, state, national, or even international levels" (Palvia & Sharma, 2007).

Essentially, it involves the transformation that governments and public administration have to undergo in the future. Hence, e-government is not an option but a must for governments to turn into account the benefits of ICTs. E-government is also considered as "transferring power to people, by operating in a one-stop, non-stop way, and doing more for less" (Lawson, 1998).

In this context, the Balkan states need to accelerate the process of building open information societies and knowledge economies in order to keep pace with the EU guidelines in this field.

3. State of the Art of e-government in Balkan countries

The current paper describes briefly the most important achievements and the current state of the art of e-government in eleven countries of the Balkans: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Macedonia, Montenegro, Romania, Serbia, Slovenia, Turkey.

By country comparison, we have highlighted the most important strategies, programmes, developments in the Balkan countries. At the same time we described the main legal framework as well the institutional framework, i.e. the main actors involved in e-government issues.

Table 1 presents synthetically the above aspects.

Table 1

Country comparison of strategies, developments legal and institutional framework in Balkan countries

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
1	Albania	Cross cutting Information Technology Strategy, 2009	eSchool Project, supported by World Bank, UNDP eHealth, supported by World Bank Government Electronic Network, supported by EU, UNDP First Albanian Telecommunications Forum, Nov. 2009	Law on Telecommunications in the Republic of Albania No. 8618 Law on Public procurement No. 9643 Law on electronic signature Law No. 9887 (dated 10.3.2008) on the Protection of Personal Data eCommerce Law, No. 10128	National Agency on Information Society (NAIS) The Ministry of State for Reforms and Relations with Parliament (recently Minister for Innovation and Information and Communication Technology) The Authority for Electronic Communications and Post (AKEP)
2	Bosnia and Herzegovina	Policy of Information Society Development in BiH Strategy of Information Society Development in BiH Action Plan for Information Society Development in BiH	eGovernment for the Council of Ministers of BiH - Phase I eLegislation Reform Project UNDP support to regional e-SEE Initiative: e-SEE Secretariat, e-Leadership Programme for the Western Balkans Development of an Information System for Public Procurement Notices (GO-PROCURE)	The Law on Electronic Documents Software Policy Law Establishing the Institute for Standards, Metrology and Intellectual Property of BiH Law on the Standardisation of BiH Law on Freedom of Access to Information in BiH Law on Copyright and Related Rights in BiH	Council of Ministries of BiH Entity governments and the Government of Brcko District Ministry of Communications and Transport of BiH Ministry of Civil Affairs of BiH The Office of the Public Administration Reform Coordinator for BiH The Communications Regulatory Agency of BiH The Identification Documents, Data Exchange and Evidence Agency of BiH The Directorate for European Integration of BiH The Information Society Agency of Republika Srpska
3	Bulgaria	Concept of eGovernment Common Strategy for eGovernment in Bulgaria 2011-2015 Policy for Electronic Communications of the Republic of Bulgaria	Feb 2011. The Bulgarian Government initiated discussions on how 100 administrative services will be automated. Nov. 2010 Ihtiman, a small town in the western part of Bulgaria, became the first municipality in the country to introduce an electronic archive for	eGovernment Act (Law on Electronic Government) (2008) Access to Public Information Act (2000) Law for Protection of Personal Data (2001) Law on eCommerce (2006)	Ministry of Transport, Information Technology and Communications (MTITC) Council for Administrative Reform Electronic Communications Networks and Information Systems (ECNIS)

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
			fast and convenient administrative services. Sept. 2010 The Bulgarian Government initiates public consultation on the draft 'eGovernment Strategy for 2010-2015' April 2010 The first issuance of new generation passports that contain biometric data Feb. 2010, the Bulgarian Government officially started testing an integrated web platform providing 13 municipal and central government services online.	Law on Electronic Communications (2007) Telecommunicatio ns Act (2003) Law on Electronic Document and Electronic Signature (2001) Public Procurement Law (2004)	Government Centre for a crisis in computer security / Computer Emergency Response Team (CERT)
4	Croatia	Strategy for the development of eGovernment e-Croatia Programme 2007 - 2011	Feb. 2011, the Republic of Croatia signed a Memorandum of Understanding with the EU to join the Interoperability Solutions for European Public Administrations (ISA) Programme. Jan. 2011, electronic prescriptions have replaced paper prescriptions in the primary healthcare system across Croatia June 2010, Standard Electronic Records Management Project (SPEUP) June 2010, the Croatian Government introduced the Croatian Interoperability Framework Croatia received special praise for its remarkable development in the area of ICT accessibility	Electronic Document Act (OG 150/2005) Information Security and Confidentiality Act (NN 79/2007) Act on the Right to Access Information (NN 172/03) and the implementation of the Convention on Cybercrime (OG 173/2003). Law on Freedom of Information (NN 172/03) Law on Personal Data Protection (NN 103/03) Law on Electronic Commerce (NN 173/03) Electronic Communications Act (NN 73/2008) Electronic Signature Act (NN 10/02 / NN 80/08) Public Procurement Act (NN 110/07 / NN 125/08)	Central State Administrative Office for e-Croatia Ministry of Economy, Labour and Entrepreneurship Ministry of Public Administration Ministry of Sea, Transport and Infrastructure Ministry of Science, Education and Sports Institute for Security of Information Systems Croatian Information Documentation Referral Agency – HIDRA Information Systems and Information Technologies Support Agency, APIS IT National Council for Information Society Central Office for Development Strategy and Coordination of EU funds
5	Greece	White Paper Greece in the Information Society: Strategies and Actions 'Digital Strategy 2006-2013'. Operational	April 2011, Portal Startup Greece, creating a new generation of entrepreneurs March 2011, fourth phase of Labs.OpenGov.gr	Draft Law on eGovernment, 2011 Law on the Protection of Individuals with regard to the Processing of Personal Data,	Information Technology Committee General Secretariat for Public Administration and eGovernment, Ministry of Interior, Decentralisation and

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
		Programme 'Digital Convergence' specifies strategy and actions aimed at the efficient utilisation of ICT in the period 2007-2013 National Strategic Reference Framework for 2007-2013 'Governance in the Age of Web 2.0' study	to improve and continue to develop existing electronic public services (eServices) Oct 2010, Forum Digital Greece 2020 April 2010, electronic submission of the personal income tax	Law on the Protection of Personal Data and Private Life with regard to Electronic Telecommunications and revision of Law 2472/1997 Law on Strengthening the Institutional Framework to Safeguard Privacy of Telephone Communications Presidential Decree 131/2003 on eCommerce Law 3431/2006 on Electronic Communications and other Provisions Presidential Decree 150/2001 for electronic signature	eGovernment Special Secretariat of Digital Planning Special Secretariat of Public Administration Reform Information Society S.A. Informatics Development Agency Observatory for the Greek Information Society Digital Awareness and Response to Threats (D.A.R.T) taskforce
6	Macedonia	National Strategy for eGovernment 2010-2012 Draft Public Administration Reform Strategy, 2010-2015 Government Programme (2006-2010) with references to IT and eSociety National Strategy and Action Plan for Information Society Development National Strategy for the Development of Electronic Communications with Information Technologies	Feb 2011, Memorandum of cooperation on the project 'Support for the process of modernisation of the state administration'. Dec 2010, 6th international conference 'e-Society.Mk' April 2010, web portal eucebnici.Mk	Law of Free Access to Information of Public Character Law on Personal Data Protection Law on Electronic Management Law on Electronic Commerce Law on Electronic Communications Law on Data in Electronic Form and Electronic Signature Law on Public Procurement	Ministry of Information Society and Administration Commission for Information Technology Information Society Task Force National Council for the Information Society Agency for Electronic Communications
7	Montenegro	Strategy for Information Society Development in Montenegro from 2009 to 2013 Action Plan for Development and Implementation of Information Projects	Judicial Information System Central Register of Citizens Government Portal Register of Laws and Regulations	Law on Electronic Signature Law on Electronic Commerce Law on Electronic Documents Law on Application of Legal Acts for the Protection of	Ministry for Information Society Ministry for Maritime Affairs, Transportation Telecommunications Agency for Electronic Communications and Postal Services

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
		in Montenegro	Electronic Document Management System (eDMS) Government of Montenegro Information System for Market Inspection eGovernance Academy	Intellectual Property Rights Law on Electronic Communications Law on the Public Broadcasting Services of Montenegro Law on Freedom of Access to Information. Information Secrecy Law	Ministry of Culture, Sport and the Media Broadcasting Agency University of Montenegro
8	Romania	Governance Programme 2009-2012 makes specific reference on eGovernment in Chapter 14, which is dedicated to Information Society. Government Programme 2009-2013 'eRomania' National Programme for Supercomputing	Nov 2010, Decision on the development and implementation of the National Information System for Tax Payment Online Sept 2010, eRomania, an integrated government IT system Sept 2010, Platform for the integration of the eGovernment services in the National Electronic System (SEN) MCIS - OIPSI finance 10 types of interventions using Structural Funds: eGovernment, eLearning and eHealth projects, integrated systems for businesses and similar	Act 304/2003 for Universal Service and User Rights Relating to Electronic Communications Networks and Services, which transposes the 2002/22/CE Directive of the European Parliament and of the Council (7.03.2002) on "Universal Service and User Rights Relating to Electronic Communications Networks and Services" Government Decision no. 1085/2003 Government Decision no.922/2010 on the organisation and operation of Electronic Point of Single Contact Law no.135/2007 on the archiving of documents in electronic form Law no.544/2001 on Free Access to Information of Public Interest Law no.677/2001 on the Protection of Persons concerning the Processing of Personal Data and the Free Circulation of Such Data Law on the	Ministry of Communications and Information Society Ministry of Administration and Interior National Centre for Management of Information Society National Centre "Digital Romania" National Institute for Research and Development in Informatics

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
				Processing of Personal Data and the Protection of Privacy in the Electronic Communications Sector Law no.365/2002 on electronic commerce Law no. 260/2007 on electronic registration of commercial operations Law no. 455/2001 on electronic Signature Romania was the first European Union country to adopt the new acquis communautaire in the field of communications.	
9	Serbia	Electronic Communications Strategy, 2010 Information Society Strategy, 2010 Strategy for Telecommunications Development in the Republic of Serbia 2006-2010 Strategy and Action Plan for the Transfer from Analogue to Digital Broadcasting Strategy and Action Plan for e-government Development up until 2013 Action Plan for eSEE Agenda Plus Implementation up to 2012	Investment by state institutions in ICT solutions (hardware, software and services) Improvement of the eGovernment National Portal	Law on Telecommunications No. 44/03 Law on Electronic Signature, No. 135/04 Law on Electronic, No. 51/09 Law on Freedom of Access to Information of Public Importance, No. 120/04 Law on Electronic Commerce Law on Personal Data Protection Public Procurement Law	Ministry for Telecommunications and Information Society Republic Office for Informatics and Internet Republic Telecommunications Agency Serbian National Register of Internet Domain Names (RNIDS) National Information Technology and Internet Agency (NITIA)
10	Slovenia	Slovenia's Development Strategy, 2005 eGovernment Strategy of the Republic of Slovenia for the period 2006 to 2010 Action Plan for eGovernment for the period 2006 to 2010 Strategy on IT and	December 2010, the State Portal of the Republic of Slovenia May 2009, the United Nations awarded the Slovenian e-VEM project one of the best project prizes in the category "Improving service delivery in the public sector". This is the	General Administrative Procedure Act Act on Access to Public Information Personal Data Protection Act Act amending the Electronic Commerce and	Ministry of Public Administration Directorate for eGovernment and Administrative Processes

No	Country	Strategy	Main developments	Legal Framework	Institutional framework (Actors)
		electronic services development and connection of official records (SREP) Strategy for the development of the Information Society in the Republic of Slovenia until 2010 e-Government Strategy for the period 2006 to 2010 (SEP-2010) Strategy on IT and electronic services development and connection of official records (SREP) Action Plan on Electronic Commerce in Public Administration e-Government Strategy for Local Self-Government (ESLS)	highest recognition of the Slovenian Public Administration for online services and solutions for the supply of government services in general.	Electronic Signature Act Electronic Communications Act	
11	Turkey	e-Transformation Turkey Project Information Society Strategy (2006-2010) Ninth Development Plan (2007–2013)	March 2010, Draft Law on Amendment of Some Laws and Decree Laws to Accelerate Public Services Nov 2009, National Judiciary Informatics System (UYAP) and the SMS Information System were selected as finalists for 4th European e-Government Awards 2009, while Prime Ministry Communication Centre and eCertification for Guarantee and After Sale Services Certificates have been labelled as Good Practices	Right to Information Act Law regarding the Protection of Personal Data By-Law on the Personal Information Processing and Privacy in the Telecommunications Sector By-Law on Electronic Communication Security Law no. 4822 (Law on Consumer Protection) Electronic Communications Law Law no 5070 on Electronic Signatures	Minister of State ('e-Minister') e-Transformation Turkey Executive Committee State Planning Organisation (SPO) Information Society Department of the State Planning Organisation TURKSAT Scientific and Technological Research Council of Turkey

Further country comparison the main conclusions focus on the following issues:

- The above mentioned countries have done systemic efforts in relation to information society development.
- The target countries have satisfactory legal and institutional framework.
- Almost all countries in the Balkans have adopted all of the major laws and related regulations, with the exception of Bosnia and Herzegovina. Bosnia and Herzegovina has only adopted a few of the laws and even those have yet to come into effect.

– Many of the adopted laws and regulations are already in line with relevant EC legislation, yet the formal process of harmonisation is moving ahead in most of the countries. The exceptions, of course, are Slovenia, Greece, Bulgaria and Romania, which have adopted most of the regulations in accordance with the relevant EC directives.
– The target countries have to significantly improve their e- government practices.

4. Comparative analysis on e-government development in the Balkan countries

Several countries around the world are attempting to revitalize their public administration and make it more proactive, efficient, transparent and especially more service oriented.

In view to accomplish this transformation, governments are introducing innovations in their organizational structure, practices, capacities, and in the ways they mobilize, deploy and use the human, information, technological and financial resources for service delivery to citizens. In this context, the adequate use of ICT plays a crucial role in advancing the goals of the public sector and contributing towards an enabling environment for social and economic growth.

E-government can contribute significantly to the process of transformation of governments towards more cost-effective governments. It can facilitate communication and improve the coordination of authorities at different tiers of government, within organizations and even at the departmental level. Further, e-government can enhance the speed and efficiency of operations by streamlining processes, lowering costs, improving research capabilities. However, the real benefit of e-government lies not in the use of ICT per se, but in its application to processes of transformation.

United Nations proposed a methodology for measuring e-government development index (EGDI) as “a comprehensive scoring of the willingness and capacity of the national administrations to use online technology in the realization of government functions”.

The United Nations e-Government Survey was initiated in 2001 in view to support the Member States’ efforts in e-government and ICTs for socio-economic development.

The United Nations e-Government Survey assesses the e-government development of 192 Member States of the United Nations according to a quantitative composite index comprising three crucial dimensions of e-government:

- e-information and e-services
- telecommunication infrastructure
- human capital endowment

While providing a comparative assessment of global e-government development, the United Nations e-Government Survey emphasizes the strategies, tools and best practices developed and practiced by pioneering countries and it is based on the collective wisdom of global strategists and practitioners in how “they leverage e-government in view to better serve the citizens and businesses”. As such, it suggests a way forward for government to move towards greater innovation, consolidate their e-government strategies and develop policies that will facilitate the adoption of emerging technologies and effectively respond to the citizens’ needs.

The e-government development index is not designed to capture e-government development in an absolute sense. The index presents the outcomes of national governments relative to one another. The maximum possible value is one and the minimum is zero.

Mathematically, the EDGI is a weighted average of three normalized scores on the most important dimensions of e-government, namely: scope and quality of online services, telecommunication connectivity, and human capacity. Each of these sets of indexes is itself a composite measure that can be extracted and analysed independently:

EGDI = (0.34 × *online service index*)
+ (0.33 × *telecommunication index*)
+ (0.33 × *human capital index*)

We achieved a comparative analysis for Balkan countries, EU 15, EU 25 and EU 27 during the period 2003 – 2010 and the results are presented in Table 2 and Figure 1.

The comparative analysis is based on data are from the UN Global e-government Surveys of 2003, 2004, 2005, 2008, 2010 For the years 2006, 2007 and 2009, we achieved interpolations.

Table 2

EGDI for Balkan countries, EU 15, EU 25 and EU 27 during 2003-2010

Country	2003	2004	2005	2006	2007	2008	2009	2010
Greece	0.5400	0.5581	0.5921	0.5893	0.5807	0.5718	0.5703	0.5708
Slovenia	0.631	0.6506	0.6762	0.6735	0.6708	0.6681	0.6472	0.6243
Bulgaria	0.548	0.5417	0.5605	0.5643	0.5681	0.5719	0.5664	0.5590
Romania	0.483	0.5504	0.5704	0.5697	0.5590	0.5383	0.5422	0.5479
Albania	0.311	0.3400	0.3732	0.4044	0.4356	0.4670	0.4595	0.4519
Bosnia	0.309	0.3790	0.4019	0.4179	0.4339	0.4509	0.4610	0.4698
Croatia	0.531	0.5227	0.5480	0.5513	0.5580	0.5650	0.5762	0.5858
Macedonia	0.362	0.3699	0.4633	0.4710	0.4787	0.4866	0.5064	0.5261
Montenegro	0.371	0.3871	0.1960	0.2734	0.3511	0.4282	0.4690	0.5101
Serbia	0.371	0.3871	0.1960	0.2866	0.3900	0.4828	0.4682	0.4585
Turkey	0.506	0.4892	0.4960	0.4920	0.4880	0.4834	0.4801	0.4780
EU 15	0.7070	0.7341	0.7429	0.7454	0.7479	0.7505	0.7252	0.7042
EU 25	0.6507	0.6809	0.6998	0.7028	0.7058	0.7089	0.6863	0.6656
EU 27	0,6407	0,6709	0,6899	0,6924	0,6950	0,6975	0,6774	0,6572

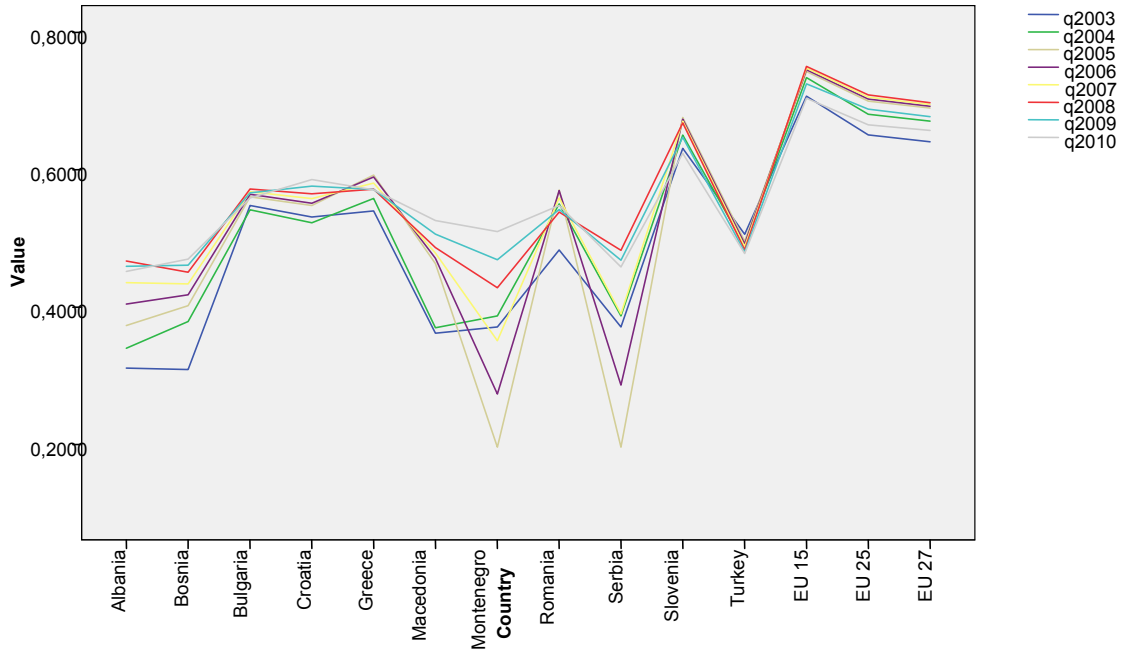

Figure 1. EGDI for Balkan Countries, EU15, EU25 and EU27 during 2003-2010
Source: Authors.

Comparing the EGDI of Balkan countries with EGDI for EU 15 EU 25 and EU 27, it results that all Balkan countries should improve their index in view to provide better, easier, friendly e-government services to both citizens and businesses. As highlighted by Figure 1, all Balkan countries have increased their EGDI during 2003 - 2010. If in 2003 the ranking is: Slovenia, Bulgaria, Greece, Croatia, Turkey, Romania, Serbia, Montenegro, Macedonia, Albania, BiH, in 2010 the ranking is as follows: Slovenia, Croatia, Greece, Bulgaria, Romania, Macedonia, Montenegro, Turkey, BiH, Serbia, Albania.

5. Comparative analysis concerning ICT development in the Balkan countries

The role of ICTs in enhancing economic growth and socio-economic development is now well established. Therefore, the measurement of the impact of ICT is an important input to ICT policy making.

The main objective of *Measuring the Information Society 2010* is to inform the ICT policy debate in International Telecommunication Union (ITU) Member States by providing "a comprehensive international performance evaluation based on quantitative indicators and benchmarks, and by identifying areas of high and low growth in ICT-related development".

ICT Development Index (IDI) represents a useful tool in view to monitor such progress, being a composite index made up of 11 indicators covering ICT access, use and skills. It has been constructed to "measure the level and evolution over time of ICT developments taking into consideration the situations of both developed and developing countries".

The main objectives of the IDI are to measure:

- The *level and evolution over time* of ICT developments in countries and relative to other countries.
- Progress in ICT development in *both developed and developing countries:* the index is global and it reflects changes taking place in countries at different levels of ICT development.
- The *digital divide*, i.e. differences between countries with different levels of ICT development.
- The *development potential* of ICTs or the extent to which countries can make use of ICTs to enhance growth and development, based on available capabilities and skills.

The ICT development process, and a country's transformation to becoming an information society, can be described using the following three-stage model:

- stage 1: ICT readiness (reflecting the level of networked infrastructure and access to ICTs);
- stage 2: ICT intensity (reflecting the level of use of ICTs in the society);
- stage 3: ICT impact (reflecting the result/outcome of efficient and effective ICT use).

Moving through these three stages depends on the combination of three components: ICT infrastructure/ access (stage 1), ICT intensity/ use (stage 2), and ICT skills.

Accordingly, the first two stages are reflected in the first two components of the IDI. Reaching the final stage, and maximising the impact of ICTs, crucially depends on the third component: skills.

Based on this conceptual framework, the IDI is divided into the following three sub-indices:

- *Access sub-index:* captures ICT readiness and includes five infrastructure and access indicators (fixed telephony, mobile telephony, international Internet bandwidth, households with computers, and households with Internet).
- *Use sub-index:* captures ICT intensity and includes three ICT intensity and usage indicators (Internet users, fixed broadband, and mobile broadband).
- *Skills sub-index:* captures ICT capability or skills as indispensable input indicators and includes three proxy indicators (adult literacy, gross secondary and tertiary enrolment). The skills sub-index therefore has less weight in the computation of the IDI compared to the other two sub-indices.

The IDI aims to capture the evolution of the information society as it goes through its different stages of development, taking into consideration technology convergence and the emergence of new technologies.

The IDI is a composite index made up of three sub indices, including 11 indicators (Figure 2).

The selection of the indicators was based on:

- Data availability and quality.
- The results of various statistical analyses.
- The relevance of a particular indicator for contributing to the main objectives and conceptual framework of the IDI.
- The recommendations made by experts and participants at the 6th World Telecommunication ICT Indicators Meeting (2007)

ICT access	Ref. Value	(%)
1. Fixed telephone lines per 100 inhabitants	60	20
2. Mobile cellular telephone subscriptions per 100 inhabitants	170	20
3. International Internet bandwidth (bit/s) per internet user	100'000*	20
4. Proportion of households with a computer	100	20
5. Proportion of households with internet access at home	100	20

40

ICT use	Ref. Value	(%)
6. Internet users per 100 inhabitants	100	33
7. Fixed broadband internet subscribers per 100 inhabitants	60	33
8. Mobile broadband subscriptions per 100 inhabitants	100	33

40

ICT skills	Ref. Value	(%)
9. Adult literacy rate	100	33
10. Secondary gross enrolment ratio	100	33
11. Tertiary gross enrolment ratio	100	33

20

ICT Development Index

Note: *This corresponds to a log value of 5, which was used in the normalization step.

Figure 2. ICT Development Index: indicators and weights

Source: ITU.

Table 3 presents the data for IDI, IDI access, IDI use and IDI skills in 2007, 2008 in the Balkan countries, EU 15, EU 25 and EU 27 based on the data from the report "Measuring the Information Society", 2010.

Table 3

IDI in the Balkan countries, EU 15, EU 25 and EU 27 in 2007 and 2008

Country	IDI 2008	IDI 2007	IDI access 2008	IDI access 2007	IDI use 2008	IDI use 2007	IDI skills 2008	IDI skills 2007
Albania	3,12	2,74	3,27	2,8	0,91	0,52	7,25	7,03
Bosnia	3,65	3,38	4,02	3,73	1,43	1,05	7,37	7,3
Bulgaria	4,87	4,42	5,67	5,15	2,34	1,77	8,33	8,26
Croatia	5,53	4,95	6,74	6,09	3,03	2,3	8,1	7,07
Greece	6,03	5,28	6,45	6,15	3,72	2,26	9,78	9,59
Macedonia	4,32	3,4	5,26	3,71	1,89	1,18	7,29	7,22
Montenegro	4,57	4,36	5,43	5,32	2,41	1,99	7,16	7,15
Romania	4,73	4,11	5,3	4,64	2,33	1,58	8,37	8,1
Serbia	4,23	3,85	5,06	4,77	1,63	1,27	7,77	7,15
Slovenia	6,26	5,77	7,06	6,66	3,91	3,11	9,34	9,28
Turkey	3,9	3,63	4,66	4,24	1,58	1,36	7,03	6,92
EU 15	6,79	6,36	7,70	7,40	4,93	4,17	8,70	8,67
EU 25	6,33	5,90	7,22	6,87	4,27	3,57	8,69	8,63
EU 27	6,22	5,78	7,09	6,72	4,13	3,43	8,66	8,59

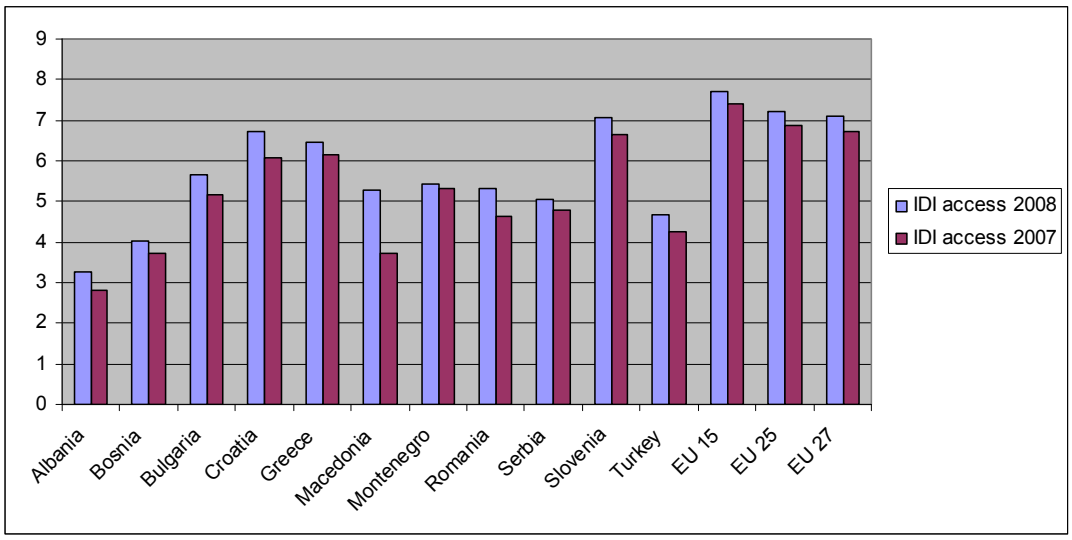

Figure 5: IDI access in the Balkan countries, EU 15, EU 25 and EU 27
Source: The authors.

Concerning IDI access, in 2007, the ranking is as follows: Slovenia, Greece, Croatia, Montenegro, Bulgaria, Serbia, Romania, Turkey, Bosnia and Herzegovina, Macedonia, Albania

In 2008, the ranking is: Slovenia, Croatia, Greece, Bulgaria, Montenegro, Romania, Macedonia, Serbia, Turkey, Bosnia and Herzegovina, Albania.

All countries have progressed from 2007 to 2008. However, the highest progress from 2007 to 2008 is recorded by Macedonia and the lowest progress is achieved by Montenegro.

Analysing the target group in the 192 of the world, Macedonia, Croatia and Romania are among the ten countries with highest improvement from 2007 to 2008.

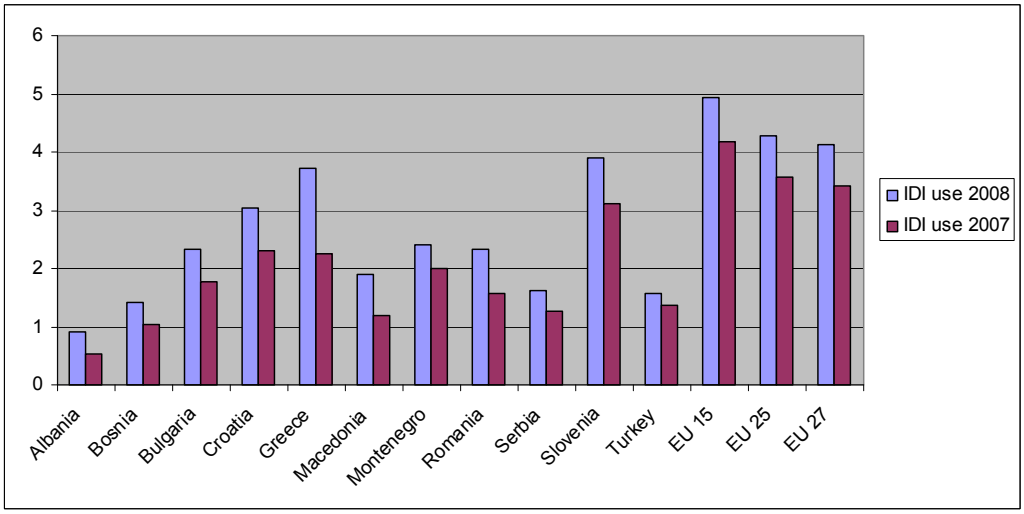

Figure 6: IDI use in the Balkan countries, EU 15, EU 25 and EU 27
Source: The authors.

Concerning IDI use, in 2007, Slovenia is on the first rank, followed by Croatia, Greece, Montenegro, Bulgaria, Romania, Turkey, Serbia, Macedonia, Bosnia and Herzegovina, Albania

In 2008, the ranking is similar: only Croatia is before Greece and Macedonia before Turkey.

All countries have progressed from 2007 to 2008. However, the highest progress from 2007 to 2008 is recorded by Greece and the lowest progress is in Turkey.

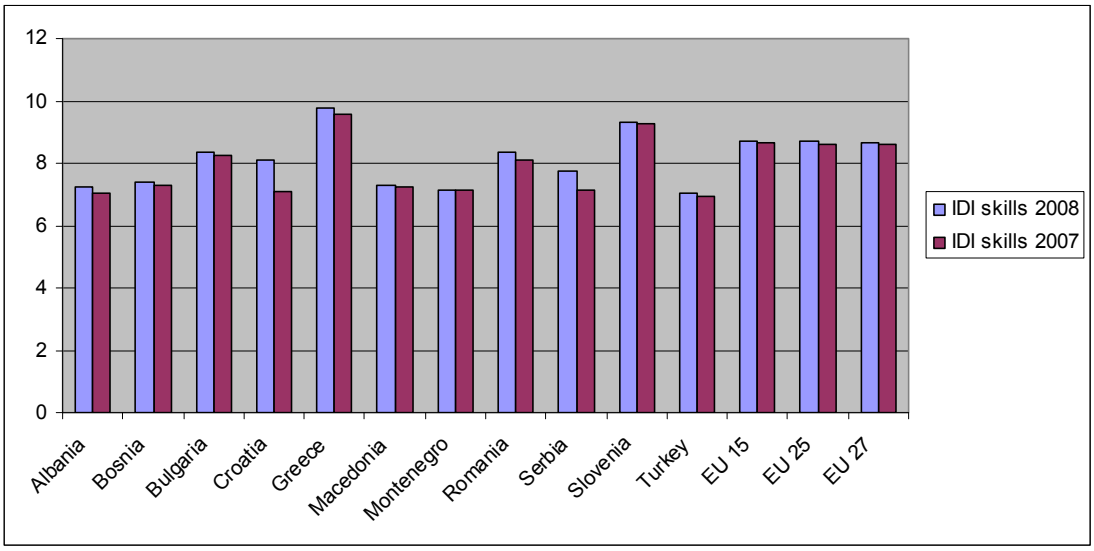

Figure 7: IDI skills in the Balkan countries, EU 15, EU 25 and EU 27
Source: The authors

Interpreting the results from the above figure, we reveal the fact that concerning the IDI skills, all the Balkan countries have recorded progresses from 2007 to 2008 and improved this sub index.

It is important to highlight the fact that the highest progress is in Croatia while the lowest progress is registered by Montenegro.

All the above three sub indices exert influence on the global index.

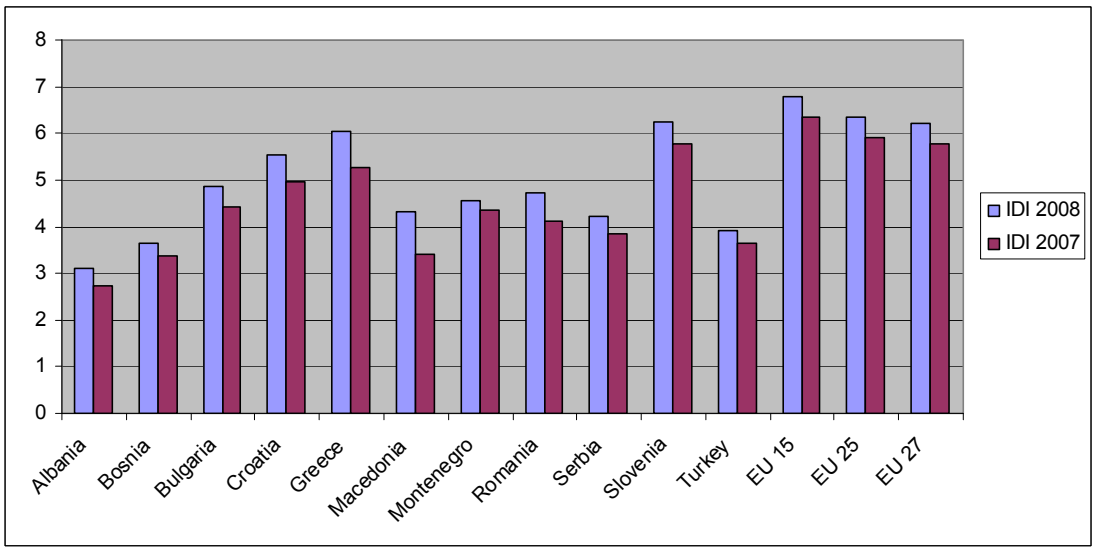

Figure 4: IDI in the Balkan countries, EU 15, EU 25 and EU 27

Source: The authors.

All the Balkan countries have improved their scores, the highest increase is in Macedonia and the lowest increase is in Montenegro.

Why Macedonia has the highest increase? Macedonia has attracted investments in this field and focused to improve ICT infrastructure and all the other factors such as regulatory framework, e-education, skills etc. It benefited of ICT projects supported by USAID.

We have also studied the dynamics of ICT development process in the 192 countries and it results that the following Balkan countries are among the ten countries with the highest value increase: Macedonia (rank 1), Greece (rank 3), Romania (rank 6), Croatia (rank 8). In 2008, in the 38 countries of Europe, Slovenia is on rank 17, Greece on 20, Croatia on 25, Bulgaria on 31, Romania on 32, Montenegro on 33, Macedonia on 34, Serbia on 35, Turkey on 36, BiH on 37 and Albania on 38.

Conclusions

The economy of a country benefits of ICT in two ways:

- as ICT producer, ICT sector itself generates growth, productivity and innovation
- as ICT user, ICT use increases the efficiency of production processes.

ICT represents a pillar for many indicators and a key to better understand effects on: productivity, innovation, competitiveness and growth.

The latest IDI results show that between 2007 and 2008, all Balkan countries improved their scores, confirming the ongoing diffusion of ICTs and the overall transition to a global information society.

All Balkan countries have progressed from the first stage of ICT development (access) to the second stage (use). The key factors include the adoption of a harmonized legal and regulatory framework.

The Balkan countries, while making visible progress, still have to significantly improve their e-government practices and align them with European standards.

The current scarcity of data and records on information society developments in some countries in the Balkans represents a serious drawback for the region, particularly in light of the fact that the EU integration process requires the establishment of regular benchmarking processes in the area of e-governance and ICT in general. Therefore, the provision of comparative analysis on the current status of the ICT sector and the implementation of e-governance strategies in the Balkans has become an imperative.

With the exception of Bosnia and Herzegovina, all countries possess a satisfactory legal and institutional framework necessary for the development of the information society. Since 2002 when "eSEE Agenda for the Development of Information Society in SEE" set the legal and institutional infrastructure as a priority goal, in most countries the required laws and regulations have been adopted and almost all countries have cabinet-level bodies responsible for the coordination and implementation of information society development.

Systemic efforts have been made by those countries in relation to information society development over the last years, and in this respect it is worth to highlight the progresses in Croatia, Macedonia and Serbia.

More generally, ICTs also have a wide range of different economic effects which, either directly or indirectly, can enhance welfare or facilitate social and economic development. In particular, the economic impact of ICTs will often materialize in the form of productivity gains resulting from the development and deployment of ICTs, and the development of new, related technologies.

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I.4. ADMINISTRATIVE MANAGEMENT PROCESSES IMPROVEMENT THROUGH COLLABORATION TECHNOLOGIES IMPLEMENTATION

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Abstract

The paper presents the research, experience and results of the use of collaboration and multimedia technologies in the field of administrative management processes and their democratization both in the business and public administration, realized by team of Research and education centre for electronic Governance (e-Governance) in the Technical University at Sofia. The investigation and science work was focused in the enlargement of European administrative space in Bulgaria through all criteria for improving the degree of democratization in all stages of the e-Governance, considered as management process including planning, controlling, decision making and feedback processes. For this purpose we are using the collaboration abilities of extended information exchange to give participants in the data transfer opportunities to connect and interact in different management levels and directions. The experimental results are evaluated and analyzed by SWOT analysis. The created prototype proved the ability of multimedia collaboration technologies to satisfy the requirements of administrative - management processes through: public transparency improvement, mobile office functionality improvement, interoperability between different management and working levels of government institutions in various heterogeneous computer and mobile data communication networks. All those can be achieved by using different forms of video conference technologies through point-to-point and multipoint communication for data exchange.

Keywords: collaboration, videoconference, technologies, management, governance, democratization.

1. Introduction

Now days our county has to realize “Good governance” in all management levels - local, regional and national. According to it the investigations and science works should be focused on the enlargement of European administrative space, on the national and European aspects to make the public and business services close to societies (EC, 2007, p.158). All stages of the e-Governance, considered as management process including planning, controlling, decision making and regulation have to participate in the realization of this aim. For this purpose we are using the collaboration abilities of the new information communication technologies to give participants opportunities to connect and interact faster, with transparency, to be involved in to governance process more wide, to make the management process more democratic (Tsankova & Rozeva, 2011, p. 212; Matu & Iancu, 2009, p. 10). According to Wikipedia (Wikipedia, http://en.wikipedia.org/wiki/Collaborative_software) there are three levels of collaboration - communication, conferencing and co-ordination.

Communication can be thought as unstructured exchange of information data. Typical applications for this collaboration level are Phone call and Instant Messaging (IM).

Conferencing or collaboration level refers to interactive work toward a shared goal, for example brainstorming and voting.

Co-ordination refers to complex interdependent work toward a shared goal. A good way for understanding this is to think about a project team; everyone has to contribute the right work at the right time as well as adjust their work to the unfolding situation - but everyone is doing something

different - in order for the project goal to be achieved. That is complex interdependent work toward a shared goal: collaborative management.

At the moment the world wide disseminated tools for collaboration besides on electronic mail, instant messaging (ICQ, Microsoft Live Messenger, etc.), social networking (facebook, twitter, etc.), Internet based telephony (Skype) and videoconference technology. We will pay attention on the use of videoconferencing for the administrative management purposes. Videoconferencing is an information-communication technology, which gives to the participating in the information transfer parties an opportunity to connect and interact within the framework of the ongoing processes while taking part in a multidirectional interactive communication. At the first place it was used for control operations in: transport (Norman Baker, 2011), security systems (Wainfan & Davis, 2004, p.8), law administration, etc.

According to us videoconference technology is usable in all management levels and processes. We raise the hypothesis, that it could be helpful and effective in the following directions also:

- Managers from all levels to carry out a direct contact with public, private and social institutions as well to organize various remote activities (meetings, seminars, deliberations, e-democracy events, etc.).
- Staff members from different departments and institutions have the opportunity to get into contact and interact with each other over high speed and secure connection, analyzing and sharing both - information and ideas.
- The external subjects (clients) of the organizations in the public and private sector receive the opportunity to visit and interact with persons in charge of the various organizational units of the institutions and business offices that interested them without the need to leave their position.
- Parallel, multi-purpose performance of different administrative and management processes (parallel presentation of the processes in back and front office);
- Remote electronic training of the staff (MacLaughlin, E., Supernaw, R., and Howard, K., 2004, p.8)

This hypothesis is analyzed in the paper with prototypes of different forms and levels of applications.

2. Forms, methods and techniques of videoconference implementation for "Good Governance"

For evaluating of the raised hypotheses two groups of criteria are used:

- criteria for improving the degree of democratization;
- criteria for improving the effectiveness of processes.

According to our preliminary idea, the group of criteria for improving the degree of democratization includes:

- transparency, full visibility of all steps and stages of the administrative management processes;
- accessibility in all steps and stages;
- involvement and public participation in the organization and management processes;
- security and reliability of information;
- objectivity, reduce corruption opportunities in the preparation and decision making;
- decision making motivation;
- predictability of the processes.

Criteria for improving the effectiveness of the processes include:

- operational i.e. accelerating stages of coordination and reduce the total length of processes;
- reducing travel costs;
- daily costs saving;
- time saving;
- decision making acceleration.

Interviews have been conducted with the three management levels of public administration for the proposed two groups of criteria- local, regional, national, as well as representatives of the business. The representing sample includes nine organizations for each management level. Each question is evaluated from 1 to 5. As is shown on figure 1 of the group of democracy increasing criteria, highest grade of satisfaction of the level of democracy is achieved through the possibility of transparency.

Figure 1: Influence of the criteria for improving the democratization degree

The increasing of the effectiveness of the administrative processes criteria set has also been analized through a poll. In this case efficiency has highest impact on the administrative processes. That is to say accelerating the stages of co-ordination and decreasing the amount of the continuance of the processes – fig. 2.

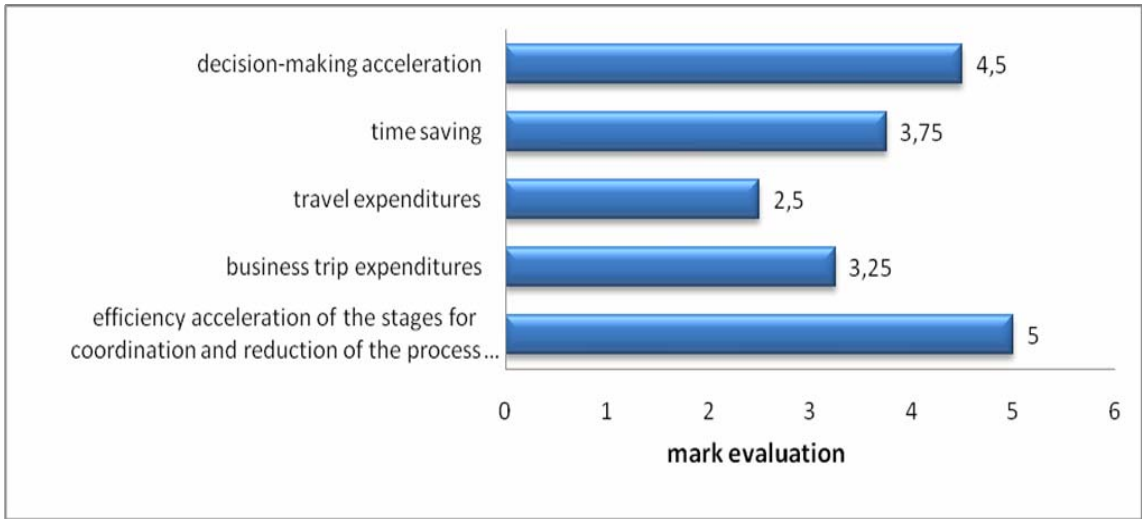

Figure 2: Influence of the criteria for improving the effectiveness of the processes

The SWOT analysis shown on Table 1 is a strategic planning method used to evaluate the Strengths, Weaknesses, Opportunities, and Threats for using our set of criteria. It involves specifying the objective of the criteria target and identifying the internal and external factors that are favorable and unfavorable to achieve that objective.

Vertical approach:

- The staff members of a specific department (subdivision, regional department, municipality etc.) keep in touch and exchange two-way information with a higher in the hierarchy organizational unit (ministry, state agency, corporative managing body etc.) or a person (minister, regional governor, head of division, head of department, company president etc.)

- Organizing of a teleconference – an activity initiated from the top downwards which is held in real time by means of a telecommunication equipment and Internet connection which can be realized and included both audio as well as video communication.

From a management point view, two approaches are analyzed: vertical and horizontal.

Table 1

SWOT analysis of the criteria for improving the degree of democratization and criteria for improving the effectiveness of the processes

Areas of application	*Benefits*
-Generating facts and information -Visualization of the Democratization results -Collaborative creation of new democratization applications and services, based on the people expectations. -Accelerating stages of coordination	-Increasing of the visibility of the administrative processes -Improve of the generation of facts and information -Better measurement of the democratization quality -Better democratization problems identification -Better opinion exchange -Reducing of the total length of the processes -Reducing travel costs
Strengths	*Weaknesses*
-More intensive use of democratization techniques -Identification of the people's democratization needs -Measurement of the democratization process weaknesses and strengths. -Comparison between expected and real results -Reducing time for decision making	-Risk of wrong information interpretation -Long time data collection -The effectiveness can be limited by some people point of interest.
Opportunities	*Threats*
-Strengthening democratization process measurement -Involving citizens could participate more actively in criteria development -More better transparency on criteria creation process -Due to World Financial Crisis financial effectiveness of administrative processes will be even more important	-World Financial Crisis may limit democratic governance practices Prevention of world terrorism can also limit or stop some democratization practices and limit its measurement.

Horizontal approach:

- Staff members of specific department exchange information among themselves (malty points) and work together within the administrative process without restraints of their geographical location.
- Members of one department in the public or business administration can observe the work in another unit from the same level with similar or the same function with the aim of accumulating and sharing of experience without interruption of the working process.
- Organizing of internal meetings – when the personnel are not in the office of the administrative department.
- Shedding some light on public procedures and popularization of anti-corrupt practices when working with public and social procurements, managerial and legislative assemblies of public and private organizations.

3. Application of the videoconference technology for administrative management processes improvement

The pilot development is achieved through two-point as well as with multi-point connection. The two-point connection has been used for carrying out activities from distance by using only one desk and has been accomplished in municipality in town of Blagoevgrad. Apart from that the multipoint connection has been applied to also carry out the remove greetings for the beginning of the III International Scientific Conference (ISC) "e-Governance" and IX ISC "Management and Engineering" 2011, which are held in the town of Sozopol as is shown on fig. 3.

Figure 3. Online congratulation for the III ISC “e-Governance”

Multipoint connection was demonstrated in the video session of III International Scientific Conference "e-Governance", dedicated to the topic "Application of video-conferencing technology for e-Democracy" ". Through videoconference were given four online reports from three different European countries and held lively discussions, fig. 4. On the shared screen are simultaneously presented three processes - presentation of the every reporter one by one, remote multipoint discussion session in which take place all participants, remote multipoint monitoring of the first two processes. It was carried out in parallel moderation and management of all digital recording processes.

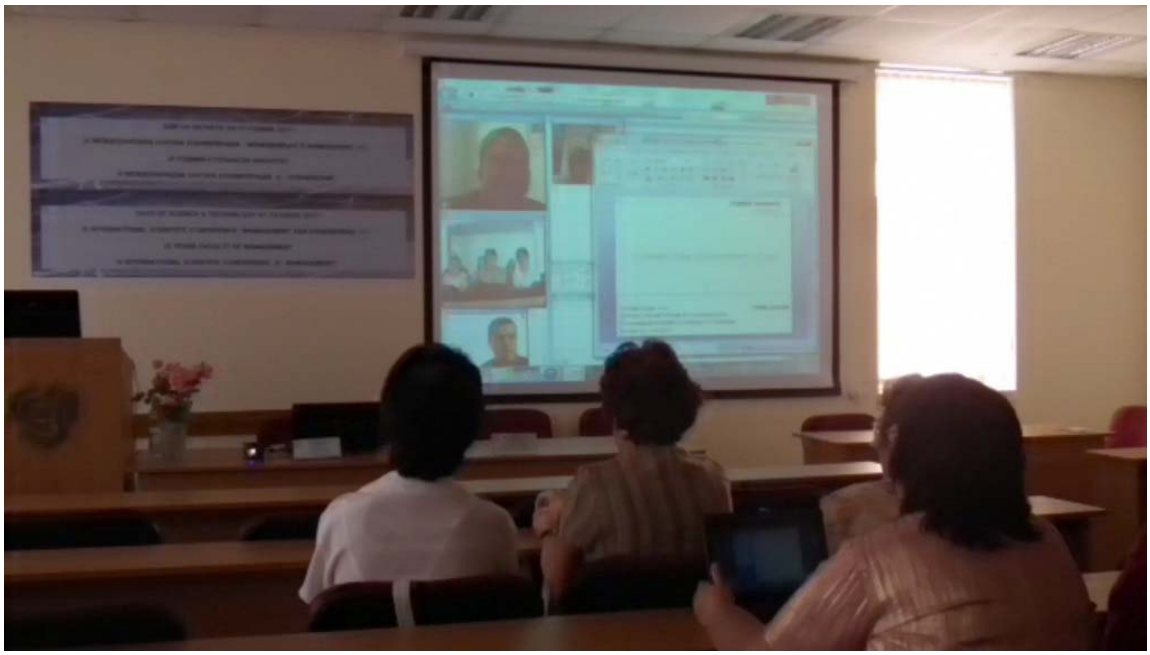

Figure 4. Online discussion through multipoint videoconference system

4. Conclusion and recommendations

The modern society is directed to a wider degree of cooperation and democratization.

The "democratic governance" of the administrative management processes requires full transparency, accountability, involvement of the citizens, predictability of the processes. To rich this purpose it is not enough to use Internet and WWW technology only. They have to be combined with other information communication technologies like different forms of the videoconference.

The future development of the two points and malty points videoconference technique has to be seen of the direction of:

- involving mobile devices access;
- increase the number of the end points till its maximum per virtual conference room;
- to investigate the max number of the parallel working virtual conference room.

The future introduction and development of the videoconference technology is in close connection with organizing of the training process also.

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I.5. CONVERGENCE OF THE ROMANIAN RESEARCH, DEVELOPMENT AND INNOVATION WITHIN INNOVATION UNION

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Abstract

Starting with the year 2000, the European Research Area has become a key reference point for research policy in Europe, aiming to overcome the weaknesses of the research, development and innovation activities and policies across EU. The European Research Area has also played a consistent role in determining the Research and Development (R&D) policy in Romania. The R&D related objectives inserted in various national strategies have offered answers, in a more or less suitable manner, to the requirements of the Lisbon Agenda 2010. This has given a strong impetus to insert the need for increasing the GDP share for R&D expenditures as desired target in each of the mentioned strategies. The Lisbon Strategy 2010 has also offered a set of benchmarks for the measurement of R&D performance, as well as best practices, which aim to avoid the risks, associated with the R&D activity. On a national level, despite the Romanian catching-up policy, R&D and Innovation performance has remained well below that of the EU27. Innovation Union, as an important pillar of Europe 2020 Strategy, provides a new challenge and opportunity for increasing performance in this field in Romania. This paper analyses the progress made in the last ten years in achieving the convergence of Romanian R&D and Innovation performance with the EU average and the factors that have accelerated or slowed down this process. It highlights Romania's position and the policy efforts for closing the gap with European R&D and innovation performance.

Keywords: European Research Area (ERA), Innovation Union, convergence of RD&I systems, innovation gaps.

1. Introduction

The convergence of European R&D systems is monitored since 2000, through a set of indicators, developed and refined every year, in order to be consistent with new trends and requirements of the progress in the R&D and Innovation field. The actions taken to build the European Research Area resulted in a certain degree of similarity and convergence between the objectives of national R&D and Innovation policies. This has been achieved mainly due to the coordination at the EU level through: Commission Communications, Open Method of Coordination and interactions and exchange of good practices between member states and acceding countries, on the one hand, and by imitation of priorities set within RD&I Framework Programmes, on the other hand (Sandu S, Paun C, 2008)

The target of "3% of GDP for research-development and innovation", stated in the Lisbon 2010 Strategy, stands for the role of R&D and Innovation investment in raising productivity and competitiveness, as it has been understood at the European Union level, as well as at each Member (and Candidate) state level. This approach, that affected the Member States' policies, represented an important input in the transformation process of the policy tools used for improving the performance of R&D and Innovation activity. This involved, also, applying the "policy-mix" principle that brings together, in a synergetic system, all the related policy fields that could interact for a better and more effective investment in research and development field.

Unfortunately, after ten years of Lisbon Strategy implementations, with different degrees in the EU member states, the average share of GERD in GDP remained about the same, around 1,9% with big

gaps between the developed and the catching up countries. The routes to reach the task of „3% of GDP for R&D" differed from a country to another and, the objectives was partially accomplished, with high differences between European states. In many countries, including Romania, the major public policy goal of increasing the level of R&D and Innovation investment was largely and mainly addressed *through supplementing the public expenditure for these activities.*

As is mentioned in the Union Scoreboard 2010: „There continues to be *a steady convergence***,** where less innovative Member States have – on average – been growing faster than the more innovative Member States. This convergence process however seems to be slowing down. While the Moderate and Modest innovators clearly catch-up to the higher performance level of both the Innovation leaders and Innovation followers, *there is no convergence between the different Member States within these two lower performance groups*. Convergence between the Member States does take place within the Innovation leaders and in particular within the Innovation followers. Between-group convergence thus seems to be stronger than within-group convergence. (PRO INNO Europe, 2011: 4)

The economic and financial crisis could have a negative influence on the pace of convergence process in the future, especially for the New Member States, which are more affected by the recession (Archibugi, Fillipeti, 2011).

2. The Innovation Union – an important step forward for the R&D convergence of EU countries

Starting with 2010, a new vision about the shape of the European Research Area, namely *Innovation Union***,** has given a new impetus to reach the R&D convergence objectives. The Innovation Union is an important pillar of Europe 2020 Strategy, aiming to improve the R&D policies at the European level, through eliminating the weaknesses and fragmentation of the European R&D and Innovation system, improving performance, coordinating EU member states policies and developing the inter-European and international scientific cooperation. Thus, the need for convergence between the national RD&I systems is addressed.

As the European officials mentioned in a recent document, "A*t a time of public budget constraints, major demographic changes and increasing global competition, Europe's competitiveness, our capacity to create millions of new jobs to replace those lost in the crisis and, overall, our future standard of living depends on our ability to drive innovation in products, services, business and social processes and models. This is why innovation has been placed at the heart of the Europe 2020 strategy"* (European Commission, 2010: 10).

Pursuing Economic Growth through Research and Innovation remains a major objective of the Europe 2020 Strategy, as it was inserted, also, in Lisbon 2010 Strategy. The European flagship initiative, the "Innovation Union", launched in the fall of 2010, stays at the core of the Europe 2020 Strategy. Synthesizing world-class scientific research with an economy of innovation ("i-economy"), this vision involves the stimulation of the whole innovation chain, from research to retail trade.

Recently, an often occuring debate among the policy makers, practicioners and scientific community has been focused on the reasons for failure of the Lisbon 2010 Strategy, even in the R&D and Innovation field**.**

J.M. Barroso, in his preseatation at the European Council meeting in February, 4, 2011 rethorically asked „what's wrong with Europe?". His own answer referred to some of the weaknesses of the European R&D system: poor availability of finance; costly patenting; lack of legal and tax level-playing field; outdated regulations and procedures; slow standard-setting ; weaknesses in public education and innovation systems; failure to use public procurement strategically; fragmentation of efforts .

Setting unrealistic objectives while ignoring the specific condition of each european country is, in our opinion, another impediment for reaching the Lisbon 2010 Strategy. There is the need for a realistic and correct assessment of the current situation, with a view to establish appropriate specific national objectives. The member states should objectively analyse the strengths and correct the weaknesses within their own specific national RDI systems, as research and innovation represent the major pillars for the success of Europe 2020 Strategy. Setting realistic targets, based on correct data analysis, appropriate R&D priority settings, and lined up to the specific requirements of the society and economy represent, in itself, a major pre-requisite for their achievement.

Romania, like many other European countries, even if tightly monitored by the European Commission, established unrealistic targets for Lisbon 2010 Strategy, aiming to reach 3% of GDP for

R&D till 2010 - a task that remained only on the paper. Consequently, the new targets set for 2020 are more realistic, not only for Romania but also for many other European countries (European Commission, 2011 a).

The Europe 2020 Strategy, that focus on smart, sustainable and inclusive Growth, cannot be achieved without serious consolidation and performance improvment of the research and innovation sector, which is certainly the engine of the future sustainble economic growth.

The main coordinates, even if not completely new, underline the practical elements of strategy achievements, such as the devoted of 3% of GDP for R&D, streghtening the linkages between scientific research, economy and society, supporting acees of SMEs to FPs etc. Therefore, research and innovation should work together towards the creation of new services and products, generating economic growth and jobs and addressing stringent societal issues. Excellence is mentioned as a key criterion for research and education policy.This is the reason for keeping the target of allocating 3% of GDP to research, development and innovation until 2020.

The flagship initiative „A Union of Innovation" advocates for a strategic and integrated approach for research and innovation, setting the framework and objectives that should be envisaged by future RDI funding in EU, according to the Treatise provisions.

„Research and innovation are the only smart and lasting route out of crisis and towards sustainable and socially equitable growth. There is no other way of creating good and well-paid jobs that will stand the pressures of globalisation" said Máire Geoghegan-Quinn in a Press Conference of July 19, 2010. She also insisted that the European programme for RDI investment would finally lead to the creation of new products and services, to a more competitive and greener Europe, to a better society, enjoying higher living standards. The programme envisages mainly strategic projects that would focus on the major economic and social major challenges, such as climate change, energy, food security, health and societal aging. High priority has been assigned to SMEs, the spine of the European innovation system. Turning the research results into new technologies, products and services represents a central element of this European initiative.

The European Commision launched a public debate session on the essential elements that should be considered in desigining the future financing programmes for research and innovation, that will be part of the next multiannual- financing framework. Romania, as a net contributor to FPs and considering the low succes rate of applications, needs to be part of this process. As the proposals for the next financing programmes should be effectively adopted until the end of 2011, the research, business, public administration and civil society communities, as well as the common citizen are invited to seriously engage in this important discussion.

The Commission initiative to consult with the major actors regarding the main improvements that need to be made on the European funding of research and innovation is expected to increase the participation in programmes, to substantiate the economic and scientific impact of the research activities and to contribute to the improvement of quality-price ratio of RDI.

3. The present status of the European R&D and innovation convergence

The 2010 Union Innovation Scoreboard shows that, ten years after the initiation of the ERA Project, there are still differences among the European countries in their innovative performance. The latter was measured with various indicators, such as those related to research, development and innovation activities.

In 2007, the European experts mentioned:" There is a process of convergence in innovation performance in Europe: the catching-up countries are closing the gap with the EU25 and both the innovation leaders and followers are experiencing a relative decline in their innovation lead with the EU25. This relative decline is a straightforward result of the rapid increases in innovation performance in the new member states". (European Commission, 2007)

In 2010, as we have argued in Introduction, opinion of experts underline that convergence process seems to be slowing down and there is no convergence between the different Member States within the two lowest performance groups.

The performance of Innovation leaders (Denmark, Finland, Germany, and Sweden) is well above that of the EU27. Innovation followers (Austria, Belgium, Cyprus, Estonia, France, Ireland, Luxembourg, Netherlands, Slovenia and the UK) show a performance close to that of the EU27. Moderate innovators (Czech Republic, Greece, Hungary, Italy, Malta, Poland, Portugal, Slovakia and

Spain) demonstrate a innovation performance below that of the EU27. *Modest innovators (Bulgaria, Latvia, Lithuania and Romania) have an Innovation Index below 50% that of the EU27*. (Pro Inno Europe, 2011: 4). Although the gap between the EU's top and bottom innovation performance is wide, it is narrowing and to some extent, one may argue that some convergence has been achieved in the past recent years.

The Innovation Scoreboard 2010 mentions that countries at the top tend to have in common a number of strengths in their national research and innovation systems that Romanian policy makers have to take into account. While there is no single way to attain top innovation performance, most innovation leaders perform very well in business R&D expenditure and other innovation indicators related to firm activities. All the innovation leaders have higher than average scores in the public-private co-publications per million of population indicator, which points to good linkages between the science base and businesses, and also excel in the commercialisation of their technological knowledge, as demonstrated by their good performance on the 'Licence and patent revenues from abroad' indicator (Pro Inno Europe, 2011: 5).

The total or partial lack of the features mentioned above is, in our opinion, the main causes of the lagging behind. For example, if in Bulgaria and Romania, as modest innovators, the budget is the main source of R&D funding, in Slovenia-as innovation follower- an important role in R&D financing and performance has the business enterprise sector. With EU accession, the shares of foreign funding (primarily from the EU) are likely to increase in both Romania and Bulgaria. (Radosevic 2010).

As the Innovation Union Competitiveness Report 2011, "In 2009, the most sever cuts occurred in Latvia, Romania and Lithuania. Latvia and Romania are the only countries where the fall in R&D budget was larger than the fall in GDP, leading to a decrease in the ratio of R&D budget to GDP that year. Government budget appropriations or outlays for R&D (GBAORD) as share in GDP decreased since 0.37% in 2007 to 0.28% in 2010" (European Commission, 2011b). In the future this situation could contribute to deepening the lag between innovation leaders and modest innovators.

4. Challenges facing Romanian for catching up with innovation leaders in R&D and Innovation

Many of the past official documents contained good will and positive intentions for effectively integrating Romania within the European Research Area. Yet, for an effective capitalisation on the future opportunities as well as for not being left behind the latest wave of sustainable economic growth, Romania has to find the appropriate mechanisms able to turn good political intentions into realities.

The representatives of the Ministry for Education, Research, Youth and Sports assured that serious efforts are engaged for allotting the financial resources to entities with proven performance, for eliminating bureaucratic barriers, for opening research opportunities to important actors from EU and the world, for encouraging the entrepreneurial initiatives complementary to the RDI activity.

Despite declarative statements, Romania is very far from the targets assigned in Europe 2020 Strategy. "Considering the allotments for R&D field, which sum up below 1% of GDP, early school leaving statistics which are far from the EU level and increasing, the employment rates it is obvious that we are at a considerable distance from the targets set by the European Union", said Leonard Orban, at *The Conference on the Europe 2020 Strategy for Romania: objectives and national priorities for reformation*, organised by the Commission for European Affairs and Department for European Affairs in March, 2011

With reference to the years 2005-2008, Romania was highlighted, in EU documents, as a state with outstanding high pace of R&D and Innovation public expenditure increase. If in 2008, 0.58% of GDP was devoted to research, development and innovation activities, 2009 saw a steep fall of the percentage down to 0.47%, while in 2010, the cut in public expenditure for RDI was of half of the previous year share.

The current circumstances of economic downturn brought about shrunken budget for the Romanian R&D sector. That happened against the experts warning that in such times of economic crisis keeping investing in research and innovation is crucial for facing the challenges of climate change and globalisation. While in 2009 the EU average figures were of 2,06% of GDP for RDI and the proposed level for 2020, of 3%, the Romanian government engaged for 2% of GDP for R&D by 2020, half of which expected to be the private sector contribution.

According to the official of the National Authority for Scientific Research (NASR) at the Conference on "National targets for Europe 2020 Strategy"," the target is considered realistic, being established

together with the European Commission representatives. A more pessimistic target would be reaching 1.8% of GDP for research by 2020, while the optimistic scenario sets the expected level to 2.2%. For all alternatives, the public contribution stays at 1% of GDP". Rolanda Predescu, director of NASR, declared at the same Conference, "3% of GDP for research is, practically, impossible, given the budgetary constraints. The chance for Romania is to access the 643 millions of Euro available from the European Structural Funds until 2013, for R&D. In the near future, in order to encourage the investment in research and to improve its efficiency, a National Council for Scientific and Technological Policies is about to be established, gathering ministries responsible with the field."

Romania ranks among the last in Europe regarding the research and innovation performance, considering the international scientific publication figures, patents, innovations, revealing the economic and technological competitiveness level.

While the 2005 European Innovation Scoreboard included Romania in the country group estimated to close the gap with the European average in 50 years, the 2006 Innovation Scoreboard included Romania in the group of "fast growing, catching up countries". 2010 Union Innovation Survey ranked Romania in the catching up cluster of European countries.

Romania made a considerable effort in the year before economic crisis to close the gap with the EU average. The share of the public expenditure on R&D in the GDP has reached 0.58 % in 2008 since 0.40% in 2005. This achievement mentioned Romania in Union Innovation Survey 2010 as a growth leader, with an average annual growth rate well above 5%.

The accession of Romania to EU has been an important driver of improving R&D performance, by harmonisation of the national priorities in the field of R&D with EU ones. The efforts for the correlation of the national and European domains and objectives specific to the European Research Area and the EU Framework Programme for Research for 2007-2013 (FP7) were sustained through the National Research of Excellence Programme (2005-2008) and later through other programs within the National Plan for R&D and Innovation 2007-2013. An effort to adopt European best practices regarding identification, coordination and monitoring of knowledge demand has resulted in significant research policy improvements.

Despite these progress tendencies, the absorption rate of European funds through FP7 projects is extremely low, Romania being a net contributor to the Union funds, and won no grant within the competitions launched by the European Research Council (ERC), nor within the "Advanced Research Grant" or "Starting Research Grant" funding schemes.

Romania takes advantage of adopting Innovation Union benchmarks and standards, programing and monitoring procedures, as well as a system of indicators adequate for a knowledge-based society. As a result of Romania's accession into the EU, new policies focusing on science-industry linkages were promoted, in an attempt to strengthen the absorptive capacities of both public and private creators and users of knowledge.

5. Conclusions

Reaching the 2020 Lisbon Agenda and Innovation Union objective on research and development is a challenge for Romania, especially under the budgetary restrictions imposed by the crisis and the external donors as well. Unlike the developed countries in Europe that understood that they could just get out of the crisis by increasing the investment in R & D, in Romania a substantial reduction in public funding in this area for 2009 and 2010 was effected.

In the context of a strong dependence on public funding, as demonstrated in the period after 1995, the Romanian research activity should be stimulated, primarily through funding from this source, especially under these economic conditions.

In Romania private "in- house" R&D is underdeveloped although the research activity performed in the private sector is bearing large externalities. In order to increase the private sector contribution to the investment in research, development and innovation- a key priority for achieving the Lisbon goals 2020 – the policymakers should consider a closer correlation between different sectoral policies (industrial, fiscal, financial, competition, etc.) that can provide a wide range of indirect but complementary tools, little exploited so far. Tax incentives, access to venture capital, increasing the share of state aid to support innovation in the private sector are among the most frequent recommendations of specialists in the field in order to increase private investments in RDI.

The Government should rethink the methods and the principles of financing the research from the government sector, with special reference to choosing research priorities, monitoring and evaluating the performance. Of course, this orientation must be customized for each area, depending on the

spillover effects that it causes, as well as the specific relationships between the public and private research.

Given that there was a drastic reduction of public funds allocated to this area in 2009 and 2010 it is necessary to find viable solutions for the financial support of this area and also a more rigorous management of costs, to avoid waste of funds.

Configuring the system of policy instruments and measures to determine increasing investment in R&D and innovation, but also its efficiency, requires the analysis and identification of complex network of inter-conditioned factors that influence the national R&D system. Supporting the objective of increasing the volume of R&D spending must be accompanied by profound analysis showing the economic and social efficiency of public financing through results with technologic, economic, social and environmental impact higher than the investment effort.

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I.6. CAN WE REALLY CHANGE EU LAW? THE EUROPEAN CITIZENS' INITIATIVE

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Abstract

The Lisbon Treaty introduces a new form of public participation in European Union policy shaping, the European citizens' initiative (ECI). The European Citizens' Initiative is one of the major innovations of this treaty aiming to increase participatory democracy in the European Union (EU).The ECI will allow 1 million citizens from at least one quarter of the EU Member States to invite the European Commission to call directly on the European Commission to bring forward an initiative of interest to them in an area of EU competence. As required by the Treaty, on a proposal from the European Commission, the European Parliament and the Council adopted a Regulation which defines the rules and procedure governing this new instrument (Regulation (EU) No. 211/2011 of the European Parliament and of the Council 16 February 2011 on the citizens' initiative). In accordance with the Regulation, it will only be possible to launch the first European Citizens' Initiatives from 1 April 2012. This initiative includes several steps: identifying and developing an idea, verifying the legality, considering the alternatives, taking into account the research ECI procedures, writing the initiative, building a multinational citizens' initiative committee, building an alliance, evaluating the opposition, developing a budget and in our analysis will identify the weaknesses and the strong points. The methodology of research comprises bibliographic studies and different analysis of the Regulation (EU) No. 211/2011 of the European Parliament and of the Council on the citizens' initiative).

Keywords: European Citizens' Initiative, participatory democracy.

1. Introduction

The Lisbon Treaty introduces the European citizens' initiative (ECI) as a new form of public participation in European Union policy shaping. According to Article $11^{(4)}$ of the Treaty on European Union: "not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties."

As required by the Treaty, on a proposal from the European Commission, the European Parliament and the Council adopted a Regulation which defines the rules and procedure governing this new instrument: Regulation (EU) No. 211/2011 of the European Parliament and of the Council 16 February 2011 on the citizens' initiative.

This new instrument will give citizens of the European Union the opportunity to get involved directly in EU politics for the first time ever. However, the European Citizens' Initiative does not give citizens any direct decision-making power. It will take some time yet and a considerable amount of argumentative and political effort before referendums or plebiscites are possible at a European level. This instrument will also be necessary if citizens within the European Union are really to feel sovereign and, as such, also to have the opportunity to make decisions on issues of substance following an appropriate debate. For, in the eyes of the citizens, European institutions are very distant and the decision-making processes there still lack transparency. Citizens simply do not know how they can get involved and have an active influence when it comes to European discussions and decisions. If EU citizens only understood what the EU does for them, they would support it. (Thomson, 2011).

The ECI can, however, directly bring citizens' problems, requests and suggestions to the attention of the Commission. Moreover, it can and must oblige the Commission to deal with citizens' demands. Its most important impact therefore lies in making European institutions receptive to the requests and wishes of the citizens.

2. Identifying the problem

Citizens' initiatives already exist in a majority of Member States, either at national, regional or local level. In Romania on the other hand, this procedure appears rather inefficient. So, can it work at E.U. level? Can this democratic instrument reduce the gap between the EU institutions and EU citizens? There are local citizens' initiatives in eight Member States (Belgium, Germany, Hungary, Italy, Luxembourg, Slovenia, Spain and Sweden); regional citizens' initiatives in five Member States (Austria, Germany, Spain, Sweden and The Netherlands); and national citizens' initiatives in twelve Member States (Austria, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and The Netherlands). These initiatives differ considerably as regards their scope and generally operate according to different procedures. (Carausan, 2011).

In Romania, according to article 74 (Legislative initiative): (1) *A legislative initiative shall lie, as the case may be, with the Government, Deputies, Senators, or a number of at least 100,000 citizens entitled to vote. The citizens who exercise their right to a legislative initiative must belong to at least one quarter of the country's counties, while, in each of those counties or the Municipality of Bucharest, at least 5,000 signatures should be registered in support of such initiative. (2) A legislative initiative of the citizens may not touch on matters concerning taxation, international affairs, amnesty or pardon. (5) Legislative proposals shall be first submitted to the Chamber having competence for its adoption, as a first notified Chamber*.

Also, there are specific provisions in a specific law, Law no 189/99 republished in 2004 concerning citizens' initiative, where we can find the rules and procedure governing this mechanism.

At national level, there is a citizens' committee composed of at least 10 members which can propose such an initiative. These members are regarded as civil servants and held accountable accordingly (as is set up in the provisions of the Law 188/1999, the Statute of Civil Servants). It is mandatory for the initiative to receive the authorization from the Legislative Council of Romania. The Legislative Council is an advisory expert body of the Romanian Parliament, that advises draft normative acts for the purpose of a systematic unification and co-ordination of the whole body of laws. It also keeps the official record of the legislation of Romania. After this procedure is completed, the legislative proposal and the structure of the citizens' committee are published in the Official Journal, Part 1.

Then, the committee collects statements of support from the citizens, only in paper form. A minimum of 100 000 Romanian citizens are required to submit a legislative initiative in a strictly national context. They must belong to at least one quarter of the country's counties while, in each of those counties or the Municipality of Bucharest, at least 5.000 signatures should be registered in support of the initiative.

At this point, we have relevant national authorities in charge with the process of certifying the statements of support (this national authority is represented by the mayor or a person nominated by the mayor).

The next step is submitting the initiative to the Parliament. The Parliament requests the verification of the initiative by the Constitutional Court. After this stage is complete, the Parliament begins the regular legislative procedure and the initiative can be either approved or rejected.

In Romania, there were six citizens' initiatives: two in 1995, one in 1997, one in 2004, one in 2007 and one in 2009. None of them was approved by the Romanian Parliament. So, why bother?

If we want to have a framework of how this mechanism works at national level, we can look at Figure 1.

Citizens committee	The Citizens' Committee is set up, composed of at least 10 members. (Members of the Citizens' Initiative are regarded as civil servants and held accountable accordingly).
Citizens committee	It is mandatory for the initiative to receive the authorization of the Legislative Council of Romania.
Registration (max 2 months)	The legislative proposal and the structure of the Committee is published in the Official Journal, Part 1.
Collection	The Committee collects statements of support (in paper form).
Verification of statements	At least 100.000 citizens entitled to vote. They must belong to at least one quarter of the country's counties, while, in each of those counties or the Municipality of Bucharest, at least 5 000 signatures should be registered in support of such initiative.
	Relevant national authorities certify the statements of support. (The mayor or a person nominated by the mayor).
Submission and examination	The Committee submits the initiative to Parliament.
	Parliament requests the verification of the initiative by the Constitutional Court.
	Parliament begins the regular legislative process.
	The initiative is approved or rejected by Parliament.

Figure 1. Citizens' initiative in Romania. Step by step

3. The European Citizens' Initiative (ECI): how will it work?

This instrument will give citizens of the European Union the opportunity to get involved directly in EU politics for the first time ever. The European Citizens' Initiative does not give citizens any direct decision-making power however. It will take some time yet and a considerable amount of argumentative and political effort before referendums or plebiscites are possible at a European level. This instrument will also be necessary if citizens within the European Union are really to feel sovereign and, as such, also to have the opportunity to make decisions on issues of substance following an appropriate debate.

The ECI can, however, directly bring citizens' problems, requests and suggestions to the attention of the Commission. Moreover, it can and must oblige the Commission to deal with citizens' demands. Its most important impact therefore lies in making European institutions receptive to the requests and wishes of the citizens.

Briefly, we can describe this instrument as being a mixture of permissive and restrictive regulatory proposals complemented with several constructive features and tools, while others were almost totally bypassed.

Initiatives must be organized by a citizens' committee composed of at least 7 EU citizens who are resident in at least 7 different EU countries. Members of the European Parliament cannot be counted for the purposes of reaching the minimum number required to form a citizens' committee.

The members of the citizens' committee shall be citizens of the Union of voting age in the European elections (18 in all Member States except Austria, 16 in Austria). They will have to designate one representative and one substitute who will be mandated to speak and act on behalf of the citizens' committee throughout the procedure.

Citizens' initiatives can only concern proposals on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

Iti is important to underline the fact that we have to have a minimum number of signatories. An initiative must be backed (in the form of "statements of support") by at least 1 million EU citizens from 7 or more EU member countries (the requirement is at least one quarter of all EU member countries). In 7 countries among those where statements of support have been collected, there is a minimum number of statements to be reached (equal to the number of the members for the European Parliament, elected in that country, multiplied by 750). In order to ensure that these thresholds are

based on objective criteria, they are based on a multiple of the number of Members of the European Parliament elected in each Member State. The multiple chosen is 750 in order to reflect the demands of many stakeholders to set a threshold below 0.2% of the population, on the one hand, and to take account of concerns that the threshold in small Member States should not be too low, on the other.

It is considered that this system will thus allow a proportionately lower number of signatories for large countries and a proportionately higher number for small countries. The minimum number of signatories per Member State is listed in Annex I of the Regulation. Results a total of: 552.000 (for example, in Romania: 24750).

Another important step is registration of proposed initiatives. Organizers have to ask for the registration of their proposed initiative in one of the EU's official languages in an online register made available by the Commission. The Commission has to answer within two months.

They will have to provide the following information:

- the title of the proposed citizens' initiative;
- the subject-matter;
- the description of the objectives of the proposal on which the Commission is invited to act; the Treaty provisions considered relevant by the organizers for the proposed action;
- the full name, postal address, nationality and date of birth of the seven members of the citizens' committee, indicating specifically their representative and their substitute as well as their email addresses; all sources of funding and support.

The organizers will also have the possibility to provide more detailed information in an annex, including a draft legislative text. The Commission will refuse to register the proposed initiative if the composition of the citizens' committee does not follow the rules or o it is manifestly outside the scope of Commission's powers to submit a proposal for the requested legal act or it is manifestly abusive, frivolous or vexatious or o it is manifestly contrary to EU values.

Statements of support can be collected on paper or online. They must comply with the models for the statement of support (see Annex III of the Regulation). These models ask for different data depending on the country that will be verifying the statements. Starting from the date the proposed initiative is registered, the organizers will have 1 year to collect these statements.

Before starting to collect statements online, organizers must ask the relevant national authority of the EU member country where the data will be stored to certify their online collection system. The authority must reply within 1 month. The Commission will make available open source software that can be used by organizers to collect statements of support online. The Commission will also adopt technical specifications to help organizers build their collection system.

Once the organizers have collected the required number of statements, they will submit them for verification and certification to the relevant national authorities in each country.

Within 3 months the national authorities should deliver certificates indicating the number of valid statements of support collected. National authorities will use appropriate checks to verify the statements, which can include random sampling.

After obtaining the certificates from the national authorities, the initiative is submitted to the Commission. The Commission will have 3 months to examine it and decide how to react. In that time, it will meet the organizers at an appropriate level so they can explain the issues raised in their initiative. The organizers will also have the opportunity to present their initiative at a public hearing organized at the European Parliament. In its answer set out in a communication, the Commission will explain its conclusions on the initiative, what action it intends to take, if any, and its reasoning.

If we want to have a clear picture of the entire procedure, we can look at Figure 2.

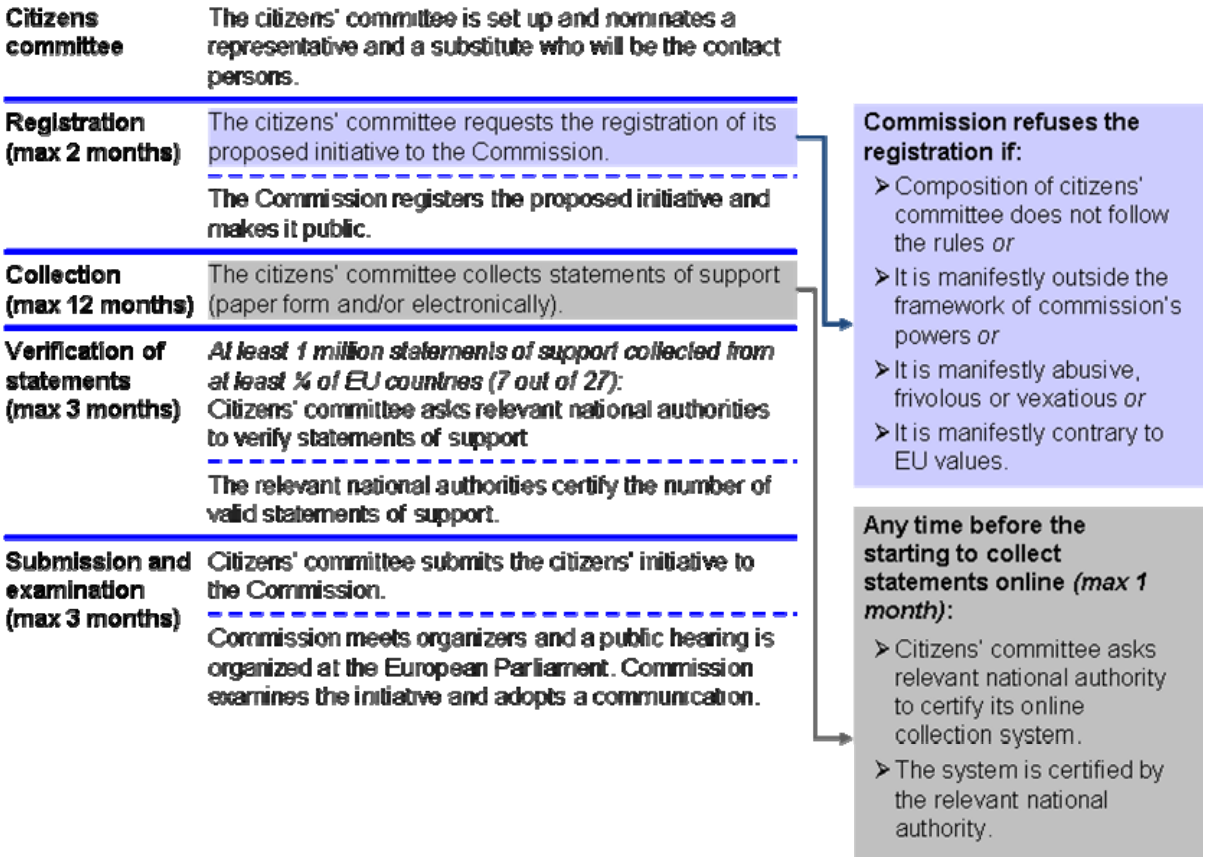

Figure 2. European Citizens' Initiative. Step by step

3.1. Strengths

We cannot deny that this instrument represents the first instrument of transnational citizen participation in the world. The European citizens' initiative is not to be confused with a petition nor with a referendum. It is nothing more and nothing less than a nonbinding instrument for agenda-setting by the citizens of the EU. And it only applies to issues within the European Unions' fields of competence and legislative powers.

The ECI could become a kind of citizens' language. It gives citizens who are otherwise condemned to silence and powerlessness the chance to speak up actively and self-confidently and be heard by the institutions. The entire process should be designed to strengthen the dialogue between citizens and the institutions that function on their behalf. It should also contribute towards a gradual cultural change, towards the Brussels institutions and their procedures and ways of thinking opening up to the concerns of the citizens.

Also, this instrument of participatory democracy will raise awareness regarding EU citizenship, will contribute to the freedom of expression and public debate and will have a positive contribution not only to European democracy, but also to EU policy-making, by encouraging the dialogue between citizens and stimulating the feeling of the European identity.

3.2 Weaknesses

The question as to how the ECI is implemented is far from irrelevant. After all, if the obstacles were too great, the process too bureaucratic or the legal consequences too insignificant, the promise would be worth very little in reality. Why, for example, should citizens gather a million signatures in several member countries if all they are able to achieve in the end is a letter from the EU Commission that appears in the post months later, thanking them for the signatures and politely informing them that the Commission is, unfortunately, not willing to take action on this matter?

It is still up in the air as to what will ultimately become of the ECI. It could become an effective instrument of citizen participation – or a useless, empty promise. It could advance European political debates and encourage citizens to get actively involved – or it could disappoint precisely those who

are dedicated, heightening the sense of frustration for the long term. All this depends on he way it is structured.

The Commission will not be bound to make a proposal following a citizens' initiative. While it does not affect the Commission's right of legislative initiative, the Citizens' Initiative will oblige the Commission to give serious consideration to a request supported by at least 1 million citizens.

The agreement seeks to ensure that the procedures for launching a Citizens' Initiative are simple, user-friendly and accessible to all, and should not be too burdensome for national authorities. It is important that this new feature of the democratic process should be credible, should fully assure the need for data protection and should not be open to abuse or fraud. For the purpose of the implementation of Article 6(3) of the Regulation, Member States shall designate competent authorities responsible for certifying that the online collection system complies the requirements set out in article 6 (4). For the purpose of the implementation of Article 8(2), each Member State shall designate one competent authority responsible for coordinating the process of verification of statements of support and for delivering the certificates provided for therein. We don't know which national authorities will be designated for that matter.

The organizers can ask for the registration of an initiative in one of the official languages of the Union, however the EC will not ensure translation in any of the others.

The European Commission' analysis on the substance of the initiative cannot be subject to an appeal procedure, only the decision on the registration of the proposed initiative can be challenged.

These are few pessimistic remarks or worries that we have to deal with because the Lisbon Treaty leaves almost all of the important questions unanswered. They can either be answered in the interests of the citizens or in a bureaucratic way that is not citizen-friendly. What is to become of the ECI is, therefore, still very much up in the air: a functioning instrument of citizen participation or an empty promise that just brings disappointment. To merely leave its implementation to the world of administration and bureaucracy would be a clear preliminary decision in favour of the latter.

4. Concluding remarks

Our research paper aimed at analyzing this new instrument and identifying its strengths and weaknesses. We chose to present the situation in Romania in regard to the use of such democratic mechanism and our findings were conclusive in the sense that this instrument is rather inefficient. It is important to underline that Member States need to adapt their national laws before the first initiative starts. It is also important to establish which will be the competent authorities in that regard. In Romania, the competent authority for this matter may be the Permanent Electoral Authority.

Other issues rise after our research. The Regulation stipulates only two situations of infringement: false declarations made by organizers and the fraudulent use of data. We consider important to have more situations mentioned.

Also, penalties for infringements of the Regulation are not regulated ("*The penalties […] shall be effective, proportionate and dissuasive*"). Probably there are expectations that Member States will complete this lack of regulation.

It'll be useful to have national and European guides to facilitate the understanding of the procedure and provide assistance where needed or neutral support and guidance in the preparation of initiatives. Who can do that? EC, EP, EU Ombudsman or the Commissions' representatives in the Member States? This question remains open.

So, as Maroš Šefčovič, Vice-President of the European Commission, Responsible for "Interinstutional Relations and Administration" once said in a speech "...*citizens want this tool to be user-friendly. They want it to be simple, straightforward, understandable and most of all accessible! I could not agree more. This instrument needs to be used. We need to make it as easy as possible to use in order to foster a European public space, widen the sphere of public debate across Europe and bring the EU closer to the concerns of the citizens"* (Speech by Maroš ŠEFČOVIČ, Vice-President of the European Commission, Responsible for "Interinstutional Relations and Administration", at the Stakeholder Hearing on the European Citizens' Initiative in Brussels on February 22, 2010).

5. Future research

After this analysis, certain lines of future research open up: Will this citizens initiative proves to be an efficient instrument in other Member States, where we can find national citizens initiatives? What should be identified as the possible subject-matter of European Citizens' Initiatives? What resources will we need to reach our goals?

At European level, it is clear that we will have to wait till 2012 to see if the European citizens will use this instrument in order to answer the question: Can we change the EU law?

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Chapter II
European Administrative Space principles – pillars for the mechanisms of evaluation of public administration reforms

II.1. PUBLIC VALUE AS A DRIVING FORCE FOR PUBLIC ADMINISTRATION REFORM IN THE BALKANS

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Abstract

Developing professional and accountable administrative systems in the newly emerged Balkan countries is not an easy mission. Like in other post-communist states, there is an urgent need to support weakened public institutions to break with former governance practices and resume their basic role as embodiments of law and democracy. The European Administrative Space principles are discussed in this paper as a starting point for an administrative makeover in the Balkan states. Public value management criteria combining efficiency and democratic imperatives for public administration's running are presented as potential drivers for institutional change in the region. Human resource management and collaboration with civil society stakeholders are critical factors in designing a high-quality public sector. Furthermore, information technology tools may also greatly contribute towards more openness and transparency in public administration if used to enhance administrations' dialogue with society.

Keywords: Administrative reform, European Administrative Space principles, good governance, Balkans, public value management, human resources, civil society, eGovernment, change management.

Introduction

Public administration reform in the Balkan countries is a major necessity in order to consolidate stable and democratic states after decades of conflicts and dictatorship. The reform process implies a complete overhaul of existing administrative structures, consisting of redefining the role of the public sector towards citizens and politics, reorganising administrative functions in view of effective public service delivery, establishing a new legal order and developing administrative capacity. This paper focuses on Balkan countries involved in the process of accession to the European Union and which

are facing similar challenges in the adoption of European Administrative Space (EAS) principles, namely Albania, Croatia, the Former Yugoslav Republic of Macedonia (FYROM), Kosovo (under UNSCR 1244/1999), Montenegro and Serbia.

To assess reform outcomes and capacity needs, our paper draws on the conclusions of public administration literature on Central and Eastern European countries' transition processes as well as public management findings on administrative reform and governance principles. In this respect, public value is introduced as a central managerial criterion for undertaking public sector development. The public value approach provides orientations for administrative reform beyond traditional Weberian administration and New Public Management paradigms, while taking into account the need to balance values in view of better social and economic outcomes. In the public value idea, public intervention should be directed towards meeting citizens' needs in a fair, effective and accountable way (Matei & Matei, 2010).

This paper aims to define the values and governance strategies needed to establish a modern and responsive public administration in the Balkan area. By offering an insight into some aspects of the transition challenges faced in these accession countries and highlighting some reform implementation ideas, we intend to contribute to the ongoing debate about administrative convergence and civil service reform linked to European enlargement.

For this purpose, the paper is divided into three sections. First, we will provide an overview of the situation in the Balkan states as regards administrative development and governance structures in light of European Administrative Space principles. Second, the public value management principle will be explored in order to assess its relevance for administrative capacity-building and democracy consolidation. Third, information technology's contribution to a fairer society and politics will be analysed as part of the overall effort to achieve a modern and efficient public administration.

1. The challenge of adopting European Administrative Space principles in the Balkans

1.1. Building administrative capacity and culture in a transition context

The Balkan states face a series of challenges due to their transitional situation towards open and democratic societies. They share the same issues related to communist regime inheritance and fragile statehood due to their recent emergence as independent countries. According to Drechsler (2000), 'the fundamental challenge to Central and Eastern Europe is still a restoration or (re)creation of the positive concept of the state'. After the collapse of dictatorial regimes, Yugoslav wars disrupted territorial divisions which led to the emergence of small new states that are still in an institution-building phase (See table).

Country	Regime	Constitution	EU Accession Status
Albania	Parliamentary republic since 1991	November 1998	Application for membership on 28 April 2009
Croatia	Parliamentary republic since 1991	First adopted in 1990, amended in 1991, last amendments in 2010	Candidate country since June 2004
FYROM	Parliamentary republic since 1991	November 1991, amended in 1992	Candidate country since December 2005
Kosovo under UNSCR 1244/1999	Parliamentary republic since 2008	April 2008	Stabilisation and association process dialogue (SAPD) started in January 2010
Montenegro	Parliamentary republic since 2006	October 2007	Application for membership on 15 December 2008
Serbia	Parliamentary republic since 2006	November 2006	Application for membership on 22 December 2009

Figure 1*: List of Balkan Accession Countries as of July 2011.*

All these states have almost been rebuilt from scratch and suffer from the legacy of large non-competitive bureaucracies, insufficiently developed market economies and a lack of democratic management (Igric, 2010; Arcadis, 2004).

Administrative development and restructuring is a top priority on the reform agenda of the Balkan states. In a context where basic economic and social structures which foster democracy and the functioning of public administration are underdeveloped, there is an urgent need to redefine basic roles of the public sector towards the state and society. The overhaul of the administrative system is twofold: first public administration needs to be reoriented from a political-party apparatus to a democratic state service; second, given the heavy weight of the administration in the Balkan states and its inefficiency, a dramatic reorganisation to foster efficiency and effectiveness will have to take place.

Public administration reform in the Balkan region is a long-term effort to redefine administrative principles, goals and structures. The European Administrative Space principles derived from Western Europe administrative systems and rules are the outcomes of decades of democratic developments. Institutional changes such as laws or constitutions are quicker to achieve than a change in attitudes and values. Therefore, public administration and particularly civil servants have a key role to play in reaching the role model of a democratic society.

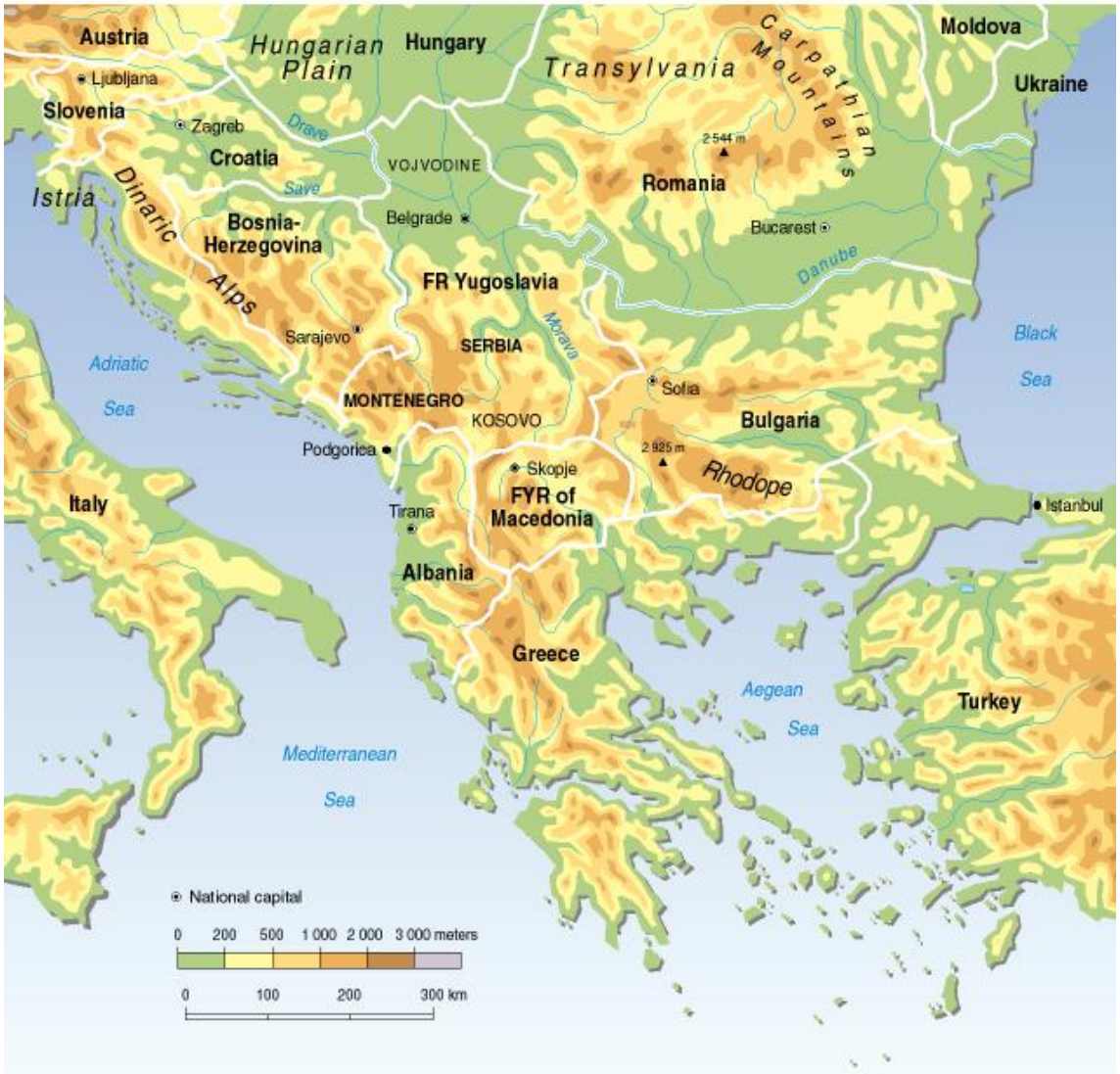

Figure 2. *Balkans: topographic and political map*, http://maps.grida.no/go/graphic/balkans_topographic_and_political_map

1.2. European administrative principles as a basis for public sector development

In order to guide administrative convergence across the European Union and beyond, European Administrative Space principles were defined, deriving from most European Member States' standards of administrative laws and decisions of the European Court of Justice (Connaughton, Randma, 2000). They set the key components of good governance under the rule of law, independently from legal traditions and systems of governance:

1) Reliability and predictability
2) Openness and transparency
3) Accountability
4) Efficiency and effectiveness

Alongside the above-mentioned regulatory standards and procedures, the European Administrative Space principles, defined under the SIGMA OECD programme, included technical and managerial competences as accountability mechanisms for administrative development (SIGMA-OECD, 1999):

- Separation between the public and the private sphere to privilege the public interest;
- Separation between politics and the administration to foster merit and professional capacity;
- Development of the individual accountability of civil servants: well-educated and skilful public managers;
- Sufficient job protection and stability level of pay rights and duties;
- Recruitment and promotion based on merit.

The European Administrative Space principles provide some fundaments for public administration development by defining the basic arrangements, processes and values of a democratic and efficient civil service. They also form the basis for a reliable benchmark of administrative reforms. The extent to which these principles are implemented in national laws and practices determines a country's capacity to integrate the *acquis communautaire* in an effective way.

1.3. Public administration reform goals and realities in Balkan states

The implementation of European administrative standards is a difficult task for the Balkan countries which struggle with harmonising their national norms with external requirements. Their administrative systems have similar shortcomings linked to their shared pre-nineties background, such as a complex institutional framework, highly centralised public sector, weak horizontal coordination, lack of administrative expertise, political influence on institutions, never fully implemented merit-based civil service where civil servants have a low status, and a low level of pay (Arcadis, 2004).

Considering the poor development of the civil service system and the lack of a democratic state tradition in the Balkan region, the public administration reform needs to define a new role for civil servants as regards society as well as the basic values of a modern public service.

Building basic competences, based on the EAS principles and values will help to internalise new functions and norms. As Drechsler (2000) puts it: 'during our complex, rapidly changing times all one can do, but what one must do, is to strive for a learned, creative, adaptable yet intellectually secure Public Administration professional who is aware of the basic questions and therefore able to address the day-to-day ones once they pose themselves, often in unforeseeable form.'

As key actors in democratisation, civil servants cannot be considered as mere employees: they have a constitutional role of enforcing laws and serving society. Thus the state has a responsibility to establish an efficient, professional, impartial and transparent civil service. This objective may be achieved through strategic human resource management including a consistent staffing and career policy as well as a fair and merit-based approach to selection, recruitment and promotion. The best elements of European civil service experiences may be used as a source of inspiration for designing a suitable human resource framework. However, strategies and principles need to be adjusted to existing situations in the Balkan countries. Taking into account the inconsistencies in public administration and the lack of coordination in the Balkan administrative systems, a strategic vision is needed to set coherent standards, adjusted with local absorption capacity, so as to achieve a goal-oriented and well-functioning administration (Arcadis, 2004).

2. Public value as a guiding principle for administrative reform

2.1. Public value, combining governance principles and management criteria to enact new institutional arrangements

The public value paradigm, developed by public management authors (Moore, 1995; Stoker, 2006), is considered here as the matrix for public sector development due to its capacity to encompass both, management criteria and governance principles. Governance refers to interaction between the public sector and civil society for collective decision making (Castro Sardi, Mlikota, 2002). In the public value idea, public intervention should be directed towards meeting citizens' needs in a fair, effective and accountable way. Hence, the public value concept acknowledges the necessity to involve citizens and civil society actors to build a democratic governance system. Emphasising the importance of focusing on citizens to deliver public value, this paradigm is useful to guide civil servants towards the achievement of economic and social outcomes. In the public value perspective, public interest comes at the centre of civil servants' actions; the role of public managers is highlighted as contributing to democratic processes.

Furthermore, the public value concept stresses the need to strike a balance between the demands of the democratic political process and those of an effective management of public resources. This requires an open-minded approach to public service procurement (assessment of public and private sectors' benefits) as well as a commitment to the public service ethos, as defined by Aldridge and Stoker (2001) by five criteria:

- Performance culture: commitment to service for individuals and the community;
- Capacity to support universal access: special responsibility of the public sector;
- Responsible employment practices: well-trained and motivated staff acting professionally and being rewarded fairly;
- Contribution to the community wellbeing: recognition of the need to work in partnership with others.

The public value management approach makes the case for an alternative way of running the public sector beyond traditional Weberian bureaucracy and New Public Management theories.

In an environment where complexity and uncertainty are permanent features, the public value idea pledges for adaptability and flexibility as key virtues, best concretised through continuous evaluation and learning as well as evidence-based policy-making. In this respect, efficiency has to be judged according to broader goals including society's wellbeing, sustainability and accountability.

This public management theory is inspired by the experience of practitioners and public managers who felt the need to adapt concepts to practices and reconcile conflicting values. Democracy and management need to be considered as partners in the policy-making process in order to close the gap between politics and management and to convert ideology into reality (Joly, 2011). Public managers need to manage processes, people and resources by thinking broader, enhancing leadership, communication and evaluation.

2.2. Towards a modern and professional civil service delivering public value

As mentioned before, human resources play a critical role in implementing administrative reforms. Civil servants are in charge of law drafting, organisational development, administrative restructuring, policy-making and law enforcement (Arcadis, 2004; Matei & Matei, 2011). To accomplish these crucial tasks, they need to be well-prepared. A quality human resource policy is central to ensuring the sustainability of reforms; therefore it needs to invest in human capital, knowledge, competences and trust. The major priorities pointed out in research about Balkan countries' administrative reforms are depoliticisation and professionalisation of the civil service. Modernisation of administrative staff needs to concentrate on enhancing ethical standards in the public sector. This implies a huge change in individual and social attitudes developed under former political regimes which leads to a 'culture gap' between the old and new generations. Leadership is required to implement change in behaviours and mentalities by addressing resistance and fear while consolidating new values and convincing people to adopt new standards.

Challenges are numerous in the Balkan countries in order to streamline civil service procedures. National laws need to be adapted in accordance with European Administrative Space principles. The professionalisation of administrative staff implies an increase of local training capacities and structures while establishing a meritocratic human resource system. In this process, Balkan countries need to

overcome serious barriers such as weak change management, poor skills, lack of project management experience, hiding behind laws and lack of customer focus (Arcadis, 2004). Lessons learnt from Central and Eastern European countries in the preparation of the accession process have relevance to the Balkan transition situation:

- Reasons for change must be explicit and felt;
- Goals must be clearly defined and accepted;
- Build partnerships for reform;
- Local ownership needs to be mature;
- Specific models cannot be transplanted;
- Legal approach must be the point of entry of civil service reform;
- Proper sequencing of reform steps to ensure sustainability.

As an example of relevant reform steps, in March 2008 Croatia developed an overall strategy for public administration reform for 2008-2011 called 'Public Administration Reform Strategy' as a strategic framework for state modernisation. The reform plan included the following objectives (Kandžija, Mance, Godec, 2010):

- Increasing competence and effectiveness of public administration;
- Increasing expertise, professionalism, knowledge and transparency;
- Development of electronic administration;
- Reduction of operational costs and simplification of regulations.

2.3. Collaboration and civil society partnerships for sustainable reforms

The public value management paradigm underlines the need to find new ways to collaborate towards a collective decision-making (Stoker, 2006). Interdependence between a range of actors including individuals and organisations is growing in this view. Politics is considered to be crucial to coordinating social demands. In the Balkan countries, many reports highlight the importance of a political will to achieve real reforms. No actual progress in anticorruption policies can be obtained if there is a lack of political will and citizens' apathy (Igric, 2010). Therefore the coordination of social actors is of utmost importance in implementing change. In order to overcome the lack of citizens' trust in political institutions, a greater level of transparency about political decisions and administrative proceedings as well as stronger and independent media and judicial authorities is required.

To counteract rampant corruption and ensure a democratic policy-process, the civil society has a critical role to play to achieve political changes as a key actor in the reform implementation. Civil society has two main functions in driving the democratisation of a society (Miljenko, 2010):

- Monitor governments in their reform steps towards new standards;
- Motivate support and participation in the European accession process.

Broad involvement of civil society stakeholders can be only achieved if people are engaged in a practical way and meanwhile retain ownership of the change process. In this view, the role of independent watchdogs such as non-governmental organisations and the media need to be strengthened to ensure their capacity to review reforms by improving their technical expertise, thus encouraging debate on strategic decisions (Sida, 2007).

Reports by the European Commission about Balkan accession countries stress the importance of civil society in the reform process. The Croatia 2010 Progress Report acknowledges the role of civil society organisations in promoting and protecting human rights and democracy, but laments their exclusion from the policy process as well as their weak capacities to monitor political development. Regarding Serbia, the Commission reports an active role of the civil society in social, political and economic life, but also its lack of operational capacity and its uneven cooperation with the state.

3. The role of information technology in implementing change: revitalising politics and society

3.1. Simplification of administrative procedures and eGovernment

Public administration in the Balkan region is still a monolithic institution, highly politicised, over-regulated and distant from citizens. The paradox of a high level of centralisation and low degree of horizontal coordination needs to be resolved. Information technology may play a critical role in process reorganisation and administrative rationalisation through the development of digital information

systems to centralise and interconnect data. Sharing information electronically across administrative levels is of crucial importance to enable informed policy-making, to update information database by removing redundant or outdated information, speed up administrative processes and reduce the administrative burden for citizens.

eGovernment – defined as the use of tools and systems made possible by information and communication technologies (ICT) to provide better public services to citizens and businesses (European Commission) – has to be developed by public administration according to citizens' needs, thus in a simple and accessible way. The implementation of information technology in public administration needs to be supported by adequate trainings and technical means for public servants to actually use information technology. ICT offers the opportunity to share information inside and outside the public sector. This can not only improve transparency in administrative practices but also support inter-ministerial coordination and collaboration.

The challenges of decentralising of administrative services as brought about by administrative reforms may be addressed by the ICT-supported exchange of data between administrative registers to reduce fragmentation. eGovernment implementation needs to be conceived from the user's point of view to simplify access to public administration. Therefore the one-stop-shop concept gathering all administrative services in one online repository may be a successful way to promote administrative simplification. Electronic administration – on top of facilitating public service provision, fostering efficiency and process simplification – is also an economic development factor, easing business creation and reducing administrative costs (Kandžija, Mance, Godec, 2010).

The modernisation of state institutions' communication channels may greatly contribute to administrative reform and improve entrepreneurial climate. The implementation of electronic administrative procedures requires a high level of professionalisation of administrative staff as regards transparency, efficiency and quality standards implied by information technology use. Conflicting objectives such as transparency or simplification and privacy protection need to be anticipated and reconciled. ICT literacy of public servants and new skills such as communication or project management will have to be fostered.

3.2. Ensuring transparency and access to information via new technology

Corruption, defined as 'any transaction between public and private sector actors through which collective goods are illegitimately converted into private interests, payoffs and benefits' (Sida, 2007) affects many public-related sectors in the Balkan states, such as public procurement, business licensing, healthcare, energy, transportation, education, etc. An open and easy access to public information is a main aspect of democracy consolidation. Many corruption cases are related to poor information management: bribery, nepotism, and tax evasion. To overcome these issues, public administration's anticorruption capacity needs to be strengthened, including expertise, IT equipment and working conditions. The use of information technology to ensure a proper access to public sector information has the potential to foster good governance, the rule of law and transparency.

Some laws have been adopted in the Balkan states to increase public access to information.

In Serbia, the Law on Free Access to Information of Public Importance and the Law on State Administration provide for the obligation of ministries and government bodies to publicise their work on their websites. Such regulations have a positive impact on transparency and access to information has improved significantly as the amount and quality of available information about the government has increased (European Commission, 2010). Montenegro adopted a Law on Free Access to Information, which is a good basis for transparency, but its implementation needs to be improved (European Commission, 2010).

3.3. Opportunities offered by information technology to support citizens' involvement in the policy process

An important factor to support democracy development and reduce citizens' scepticism about public institutions is to encourage their active participation in policy debates and collective decision-making. According to Stoker (2006), public authorities need to shift from a culture of public acquiescence to active endorsement of citizens in policy-making. If public apathy towards politics continues to grow, democracy is at risk and becomes unsustainable. The future of society as a collective place for debate is at stake.

In the effort to find new ways of including constituents in democratic processes, information technology provides attractive channels for allowing people to have their say on their own terms (Stoker, 2006). New media, including the internet, offer a range of opportunities to get people to participate in policy debate by improving their access to public information and broadening outlets for expression. Public authorities need to encourage citizens' participation in ways that are flexible, attractive, accessible and not time-consuming. Many kinds of media are at their disposal such as television, public websites or social media. Effective communication channels, which are open, accessible and transparent, prove essential to achieve the social and economic outcomes targeted by public value management. To achieve this, a great change of mentality needs to take place. Citizens in Balkan countries need to evolve from an attitude of institutional distrust towards more dialogue. To this end, public administration has to demonstrate its will to involve citizens in the policy process, to listen to their demands, and to talk to them in a simple and understandable language so as to build confidence and credibility.

Social media offer renewed ways of learning, communicating, expressing opinions or performing online surveys. Balkan state authorities have many communication channels at their disposal to reach the citizenry. They need to choose the most relevant one; one that is most used by their fellow citizens, so as to open a dialogue with the civil society. Trust and engagement will only be achieved through greater levels of transparency and citizens' access to information (Archmann, Guiffart, 2011). This implies moving beyond a pure legalistic approach towards a deeper thinking about how to strengthen civil society. A pedagogical effort needs to be made to achieve social, political and economic change. New information and communication technologies, if adequately used, may bridge the gap between the state and the citizens, by becoming a tool for inclusion, learning, cultural dialogue and strengthened social ties.

Conclusion

Administrative reform in the Balkans is a long-term process with the aim of achieving stable state institutions supported by a professional, efficient and transparent public sector. Reform priorities need to focus on civil service professionalisation and depoliticisation. The European Administrative Space principles provide a consistent and comprehensive framework to root public administrative development in democracy and values of rule of law. The former regime's legacy of weakened and unprepared institutions that were vulnerable to political influence will have to be reoriented towards law enforcement and public value delivery. This effort towards achieving a society-oriented and skilled civil service may be supported by the implementation of the public value management paradigm, reconciling democratic and value-for-money approaches. A high-performing public sector should involve civil society stakeholders such as NGOs, business representatives or trade unions in the policy-making, in order to benefit from their expertise and deliver adequate policy frameworks. The involvement of society actors in policy process needs to be supported by adequate transparency and openness initiatives. Information and communication technologies prove to be effective ways of improving administrative processes and reaching citizens in order to revitalise politics and democracy.

Overall, a significant change in societies where high levels of corruption and conflicts of interest are common will only be achieved if a strong political will emerges from top political leadership. Institutional changes become effective when laws and regulations are effectively implemented. In this respect, a sustained effort is required from all interested parties, including international donors, European decision-makers and civil society actors, to ensure that the negative impacts of bad governance are prevented by pro-active monitoring and strong political messages.

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II.2. EUROPEAN ADMINISTRATIVE SPACE AS A NEW EUROPEAN CHALLENGE FOR PUBLIC ADMINISTRATION REFORM

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Abstract

The European Administrative Space (EAS) should be understood as the 'environment in which the national administrations are called upon to assure homogeneous levels of service efficiency and quality'. It is important to learn from historical background in order to study the trends of the future organization and challenges of public service. The need for cooperation and benchmarking is rapidly increasing and is related to the need to control the globalizing economy. This new and complex situation almost leads to a crisis of the state, as countries seem incapable of ruling within their own territories. This new situation can only be addressed through international cooperation, supranational organizations and networking of the public sector. But these new tendencies may end up by questioning the power of the state. In Europe in particular interaction has increased considerably, based partly on the unification process. The new approach developed after 2000, triggered formally by the United Nation's (UN) Millennium Declaration, has tended to institutionalize and foster cooperation and strengthen public services in each country. In Europe and specifically in Balkan region, Public Administration has experienced this new trend as well, but it still faces challenges. In future, the EU will turn to positive common policies leading to administrative homogenization. In order to be effective this can only happen if common objectives and performance measures are set, not through an effort to adopt one common model for all Member States.

Keywords: European Administrative Space, public administration, efficiency, public service, reform.

1. Introduction to the concept of European Administrative Space (EAS)

The European administrative space is the area in which increasingly integrated administrations jointly exercise powers delegated to the EU in a system of shared sovereignty. The European Administrative Space (EAS) should be understood as the 'environment in which the national administrations are called upon to assure homogeneous levels of service efficiency and quality'. Its development has been evolutionary and fluid and its structures have been established on a case-by-case basis in different policy areas. Despite this differentiation, the phenomenon of administrative cooperation has led to an 'integrated administration' in the form of an intensive and often seamless cooperation between national and supranational administrative actors and activities. It is important to learn from historical trends in order to study the future organisation and challenges of public sector, although previously public administrations were not exposed to comparisons or interactions with other administrations. The notion of a 'European administrative space' has emerged as a central point of reference in discussions about trends in European governance. There is probably not much point in searching for an authoritative definition of this notion. European administrative space tends to be associated with several interlinked developments, including, in particular, the emergence of a supranational forum of European administration, new forms of interaction between supranational and national administrations, the rise of a 'multilevel Union administration', the impact of European integration on national administrations, **(**Goetz 2000; 2006; Matei and Matei, 2011); and what some see as the spread of common administrative standards across Europe (Siedentopf /Speer 2003).

The need for cooperation is rapidly increasing and is related to the need to control the globalizing economy and transnational enterprises. This new and complex situation almost leads to a crisis of the state, as countries seem incapable of ruling within their own territories. Thus, the recent global developments lead us to define administrative law as comprising the mechanisms, principles, practices, and supporting social understandings that promote or otherwise affect the accountability of global administrative bodies, in particular by ensuring they meet adequate standards of transparency, participation, reasoned decision, and legality, and by providing effective review of the rules and decisions they make. This explanatory approach needs to be sensitized, in particular, to the specific multi-level setting of EU governance. In the traditional conception, states consent through treaties or other agreements to regulatory norms which they then implement domestically (Cassese 2005). The processes of state consent and state implementation are in turn subject to domestic mechanisms of political and legal accountability. The rise of the global and European regulation has completely outstripped the ability of these traditional conceptions and mechanisms to control and legitimate regulatory decisions. The globalization of regulation has dissolved what were once firm distinctions between decision making at the international and at the domestic levels. European regulatory norms are often adopted and implemented through diffuse processes which have in turn led to a weakening of domestic regulatory protections.

Recent developments in international law indicate the beginning of the age of global rule of law. Among these developments is the emerging European administrative law where the European administrative space is seen as arising from the pragmatic needs of trans-boundary regulation underpinned by a normative aspiration to a European rule of law.

2. Administrative law and the 'Enlargement Governance': a new European challenge

The development of trans-national rules is a profound institutionalization of the European Union which is marked by the degree to which EU organizations govern through the promulgation of legal rules generated by deliberative procedures. The serious legitimacy problem of the EU is that its citizens perceive little chance to influence EU rule making, although initially business firms and more recently NGOs have achieved a considerable level of participation. EU administrative law is a set of rules that partially defines the deliberative procedures by which EU legal rules are made and largely determines the degree of knowledge of and participation in those procedures available to citizens, business enterprises and NGOs. Thus the administrative law of the EU and the lawyers and judges who create most of it, are central to the story of institutionalization of a European administrative space (Schimmelfennig/Sedelmeier 2002).

The first phase of the EU as a whole was the establishment of the common market and thus was essentially one of negative constitutional law, that is of using the treaty provisions to batter down the national laws of the member states that were barriers to free trade. The only initial positive functions of the Union were to be found in its agricultural and regional policies which consisted almost entirely of arranging transfer payments from some states and economic sectors to others (Goetz 2006). With the increasing perfection of the common market as a free trade and investment zone, the EU then entered a phase in which it enacted by statutory law–that is regulations and directives enacted by the Commission-Council–a great deal of government regulation of business enterprise. This second phase of EU legal development has now been roughly completed. Although regulatory law is constantly being amended, the crucial problem for the Union is now not making new regulatory law but implementing the regulatory statutes it has enacted.

First, reflecting the multi-level character of EU governance, the May 2004 enlargement raised profound problems of synchronicity (Eder 2004) between institutions and policy areas that move at different speeds. Attention is focused to synchronize the reform of the EU's own institutions and policies with the progressive integration of the new CEE members, so that the latter would be 'ready for Europe' and the EU ready for the new members. For example, both the planning of the timelines for the European constitution and the scheduling of negotiations over the future EU budget were strongly influenced by these considerations. From the perspective of the new CEE members – having moved through the status of applicants, candidates, and, eventually, acceding states – there was the problem of synchronising adaptive requirements– as monitored through the 'progress reports' - with domestic political calendars and the gradual development of administrative and judicial capacities, in particular. There was also the crucial issue of synchronising timelines amongst the CEE states that

joined in 2004; this was made all the more difficult owing to different starting conditions and the fact that Latvia, Lithuania and Slovakia opened the accession negotiations nearly two years after the other CEE states, but were required to complete the requirements for membership at the same time.

A more efficient public sector has advantages not only from the domestic perspective but also from a European perspective. First of all, administrative efficiency might determine private actors' choice of law. Communications among legal systems favor the most efficient administrations. Preferred over others, these administrations widen their sphere of action beyond their national borders, acquiring a prominence similar to that of a business with a dominant market position. Administrative efficiency can guarantee the State's continuing relevance in the context of global governance (Goetz 2006).

Below the level of 'milestones', issues such as the time and sequencing of the opening of negotiation chapters; timetables for the transposition of EU law; or the time and speed of domestic institutional and policy reforms called for in the 'regular reports on progress towards accession' provided many opportunities for 'governing with time' on the part of the EU institutions and the prospective new members and they raised problems of 'time of governing', notably as regards changes to the working practices of domestic executives.

Enlargement governance has been a laboratory for such devices, including, e.g., the use of periodical monitoring; 'rolling' schedules; dead lining; calendaring; or the use of 'roadmaps' that indicating short-term and mid-term requirements and those that need to be fulfilled in time for accession (Grabbe 2006). Issues of temporality are, accordingly, central to understanding the role of conditionality in enlargement governance. Yet, the role conditionality's in this context has been extensively debated (Schimmelfennig/Sedelmeier 2004).

Enlargement governance offers particular insights into the dynamics of the European administrative space, since concerns surrounding administrative capacity were central to the process. The EU institutions placed great emphasis on the need for major improvements in administrative-judicial capacity in the prospective new members. There can be no doubt that the imperative of securing the full implementation of the *acquis communautaire* provided the decisive impetus behind the development of an EU administrative policy. Initially, this policy was primarily aimed at the co-ordination of administrative assistance offered by individual member states and it had a more 'horizontal' orientation, aimed at cross-sectoral problems, such as personnel policy (Dimitrova 2002); but, as the accession process progressed, issues of capacity building moved increasingly centre stage. In response, EU administrative policy developed in two ways. On the one hand, sectoral concerns, such as the state of customs and tax administration or the creation of the administrative preconditions for the implementation of EU agricultural policy, moved to the fore. At the same time, the EU Commission, in particular, which was charged with monitoring and assessing the applicants 'progress' in capacity building, saw itself confronted with the need to develop meaningful criteria and standards, by which 'progress' (or the lack of it) could be assessed.

Administrative assistance to Central Eastern European countries also intensified co-operation and exchange of information amongst the EU Member States in which the EU institutions themselves assume more of a moderating and coordinating role. The characteristics of this co-operation closely resemble those of 'policy co-ordination', which now constitutes a distinct mode of EU policymaking. The approach rests a great deal on expertise, and the accumulation of arguments in favor of developing a shared approach and to promote modernization and innovation' (ibid.). Examples include the manifold activities within the 'Common Assessment Framework' (CAF) to promote 'excellence' in European public administrations; the European Union Public Administration Network (EUPAN); or the EuroMed Training of Public Administration.

Finally, enlargement governance is interesting because, at the EU level at least, it now extends over almost two decades. This allows us to trace the evolution of time rules and temporal governing devices across time, as the Union expands. In what ways has the temporal approach to the structuring of enlargement governance evolved? What evidence is there of 'learning' on the part of the EU institutions when it comes to temporal structuring and also, and in particular, the use of 'temporal governing devices' in enlargement governance, notably as it relates to administrative policy? And how and according to which logic has the 'time of governing' within the European institutions most closely involved in enlargement governance changed over time? (Goetz 2006).

2.1. The impact of EAS on public administration reform

International institutions' surveillance over implementation creates a comparison among legal systems at the European and global levels. The most efficient administration serves as a benchmark

for the others, which are then pressured to improve their performance. The other administrations are called upon to reorganize themselves in order to strive towards the standards of the most efficient one, and to remove obstacles that impede their interaction and cooperation with other actors in the public arena.

An efficient administration enables a State to exercise particular influence in initiating community and international decision-making processes. Transnational decision-making bodies compare national experiences to determine the best solutions. A national administration's credibility rests upon its efficiency and such credibility increases chances that its best practices will be taken as a model for ultra-national norms. Public officials who are employed in complex government departments, have to be accountable to their immediate superiors, the political leadership and the public at large. All government departments have to be efficient because they have to ensure value for taxpayers' money. Efficiency encompasses the qualitative and value-laden expectations of the society. Open, transparent and accountable government is an imperative prerequisite for community-oriented public service delivery (Hondeghorn, 1998).

Sound public administration involves public trust. Citizens expect public servants to serve the public interest with fairness and to manage public resources properly on a daily basis. Fair and reliable public services and predictable decision-making inspire public trust and create a level playing field for businesses, thus contributing to well-functioning markets and economic growth.

Thus, an efficient public administration is not only of paramount importance for the proper functioning of a nation; it is also important from the global perspective and the basic means through which government strategies to achieve the Millennium Development Goals can be implemented. Also, because the public administration is one of the main vehicles through which the relationship between the state and civil society and the private sector is realized, supporting public administration reforms is a means towards achieving higher-order development goals – particularly equitable growth, poverty reduction, peace and stability. The Resolution 57/277 of the General Assembly on Public Administration and Development stresses the need "*to strengthen public sector administrative and managerial capacity-building, in particular in developing countries and countries in economic transition*".

Under a global perspective, both the state and private actors enjoy the right of participation in their relationship with public administrations. Bodies of relatively uniform rules of universal application are increasing in a number of areas. The growth of trade requires common standards for product conformity, consumer protection, and product liability. States' inability to control such phenomena as financial crises, global warming, the use of the seas and maritime resources, and migratory fish species mandates that these universal public goods be protected not only at a domestic level but also at the global level. Thus, we can refer to principles, norms and institutions that we can regard as "common," because they have developed simultaneously, been transplanted from one national context to another, been exported from domestic to European context, or emerged directly in the global legal system to address specific needs. This approach led us toward the enlargement of the administrative space under the European perspective. European Organizations have become much more than instruments of the governments of their Member States; rather, they set their own norms and regulate their field of activity, they generate and follow their own, particular legal proceedings; and they can grant participatory rights to subjects, both public and private, affected by their activities.

3. Some considerations on the public administration reform in Albania

The Public Administration in Albania faced a deep reform started in the 90's after the collapse of the communist regime. It continued as the country was undertaking important steps forward to install democratic governance and the rule of law. The need for the Public Administration Reform was emphasized and accelerated as a result of European integration processes.

All government agencies are required to be efficient which includes observing particular ethical codes of conduct. Public officials who are employed in complex government departments have to be accountable to their immediate superiors, the political leadership and the public at large.

The State intervenes in the economy to provide a framework for economic and social activities – protection of personal and property rights, provision of public goods not supplied by the market, redistribution of income, and the provision of opportunities for education, health, and employment. However, State intervention is also likely to expand the discretion of public officials to make decisions. It is the misuse of unchecked discretion that is one of the primary causes of some problems damaging

the image and performance of our public administration. Therefore, countries like Albania need more comprehensive reforms, which are considered as challenges (Leskoviku 2010).

Considering the overall situation and need of the country, among the priorities for a successful reform, I can list as follows:

• Create strong political will – a critical starting point for sustainable and effective public administration activity;

• Focus on values and principles, creating a culture of professionalism and training, providing adequate payment, and ensuring deterrence;

• Identify the government activities most prone to the problem of corruption and review both substantive law and administrative procedures and enact comprehensive anti-corruption legislation;

• Enforce accountability mechanisms and learn from good practices and examples of others;

• Establish broad ownership of reforms, among other methods, by creating strong partnerships with civil society and the private sector.

Governance is not solely the responsibility of the government; rather, it is only one element in a tripartite structure – the government, the market and civil society – that is jointly responsible for the ordering of society. While each sector has its own sphere of action, together they provide the governance of the society. The challenge for us is to discover mechanisms and procedures which enable these three principal actors to collectively supplement each others' capabilities. Just as the powers of the government have to be tempered to make it responsive to the wishes of the people, the market has to be kept in check to prevent excesses.

Albanian Government, on the other hand, has broad responsibility towards their citizens. Unlike the market, it cannot ignore the weak, the vulnerable, the unemployed, the sick, and the destitute as part of a responsibility towards all of them as the guarantor of social justice. The private sector and civil society organizations play important roles in helping citizens articulate their interests and exercise their rights. Government's role is not only to exercise political governance but to interact effectively with the private sector and civil society organizations in achieving public goals and objectives.

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II.3. MODERNIZING PUBLIC EMPLOYMENT IN THE PUBLIC SECTOR

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Abstract

Most EU and the Balkans countries have been actively reforming their public sectors for two decades. Initially the problem seemed to be a relatively straightforward one of improving efficiency, reforming management practices, and divesting public involvement in commercial enterprises. These reforms have indeed had a major impact but they have also given rise to some unexpected problems of their own. To complicate matters, governments are now under pressure for more profound changes to meet the requirements of contemporary society. A concern for efficiency is being supplanted by problems of governance, strategy, risk management, ability to adapt to change, collaborative action and the need to understand the impact of policies on society.

Focusing on reality ,rather than aspirations, presents a considerable professional challenge for the EU and its Member countries. Public management is complex and difficult to measure, but without some valid form of evaluation, we are slaves to theory, management fads and rhetoric. Upgrading professionalism requires collaborative work on how to identify, track and compare key behavioural changes. We also need to acquire a better understanding of the time required for serious public management interventions: culture change is not achieved overnight, and may take several years. There is also a need to strengthen mutual assistance by putting relatively more effort into peer review and independent observation than in countries' own self - assessment, and by encouraging evaluation of major initiatives once they have been implemented.

When it comes to the nuts and bolts of government, European countries have one thing in common: a core public service. In other words, a centrally controlled bureaucracy made up of people working in ministries, departments and government agencies to carry out the business of government. Civil service structures have evolved around the idea that public employment is different from other types of work and therefore requires a special employment system and structure.

Public service has traditionally offered a high level of job security, or even "jobs for life", coupled with a special set of employment regulations. But over the past two decades many areas of public employment have lost this distinctiveness, not least because reform of the public sector has seen some functions moved into the private sphere. As a result, many of the underlying assumptions about the way the civil service works are no longer true.

Keywords: public sector, open government.

1. The public service – what is special about?

All European Union countries have special arrangements for employees in the core public service designed to promote or preserve values that societies consider important for those engaged to enforce the law or otherwise carry out the collective will. For example, such values might include the idea that public servants should not operate in a politically partisan manner. While such arrangements exist in all EU member countries, they have produced radically different results and ways of governing because of variations in leadership, management, values and culture (Pollitt and Bouckaert, 2004).

In many countries, the main architecture of public employment has traditionally been built around the idea of a system distinct from that of other sections of society, and this distinctiveness has been justified in terms of wider governance values. In the past 20 years, many areas of public employment have lost this uniqueness and have become quite similar to the general employment system (Matei

and Flogaitis, 2011). Does this mean that the idea of a civil service as a constitutional or quasi - constitutional device for maintaining confidence in the government system is outdated, at least in some countries?

We do not yet have a definitive answer to that question, but one thing is clear: if we look to the private sector for models in modernising public employment we must not forget that the fundamental purpose of the public service is government, not management. This means paying attention to fundamental values like fairness, equity, justice, and social cohesion to maintain confidence in the governmental and political system as a whole. Managerial aspects, while important, must be considered secondary.

Also, the traditional, centrally-controlled bureaucracy is still a workable and robust system for public management where there has been disruption or discontinuity in the constitutional institutions of society, and/ or where the other institutions in society are not particularly well ordered. It is also a system that has proven more enduring in countries where the national culture attaches importance to the existence of a strong and all-embracing concept of the state and therefore a need for strong cultural consistency across the core public service.

Although trends to modernise public employment are moving fast, most governments share the main elements of the traditional system of public administration But there can be no ideal type of public employment because different societies face very different risks and problems. While one government may have a pressing need to make the public sector adaptive and innovative, for another it may be more urgent to improve discipline and co-ordination.

2. A job for life?

Permanent employment has traditionally been the norm in EU public sectors, with much greater job security than the private sector. Indeed, job security and retirement benefits led to a popular belief in many countries that it was a good thing for a young person to obtain a public service job. This situation has changed significantly since the late 1990s. The differences between public sector and private sector employment are lessening; legislation is becoming more flexible and fixed-term contracts are becoming more prevalent.

The move towards more temporary employment – and away from lifelong careers – appears to be driven mainly by the realities of the contemporary labour market. There have also been changes in recruitment practices, with many EU countries moving towards recruiting employees from the market rather than nurturing their careers from an early stage. Whatever recruitment strategy they adopt, there is similarity in the principles they espouse: recruitment by open competition and selection based on merit and competence.

The type of public service system in operation in each country influences the nature of the reforms adopted)Rose, 2005; Islam, 2003). Career-based systems with a strong emphasis on centralised recruitment, training, and promotion have introduced reforms concentrating on external competition for open positions and management by objectives. For example, Italy and France have started to supplement their traditional procedures with open recruitment as a way of increasing competition and performance-based management.

Position-based systems with decentralised management of appointment, recruitment and training are meanwhile emphasising central guidance of appointments to ensure that collective values are taken into account in the selection process.

3. In Public Sector – cutting back civil service numbers?

The 2000s and 2010s saw many governments make deliberate efforts to reduce the level of employment in the core public service, as part of moves to contain or reduce public expenditure. In many cases this cutting back has been used as an opportunity to introduce public management reforms but the motivation is generally economic not managerial.

Any modern government (Bee and Roland, 2000), however managed, periodically needs measures to keep the volume of expenditure and public employment in some kind of balance with the economy as a whole. One radical approach to this problem in the 1990s and 2008s, which has continued in some countries, has been to redefine and narrow the role of government. For example in Finland, six major public enterprises changed their status from 2005 to 2010, resulting in a 10% decrease in public employment. The other approach has been to cut jobs within the existing public service, as has

recently been done in Germany and Italy. These cutbacks tend to occur in response to a fiscal problem that becomes a political crisis.

The idea that these periodic major staff cutbacks owe more to political decisions than to management ideas perhaps explains why some cutbacks have ended up impairing efficiency and causing the loss of key competencies. These problems at the micro level do not obviate the larger reasons for taking drastic action to control aggregate public employment.

Having decentralised human resource management generally, many countries found the need to give new attention to managing their top civil servants – including some degree of re - centralisation of this function.

In "position-based" systems, the senior civil service generally consists of top managers and an identified pool of potential top managers**.** *In "career-based" systems,* the senior civil service consists of a broader echelon, which may range down to lower management levels. In general, whether someone is a senior civil servant is defined by the position held. However in some countries, notably France and Germany, person - based criteria are used. These may cover academic level or rank in the hierarchy. In all countries, the promotion system is said to be based on assessment of performance and personal competencies. Many countries also consider one of the main objectives of a senior civil service system as enhancing personnel mobility between ministries or departments within the government.

The new attention to leadership among countries which have been the most ambitious reformers to date seems to be in pursuit of two somewhat conflicting goals – the use of the individual leader to spearhead better performance, and the desire to replace the collective civil service cultural glue that has been weakened by the strong individualising tendencies of other management changes. The main focus of leadership development programmes is on the individual capacity to stimulate public sector performance. The "collective glue" objective, which is more likely to be achieved by socialisation rather than training per se, is a lower priority. There is a danger that in the longer term this will prove to be a mistake.

4. How to modernise industrial relations?

There are broadly three types of labour relations for civil servants in European countries. In countries such as Finland and Sweden, civil servants are generally governed by the same labour relations laws as private sector employees. A second group of countries treats civil servants in the same way as private sector employees but with some exceptions, such as the police. In the third group of countries, civil servants generally have more limited industrial rights than those of private sector employees. Indeed, in some countries, the law limits industrial action by civil servants.

In all these systems, trade unions appear to have the opportunity to exert a relatively strong influence on civil servants' working conditions, pay levels, and the introduction of new civil service systems. By contrast, trade unions play a relatively mild role in the areas of employee performance, recruitment and determining the number of civil servants.

While modernising employment policies and changing the role of the state led to a reduction of the influence of public sector unions in the United Kingdom, other countries will not necessarily follow suit. The key issue is not what happens in the public sector, but what happens in the industrial relations structure overall, and the relative size of government as a direct employer. In the current uncertain fiscal climate, there is likely to be more conflict between governments and unions in the big developed countries of Europe. Whether this results in a United Kingdom-style permanently reduced influence of public sector unions or a new level of governmentunion accord as in Scandinavia and Ireland remains an open question.

All European governments share the ideal of a professional public service which gives objective advice, delivers services fairly to all citizens, and provides for the continuity of the administrative system. But equally it is fundamental in each country that public servants are responsive to the political will of the government of the day. How to balance the needs of professional continuity and political responsiveness is a key issue of public governance.

There is wide diversity among European Union countries in how the political administrative interface is managed. In some countries, each change of government is accompanied by new appointments of senior officials across the public service. In others, the turnover is relatively low. In some countries party membership of civil servants is well known and important in the senior appointment process – in others civil servants may not or, as a matter of professionalism do not align themselves with a political party. In some countries efforts are made to create a distinctive apolitical

culture within the civil service. In others the leadership groupings embrace both politicians and public servants.

Which is best? This question can only be answered in the context of the constitutional arrangements and culture of each society. In all systems, a culture of professionalism is fostered regardless of the appointment process for senior officials. In some systems it is not so important to have a formally apolitical public service because there are other checks on political power such as a very strong legislature, a well-developed system of statutory and judicial limitations on political power, or a strong underlying culture which supports non partisan professionalism.

What happens now in 2011?

New problems and a changing labour market, as much as new management ideas, have driven the main trends in public employment modernisation in the past two decades. The EU's most important finding is that the two archetypical civil service systems – the traditional career-based system, and the position-based system which in many countries is replacing it – are both under pressure. However, the actions taken to date have tended to be adaptations of particular employment instruments to meet specific problems, with less attention to their impact on the public management system as a whole.

5. Open Government

Governments are under increasing pressure to open up to public scrutiny, to be more accessible to the people who elected them and more responsive to their demands and needs. Indeed, an open government that meets all these requirements is increasingly recognised as an essential ingredient for democratic governance, social stability and economic development.

From the public's point of view, an open government is one where businesses, civil society organisations (CSOs) and citizens can "know things" – obtain relevant and understandable information; "get things" – obtain services from and undertake transactions with the government; and "create things" – take part in decision-making processes.

Building open government that is accessible to anyone requires, at a minimum, provisions to ensure equal treatment. Administrative laws do so by defining the basic conditions for citizens' access and establishing mechanisms for holding administrative authorities accountable for their decisions. They provide guarantees for citizens in their interactions with government, uphold the rule of law and give substance to constitutional rights. More than 70% of EU countries have such laws and codes, which generally predate freedom of information legislation. They often include provisions to ensure that citizens who are potentially affected by administrative actions and decisions have the possibility to receive prior notice of, and defend their interests in, a given decision-making process.

Governments are more accessible and user-friendly today than they have been at any point in history. Measures to reduce physical, organisational and linguistic barriers; cut through "red tape"; use clearer language and expand online service delivery have all helped. The challenge for all EU countries now will be to meet ever higher demands from citizens and business for streamlined transactions, tailored services and ubiquitous access

Today's users of public services expect them to meet their individual needs, offer choice and provide means for seeking redress. More than half of EU Member countries have introduced citizens' charters with the aim of providing high quality, easily accessed and customer-centred public services. By introducing service charters, and establishing redress mechanisms, governments have provided citizens and businesses with a means of assessing their own experience as users of public services against declared standards of service.

Cutting through "red tape" to make it easier and less costly to do business with government is a key concern for governments and businesses alike. Policy measures to reduce administrative burdens can also contribute to improving access through one-stop shops (both physical and electronic), providing assistance and advice in complying with regulations (*e.g.* to small and medium-sized enterprises) and Web-based portals and electronic forms. In 2009, out of 18 EU countries surveyed, 13 stated that they had a government programme to cut red tape.

E-government can significantly lower barriers for citizens and businesses by reducing costs and providing access to government information and online services for all, whether in the capital city or a remote rural area, 24 hours a day, 7 days a week. Where e-government initiatives currently fail is in ensuring access to all since not everyone has access to the Internet nor the skills to use it. All EU countries' e-government strategies recognise that all stakeholders and users must continue to have the choice of online or "offline" information, transactions and services for the foreseeable future.

Public consultation for law and rule-making was once rare. Today, it is increasingly accepted as a valuable means of improving the quality of public policy while strengthening its legitimacy. Further

efforts to improve tools, mainstream procedures and integrate the results of public consultation in established decision-making processes will be needed if governments are to become more responsive and adaptive in the future.

A decade ago, with the EU 2000 Recommendation on Improving the Quality of Government Regulation, member countries pledged to ensure that regulations are: "… developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties such as affected businesses and trade unions, other interest groups, or other levels of government." The systematic assessment of positive and negative impacts of regulations and their alternatives has helped many governments to reduce regulatory costs to business, while maximizing the effectiveness of government action in protecting public interests. Consultation procedures are central to this process. In 2009, just over a third of EU countries required regulatory impact assessment (RIA) documents to be publicly released for consultation. Consultation has proven to be an effective way of obtaining information on the nature, size and distribution of costs and benefits directly from those most likely to be affected.

Governments increasingly realise that they will not be able to effectively implement policies, however good they are, if citizens and business do not understand and support them. Initial experience has shown that, to be effective, consultation must have clear goals and rules defining the limits of the exercise and government's obligation to account for its use of the input received. The place held by laws and regulations governing public consultations vary considerably among EU countries – from those such as Finland, Italy, France etc. where it is a fundamental feature of the constitutional system to those where it is relatively limited in scope, application and impact. Some countries have legal requirements to consult with specific interest groups, such as trade unions and professional associations, or with indigenous peoples in order to safeguard constitutionally protected rights during policy making. Several have adopted guidelines which require ministries to provide a summary of the consultations they have undertaken when submitting draft laws or policies to the Council of Ministers or equivalent.

The unprecedented degree of interactivity offered by the Internet has the potential to expand the scope, breadth and depth of government consultations with citizens and other key stakeholders during policy making. Despite its promise, online consultation for policy making is new and examples of good practice are scarce. Few expect new tools to replace traditional methods in the foreseeable future. Initial experience indicates that they are most effective when integrated with "offline" tools for consultation, such as combining online discussion groups and "face-to-face" consultations.

As open government standards and public expectations have risen, existing institutions for ensuring oversight such as Supreme Audit Institutions (SAIs) have evolved and new ones, such as Ombudsman offices, have appeared. When coupled with the growing role of civil society organisations and the media, public scrutiny of government has reached unprecedented levels – and shows no signs of abating in the future.

While official institutions for public oversight, such as Supreme Audit Institutions and Ombudsman offices, continue to shoulder the main responsibility for ensuring adherence to such standards, new and highly vocal private watchdogs in the form of CSOs have emerged and constitute an important resource for monitoring open government. When taken together with traditional sources of independent monitoring of government performance (*e.g.* media, international organisations, rating agencies), the modern version of the "fourth estate" exercises powerful pressures, and advances vocal demands, for openness. As governments scramble to respond, what at first sight appear to be piecemeal reforms do, over time, produce a cumulative effect and once standards for openness have been raised, there is no uncontroversial way of going back.

6. Conclusions

In conclusion, new problems and a changing labour market, as much as new management ideas, have driven the main trends in public employment modernisation in the past two decades.

The conclusion most important finding is that the two archetypical civil service systems – the traditional career-based system, and the position-based system which in many countries is replacing it – are both under pressure. However, the actions taken to date have tended to be adaptations of particular employment instruments to meet specific problems, with less attention to their impact on the public management system as a whole. It is important to give more attention to these systemic issues and in particular to three fundamental dilemmas:

- The increasing knowledge and skill demands of modern government, and the increasing difficulty of government in attracting and keeping high quality staff.
- The interconnectedness of key public problems, and the fragmentation of public action and the individualization of public service responsibilities and incentives.
- The need to attract and motivate senior executives who meet the high performance demands of a modern ministry, while keeping them in a wider cross-government culture bound by the public interest.

In the medium term, it appears that countries with career-based systems will be working on ways to bring more market pressures to bear, while those with position-based systems are looking for ways to strengthen cultural cohesion.

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II.4. TOWARDS A PERFORMING EUROPEAN ADMINISTRATIVE SPACE THROUGH FINANCIAL MANAGEMENT INSTRUMENTS: THE CASE OF PUBLIC INTERNAL FINANCIAL CONTROL

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Abstract

The public sector has been engaged for several years in a process of modernization, in order to meet the demands of the "citizen-consumer". The European Union is undergoing the same process, especially regarding the management of European funds. The financial and economic crisis, characterized by the scarcity of financial resources raised the problem of the accountability of public managers in relation to the use of public money. Consequently, the management of public funds is on the agenda of EU policy makers. In this respect, starting from 2000, the European Commission has created an instrument of control that was also used as conditionality in the negotiations with the former communist states. Nowadays, this model called the Public Financial Internal Control is an obligation of compliance in the chapters of negotiations for the Western Balkans states. We will examine the PFIC model under two aspects: firstly, as a tool of Europeanization by identifying the characteristics of the PFIC and the changes resulted from its implementation in the administrative systems of the EU and Balkans states; and secondly, as an instrument of New Public Management that could be used by the public managers within the European Administrative Space in order to assess their organizational performance.

Keywords: public financial internal control, Europeanization, performance.

Introduction

Nowadays, the public sector is confronted, on the one hand, with the scarcity of financial resources and, on the other hand, with the increasing demand of the citizens for high quality public services. In the context of the economic crisis, the public sector must, more than ever, to ensure "'transparency and responsibility" (OCDE, 2011).

In the European Union, one of the pillars of the administrative space is the economic convergence, which implies that the principles of a sound financial management, especially regarding the spending of European funds, is a key priority for the European institutions. In order to ensure that the funds are spending according to the efficiency and effectiveness principles, in 2000 the European Commission started to implement a system of internal control, called *public internal financial control - PFIC*. For the States that at the time being were negotiating the accession to the EU the implementation of PFIC was an obligation as part of the "*acquis"*. As for the Balkan states, "*during the accession negotiations, the candidate country must agree to adopt the PFIC model and introduce the international standards. This agreement is to be reflected in the relevant national policy statements and thus form part of the county's commitment and legal basis during the course of the negotiation"* (European Commission, 2006).

This paper aims analysing the PFIC, which is based on the principles of efficiency and effectiveness, under a double aspect: firstly, as an Europeanization instrument within the European Administrative Space, and, secondly, as a managerial instrument of the public managers in order to assess their organization, to improve the quality of their public actions and thus, to contribute to the performance of public policies within the European Administrative Space.

1. The PFIC - a European model of internal control

The principles of accountability and effectiveness have been established since 2000 as principles of European governance (European Commission, 2001). These principles rely on the responsibility of public managers and effectiveness of the policies they take upon themselves which are seen as the basis of a good management of public finances, given that the budgetary responsibilities must be clearly established at each level of governance (European Commission, 2010).

At the beginning of the year 2000, due to the scandal following the resignation of the Commission in 1999, the European Parliament criticized the financial management within this institution, consequently, the Commission decided to put in place a new system of internal management or internal control (OECD, 2001). The European Commission wanted to be sure that the money is spent following the principles of *'transparency, efficiency and economy'*, principles which can be found in the regulations that establish the financial rules for the management of EU structural funds under the title of '*sound financial management'*.

The PFIC is a system that '*aims to give a reasonable assurance that transactions comply with the principles of sound financial management, transparency, efficiency, effectiveness and economy, as well as with relevant legislation and budget description*'(European Commission, 2006).

The PFIC encompasses the principles, standards or rules internationally recognized. It is based on international guidelines including the COSO (Committee of Sponsoring Organizations of the Treadway Commission) or Internal Control Integrated Framework, of Anglo-Saxon origins (COSO I), the Canadian model COCO (Criteria of Control) and more recently, in France, the Authority of Financial Markets has published the 'AMF Framework of Reference' in 2007 (Schick, Vera, Bourrouils-Parege, 2010).

Table 1

The revised internal control standards for effective management

Key Factor	Standard
Mission and Values	Mission
	Ethical and Organizational Values
Human Resources	Staff allocation and mobility
	Staff evaluation and development
Planning and risk management processes	Objectives and performance indicators
	Risk management process
Operations and control activities	Operational structure
	Processes and procedures
	Management supervision
	Business continuity
	Document management
Information and financial reporting	Information and communication
	Accounting and financial reporting
Evaluation and audit	Evaluation of activities
	Assessment of internal control system
	Internal audit capability

Source: European Commission, 2007, appendix 1, pp. 12-13

The PFIC is not an accounting or budgetary tool, it "*does not focus on the techniques of budgeting or accounting (…), nor does it include inspection tasks such as the investigation and punishment of individual cases of fraud or serious irregularities"* (European Commission, 2006).

The system initiated by the Commission consists of three pillars (European Commission, 2006):

- *managerial accountability* – managers on each hierarchical level are responsible for financial management and control;

- *functional and independent internal audit system*, with the role of evaluating the controlling system applied by the managers, identifies the weaknesses, and make recommendations for improving the situation;

- *a central structure* – Central Harmonization Unit (CHU) – which is responsible for system development and elaborating methodologies in conformity with the international standards.

PFIC was conceived as a set of standards to be applied at the level of each internal service within the European Commission in order to ensure its transparent and efficient functioning.

2. The role of PFIC within the European Administrative Space

Defined as 'basic institutional arrangements, processes, common administrative standards and civil service values' (OECD, 1999), European Administrative Space had been gradually created, as a result of the 'dissolution of the traditional boundaries of sovereignty' and the 'development of the national administrative spaces towards supranational dimensions' (Matei& Matei, 2010b).

Presented as a 'structured model for guiding national governments in establishing a state-of-the-art control environment in their income and spending centers" (European Commission, 2006) the implementation of PFIC within the European Administrative Space suppose a permanent influence between the EU level and the national level; consequently the PFIC can be seen as an instrument of the Europeanization process as being a 'regulatory mechanism' (Matei& Matei, 2008).

Analyzing PFIC we can notice that its implementation implies and ensure, in the same time, the enforcement of the principles, as they are stated in the literature, of European Administrative Space (Matei& Matei, 2010a):

- the need to ensure 'trust and predictability' in the development of EU public action, at both levels, the level of EU institutions, but also in EU Member States, is at the origin of the creation of PFIC

- 'the openness and transparency' is another important pillar of the system. By implementing PFIC within the public organizations of the European Administrative Space, the European Commission wanted to ensure that the European funds are spending in a transparent manner

- 'accountability' is another principle of EAS that represents one of the main objectives of PFIC that relies on the responsibility of public managers and effectiveness of the policies they take upon themselves. Those are seen as the basis of a good management of public finances, given that the budgetary responsibilities must be clearly established at each level of governance (European Commission, 2010)

- the principles of 'efficiency and effectiveness' are the core of PFIC. The European Commission adopted PFIC in order to give a managerial and accountable feature to the European public action, in the context of the New Public Management approach that characterized the public sector at the end of 1990.

3. The PFIC as an instrument for Europeanization

Initiated by the European Commission in order to ensure a 'sound financial management', the internal public financial control is the object of different initiatives of the Member States. From this point of view, we must analyze whether the principles and norms of the internal control model adopted by the Commission and the ways in which it is put into practice at the national level are elements of Europeanization for the public organizations within the Member States, in the sense of a 'more narrow correspondence between national (or local) policies and the directions and norms adopted at the European level' (Gaudin, 2004).

The function of control presents different characteristics in the Anglo-Saxon states, where it is mostly an instrument "of the logic to pursuit and audit", as opposed to the French administration, where it is used either "a priori", or "a posteriori" in sanctioning the deviations from the legal norms (Matei, 2006).

The model of PFIC defined by the European Commission must be put into practice in the 27 Member States and moreover, in the countries that started the process of accession to the EU membership or the associate countries in the Balkans, which have different administrative systems, with particular features presented in the following table:

Table 2

Features of the administrative systems

Features of the administrative system	Decentralized administrative system	Centralized administrative system	Emergent administrative system
The role of the central administration	Limited extent Weak intervention in the private economic sector.	Competences of limited extent and great influence upon several domains, including the private activity.	The central administration is much extended; great influence upon the private sector.
The type of organization	Attributions are restrained by the central state as opposed to other collectivities.	Administrative organization ordered from the bottom to the top of the system pyramid.	Strongly ordered administrative organization, without the practice of delegation.
The public function	The agents of the public sector do not have a special status.	A body of numerous and well trained civil servants.	Most of the employees are not well trained, with the exception of higher ranking personnel and some inspections, but not enough.
The control	Its goal is obtaining results by means of effectiveness.	Targets the compliance with law and regulations in sanctioning (a posteriori) and preventing (a priori).	The bodies of control target the formal aspect more than the aim of effectiveness.
The budgetary frame	The budget appears as a sum of programs, including their objectives and volume of allocated resources.	Detailed and rigorous.	It does not achieve a correct handling of financial flows.
The administrative procedures	The legal and regulatory framework establishes the targeted objectives and the means to achieve them.	They are numerous and detailed, including specifications of allowed or banned actions.	They are heavy, out of date, generate obstructions and allow the arbitrary and the waste
The role of the Parliament and Court of Auditors	The public policies are controlled by the Parliament with the support of the (Supreme Audit Institution)	They have a limited influence.	Their influence can be overlooked.
The role of the political power	It has no influence upon the administration	It has a minor influence upon the administration	It has a dominant influence upon the administration

Source: Cohen, 2008, pp. 80-81.

Even if it is foreseen as an obligation included in the *acquis* for the inclusion of the Balkan countries, in order for them to be integrated, the adoption of the *acquis* is not sufficient. They must also show 'the capacity of the public administrations to put it into practice' (Rupnik, 2003).

We can conclude that the Europeanization process in the case of PFIC implementation is a top-bottom approach in the sense of the influence that the system adopted, in 2000, at the level of the Commission had in all the other Member States as being mandatory for the EU membership during the accession negotiations. On the other hand, the implementation of PFIC implies the creation of new administrative structures responsible for the implementation of the PFIC at national level (the Central Harmonization Unit) plays also a very important contributing to 'increase in visibility of the European building and enlargement process and European identity' (Matei& Matei, 2008).

The Balkans States have already begun the legal initiatives in order to ensure the application of the PFIC. In Croatia, the enforcement of the PFIC has begun in 2002 by means of the CARDS 2002 program implemented by the EU, which continued in 2004. At the same time, the Government modified the legislation in 2003, in order to strengthen its application and afterwards, in 2006, it approved a law concerning the PFIC (Vasicek, Dragija, Hladika, 2011). In the Federation of Bosnia and Herzegovina, the budgetary law states the obligation of those who endorse the public budget to put into practice the internal control systems (Vasicek et all. 2011).

We could conclude that the European Union, by means of the standards of the PFIC, indicates 'the 'what' (what should be obtained), but does not impose neither the 'who' (the institution in charge of), nor the 'how', that is the functioning of the administrative organization and the new rules which are to be established' (Cohen, 2008). Therefore, it is upon each administration of the Member State to define, according to its own specificities, its enforcement and upon the public managers to use it in order to reach their objectives in terms of organizational functioning and accomplishment of the public missions assigned to their organization.

Taking into considerations its main characteristic, besides its role of an Europeanization instrument, in our opinion, PFIC can be used as a managerial tool by the public managers at the level of public organization in order to improve the performance and quality of public action within the European Administrative Space.

4. The PFIC as an instrument of the New Public Management

The public sector in developed countries has been engaged for many years in a process of modernization carried out by applying principles and methods from the private sector.

Defined as an '*instrument of management directly oriented towards achieving the organizational objectives'* (INTOSAI), in our opinion, the PFIC can be used by the public managers as a managerial instrument to assess the organizational performance.

Conceived by the European Commission as an instrument designed to ensure the transparency and efficiency in complying with the objectives of public institutions, the PFIC is different from the traditional controlling system, based on the regulations and law, but without emphasizing the importance of principles of effectiveness and efficiency (European Commission, 2006). In the context of the New Public Management, the role of controlling goes beyond the simple check of compliance with the law because it follows different objectives, such as the use of adequate methods and instruments ('conformity control') while also ensuring the compliance with objectives in an efficient and economic manner ('performance control') and providing managers with the necessary recommendations in order to improve their actions ('system control') (Cohen, 2008).

Table 3

The traditional system as compared to the new system

Supreme resort (Parliament, King)	Establishes	The Administration	The control
Traditional system Law (regulations)	Obligations Behavior	Execution	Verifies (regularity / compliance) Sanctions
The new system	Objectives Results Instruments	Manage (Chooses means and ways of action)	Evaluates (the effectiveness) Measures (results) Recommends (improvement)

Source: Cohen, 2008, p. 21

Considered '*a permanent and necessary management instrument*' (Matei, 2006), the control in public organizations is at the same time '*impregnated with imperfections'* and one of the means for solving problems is the 'multiplication of controls' (Labourdette, 1998).

Taking into consideration its definition as describing '*the systems, processes and methods of management of activities*' (OCDE, 2001), the implementation of the PFIC standards involves all the functional aspects of an organization as: the mission and the organizational values, the management of human resources, the performance evaluation and the organization processes.

In the context of the New Public Management, the responsibility of public managers is an important problem, because 'problems of responsibility can cause problems of inefficiency' (Matei, 2006). Under these circumstances, the public manager must be responsible not only for his course of actions in applying public policies, but also for his performance in the domains of financial management and controlling (European Commission, 2006).

The PFIC is considered a system of 'internal control', based on internal procedures to ensure the efficiency of spending public funds by a public organization. But, taking into consideration that this instrument is promoted by the European Union as compulsory for those that manage European funds, the question that arises is to what extent the performance achieved by a public organization after the implementation of PFIC has an impact on the objectives of a public administration and its public missions. In other words, we should ask ourselves '*if we can analyze the efficiency of public organizations without taking into account their contribution to public actions and therefore, without linking the instruments to performance and evaluation*' (Trosa, 2011).

Considering the similarities that have been identified in the literature (Gibert & Andrault, 1996) between controlling and the evaluation of public policies, in our opinion the role of PFIC must be taken into consideration in a much wider analysis, regarding the accomplishment of the public mission within the European Administrative Space. In view of the 'double production function' of public organizations, at this level, the role of control would be that of measuring '*the immediate result of the activity, the achievements, the performances of administrative services*'. In response to this, at the level of public policies, the role of control would be to emphasize *'the final result of the action undertaken or even its impact on the environment'* (Gibert & Andrault, 1996).

While at an organizational level we analyze especially '*the role of the actors of organizational management*' (Gibert & Andrault, 1996), as concern public policies 'the focus is on the strategies defined by those who interfere (internal or external)', which allows us to '*put into light the reactions (collaboration, rejection, lack of response) of the administrative partners*'. Consequently, the analysis '*essentially quantitative (…) of the activity or performance indicators retained for their accessible, measurable, and pertinent character'* (Gibert & Andrault, 1996) is changed with another '*essentially qualitative*' analysis of the impact of policies.

5. Conclusions

The new economic context determined by the crises requires the implementation of new methods and instruments in the public sector characterized by the responsibility of the public managers as regard the efficient and effective management of the public funds. Systems like PFIC are created at European and international level to respond to this need.

European Member States and the associated countries are willing to take the necessary measures for their implementation. While this is a condition for the EU membership, their integration into the administrative culture of each country requires a longer period of time and the participation of all the stakeholders. The Balkan states have already begun to adopt the legal provision to meet the EU membership criteria but the specificities of their administrative systems determine different solutions for its implementation.

At the institutional level, new administrative structures must be created that has to be in line with the EU and international requirements in this field. But the most important is its implementation within the public organizations and its role in the evaluation of public policies in the European Administrative Space.

Alike any other instrument of the New Public Management it requires another way of thinking the organizational functioning based on procedures and principles of efficiency and transparency. Applying it requires a different attitude from the part of public servants and the capacity of public managers to communicate the organizational mission and objectives in order to develop a performance oriented culture in the organization.

On the other hand the performance of public organization has to be analyzed in a more broad perspective, that of policy evaluation and the public mission that the organization must accomplish.

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II.5. LA POLITIQUE SOCIALE DE L'UNION EUROPEENNE

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Résumé

La construction d'une Europe sociale est un thème récurrent dans l'histoire de l'Union souvent présentée comme trop libérale. En vertu du principe de subsidiarité les questions sociales relèvent pour l'éssentiel de la compétence de chaque État membre plutôt que de l'Union. Qu'il s'agisse de salaires des politiques d'emploi on de contre l'exclusion sociale, la compétence reste nationale. La préoccupation sociale ont vu le jour à partir de la dynamique du marché interieur via la question de la libre circulation des travailleurs. Aujourd'hui, la traité comporte clairement des objectifs sociaux et l'Union doit ouver en faveur d'une économie social de marché hautement competitive. Il existe un acquis en matière sociale qui n'est pas negligeable, qu'il s'agisse des mesures pour lutter contre les discrimination, des prescriptions en matière de droit du travail, de la promotion de la santé publique ou des soutiens financiers qu'apporte l'Union. L'insuffisance de l'Europe sociale est une conséquence de l'accélération de l'intégration économique, mais la dynamique d'un grand marché nécessite la libre circulation des facteurs de production totale, surtout du travail. Euro accélère la restructuration industrielle, intensifie la concurrence et nécessite le nouveau règlement, tandis que l'élargissement de l'UE vers l'Europe centrale et orientale accru les disparités économiques et sociales avec «quinze».

***Mots-clés**:* Europe sociale, subsidiarité, accélération de l'intégration économique

1. Introduction

Comme des raisons à l'origine de la politique sociale européenne, il y a: l'harmonisation des déséquilibres économiques et sociaux dans l'Union; rapprochements des besoins sociaux et les problèmes rencontrés par les pays membres, en raison de la convergence, la croissance modérée de la population, plus long vie et moins courte période de travail, plus l'éducation, l'entrée massive des femmes dans le marché du travail, des changements structurels – principalement la transition de l'agriculture à l'industrie (et plus tard, le secteur des services) pour élever le niveau des salaires et protection sociale dans les pays membres. Par conséquent, la politique sociale européenne s'est affirmée sur quatre domaines importants: la libre circulation des travailleurs, une politique conjointe sur l'emploi, la politique, l'éducation et la formation professionnelle et à des politiques communes afin d'améliorer les conditions de vie et de travail.

2. Fondations de l'Europe sociale

Le développement de technologie entraîne des effets positifs et négatifs, il est donc nécessaire que le progrès social suive le progrès technologique. Il faut ajuster une attitude commune envers ces progrès afin de ne pas créer une distorsion de la concurrence dans le marché intérieur. Compte tenu de l'augmentation des relations économiques entre les pays membres, on ne peut pas maintenir des réformes sociales isolées, car il pourrait avoir des effets nocifs sur certains secteurs, et même sur toute l'économie.

Début du 21ème siècle impose de nouveaux défis pour la société européenne. La mondialisation des effets sur la production et le commerce, des nouvelles technologies sur le travail, la société et les individus, la persistance d'un chômage élevé et une population vieillissante, causent la pression sur les faites économique et social de tous les pays membres. Etant donné que pour la politique sociale sont principalement responsables des Etats membres, la coordination et la politique au sein de l'Union est de grande importance pour les systèmes nationaux de protection ne serait pas allé dans une direction qui serait en conflit avec les objectifs ou les normes d'emploi dans l'effectif total, ce qui a empêché la circulation des travailleurs ou qui sont opposés à la concurrence entre les États membres.

L'achèvement du marché unique à la fin des années 1980, on commençait à penser différemment sur la politique sociale commune. L'Acte unique européen et le traité sur l'Union européenne soulignent que l'amélioration du développement harmonieux de l'ensemble de l'Union augmenterait sa cohésion économique et sociale. Les Etats membres s'engagent à promouvoir et à améliorer l'environnement de travail, la protection, la sécurité et la santé des travailleurs et d'encourager l'harmonisation et l'amélioration des conditions existantes. Par conséquent, le Conseil des ministres à la majorité qualifiée, conjointement avec le Parlement européen, donne des conseils sur les règles minimales en tenant compte des conditions existantes et des dispositions techniques dans chaque État membre. L'harmonisation de la réglementation a été limitée par le principe de subsidiarité – c'est à dire le droit d'association, négociation collective et les conventions collectives, le droit de grève.

Selon l'Accord sur la politique sociale, l'objectif de l'Union et les États membres serait d'accroître l'emploi, d'améliorer la vie et l'avancement des travaux, fournir une protection sociale adéquate, le dialogue social et le développement des ressources humaines qui permettra à un plus haut niveau de l'emploi. Pour atteindre ces objectifs, le Conseil des Ministres est assurée par des décisions selon la modalité d'une majorité qualifiée, décide sur les points suivants: conditions de travail, information et consultation des travailleurs, l'égalité entre les hommes et les femmes et l'égalité de traitement sur le marché du travail et dans l'intégration professionnelle des personnes exclues du marché du travail. Dans d'autres domaines, il était nécessaire de parvenir à une décision unanime.

vre blanc de la Commission sur la politique sociale européenne a défini une politique de rapprochement et d'esquisser les voies de l'Union pour la période après 1995 (COM/94/333 final). Le Conseil des Ministres a établi plusieurs objectifs d'orientation de base: amélioration de la compétitivité de l'Union et le renforcement des forces qui fournissent des emplois. Le traité d'Amsterdam (1997) est particulièrement important pour le développement de la dimension sociale commune. Plus précisément, le Royaume-Uni a signé la Charte sociale et l'Accord sur la politique sociale est intégré dans le traité, avec quelques modifications.

Le nouvel article 13 (maintenant article 19 du traité sur le fonctionnement de l'UE – TFUE) permet au Conseil des Ministres de prendre les mesures appropriées pour combattre toute discrimination fondée sur le sexe, la race, l'origine ethnique, la religion ou les convictions, le handicap, l'âge ou l'orientation sexuelle. Ainsi, par exemple, a accepté les directives 2000/43/CE (sur l'égalité raciale) et 2000/78/CE (sur l'emploi). Le traité de Nice a apporté quelques changements.

La stratégie de Lisbonne (2000) a identifié les déterminants de l'économie européenne du 21ème siècle. À l'expiration de la stratégie ci-dessus, un des objectifs similaires, mais plus ambitieux ont été définis dans la nouvelle stratégie décennale – «Europe 2020».

3. Hétérogénéité de l'espace européen

Le paysage social de l'Union européenne est plein de contrastes. La position du marché du travail et les systèmes nationaux de protection sociale est très variable, en dépit de la forte convergence des cycles économiques. Le chômage est devenu un problème générationnel, le principal défi pour l'Europe et les européens. En 1993, l'Union européenne (UE15) a eu 10% de la population active au chômage (Tableau 1), tandis que les Etats-Unis avec 6,8% et le Japon avec 2,5% étaient des proches de l'équilibre de plein emploi. En 2008 le taux de chômage dans l'UE s'élevait à 7,0%, ce qui indique une réduction du nombre de chômeurs dans l'Union. Toutefois, en raison de l'impact de la crise mondiale et la récession, le taux est remonté à 10% mi-2010.

Tableau 1

Condition des marchés du travail nationaux dans l'UE

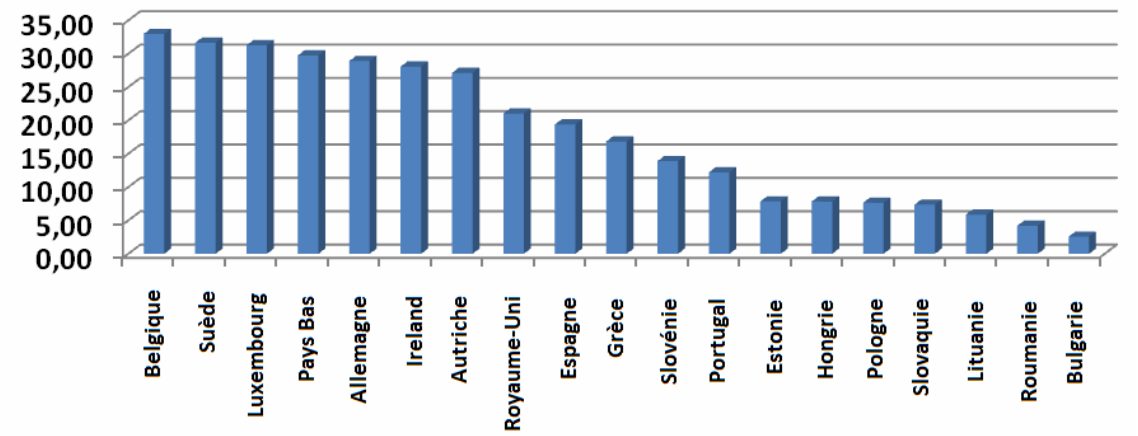
Pays :	Taux des travailleurs (%); 2009	Taux de chômage (%)			Chômage à long terme (%; plus de 12 mois; 2009)	Taux de chômage des jeunes (%; 15 - 24 ans; 2009)
		1993	2001	2009		
Luxembourg	65,2	2,6	1,9	5,1	1,2	16,5
Danemark	75,7	9,6	4,5	6,0	0,5	11,2
Autriche	71,6	4,0	3,6	4,8	1,0	10,0
Royaume-Uni	69,9	10,2	5,0	7,6	1,9	19,1
Pays Bas	77,0	5,5	2,5	3,7	0,9	7,7
Portugal	66,3	5,5	4,1	9,6	4,3	20,0
Suède	72,2	9,1	5,8	8,3	1,1	25,0
Finlande	68,7	16,3	9,1	8,2	1,4	21,5
Allemagne	70,9	7,6	7,6	7,5	3,4	10,4
France	64,2	11,0	8,3	9,5	3,3	23,5
Ireland	61,8	15,6	3,9	11,9	3,4	24,4
Belgique	61,6	8,6	6,6	7,9	3,5	21,9
Grèce	61,2	9,8	10,7	9,5	3,9	25,8
Italie	57,5	9,8	9,1	7,8	3,5	25,3
Espagne	59,8	18,4	10,3	18,0	4,3	37,8
UE15	65,9	10,0	7,3	9,1	3,0	19,3
Bulgarie	62,6	-	19,5	6,8	3,0	16,2
Rep. Tchèque	65,4	-	8,0	6,7	2,5	16,6
Estonie	63,5	-	12,6	13,8	3,8	27,5
Chypre	69,9	-	3,8	5,3	0,6	14,1
Lettonie	60,9	-	12,9	17,1	4,6	33,6
Lituanie	60,1	-	16,5	13,7	3,2	29,2
Hongrie	55,4	-	5,7	10,0	4,2	26,5
Malte	54,9	-	7,6	7,0	3,1	14,6
Pologne	59,3	-	18,3	8,2	2,5	20,6
Roumanie	58,6	-	6,8	6,9	2,2	20,8
Slovénie	67,5	-	6,2	5,9	1,8	13,6
Slovaquie	60,2	-	19,3	12,0	6,5	27,3
UE27	64,6	-	8,5	8,9	3,0	19,7
Etats -Uni	67,6	6,8	4,6	9,3	1,5	-
Japon	70,0	2,5	5,0	5,1	1,4	-

Source: *Eurostat, 2010.*

En principe, il y a des différences entre le modèle américain et européen du chômage et de revenus des travailleurs. Modèle américain donne la priorité à un moindre taux de chômage, la baisse du bénéfice et la ligne inférieure de la pauvreté afin d'augmenter les taux d'emploi. Taux d'emploi a été très élevé en 1997 (74%), un chômage de longue durée a été extrêmement faible. La crise mondiale et la récession, qui est aussi la propagation des États-Unis, a frappé le marché américain, mais un peu plus doux que l'Europe. Mi-2010, le taux de chômage était d'environ 9,5%, tandis qu'au Japon, était un beaucoup plus favorable de 5%.

Le modèle européen préfère des salaires plus élevés, plus bas que le niveau des charges sur la rémunération pour le chômage. En 2009, le taux moyen de chômage à long terme dans l'UE27 s'élevait à 3%, qui s'appliquait aux travailleurs qui cherchent du travail depuis plus d'un an. Même taux aux Etats-Unis et le Japon a été divisé par deux. Le taux d'emploi total en 1997 a été relativement faible dans l'UE15 (58,5%), malgré une augmentation significative de l'emploi féminin. La condition a été «amélioré» en 2008 (65,9% pour l'UE27), après quoi l'impact de la crise et la récession à nouveau effet négatif sur l'emploi dans l'Union européenne.

Les coûts du travail par employé varient fortement entre les États membres de l'UE (figure 1). Ils ont été répartis entre la Belgique, la Suède et le Luxembourg, dont les coûts salariaux sont les plus élevés (31-33 euros par heure) et en Bulgarie, en Roumanie et en Lituanie (2,5-6 euros par heure). La gamme est très large – près de 13 fois entre la Belgique et la Bulgarie. Cette différenciation, en particulier pour les pays de la zone euro, s'explique par la faible productivité du travail dans un pays où les coûts salariaux sont plus bas, la protection sociale insuffisante, et parfois la stratégie convenue compenser l'augmentation des salaires et loin de l'épicentre de l'économie européenne.



Remarque: se réfère à la moyenne des coûts des employés dans l'industrie, la construction et les services (hors administration, la défense et employés dans le sécurité sociale obligatoire), chez les sujets avec plus de dix salariés.

Source: *Eurostat, 2010.*

Figure 1. Coûts salariaux par heure pour les employés à temps plein de travail dans certains États membres de l'UE (2008)

Système de sécurité sociale, qui est la caractéristique principale du modèle européen de «l'économie sociale de marché», est un peu moins diversifiée que celle du marché du travail dans l'Union européenne. Les coûts sociaux représentent entre 11% (Lettonie) et 30,5% du PIB (France), tandis que le niveau moyen pour l'ensemble de l'Union 23,2% du PIB en 2007 (tableau 2). Haut de la hiérarchie se compose du modèle social scandinave (Suède, Danemark) et les pays du système social de Bismarck (France, Pays-Bas, Belgique, Allemagne, Autriche). Les niveaux moyens de la sécurité sociale sont enregistrés dans la Grande Bretagne, l'Italie, la Grèce, la Finlande et le Portugal, et légèrement inférieur en Hongrie, en Slovénie et en Espagne. Cette ferme de la hiérarchie des pays en transition, le modèle social dans lequel le niveau de protection sociale est beaucoup plus faible, surtout en Lettonie, l'Estonie et la Roumanie.

Tableau 2

Le niveau de protection sociale nationale et le risque de pauvreté dans l'UE

Pays :	La part des dépenses de protection sociale du PIB (2007)	Prestations sociales par habitant PPA*[1] (2007)	Seuil de pauvreté national en PPA*[1] pour 1 personne (2009)	Part de la population dont le revenu disponible équivalent inférieur au seuil de pauvreté (%; 2008)
Autriche	28,0	8.640,2	11.353	12,4
Belgique	29,5	8.657,6	10.431	14,7
Bulgarie	15,1	1.404,7	3.377	21,4
Chypre	18,5	4.175,9	11.554	16,2
Rep. Tchèque	18,6	3.717,8	6.014	9,0
Danemark	28,9	8.630,2	10.553*[2]	11,8
Estonie	12,5	2.156,1	4.775	19,5
Finlande	25,4	7.321,2	10.117	13,6

Pays :	La part des dépenses de protection sociale du PIB (2007)	Prestations sociales par habitant PPA*[1] (2007)	Seuil de pauvreté national en PPA[*1] pour 1 personne (2009)	Part de la population dont le revenu disponible équivalent inférieur au seuil de pauvreté (%; 2008)
France	30,5	8.264,3	10.705	13,3
Grèce	24,4	5.719,9	7.335	20,1
Ireland	18,9	7.054,4	10.663	15,5
Italie	26,7	6.773,3	9.119*[2]	18,7
Lettonie	11,0	1.580,0	4.521	25,6
Lituanie	14,3	2.135,9	4.469	20,0
Luxembourg	19,3	13.231,3	16.001	13,4
Hongrie	22,3	3.477,8	4.174	12,4
Malte	18,1	3.500,9	7.561	14,6
Pays Bas	30,1	9.293,2	11.623	10,5
Allemagne	28,4	7.943,1	10.748	15,2
Pologne	18,1	2.428,7	4.425	16,9
Portugal	24,8	4.700,6	5.712	18,5
Roumanie	12,8	1.352,2	2.132	23,4
Slovaquie	16,0	2.675,1	4.674	10,9
Slovénie	21,4	4.760,5	8.649	12,3
Espagne	21,0	5.526,4	8.362	19,6
Suède	29,7	9.028,0	11.135	12,2
G. Bretagne	25,3	7.455,1	11.348*[2]	18,8
UE15	26,9	7.464,3	-	16,4
UE27	26,2	6.521,8	-	16,5

*Remarques: Le seuil national de pauvreté est fixé à 60% de la médiane nationale de l'équilibre du revenu disponible équivalent (après transferts sociaux), exprimés en PPA pour équilibrer les différences entre les différences au niveau national; *[1] PPA – Parité de pouvoir d'achat, résultant de la méthodologie faites sur le PPA, l'unité de mesures introduites par Eurostat afin de comparer les niveaux de prix entre les pays, sans prendre la disparité des taux de change. *[2] Année 2008.*

Source: Eurostat, 2010

En plus de l'hétérogénéité des pays européens et la transparence des coûts, l'introduction de l'euro, les moins capables d'enregistrer la productivité du travail, il y a un risque d'abaissement du seuil de convergence sociale (Barthe, 2000), ce qui signifie la régression du modèle européen de l'économie sociale de marché, c'est à dire plus le seuil de la vie sociale, destructrice, car elle aggrave la situation des pays du Sud et de l'Est. Entre ces deux risques, il faut trouver une solution équilibrée à l'aide loyaux avantage concurrentiel de l'autre.

Dans la compétition sociale «vers le bas» sont adjacents à l'intervention publique pour réduire la fiscalité des entreprises, l'abolition temporaire du paiement des cotisations de sécurité sociale pour les investissements des fonds d'aide, les coûts d'acquisitions des dépenses d'infrastructures de transport et ses préparations. Le risque des restrictions de la détermination des salaires compétitifs manifeste par une croissance plus faible des salaires par rapport aux concurrents directs. Les Pays-Bas ont introduit la politique de l'Accord de Wassenaar en 1982, qui ont des salaires gelés et de réduire le temps de travail est partiellement pour stimuler l'emploi et de contrôle sur le niveau d'inflation, à un moment où d'autres pays européens tentent de rivaliser avec les ajustements sûr plus doux et/ou des salaires.

L'imposition de l'harmonisation sociale «vers le haut» est également néfaste car elle ne tient pas compte de la différence dans les niveaux de développement et de productivité entre les pays. Les pays ayant des niveaux inférieurs de développement économique acceptent des modèles sociaux des pays développés, que les salaires sont déterminés au niveau européen sur la base du pays, le chômage faible et une forte productivité. Une telle politique aggrave la situation des pays du Sud et Est de l'Europe.

L'Union européenne devrait éviter l'égalisation des salaires et des normes sociales (convergence sociale) jusqu'à ce qu'il y soit un processus naturel de convergence des pays moins développé que

des pays membres de l'UE (convergence réelle). Toutefois, l'augmentation du revenu par habitant et les dépenses de protection sociale dans les vingt dernières années a été (presque) plus élevée dans les nouveaux Etats membres que dans les anciens. Coûts salariaux plus bas et les dépenses sociales dans les pays moins développés sont généralement un avantage concurrentiel essentiel, car ils permettent la délocalisation d'entreprises.

4. Le développement de la politique sociale dans l'UE et de son cadre institutionnel

La politique sociale européenne ne peut pas être un simple transfert des politiques sociales nationales qui ont historiquement créé comme un compromis entre les groupes sociaux, chacun des pays membres, l'existence de grandes différences dans les domaines des relations conventionnelles. Le principe de subsidiarité est souvent invoqué pour confirmer les avantages de la souveraineté nationale sur les questions sociales et l'absence de compétence de l'UE, en particulier pour les questions relatives aux salaires des travailleurs. Le progrès économique et social doit fonctionner en parallèle afin de préserver le modèle social européen.

Dans le Traité de Rome, la politique sociale résume l'introduction du Fonds social européen (FSE). On croit que l'ajout de la politique économique, mais a été défini dans les articles régissant la libre circulation des travailleurs dans la Communauté et des règlements qui encouragent la coopération dans le domaine de la politique sociale – l'article 136 est défini comment peut être le fonctionnement «du marché pour permettre de meilleures conditions de travail et de vie meilleure pour travailleurs» (art. 151 TFUE).

En janvier 1974, le Conseil des ministres acceptait le premier programme d'action dans le domaine social et confirmait les dispositions de l'article 100 du Traité de Rome (article 115 TFUE), qui se réfère à l'approche législative sous la forme de directives: sur les licenciements collectifs (1975), l'égalité de rémunération pour les hommes et les femmes (1975), l'égalité de traitement (1976), les droits des travailleurs en cas de vente ou de fusion (1977), sur l'égalité de traitement en matière de protection sociale (1978) et la protection des salaires en cas d'insolvabilité de l'employeur (1980).

Dans le milieu des années 1980 vient à la déréglementation du marché du travail dans la Communauté à travers le projet de création d'un marché unique et l'Acte unique européen (1986). Les contrats sont alors introduit un nouvel article visant à éviter le dumping social permet l'harmonisation des conditions de santé et sécurité au travail, a été un lieu de partenaires sociaux à négocier des accords.

Basé sur la Charte sociale européenne du Conseil de l'Europe et la Convention de l'Organisation internationale du Travail (OIT), la Charte sociale est adoptée le 9 décembre 1989 à Strasbourg par les onze pays membres de la Communauté, sans la Grande Bretagne. Domaines abordés dans la charte sont:

- le mouvement libre des travailleurs
- emploi et rémunération
- amélioration des conditions de vie et de travail
- la protection sociale
- la liberté d'association et de négociation collective
- formation professionnelle
- l'égalité de traitement entre hommes et femmes
- l'information, consultation et participation des travailleurs
- santé et sécurité au travail
- la protection de l'enfance et la jeunesse
- le traitement des personnes âgées et des personnes handicapées.

Protocole à l'Accord sur la politique sociale est devenu une partie intégrante du contrat de Maastricht. Accord sur la politique sociale a cristallisé les trois domaines et les modalités des diverses interventions de l'Union (art. 153 TFUE):

- Le premier domaine qui est en dehors des domaines supranationaux se réfère aux salaires, le droit d'association, le droit de grève et le droit d'arrêter du travail dans entreprise par le propriétaire («lock-out»), la responsabilité ont conservé les États membres.
- La majorité qualifiée du vote du Conseil des ministres, après consultation du Comité économique et social européen (CESE) et Comité des régions, s'agit de santé et sécurité, conditions

de travail, information et consultation des travailleurs, l'intégration des personnes exclues du marché du travail et l'égalité des chances et de traitement entre les hommes et les femmes sur le marché du travail, lutte contre l'exclusion sociale et la modernisation des systèmes de protection sociale.

- Enfin, les domaines dans lesquels le Conseil des ministres statue à l'unanimité après consultation du Parlement européen, du CESE et du Conseil des régions; il s'agit de la sécurité sociale et protection sociale des travailleurs, la protection des travailleurs en cas de résiliation du contrat de travail, la représentation et la protection des intérêts collectifs des travailleurs et des employeurs, conditions d'emploi des résidents de pays tiers avec séjour régulier.

En outre, l'article 156 TFUE que la Commission devrait encourager la coopération entre les États membres et encourager la coordination de la politique sociale nationale, en particulier dans les domaines des droits de l'emploi du travail et des conditions de travail, de base et avancer la formation professionnelle, sécurité sociale, la prévention des lésions et maladies professionnelles, garantissant environnement de travail sain et les droits d'association et de négociation collective entre les travailleurs et les employeurs.

Le cadre institutionnel de la politique sociale européenne est de rendre les institutions de base de l'Union qui ont un rôle décisif fonctions législatives, exécutives et judiciaires au niveau supranational (Conseil des ministres, la Commission européenne, Parlement européen, la Cour de justice), et de nombreux organes consultatifs et subsidiaires au niveau européen, parmi lesquels le plus ledit comité économique et social. Le soutien financier de la politique sociale commune a une place cruciale du Fonds social européen (FSE).

Le CESE, un organe permanent consultatif créé par le traité de Rome, était le lieu des représentants de la société civile de l'Union européenne. Les membres du Comité ont été divisés en trois groupes de travail: les employeurs, les travailleurs et les diverses activités (artisanat, agriculteurs, consommateurs, travailleurs indépendants, etc.). Après l'année 1994, il a été créé le deuxième organe le plus important consultatif – le Comité des régions, qui représente les intérêts des autorités régionales et locales des Etats membres. Ont été établis et d'autres institutions spécialisées pour traiter des problèmes de l'emploi et de la politique sociale.

Le principal instrument financier de la politique sociale européenne est le Fonds social européen (FSE). FSE est le plus ancien des fonds structurels de l'UE et a été établi par le Traité de Rome, et ses principaux objectifs sont (article 162 TFUE) d'améliorer les possibilités d'emploi pour les travailleurs dans le marché intérieur et à l'ajustement des mutations industrielles et l'augmentation de la mobilité géographique et professionnelle, notamment par la formation et la reconversion professionnelles. Dans les objectifs du Fonds de l'Union, il contribue à renforcer la cohésion économique, sociale et territoriale dans l'Union en améliorant l'emploi, à savoir la création d'emplois plus nombreux et mieux. Pour la période 2007-2013, le Fonds social dispose de 77 milliards d'euros pour un large éventail d'objectifs (Directives 1081/2006/EC et 1083/2006/EC).

5. Mobilité des travailleurs et des politiques de l'emploi dans l'UE

Il est estimé que dans les dix premières années, le marché intérieur a encouragé l'ouverture de 2,5 millions d'emplois nouveaux, supplémentaires de croissance du PIB, de réduire les coûts d'exploitation et les disparités de revenus entre les Etats. Dans le domaine de la mobilité du travail sont essentiels les deux principes fondamentaux du marché intérieur: le principe de non-discrimination et le principe de reconnaissance mutuelle, qui est particulièrement important dans le cas de la reconnaissance mutuelle des qualifications professionnelles.

Le traité d'Amsterdam introduit un nouveau chapitre sur l'emploi dans les fondements juridiques de l'UE, qui vous permet de: respect de l'objectif supranational de plein emploi dans l'UE, qui est également pris en compte lors de l'examen et les autres politiques communes, la coordination des activités au niveau de l'UE, tels que des lignes directrices sur l'emploi; la possibilité d'adopter des mesures d'incitation (projets, programmes, recommandations...) par le Conseil des ministres par une majorité de décision du système qualifié.

Lors du Sommet de Lisbonne en 2000 il a été décidé d'adopter une stratégie pour faciliter la réalisation du plein emploi et une plus grande cohésion à l'horizon 2010. La stratégie de Lisbonne et le développement de la société de la connaissance sont la base de la politique de l'emploi et la politique sociale de l'UE a exprimé dans la Stratégie européenne pour l'emploi, la stratégie européenne pour la réforme des marchés du travail et de l'Agenda social. Après 2005, l'accès à relancer la stratégie de Lisbonne appelle la croissance et l'emploi et l'établissement d'un programme conjoint de l'emploi et la solidarité sociale – PROGRESS. Ce programme soutient financièrement de

la mise en œuvre des objectifs de l'UE dans le domaine de l'emploi et des affaires sociales et les questions d'emploi, l'inclusion sociale et de protection, les conditions de travail, la discrimination et l'égalité des sexes.

Le Conseil européen de Décembre 2006 a décidé de créer un Fonds européen d'ajustement à la mondialisation – FEM (Directive 1327/2006/EC). Le Fonds a pour mission de fournir un soutien aux travailleurs qui perdent leur emploi en raison de la restructuration et de les aider dans l'enseignement professionnel et trouver un nouvel emploi. Il s'agit d'un instrument financier de l'Union, pour lequel le cadre financier pour 2007-2013 fournis € 11,3 milliards.

Bien que le Traité de Rome prévoit l'objectif d'améliorer «le niveau élevé de protection de l'emploi et sociale», que le traité d'Amsterdam a spécifiquement dédié à l'emploi. Ce n'est que depuis lors, le plein emploi est considéré comme un objectif commun d'une politique supranationale. A cette occasion, la politique de l'Union européenne veut atteindre le taux d'emploi élevé, supérieur à 75% (selon une nouvelle stratégie de «l'Europe 2020»), qui en 2009, toutefois, était seulement de 64,6%, quelques pour cent de moins que les Etats Unis et le Japon.

Par conséquent, la stratégie européenne pour l'emploi, ou Processus de Luxembourg a été lancé en 1997, est le cadre du cycle annuel de coordination et de suivi des politiques nationales pour l'emploi. Inspiré par l'introduction de la surveillance multilatérale des politiques économiques avec les méthodes définies, des objectifs et des délais. Sur la proposition de la Commission européenne, le Conseil des ministres à la majorité qualifiée en faveur «de la directive, les États membres devraient adopter dans leurs politiques de l'emploi» (art. 148 TFUE). Conseil évalue chaque année l'application de ces politiques sur la base de Plans d'Action Nationaux a introduit dans les pays de l'UE, qui sont liés à l'échange d'informations, les «meilleures pratiques», l'analyse comparative et l'évaluation des performances («benchmarking»).

6. Bilan et perspectives de la politique sociale européenne

Si l'on garde à l'esprit que pratiquement a commencé sans les fonds, la politique sociale de l'Union va bien au-delà. Son plus grand succès est la réalisation d'un marché commun du travail. Les travailleurs migrants en provenance des régions les plus pauvres de l'Union ont utilisé une des conditions plus équitables dans le domaine de l'emploi, sécurité sociale, l'éducation et la formation professionnelle pour leurs enfants, de vie et les conditions de travail et les droits syndicaux lors de travaux dans un autre pays de l'UE. Bien que la politique de l'emploi de l'UE, à partir du milieu des années 1970, n'ait pas réussi de résoudre le problème du chômage dans l'UE, il a desserré les chômeurs, en particulier les plus touchés, les jeunes et les femmes, participant au financement de l'enseignement professionnel.

Une union sociale avancée réduit la diversité des tensions sociales et les rythmes du progrès social des pays membres. Certains pays membres souffrent de «dumping social» d'autres pays et sont définitivement désactivé. Pour éviter cela, l'Union européenne renforce la cohésion économique et sociale dans laquelle ses fonds structurels contribuent à l'approximation du niveau de développement des États membres et régions de l'UE. Les objectifs de la stabilité sociale du marché intérieur sont des éléments essentiels de la Charte commune des droits sociaux fondamentaux: maximiser les avantages, les politiques actives d'emploi et appropriés de formation professionnelle, notamment la mise en œuvre de la libre circulation des personnes, la santé et la sécurité au travail, le dialogue de solidarité et sociale.

L'Acte unique européen a introduit une règle du vote à la majorité pour la plupart des lignes directrices sur l'harmonisation des règles du marché intérieur, tout en conservant la règle de l'unanimité dans la législation sociale, ce qui permettait aux États membres de s'opposer à l'intervention supranationale, et en bloquant un certain nombre de propositions de la Commission européenne. Ni le Traité de Lisbonne a aboli la pratique de la décision à l'unanimité dans certains domaines de la législation sociale et l'emploi.

L'activité économique de l'Union est confrontée à d'énormes changements dans l'industrie, et pour quantitativement et qualitativement, la mondialisation de la production et des marchés, l'accélération du changement technologique oblige l'UE à changer d'emploi, ce qui signifie qu'il doit s'adapter aux changements futurs dans la qualification des travailleurs et de minimiser les coûts économiques et sociaux, conformément à ces changements. Afin de préserver la compétitivité internationale, ainsi qu'à réduire et prévenir le chômage, l'UE a besoin d'augmenter la productivité des travailleurs, politiques sociales plus efficaces des Etats membres et est basé sur la motivation et la qualification

des travailleurs. Les marchés du travail dans l'UE doit devenir plus «inclusive», avec des opportunités pour tous, et ils deviennent également plus de souplesse aux conditions économiques changeantes.

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Chapter III
Balkan priorities for European Administrative Space enlargement

III. 1. EVALUATION AND TRANSPARENCY IN PA MODERNIZATION: MONITORING THE MAIN MECHANISMS IN ITALY AND ROMANIA

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Abstract

Despite of variety of changes and interests in PA citizen's relationships, the commitments in public service delivery are more 'customer oriented'. With the development of the New Public Management paradigm and public sector reforms, a new model of Public Administration- citizen's relationship in public management is addressed. The scholar's attention to verify and overcome the gaps in Public Administration-citizens relations for a more effective quality in public service delivery is increasingly relevant, but quality policy programs implementation for a more integrated citizen-centered service are still poorly developed. At the first glance the continuous improvement of implementation programs dealing with citizen-centered service and the quality-oriented practices in Italy and Romania seems quite fragmented. The argument sets the general framework for assessing quality service, exploring the causal relationships between administrative performance in terms of transparency and citizen' satisfaction within the public administration, through the analyses on a first stage projects implementation and instruments of evaluation institutionalization. The paper presents a first initial overview on the current quality policies, paradigms and projects for delivery of government services for a citizens/customer development approach through a more integrated, easy-to-access and personalized services and generates also, possible guidance in methods in carrying reforms, tools and mechanisms of evaluation.

Keywords: quality, transparency, evaluation, PA-citizen relationships, customer satisfaction.

1. Introduction

The recent trends entails that the growing sophistication of citizen and business demands public administration to recurring and continuing efforts to improve effectiveness, quality and efficiency of public service and most of the academic literature relates to the fundamental role of transparency in better governance (Heald 2006) and the successful interaction programs between citizens and public bureaucrats as the key concepts in order to guarantee high level of effectiveness and efficiency. Therefore, openness and transparency has been seen as tools to enhance citizen participation and perception about the services delivered.

Public policy development and public service delivery have been affected by the new public management (NPM) ideas and reform strategies that have resulted in a shift away from the traditional citizenship-based model of public services towards a consumerist model based on market-oriented principles (Brewer 2007). Addressing the trends in the literature on the variation and continuous restructuring of the PA, the article address the below mentioned questions: Do NPM model brings efficiency and customer satisfaction by creating new channels for citizen engagement and transparency? Did the new approach chosen by different governments produces the expected outcomes of higher performance and increased transparency with better inclusion of citizens in the administrative system? How and by whom the contents and mechanisms of performance evaluation are directed and what kind of process the performance evaluation has promoted in the last years of reforms?

1.1 Transparency and citizen/ customer government paradigm

Despite of variety of changes and interests in PA citizen's relationships, the commitments in public service delivery are more 'customer oriented'. In all repertoires of changes used by OECD advisers, NPM articulates citizens as customers of local government services and seek to be more efficient in its delivery through continuous process improvements. Even though NPM is often highly contested (e.g. Box et al. 2001) it is clear that there is an increased focus by governments on the citizen as a whole, and on the citizen as consumer in particular. The public gradually evolved from citizen to customer acquiring rights, claiming benefits and services (Wollmann and Schröter 2000).

NPM reaches the objectives of satisfying customer satisfaction with quality effectiveness and keeping public well informed about the accountability of end users, by simultaneously modernizing the internal structure of the administration and by introducing market elements mechanisms. Overall, NPM programs seem to emphasize simplifying public administration and allowing individuals more choice and influence on governmental decision-making, through customer –oriented services. However, scholars usually agree that these change programs are far from being unified in content and direction (Christensen and Lægreid 2001).

The 'supermarket model' –Producer/Customer Paradigm (Olsen 1988), that looks beyond NPM model, sees the government as service provider and people as consumers, emphasizing that state should focus on reforms aimed at cost-efficiency and cater to consumers by creating easy choices and giving them access to low-priced and good quality public services. On the other hand, the Government–Citizens Paradigm, sees at a beneficial development of the conceptualization of the Producer-Customer Paradigm (Gore 1993) encapsulates the essence of the focused customer oriented approach but offers more opportunities and scopes for public service improvements. The citizen relationship management (CRM) for PA can be a critical factor of success as is happening in the private sector. Applying these principles to transition countries may encounter additional layers of complexity. But the lack of transparency is not exclusive neither of developing/transitional countries nor public/private sector. NPM is controversial enough even within Western countries in terms of the benefits it allegedly brings.

Table 1

Looking beyond 'traditional citizenship-based model'

Producer/ Customer	NPM	Government/Citizen
Producer /provider	Separation between users/ provider/ sponsors; make service delivery more seamless for citizens, customer orientation instead a producer dominance	Government/Protector
Production/ Management	Open, keeping the public informed accountable (end users)/ Consultative,	Welfare and Safety/ Consultation/ Balance

Producer/ Customer	NPM	Government/Citizen
	priority to clients responsive	
Producer/ Customer	**NPM**	**Government/Citizen**
Consumerist/ Individualistic	Merit based remuneration	Conservationist/ Collectivistic/ Partnerships
Economic Dimension	Economic dimension/neglects the economic and political dimension	Political/ Social Dimension
Productivity/ Satisfaction	Customer/citizen satisfaction survey	Support/Public Participation
Consumer/ Recipient/ Buyer	Tax payer	Decider/ Participant/ Tax Payer

2. Quality improvement and transparency in Italian and Romania public administration

The launch of initiatives that have characterized the quality improvement in the last decades encountered needs and expectations of those entities to which the institution is called upon to provide one or more services. Quality policies orientation has different unavoidable constrains, imposed by cultures and organizational structures in sustaining quality initiatives (significant differences in the actual organizational units). Decentralized approaches (most frequently in Romania case) and/or a top-down, bottom-up approach or a combination of both as in Italian case are examples of differences in cultures and organizational structures in respective countries.

Most commonly the mechanisms addressing the improvement quality of public service, marked as charters, quality standards, performance standards, service standards or similar documents are seen as substantial instruments for assessing citizens/ customer satisfaction and a quality indicator as well. The tools that governments have used in recent years are different, from the creation of periodic surveys (qualitative interviews), activation of call centers, contact centers, offices for relations with the public, websites, service complaints, as per the changing response of citizens needs. Thus, a fundamental step in order to achieve the goal of total quality phase in PA modernization is the increased consciousness of the citizen with the services through management of projects, dissemination of knowledge, information transparency, uniformity of language as some of the elements that feed a virtuous cycle to enhance dialogue and comparison between the levels.

Table 2

Comparative Overview on the Quality Improvement and Evaluation Instruments

Component	Italy	Romania
Service & Citizen Orientation	i) Creation of administrations' offices for relations with citizens (URP); ii) Transparency freedom of information iii) Creation of ombudsman at regional level; iv) Quality initiatives (CAF/EFQM, customer satisfaction surveys, etc.); v) Citizens' charters.	i) Introduction of Citizen Information Centers (CIC) ii)Transparency and freedom of information; iii) Creation of Ombudsman at national and regional level; iv) Quality initiatives (CAF/ EFQM, quality awards, etc.)
Critics & Limitations	i) Pursued mainly through a greater professionalization instead of market-type mechanisms; ii) Fragmented initiatives; stop-and-go approach.	i) Citizens information structures not generalized at local levels; ii) Lack of citizen participation; iii) Fragmented initiatives.

3. Romania

3.1 Quality Improvement

To improve *Quality Orientation* in Romanian PA important steps were made in introducing the quality management tools by ensuring public services for citizens, through achieving the optimum ratio

between cost and quantity/quality of public services in terms of meeting the needs. Among the most used quality activities -a memorandum regarding "Necessary measures for improving quality of public services" was adopted. Citizens Charters and a guide quality standard for self assessment CAF, as well as various strategic documents have been adopted by the Government (National Reform Programme 2007–2010) for achieving the Lisbon Strategy goals. In year 2004, CAF supported by Central Unit for Public Administration Reform (CUPAR), was applied as a pilot stage project within two directorates of the Ministry of Administration and Interior (MAI) and the National Agency of Civil Servants, and later, in 2005, it was expanded at the level of all ministries, prefectures, county councils (Matei and Lazar, 2011). Among the variety of quality tools for assessing public participation in Romania, prominently C.L.E.A.R. program is designed for helping local governments and/or other organizations to better understand public participation.

In Romania, between 1996-2006, 111 PA legislative measures improvements have been established, out of which 51 and 27 measures were taken in the field of citizen's relationship and cooperation with community respectively. In Romania the operational programs (OP ACD, 2007-13) are showing the need to improved quality and efficiency of the delivery of public services on a decentralized basis, also the development of new management competences and higher standards of customer service are needed to improve the quality of service. Finally, a greater focus on the use and accountability for public money is needed to narrow the gap in citizen satisfaction with the efficiency of public services.

Table 3

Legislative reforms for improving PA citizen relationship and transparency

Law Number	Aspects
215/ 2001; 326/ 2001	Improves the special role of the citizens.
215/ 2001	Framework for developing cost & quality standards at local public administration (revised in 2006).
544/ 2001	Addresses free access to information for accountability & transparency.
52/ 2003	Transparency in decisional making process.
775/ 2005	All public policies/strategies issued by ministries must include quality management aspects in order to make public institutions more accountable, responsible, effective and citizen-oriented.

3.2 Transparency and evaluation mechanisms

The main prerequisites for reforming the *Transparency and evaluation mechanisms* are introduced through i) the access to information, ii)consultation and iii) civic participation (Matei 2009) as well as, the allocation of resource transfers to local authorities in a more transparent manner in 2004.

During 2000-2004, Romania has created an impressive arsenal of instruments for transparency, accountability and anticorruption and it seems that some of them generated positive results' but still consistent problems related to the low implementation of the legislation, limited administrative instruments" are persistent. In 2003, 662447 requests of information of public interests were addressed at national level, out of which 97% are solved favorable (Matei 2009).

The legislation on e-government (2001) was a noteworthy step for the principle of transparency at the administrative system level. As far as the openness is concerned, adopting in 1998 the National Strategy for Computerization and Rapid Implementation of the Information Society is appreciated by the Commission, but Romania is still confronted with problems of proper dissemination of information, problems of citizens' involvement in decision making. Government's activity within different fields is perceived as being weak, negative opinions of the citizens have been shown through opinion polls. As per as National Plans for the development shows, 75% of the citizens perceive corruption as a generalized phenomenon within the administration (Matei, matei and Savulescu, 2010).

Table 4

Indicative operations to address the gaps in PA citizen's relationships in Romania

Indicative operations
1. Implementation of initiatives to reduce the time taken to deliver services (eg. one-stop shop customer (physical as well as electronic)); service plans, document management, use of the silence-is-consent rule etc.
2. Training on service performance assessment.
3. Review of specific problems in service delivery, in order to simplify and reduce the administrative burden on citizens.
4. The use of IT-driven mechanisms, *i.e.* web-based portals and databases.
5. Implementing service delivery charters (introducing a set of general principles regarding the quality of the services which are delivered to the customers).
(Source: PODCA 2007-2010)

4. Italy

4.1 Assessing satisfaction level and transparency: a strategic need

The legislative decree 150/2009 implementing the Brunetta reform and aiming at streamline the efficiency and the transparency of the Italian public administration brings in the performance management cycle. It aims to measure and assess the results of each public administration unit in terms of efficiency of the human resources, satisfaction level of the final users and transparency of its action. The accent on the satisfaction level of the final user requires the enforcement of policies and actions focused to detect their satisfaction level for the activities and services provided. It also concerns the development of qualitative and quantitative relations with the citizens through collaborative and participative forms of engagement. All the public administration in implementing and managing each step of the performance cycle need to assure the maximum level of transparency, including the publication on their institutional web site of a series of data concerning the different aspects of the organization. In the next paragraphs will be described some concrete initiatives and projects aiming to implement these two aspects of the new administrative reform.

4.1.1 Assessing satisfaction level: Show Your Face

The assessment of the satisfaction level for the services provided by each public administration unit is one of the fundamental objectives of the Brunetta reform. The concept of customer satisfaction refers to the capacity of the public administration to trigger in a proactive and global way a series of actions aiming to satisfy needs and demands coming from the stakeholders, citizens and users. In order to do so the public administration need to be equipped to measure the quality perceived by the citizens and frame it in a management perspective aiming to improve the services provided (effective quality). A stronger involvement of the citizens in the policies and management of the services provided by the public administration is becoming more and more fundamental. The citizen's participation to the public choices needs to be considered as a strategic resource. The Italian public administration in the coming years will radically change only if it will succeed in putting the accent on the user perspective in the services planning and designing.

The Brunetta reform has been the lever action for several initiatives and projects aiming to spread the customer satisfaction management. The main institutional actor dealing with such initiatives is the Department for the Public Administration which started in 2008 to organize a series of initiatives to approach the public administration with the different aspects of this concept. The most innovative pilot project launched by the Department of Public Administration is called "Show Your Face" *(Mettiamoci la Faccia)* and was launched for the first time in 2009. It aims to equip the public administration with competences and tools for measuring and assessing the quality of the services provided thanks to the introduction of a methodical survey of the customer satisfaction through emoticons. As Fountain points out this measuring tool can largely contribute to improve the relation between the citizens and the public administration making this latter more transparent and participatory. The assessment mechanism can easily detect the weak points of the administrative processes, identify priorities for service delivery and improve the overall performance of the public administration (Fountain 2010). The mechanism is very easy citizens can cast their vote by choosing the appropriate emoticon which better represent the satisfaction level for the service delivered (see figure 1).

Satisfied *Neutral* *Dissatisfied*

Figure 1. Emoticons assessing customer satisfaction

If the citizen is not satisfied a second mask appears listing all the possible reasons for the disappointment. These reasons change according to the different channels and can be set by the administration. An example can be found in the table 5.

Table 5

Mask showing the reasons for disappointing

Channel	Reasons
FACE TO FACE	Waiting time Employee professionalism Need to come back Negative answer
TELEPHONE	Waiting time Employee professionalism Need to call back Negative answer
WEB	Difficult access Unclear instructions Information not updated

(**Source:** Ministry for Innovation and Public Administration)

Although the several advantages of this citizen quality perceived measurement mechanism the limitation and weaknesses suggest the need of carefully consider its use. Firstly the use of the emoticons needs to be adopted in the wider framework of the management of the customer satisfaction. The tool needs to be integrated with the other traditional tools as surveys, focus groups and complaints forms. Secondly it can be applied to measure the quality perceived only for some kind of services featured by a low level of complexity, a low intensity relation and at single demand. Although these important limitations the implementation of this pilot project seems to be a success either in quantitative or qualitative terms. According to the most recent data in two years this initiative collected about 7, 6 millions of feedbacks with an average of 122.000 feedbacks per week. So far 848 public administrations joined the project (90% are municipalities) and 204 started the data gathering. Currently a network of more than 2.500 front offices is equipped to monitor the customer satisfaction through the emoticons. The growth trend is positive and the number is rapidly increasing considering that only 5 public administrations started the pilot project in 2009. The results are also positive in terms of citizens satisfaction as 81% of the citizens expressed a positive opinion on the service delivered.

4.2. Operation transparency: sharing information for mutual trust

According to the art. 11 of the legislative decree 150/2009 the performance management cycle needs to be as much transparent as possible. Transparency as already stressed is intended in its wider meaning as the total accessibility by the general public of all information concerning every aspect of the organization. As already established by art. 21 of the law 69/2009 and further extended by art. 11, paragraph 8 of the legislative decree 150/2009 each public administration is obliged to disclose all the relevant data and figures concerning the most important aspect of its organization. They are obliged to inform the department of Public Administration and publish on the institutional web site all information on proceedings, tenders, evaluation, absences, salaries, curriculum vitae, remunerations for participation in consortia and companies, assignments for consultants. The range of

information includes all leave granted by the public administration to civil servants to participate in trade union activities or elected public offices activities as well. This also includes the publication of the transparency and integrity plan and the performance evaluation plan. The Transparency operation initiative aims at implementing the above mentioned law provisions by supporting the public administrations in complying with the legislative requirements. It was launched by the Minster for Public Administration in 2008 and it is currently based on three pillars. The first pillar concerns the database for the assignments (*anagrafe delle prestazioni),* the second one is the monitoring of the shares held by the public administrations in companies and consortia and the third one is the monitoring of the absences of the public employees. The monitoring of the publication of transparency and performance plans as foreseen by art. 8, paragraph 10 law 150/2009 has been assigned to an independent commission (CIVIT) established by the art. 13 of the same legislative decree. Complying with the entire above mentioned obligation imposed to all public administration in a relative short period of time will necessarily take many years. In any case a first assessment on the current level of implementation of the transparency operation could help us to understand how fast the public administration reacted to the need of transparency. The analysis of the most recent official data (Report to the Italian Parliament on the state of the Public Administration 2009) can give us a clue on the complying trend. Considering the first pillar of the transparency operation data shows that 4.438 public administrations provided in 2009 to the Department for Public Administration the requested information on the external assignments gave to the employee. The positive trend respect to the previous year is equal to 19%. 10.196 provided this figure for the external consultants with an increase of 12% respect to the previous year.

Table 6

Data comparison of database for the assignments

	Employees			**External consultants**		
Unit of analysis	*2008*	*2009*	*Variation*	*2008*	*2009*	*Variation*
PA reporting assignments	3.728	4.438	19%	8.749	10.196	12%
No. of beneficiaries of the assignments	45.988	65.740	23%	152.462	175.388	13%
No. of assignments granted by the PA	80.540	102.876	28%	220.793	269.938	18%

(**Source:** Report to the Italian Parliament on the state of the Public Administration 2009, presented on October 2010).

The figures show a positive trend in complying with the informative obligation from the previous year although it is not clear from the table the reason of such increase as well as the percentage of public administration which provided this information out of the total number obliged to do it. In fact art. 53, par. 12 of the legislative decree 165/2001 obliges all the public administration to provide this information also in case any assignment to the employees was granted (negative declaration). This norm seems ignored as among all the public administration providing this information in 2008 (3.728) only the 0,14% provided a negative declaration. Although the total number of public administration is difficult to calculate it is reasonable to affirm that the total number of public administrations obliged to provide this information (according to art. 12 of the legislative decree 165/2001) is around 15.000. Thus the complying rate in 2009 for this category would be less than 30%. For the external consultants the case is different as only the public administration who granted assignments to external consultant were obliged to provide this information. Similar problems affect the data related to third pillar of the transparency operation concerning the monitoring of the absences of the public employees. According to art. 21 of the legislative decree 69/2009 all the public administrations are

obliged to publish on the institutional website the absenteeism rates for each administrative unit. In order to monitor the absenteeism rate the Department for Public Administration started to design new procedures for the data capturing. During 2009 the number of public administration answering to the new monitoring system was on average 4.179 (Report to the Italian Parliament on the state of the Public Administration 2009, presented on October 2010: 87). Considering the estimated total number of public administration also in this case the complying rate is less than 30%.

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III.2. THE EVALUATION OF PUBLIC MANAGERS' PERFORMANCES IN THE LIGHT OF ITALIAN PUBLIC ADMINISTRATION REFORM

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Abstract

The reform of Italian public administration has concentrated on improving public action performances, by a regulation of public management and the connected introduction of two key words: autonomy and accountability. Even thought the legislative decrees nr. 286/99 and nr. 165/01 introduced an evaluation and control system of managers' activities, they have been applied with a very little success inside public administration. The reason is that evaluation has been realized in a bureaucratic way, often by the use of a great number of general indicators, which do not concretely reflect actual organizational processes and related outcomes. According to the above considerations, it could be stated that the reform of the Italian public administration did not completely accomplish its two fundamental goals. First of all, it did not recognize a greater autonomy to managers, and, on the other hand , it has provided a managers' performance evaluation system which is not compliant to the reality. A new discipline has been recently provided by the legislative decree nr. 150/09. Its aim is to introduce a concrete system of measures and indicators, which are oriented to ensure the accountability of public managers' activities. The purpose of this paper is to verify why managers' performance evaluation system provided by legislative decrees nr. 286/99 and nr. 165/01 was not proper and well-functioning; to analyze the changes introduced by the new discipline and, finally, to verify if such innovations are really able to realize an adequate evaluation system of public managers' performances.

Keywords: New public management, managerial autonomy**,** public policy; policy design,evaluation performance, accountability.

Introduction

Up until the changes brought about by law 15/2009 (passed in 1992-3 and integrated in 1997-8) and its various executive decrees, public administration and public work reform in Italy was based on several fundamental principles. These included: the principle of separation of politics and administrative management; the reinforcing of managerial autonomy and responsibility; privatization/contracting of employer-employee relations and reform of trade union relations; the introduction of managerial techniques typical of the private sector, including the handling of human resources. This programme's approach drew its inspiration from 'new public management', Public Choice and the economic theories of organization that aimed to remove all differences between the public and private sectors of the economy(Hood 1991 e 1995) .

In particular, the issues of management and regulation of managerial roles are at the centre of critical thinking regarding the applicative experience of the reform process in the nineties.

According to most authors many of the novel elements introduced by the reform "haven't worked", either because of shortcomings in the original norms, unsatisfactory application, or failed implementation. Among the shortcomings, we find, above all, an inadequate or unrealistic configuration of the manager's commanding and organizational role, not only in his/her relationship with the political powers, but also in his/her role as trade union counterpart. Among the poorly applied

solutions we find the discipline of managerial appointments, both with regard to permanent-contract managers and to so-called external managers, taken on short-term contracts (and without public selection) and the connected problem of the spoils system. Thirdly, assessment of management has never really taken off or has not produced the expected results, both through the negligence of those involved, but also because of poor initial planning.

More specifically, the failed implementation of the *virtuous circle*, which the reform had proposed to launch (included among the discipline of managerial appointments, assessment procedures and managerial responsibility) could be blamed on contingent factors and bad practices that these have generated (failure to single out management goals, assessments of a merely formal nature, non-functioning of mechanisms attributable to managerial and disciplinary responsibility, indiscriminate distribution of economic incentives with no control over results); at the same time "certain structural blind-spots in the present normative framework" also emerge, with a specific focus on "excessive, uncontrolled and uncontrollable links between politics and management".

The relationship between political organs and administrative management almost always takes centre stage, and in particular, the problem of how to ensure management autonomy and safeguard it from political interference, as a condition for implementing the constitutional principles of impartiality and successful functioning of public administrations.

In this context the profound relevance of assessing management cannot be underestimated; it represents an "element of closure of the whole system" (Talamo 2007:137), an indispensible link both for activating the *virtuous circle* of autonomy/responsibility (in the name of the principle of healthy functioning) and for stemming the discretionary power of political organs in order to safeguard management autonomy and the impartiality of its actions.

1. Assessment of public management

According to many authors one of the weak points of the reform in the nineties lay in the implementation of management assessment(Zoppoli, 2008).

The instrument under examination is of primary importance in the construction of a modern public management figure geared towards expressing "organisational logic" (Rusciano, 1993); this is a precious resource to be exploited in such a way that the organisation may carry out a specific political programme, providing competitive, quality results. Only through assessment, do elements such as the conferment of appointments, exceptional discipline, and managerial responsibility assume a precise meaning.

Laying importance on the assessment of the performance of the manager means inducing him/her to demonstrate the capacities and powers of a private employer with a view to the results to be achieved. The manager is forced to define in responsible fashion his personal strategies, making use of instruments recognised by law: managerial power, power of control, sanctioning power, assessment of personnel and analysis of performance with a view to improvement and learning, handling of prizes. For all this he/she will assume the necessary responsibility with regard to the organisation to which he/she belongs.

Management assessment was initially regulated in the bill d.lgs. n. 29/93 , but it was with d.lgs. 30 July, 1999, no. 286, that there an organic and integrated discipline of internal controls began to take shape. Of course, the afore-mentioned normative source contained uncertainties and several failings. It should in fact be stressed that d.lgs. no. 286/99 was rather unclear in its mechanisms for setting objectives and some of the solutions adopted succeeded in weakening the assessment organs. For example, this happened in the case of the assessment nuclei because of the lack of clear intervention geared towards preserving their functional autonomy and precisely defining roles.

The socio-organisational logic proposed in d.lgs. n. 286/99 was substantially ignored for reasons connected to both management and politics, thus adding to the structural difficulties. In fact it is a commonly held opinion that the political component had actually given up governing with competitive strategies(Natalini, 2009).

To this can be added a symmetrical position in the management hierarchy, for whom activating assessment systems means an increase in responsibility in accordance with one's own position Battini, 2009, Matei et al., 2010). All this produced an inevitable exchange between politicians and managers(Merloni, 2006) on the basis of which the former were to "actually introduce themselves into administrative management", whereas the latter would receive "monetization (salary increases not based on evaluation of management results) for the assuming of exclusive responsibilities connected

to the exercising of their duties". This degeneration undoubtedly led to the sacrificing of the idea of the *virtuous circle*, based on healthy management functioning.

There was, therefore, a clear opportunity for a normative intervention in the juridical framework of assessment. The afore-mentioned intervention was implemented through the bill d.lgs 150/09.

One should be aware that for a correct ascertaining of results of the assessments proposed by d.lgs. n. 150/09 it will be necessary to wait for the outcome of its application; nonetheless, under a strictly juridical profile the exegesis of the formulation of the normative provisions seems to be indispensable for the subsequent verification of applicative practices. In fact, as an initial premise, we should be asking ourselves if the norms can overcome the problems emerging from the application of the normative thus far in force(Zoppoli, 2008), whether they have within themselves the instruments to consent a functioning of the system of assessment of personnel and management, real and not merely formal, and if they are able to create a *virtuous circle* (Morciano, 2009), fostered by the proclaimed reinforcing of the actual managerial roles.

The goals of this article are: 1) to highlight the critical state elements present in the system of assessment operating before the Brunetta reform; 2) to proceed to a critical analysis of the normative provisions introduced by d.lgs. n. 150/09 with regard to evaluation of individual performance, in order to single out which are:

a) the positive and disciplined aspects in a clear manner in the provisions in question;

b) the elements presenting a need for clarification because of an imprecise normative formulation or because of a lack of internal co-ordination in the normative provisions;

c) the deficit elements which might have opportunely welcomed an intervention on the part of the legislator in order to create instruments capable of getting the system to work in an optimal manner.

1.1. Politicisation in management assessment

The system in force before the 2009 reform provided for an assessment handled entirely by political bodies, which had the responsibility of laying down objectives and carrying out the evaluation. The afore-mentioned formulation resulted in poor functioning of the assessment system. In fact, it is quite legitimate for political bodies to determine the policies; but the existence of these political factions alone, of whatever type, is not sufficient to identify and show off a real responsibility for results. The goals and the connected indicators of realisation should emerge from these lines of policy, as long as assessment of the extent to which the goals have been achieved can be conjugated with assessment of organisational behaviour. It is in relation to these profiles that the norms in questions are shown to be lacking inasmuch that they have not provided for instruments geared towards reducing the inappropriate intrusion of politics and have not provided for any procedural measures for eliminating all forms of judgement, in order to ensure the maximum possible impartiality in assessing the performance of any single manager.

At this point there are two main aspects, in particular, to analyse: 1. the setting of goals 2. the subjects who will carry out the assessment.

a) Politicisation in the setting of goals (sections 19 of d. lgs. n. 165/2001 and 5 of d. lgs. n. 286/1999).

As regards the setting of objectives, section 19 of d. lgs. n. 165/2001, stipulated that, with the conferring of the appointment, the reasons for the appointment and the goals to be achieved should be singled out, with reference to priorities, in the plans and programmes as laid down by the governing bodies with their specific policies and any potential alterations to the latter, which might arise during the relationship.

It can be deduced from this norm that the objective, like the appointment, should be assigned to the manager using the same unilateral measures, which may be periodically modified, again in unilateral fashion. This is an interpretation that reduces managerial responsibility and assessment regarding the regulating of conferment of appointments, creating a discipline characterised by an intrinsic handling immobility and a dangerous overburdening of programmatory expectations. How is it, in fact, possible that at the moment of conferring appointments there can be such a precise awareness of objectives and resources for carrying them out, to project oneself forward, very approximately, for the subsequent three years at least? Is there not a risk in this way of including in the appointment extremely vague objectives that are substantially inadequate for precipitating real and proper managerial responsibility? The fleeting reference in section 19 d. lgs. n. 165/2001 to "potential

alterations" is also so general and all-inclusive as to suggest that any modification of the initial objective can only lead to priority modifications, simple programmes and lines of policy. In the light of the above considerations it can be seen that section 19 d. lgs. n. 165/2001, rather than being defective as regards the concrete ways for assessing management and investing it with responsibility for results that are both imagined, in order to ensure, on the one hand, the unilateral nature of conferring appointments, and, on the other hand, a minimum duration of the appointment itself, rightly fixed at three years so as not to render management too precarious a phenomenon. These are important requirements that need to be safeguarded, although they concern the static and structural profile of public organisation, and the balance between subjects and powers that spark off "entrepreneurial function"; at the same time they seem to relegate to an inferior position the dynamic-managerial aspect of management assessment, without which, however, the functioning of the whole system, as already mentioned, might be jeopardized.

The norms proved to be rather ambiguous as regards reference to the manager's rights of appointment and assessment, creating a considerable risk of confusion between the minimum term of appointment and systems of evaluation.

b) Politicisation in individuating assessors.

With regard to subjects who have to supervise the process of annual assessment, d. lgs. n. 286/1999 adopts a model tried and tested in the private sector, where, most importantly, the protagonist in the assessment of results is a manager, acting in accordance with strategies, policy and lines of responsibility singled out by company organs.

However, the discipline under examination limited itself to establishing the principle of the direct dependence of support structures on the organs of the political group, completely neglecting the need to lay down homogeneous principles in relation to the functional autonomy of these organisms and to the extension of their roles. In the way in which it was formulated the discipline of assessment has contributed considerably towards the politicisation of assessment organs and to a huge "corporation-style" mode of functioning. All this is probably one of the main reasons why assessment has not produced the expected effects; in particular a system of assessment of managerial performance that consents real comparison has been lacking.

In comparison with the private sector, what has, in fact, been forgotten is that it is not possible to compare results among public administrations commencing from their market presence. Assessment that exhausts itself in each organisational dimension is bound to be influenced by the old and new characteristics of each organisation, without there being a moment of truth regarding the results which that particular administration manages to produce externally, for citizens and other administrations. There is little doubt that the discipline of subjects manifested all its shortcomings, rendering assessment of managerial performance an affair internal to the administrations and bureaucratic management.

Furthermore, the discipline under examination has not introduced objectives and indicators capable of substituting more effectively the absence of parameters deducible from an actual real market, and has greatly reduced the role of assessment nuclei.

1.2. Applicative dysfunctions of section 5, d.lgs. n. 286/99

The system of assessment of management as laid down by section 5, d.lgs. n. 286/99 has been characterised by a formal application of the normative provisions, often with broadly positive evaluations, generally speaking, certainly not symptomatic of the system's efficiency (seeing the administrations' unsatisfactory output), so much as an element highlighting applicative disorders (Gagliarducci,Tardiola,2008). An upward projection of the evaluations has shown, as a consequence, that they have no influence on concrete effects on the career of the person being assessed, and on the diversification of retributive dynamics. Thus, although this praxis has widely consented the obtaining of result-based retribution from the angle of "immediate reward" (i.e. the retributive aspect), from the "medium-term"-reward perspective (i.e. that which is linked to the selecting of subsequent appointments) a generally-speaking positive assessment has compromised the possibility of discovering the real managerial capabilities of each single manager, hindering a possible comparison of various candidates for a single appointment. As regards the "sanctionary" angle, managerial responsibility linked to assessment was not in fact implemented, and has often been side-stepped through legislative interventions containing annulments that content politicians but are not linked to (lacking) managerial professionalism.

2. Prospects for analysis of present legislative data

Section 5, d.lgs. n. 286/99 has now been repealed by the Brunetta decree and the provisions relating to public managerial assessment have been included in a series of norms to be found in Document II and Document III of d.lgs 150/09.

In the following paragraphs we shall be endeavouring to verify whether the new norms:

1. have overcome the problems relating to identifying objectives when conferring managerial appointments, these being the indispensable presupposition for correct assessment of managerial-level personnel;
2. maintain their "guarantees" during the managerial assessment process (on the basis of repeated requests by the Constitutional Court);
3. might have repercussions for the main institutes linked to the system of assessment, i.e. a) to the conferment of new and subsequent appointments; b) to managerial responsibility.

3. The necessary presuppositions for managerial assessment: towards a correct role for the political element

In the sphere of distinction between politics and administration, the former is given the task of identifying objectives and the latter the task of implementing them with managerial autonomy correlated to the required managerial responsibility; in order to be able to assess first one needs to plan, i.e. individuate and subsequently assign objectives (Gagliarducci,Tardiola,2008). Although it is central and strategic, the moment of programming has thus far witnessed a lack of attention on the part of politicians responsible for policy, with a corresponding failure to transfer the objectives to managerial appointments. Going back to the initial delegating law, the so-called Brunetta reform has devoted little space (q.v. section 4, comma 2, lett. b) l. n. 15/09) to the fundamentally important "planning" issue; nor has much more space been devoted by the delegating decree, where the individuation of objectives is inserted mainly between section 5, d.lgs.n. 150/09 (objectives and indicators) and section 10, d.lgs. n. 150/09 (performance plan and report on performance). This planning, in the final version of the Brunetta decree, is placed, fairly and coherently, in the system of distinction between politics and administration, in the hands of the political-administrative policy-makers* with the involvement of upper management.

In the three-year planning phase attention to the need for a collective approach certainly emerges as a positive factor, along with individuation of correspondence between objectives and resources, the highlighting of the specific nature and clarity of objectives, which should also be measurable and comparable with defined standards at the national "and international" level. This programme takes shape in the "**Performance plan"** (Q.v. section 10, d.lgs. n. 150/09). This Plan, to be adopted by January 31, for State administrations(Barrera), "contains" the Minister's annual directives, singling out the strategic and operational objectives and defining the indicators for measurement and assessment of administration performance and the objectives to be assigned to managers. Thus the formulation of the normative can be viewed in a positive light; with the help of the Committee (Q.v. section 13, d.lgs. n. 150/09(Natalini, 2009)) it requires programme contents that will hopefully be translated into adequately specific objectives, but one cannot help noticing that the provision is lacking with regard to the propulsive phase, providing instead for "sanctionary relapses" that do not affect the politician so much as the management. In fact the corrective measures implemented by the legislator as a suitable instrument for encouraging policy-making are the ones in section 10, comma 5, d.lgs. n. n. 150/09, which establishes that: "In the event of failure to adopt or update annually the Performance Plan, result-based retribution to those managers who have been shown to play a part in the failed adoption of the Plan should be stopped, because of omission or inaction in carrying out their duties, and the administration must not proceed to take on personnel or make appointments for denominated consultants or collaborators". Failure to adopt the Performance Plan on the part of State administration will therefore have repercussions on personnel with managerial appointments; this would confirm the essentially punitive approach to management, without there being present a balancing with a counterweight that might induce the politicians responsible for policy to programme in terms as laid down by the normative. This provision has been confirmed in several parts of the decree, which, on the other hand, is lacking with regard to the presence of a disincentive for delays (equally important), which acts as an impulse to politicians, balancing up the normative provisions

4. The individuation of objectives for the manager and the significance of assessment in the conferment of subsequent appointments

The issue of conferment of appointments, which we shall be analysing here, is closely linked to the political sphere:

- Under the profile/presupposition (for assessment) of the need to confer appointments "for objectives";
- Under the profile/consequence (of assessment) of the need to bear in mind the results obtained previously and obtained through the system of assessment of performance for the conferment of subsequent appointments.

With reference to the former issue there have been difficulties up to this moment in time in arranging for managerial appointments "for objectives". Yet the novelty of the normative, especially in the formulation linked to the so-called second privatisation of public work, "lay not in the conferment of abstractly preordained managerial functions, but in the configurations of specific appointments, corresponding to the characteristics of the actions to be carried out"; thus "all appointments of second level managerial offices are marked by features of such concreteness as to justify the conferment", both "under the objective profile of their coherence with the framework of administrative political tendency deliberated during the years in government" and "under the subjective profile of the subsistence of suitable skills, and the professional capacities of each manager, backed up by previously achieved results" (Audit office – Resolution, January 24, 2002, n. 6). It would therefore have been necessary to individuate in punctual fashion "the duties assigned to each manager, and with regard to these, the objectives to be pursued and the relative scale of priorities". This specification is necessary both for a suitable placement for the manager, on the basis of his/her own professionalism, and also in order to be able to carry out an assessment that might allow one to individuate his/her possible responsibilities* (Resolution, 22 March, 2001, n. 19) and to allocate diversified retributive treatments*". In spite of this normative it is widely acepted that up to now, there does not seem to have been a concrete implementation of the provision, as stressed several times by the Audit office in its powers of preventive control (q.v. section 3, comma 1, lett. b), l. n. 20/94) (Bolognino, 2008).

The bill, d.lgs. n. 150/09, refers to "objectives to assign to managerial personnel" in section 10, comma 1, lett. a) in the drafting of the Performance Plan, and in section 19, comma 1, as in a new formulation, however, as mentioned previously, the normative provision alone is not sufficient to guarantee its realisation and therefore, under this profile, it will be fundamental to proceed to a real implementation of the normative, because the individuation of precise objectives for management preludes among other things the possibility of implementing the system of assessment effectively and efficiently.

With reference to the other profile of analysis (i.e. the relationship between conferment of appointments and evaluations of managers; in the past it does not seem that assessment had assumed a preponderant importance as a subjective element capable of affecting, as a plus value or as a *deminutio* of a manager's professional capacity, influencing decisively the conferment of new and subsequent appointments. This scenario is certainly the consequence of a system of assessment that has had trouble taking off and therefore could not help remaining ineffective with regard to the conferment of new and subsequent managerial appointments. In the new normative a positive aspect that emerges is the reference to the relationship between the results of assessment and "attribution of appointments and responsibility" (Q.v. in particular, section 25, d.lgs. n. 150/09). This section reinforces the content of section 19, d.lgs. n. 165/01, which stipulates that for conferment of managerial appointments one must bear in mind one's pre-set objectives, the complexity of the structure, results achieved and the assessment previously obtained by the manager him/herself specifying that the certified professionalism in the system of assessment is a criterion on the basis of which (together with the others) to confer appointments. In this situation however, the system will also produce effects in the conferment of subsequent appointments only if, and to the extent to which, the system of assessment of performance functions adequately.

5. With the aim of guaranteeing participation of the assessed subject in the assessment process.

In the relationship between politics and administration based on a distinction between duties, in which the manager ought to handle his/her resources autonomously during his/her appointed term, assessment also absolves the important function of management guarantees and safeguard; management should be assessed for demonstrated skills and not for "political affinity" (Bassanini, 2008), also as a direct consequence of all that has been effectively mentioned, i.e. "administration and institutions are at the service of the citizens and are instruments for guaranteeing and satisfying their rights. They are not at the service of the demands of political patronage(Bassanini, 2010).. In this context it is particularly important for the normative to individuate adequate guarantees for the assessed person during the performance assessment process; these guarantees have been mentioned several times by the Constitutional Court, which, over a period of twenty years, has made rulings regarding the constitutional legitimacy of the provisions on the subject of so-called "privatisation" of the public sector and management-employee relationships. In sentence n. 103/07, the constitutional judge established that "assessment of a manager's professional suitability should be based on criteria and procedures of an objective nature, inspired by principles of open public debate; only at the conclusion of this is it possible to carry out withdrawal or annulment", which, in terms of guarantees, translates as "in a system of objective, transparent and participatory assessment of personnel appointed as management" "(Bolognino, 2008). Here we should verify in particular whether the bill d.lgs. n. 150/09 provides the manager with adequate guarantees of participation during the assessment process. This guarantee referred expressly to the repealed section 5, d.lgs. n. 286/99 and translated, at least in theory, into participation during the assessment process, through which a manager would have been placed in a position (in the event of failure to achieve objectives) to outline the possible internal and/or external hindrances which "exonerate him/her from responsibility". The present normative regulation, in section 7, al comma 3, lett. b) d.lgs. n. 150/09, provides for the individuation of "procedures of conciliation relating to the application of the system of measurement and assessment of performance". Therefore the perspective of the present provision, which is projected towards "conciliation" (which intervenes technically once assessment has been concluded) seems to have been altered. If the idea of the previous normative (or contractual) plan was to attribute negative assessment to the manager (wherever this could be demonstrated), this provision leads to a missed opportunity for public debate in the assessment phase (in order to arrive at a "posthumous" conciliation). The failure of this participatory phase leads to a reduction in guarantees for public managers during assessment of their performance, further aggravated by an unsatisfactory modification to section 21, d.lgs. n. 165/01, where the request for the manager's participation in the pathological moment is not very apparent. Only in its second part does the revised text of section 21, comma 1, d.lgs. n. 165/2001 (relative to "serious" managerial responsibility), refer to "respect for the principle of public-debate"; this is not so for the application of the sanction of impossibility of renewal of appointment, where the request is only "subject to objection", which is suitable for producing a further contraction of guarantees for the manager, reduced as much in the moment of assessment as it is (at least partly) in the pathological moment of application of the sanction (Q.v. section 21, comma 1, first section d.lgs. n. 165/01).

6. Responsibility with reference to section 21, d.lgs. n. 165/01, in the light of the modifications introduced by the bill, d.lgs. n. 150/09.

This last point is an analysis of the consequences of the results of the system of assessment concerning the sanctionary element, i.e. managerial responsibility. Perusing the text of the bill, d.lgs. n. 150/09, it is striking how many times the legislator uses the term "responsibility". One notes immediately how the meaning is now used in a different manner, in particular in the two reforms of the nineties (linked to enabling act n. 421/92 and enabling act n. 59/97) where responsibility represented the other side of the coin of managerial autonomy. The so-called Brunetta decree, faced by a compression of managerial autonomy, has encouraged the proliferation of the hypothesis of responsibility; it should be stated that, alongside the most appropriate managerial responsibility (Q.v. section 21, d.lgs. n. 165/019), the following have also been introduced: fiscal responsibility for failed individuation by the manager responsible for excesses on the part of personnel (in accordance with

the law section 33, comma 1, d.lgs. n. 165/01); various hypotheses for responsibility individuated by the legislator as disciplinary (Q.v. newly introduced section 55, bis comma 7, d.lgs. n. 165/01; section 55, sexies, d.lgs. n. 165/01; section 55, septies, comma 6, d.lgs. n. 165/01;) and a hypothesis for civil responsibility (Q.v. the newly introduced section 55 sexies, comma 4, d.lgs. 165/0163).

Clearly, with regard to our object of analysis, we should circumscribe our thoughts regarding the hypothesis of responsibility, which is more closely linked to the relationship with assessment, i.e. the hypothesis of responsibility (Q.v. section 21, d.lgs. n. 165/01), the application of which should be the direct consequence of negative results (attributable to the manager) in the system of assessment.

The new role of the public manager (as distinguished from a role influenced by political leanings) should be autonomous, including responsibility for appointments for fixed-term objectives; it is fundamental for the normative provisions relative to the relationship between assessment and managerial responsibility to guarantee a constitutionally obligatory balance between guarantee and sanction, so as to remove from the manager the yoke of "mere political approval", in avoidance of the principles laid down in section 97 Cost. This balancing of guarantees must first of all be included among the provisions relative to assessment of personnel with managerial duties, and secondly must imply the clear formulation of provisions for managerial responsibility. The latter profile has been repeatedly highlighted by the Constitutional Court, which stresses the fact that an annulment of a managerial appointment may "merely be the consequence of certified managerial responsibility", not only following the outcome of a "process of punctually disciplined guarantees"*, but also in the presence of "determined presuppositions", thus preventing the unilateral modifications on the part of the employer-employee relationship established by the employer from taking place outside "typified cases in the legal and contractual provisions". Thus sanctionary interventions regarding the appointment and permanent contract employer-employee relationship must be grounded in the presuppositions demanded by the normative data and therefore only in negative results of administrative or managerial activity or the failed achievement of objectives, i.e. "anyway for motivated organisational and managerial reasons, or following the ascertainment of negative results in management or non-observance of directives" (Bolognino, 2005).

However, in the search for these guarantees, section 21, d.lgs. n. 165/01 (already in the formulation prior to the bill d.lgs. n. 150/09) (Bolognino, 2005), presented a host of issues linked to its imprecise formulation*; these important problems were not resolved by the modifications brought by section 41 del d.lgs. n. 150/2009, which in certain instances amplified them, especially also following the new hypothesis of responsibility introduced by comma 1 bis (D'Alessio, Bolognino, 2010).

Specifically:

- comma 1, section 21, d.lgs. n. 165/01 in the post-d.lgs. n. 150/09 formulation, continues to provide for a hypothesis of responsibility: a) failure to achieve certified objectives via the outcomes of the "system of assessment, Q.v. Document II of the legislative decree implementing the law, March 4, 2009, n. 15"; b) the non-observance of directives imputable to the manager. As sanctionary hypotheses the following continue to be present: a) the impossibility of renewal of the same managerial post; b) annulment of the appointment, thus allocating new roles to the manager (Q.v. section 23 del d.lgs. n. 165/2001); withdrawal of employer-employee relationship in accordance with provisions in the collective contract;
- comma 1 bis, section 21, d.lgs. n. 165/01, in the post-d.lgs. n. 150/09 formulation, introduces a different hypothesis of responsibility providing for "the culpable violation of duty of vigilance of respect, on the part of the assigned personnel, for quantitative and qualitative standards fixed by the administration", brings with it, as a sanction against the manager, "a reduction in resulting retribution, following hearings with the Committee of Guarantors, in proportion to the gravity of the violation, up to a total of 80%"

At least three questions emerge from the normative data:

- the link between the application of sanctions and the outcomes of the system of assessment;
- the reduction in guarantees for the weakened role of the judgement of the Committee of Guarantors;
- perplexity arising from the new hypothesis of responsibility (Q.v. section 21, comma 1 bis, d.lgs. n. 165/01).

In relation to the link between the application of sanctions and the outcomes from the systems of assessment it can be seen that, as previously laid down by the Constitutional Court, it is extremely important to connect the criteria of assessment with sanctionary hypotheses, to which the manager will be called to answer, establishing a sort of parallelism between the provisions in question. This parallelism was less evident with the modifications brought to section 21, d.lgs. n. 165/01 con l. n.

145/02, and also continues to be absent with the modifications brought to section 41 of d.lgs. n. 150/09. The objects of assessment are: a) the performance indicators relative to the organisational sphere of direct responsibility; b) the achievement of specific individual objectives; c) the quality of the contribution ensured by the general performance of the structure, professional and managerial skills demonstrated; d) assessment capacity of one's own collaborators, demonstrated via a significant differentiation of judgements; in its revised text Section 21 also continues, as an element for the attribution of responsibility (as well as non-observance of directives), to provide for the "failure to achieve objectives". In terms of responsibility, it does not seem to take into consideration managerial capacity, which is also a very relevant element in assessment and, on the subject of sanctions, can entail greater attention being evoted to the role of manager.

With regard to the second issue, considering, on the part of the political subject, the ample margin of choice of sanction to be inflicted, the situation becomes more serious with regard to guarantees made by managers in their professional capacity to modify section 22, d.lgs. n. 165/01. On the other hand, section 21, d.lgs. n. 165/01 post d.lgs. n. 150/09 continues to provide for the possibility of choice between annulment and withdrawal "in proportion to the gravity of the case", without restoring a correspondence between gravity of responsibility and the sanctionary measures necessary to reduce the room for manoeuvre as regards the arbitrary passing of sanctioning powers into the hands of political bodies. The increase in the political organ's discretion had already been countered with "l. n. 145/02", a fictitious expansion of the hypotheses for recourse to the judgement of the Committee of Guarantors (an organ provided for by law). Thus the decision to apply sanctions to the manager is not left solely in the hands of the political subject(Mainardi, 2003) who is endeavouring to "recover in the procedural phase a possible deficit in safeguard, to be verified during the individuation of any conduct that might be sanctioned in terms of responsibility" (Mainardi, 2003). This recovery of guarantees was not effective, bearing in mind the pre-existing possibility of inflicting sanctions without the Committee of Guarantors' judgement, in the sense that "thirty days having passed from the time of the request without obtaining the judgement, it is possible to proceed without it". The present, post-d.lgs. n. 150/09 normative formulation intervenes by further weakening the standing of the judgement in question, which as a "true opinion", and therefore binding (which it was in the text prior to the bill d.lgs. n. 150/2009), is converted into the present formulation (post-d.lgs. n. 150/2009) in the form of a mere "opinion heard" from the Committee of Guarantors(D'Alessio, 2009).

As for the third issue, in the new "comma 1 bis of section 21, d.lgs. n. 165/01", there has been an evident shift away from the apportionment of responsibilities and not a simplification(Boscati, 2009), wherever the failure to respect qualitative and quantitative standards might have been classified with a general assessment of the manager's operations, with the application of sanctions, as laid down in "comma 1", absorbing the preliminary and instrumental moment of vigilance(D'Alessio, 2009). All the same, it is the formulation of the normative, which hinges on "omitted vigilance", hinting at the manager's role as "controller" and not manager"(Santucci, Mora, 2009), that seems to accentuate the presence of the subjective component of this hypothesis of responsibility(Borgongelli, 2009), with the consequent necessity to have to reflect on the correctness of its inclusion in section 21, d.lgs. n. 165/2001.

Conclusions

Taking the ideas expressed above as our cue we might state that the theme of assessment follows (in the structuring of the bill d.lgs. 27 October, 2009 n. 150) a line of development that is not always so linear when compared to the conceptual principles adopted by the previous regulatory system. The precise choice of enhancing the role of the manager, as exclusive possessor of the power to manage human resources (section 6, l., 4 March, 2009, n. 15 and in that sense Q.v. section 37 d.lgs. n. 150/09) is counterbalanced by a complex normative framework from which numerous ways of conditioning managerial activity emerge. This is primarily the result of the progressive weakening of those channels through which the manager should have been carrying out his duties and also of the method used, based on cloaking organisational rules in a normative guise

In fact, the reform legislator has introduced an element of discontinuity, when compared to the past situation, since he has given considerable importance to the role assumed by the law in regulating the micro-organisational dynamics. The norm has become the instrument with which to pursue efficient and effective results. The rules for governing the administrative apparatus are no longer self-made; they function according to the particularity of the services provided, the external dimension of reference and the countless contextual variables which every organisation has to confront, and

represent the end-product of laws applied in a unitary fashion in all administrations. The most expressive example is to be found in the normative framework of a cycle of performance management. By entrusting the configuration to an organic and detailed discipline such as that of bill d.lgs. n. 150/09, one might risk obstructing the smooth functioning, without taking into account the differences between the various administrations(Rebora, 2009). Moreover, extensive literature(Spasiano, 2003) has shed light on the fact that the necessity of tackling the needs of the general public in a real way, when compared to the past, now entails a profound streamlining of the relationship between organisation and legislative regulation.

All this increases the risk of moulding managerial activity into an executive process of legal provision with a dual implication: to trigger inevitable processes of avoiding responsibility towards the general public (including those subjects that have to express the organisational logic and the structures themselves); to throw open the doors of management to a possible judicial inquiry. In this way there would be a risk of applying juridical-formal logic, a jurisdictional evaluation for a subject that requires profoundly diversified analytical parameters.

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III.3. IMPLEMENTING THE EU SERVICES DIRECTIVE: ADMINISTRATIVE ADAPTATION AND REFORM IN SOME EUROPEAN STATES

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Abstract

The current paper aims to explore the implementation challenge posed by the Services Directive. We do so through the lens of the Romanian experience. The paper is structured as follows. The first part provides an overview of the Services Directive. It identifies the directive's scope, provides an overview of the legislation's principal substantive provisions, and outlines the administrative requirements associated therewith. The second part of the paper focuses on the implementation process. We begin by taking a EU-wide look to identify both the progress being made and to highlight key challenges. We next turn our attention to the Romanian experience. We track the measures taken by Romanian authorities to implement the directive – the progress they've made, the challenges they've faced, and the efforts taken to surmount those challenges. We conclude with some observations about the Romanian experience.

Keywords: Eu Service Directive, implementation, administration adaptator.

1. Introduction

On 12 December 2006, European Parliament President Josep Borrell and Finnish Minister of Trade and Industry Mauri Pekkarinent put pen to paper to sign into European law Directive 2006/123/EC on Services in the Internal Market. Originally proposed by the Commission in January of 2004, the Services Directive – as it is commonly known – evolved from a strongly free-market proposal (known widely as the Bolkestein Directive after the Internal Market Commissioner who originally proposed it) to a piece of legislation that sought to strike a balance those promoting the benefits of greater cross-border economic freedom and those who feared that the greater mobility of providers would bid down wages, prices and regulatory standards.

Though the signatures brought an end to what was – by any measure – a tortured legislative process, it signaled only the beginning of the implementation process. Transposing directive provisions into the laws, processes and practices that would give those provisions practical effect involved four core tasks. First, each government was required to review and revise national regulatory regimes governing the provision of services with a view to eliminating requirements that are unjustified, discriminatory or disproportionate. Second, governments would take appropriate measures to clarify and simplify administrative procedures. Third, national authorities were to set-up so-called Points of Single Contact (PSC). These PSCs were to serve as one-stop-shops for providers, giving them access to the rules and procedures governing establishment and the provision of services.

Finally, the directive called on governments to establish a means to provide cross-border cooperation amongst competent regulatory authorities.

The scope of the challenge implementation posed was enormous. The directive called for nothing short of a fundamental revision of the legal and administrative structures governing service provision in member states. This fact was not lost on parties during the legislative process. Negotiators incorporated a lengthy transition period of three (3) years to allow governments adequate time to make required legal and administrative adaptations. It was expected that governments would have completed the transition by 28 December 2009. But three years proved too short. By December 2010, a year *after* the established deadline, only nineteen (19) governments had passed all specific legislation required to given the directive full effect. And whereas twenty-two (22) governments claimed to have established Points of Single Contact (PSC), only eleven (11) of these provided translations in any language other than their official national language. Clearly, the challenge was greater than anticipated. That, and legitimate questions can be raised about the political will of some to fully meet the objectives.

The purpose of this paper is to explore the implementation challenge posed by the Services Directive. We do so through the lens of the Romanian experience. The paper is structured as follows. The first provides an overview of the Services Directive. It identifies the directive's scope, provides an overview of the legislation's principal substantive provisions, and outlines the administrative requirements associated therewith. The second part of the paper focuses on the implementation process. We begin by taking a EU-wide look to identify both the progress being made and to highlight key challenges. We next turn our attention to the Romanian experience. We track the measures taken by Romanian authorities to implement the directive – the progress they've made, the challenges they've faced, and the efforts taken to surmount those challenges. We conclude with some observations about the Romanian experience.

2. EU services directive: for what does it call?

2.1. Introduction

Services are important for the good operation of the single market for the citizens' direct benefit, in view to strengthen the consumers' trust and demand. The Service Directive adopted in 2006 has represented an important stage in view of creating a single market for services, regulating activities which represent 40% of GDP and jobs at the European level.

Services are the lifeblood of the European economy. They are a main driver of employment. Between 2000 and 2005, new employment in the service sector grew by 11.5 million. Services are also the main driver of foreign direct investment (FDI). Sixty percent of new FDI-linked jobs are in the services sector (compared with only 40% for the industrial sector). Today they represent 70% of the European Union economic activity and they ensure an employment rate of around 2/3 of total employment, 96% of new jobs in the EU, but only 20% of intra-EC trade. But for all its significance, only about 20% of service activity in the EU has a cross border dimension.

According to Matei and Matei (2011), the regulation in public service delivery as in any other field is important in order to ensure to the citizens and providers, the legal certainty for the relation: enterprise - service – citizen and a high protection level for consumers against all the risks involved by the quality of services.

Taking into consideration the diversity of Europe, different traditions, cultures, administrative systems, the legislation in the field of services should be stimulating, simple, flexible in view to support the increase of the openness degree of the internal market. The diversity of the services of general economic interest and the differences between the users' needs and preferences, which could result from various geographical, social or cultural circumstances (segmentation of the market of services) support the development of a single market of integrated services, taking into consideration an optimum mixture between economic and regulatory instruments.

The Directive 2006/123/EC concerning the services on the Single Market ensures the continuity for improving the European normative and legislative framework in the field of guaranteeing the fundamental freedoms for the service providers and beneficiaries, stipulated in the Treaty Establishing the European Community. The main aim of the Service Directive is to remove the barriers in developing the services between the EU Member States, thus making easy the relation producer – consumer of services and using the cross-border services in the EU.

The issue is not one of a lack of profitable opportunities. Providers are eager to look abroad. The issue is one mainly of administrative barriers. Service providers that attempt to establish themselves

in other member states face a number of difficulties. They often must invest considerable time and resources to identify what legal and administrative formalities are required to establish operations. And, once identified, they can find themselves waiting months, if not years, to receive the required licenses and permits. And then there is the existence of discriminatory requirements – such as "economic needs tests" – designed specifically to wall-off portions of the domestic market.

The Services Directive was intended to reduce these barriers. It would do so by requiring governments to reduce and rationalize the administrative schemes. The goal was to release the unrealized potential of liberalized service provision and, in so doing, provide a boon to economic growth, stimulate innovation, and enhance European competitiveness. The potential benefits were seen to be considerable. A study published by Copenhagen Economics (2005), a Danish consultancy, estimated EU wide gains from the implementation of the Services Directive at 0.8% GDP with an accompanying net gain in employment of 600,000 jobs and an increase in overall average wages by 0.4%. A similarly oriented study by the Netherlands Bureau of Economic Policy Analysis (Strathoof, et al 2008) estimated the gains at between €60-140 billion, representing a potential growth of 0.6-1.5% GDP.

The scope of the Services Directive was broad. It covers wide range of activities, including retail, construction, real estate, tourism, and most of the regulated professions (Article 2). Broad though its coverage is, a number of sectors have been excluded from its reach. They include financial services (including banking and insurance), health care, transport, gambling, and many social services related to social housing, childcare and family support. Non-economic services of general interest, such as postal services, are also excluded. These exclusions were necessary to complete negotiations. For useful overviews of the compromises needed to finalize negotiations, see *BBC News* (2006) and *Financial Times* (2006)

The removal of cross-border barriers, especially by legal means in view of more efficient production for consumers, increasing degree for satisfying the consumers' needs, promoting a policy for consumers' protection, protecting consumers' welfare by rigorous enforcement of EU rules, have contributed to the openness of the single market to consumers.

2.2. Substantive provisions

The central objectives of the Services Directive are *to lift regulatory barriers* and *to remove administrative burdens*. The former will be achieved by encouraging governments to remove discriminatory rules that prevented providers from other member states from plying their trade within national boundaries. The latter will be achieved by requiring governments to review administrative rules and procedures with a view to removing unnecessary burdens and simplifying processes.

At national level, the transposition of the European regulations means that the Member States should harmonise the legislation, should amend it in order to remove the barriers concerning the freedom of establishment or freedom to provide services (see figure 1).

Two operative concepts constitute the substantive core of the directive. The first is ***the freedom of establishment*** (Articles 9-15). The directive calls for the elimination of national legal requirements that limit or otherwise constrain the right of providers to set-up businesses. This provision is without prejudice to the right of governments to maintain mandatory authorization schemes. However, any such scheme must meet the threefold test of *non-discrimination*, *necessity* and *proportionality* (Article 9.1). The provider/economic operator delivers its activity in a stable and continuous way in one or several Member States (the principle of freedom of establishment) and/or according to the principle of freedom to provide services, the provider/economic operator of services may provide services on a determined period of time in other Member State than the state of origin.

The principle of *non-discrimination* holds that regulatory requirements cannot be applied in a manner guided by either the nationality of a company or the location of its headquarters. *Necessity* dictates that those requirements must be justified on the basis of an overriding reason related to public interest. Finally, the principle of *proportionality* holds that governments must also ensure that regulatory measures are the least restrictive required to achieve the public interest objective for which it is justified.

In additional to requiring authorization requirements to be non-discriminatory, necessary and proportional, the directive incorporates additional measures designed to ensure freedom of establishment. Further, whatever authorization requirements are retained, they should be

unambiguous in their constitution. They should be based on objective criteria, made public in advance, and should be transparent and accessible to all providers (Article 10.2).

The second operative concept animating the directive is the ***free movement of services*** (Articles 16-21). Governments are obliged to ensure free access to - and free exercise of - service activity within their territory. Significantly, such access should not be contingent on whether the provider seeks to formally establish within a country (Article 16.2). Providers should be free to provide services on a temporary or transitory basis.

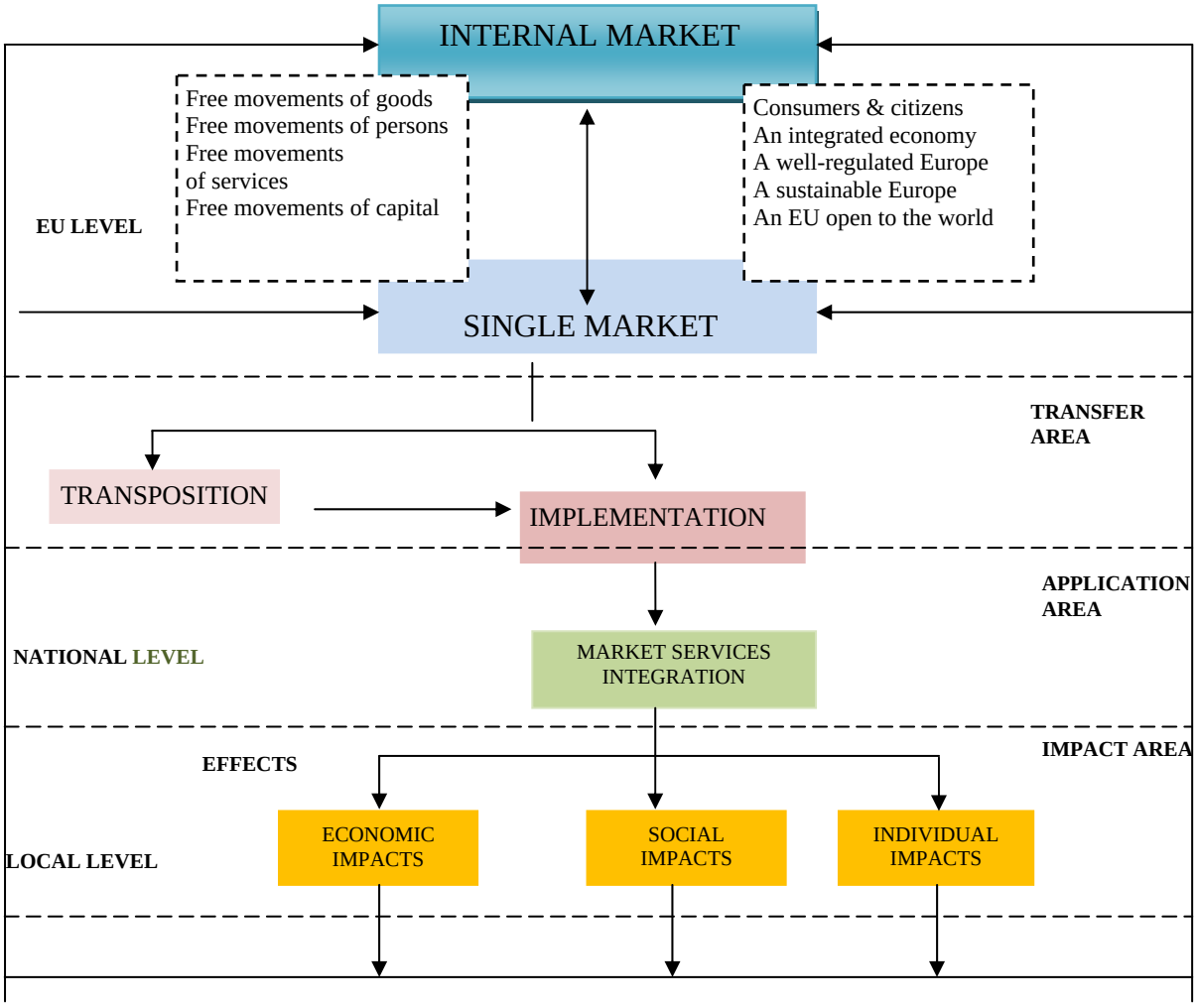

Figure 1. Transposition at national level
Source: Matei and Matei (2011), fig. 2.

The right to free movement is not absolute. Like the right of establishment, governments can abridge the ability of providers to conduct economic activity within its borders. However, governments are bound by the same constraints on their efforts to do so. Requirements may be put in place only for reasons of public policy, public security, public health, or protection of the environment (*necessity*). Further, those requirements must be *proportional* to the objective pursued and applied in a *non-discriminatory* manner (Article 16.1).

Complementing the rights accorded to service *providers*, the directive also speaks to the rights of service *recipients* (Articles 19-21). They include both constraints and obligations that attend to governments. As regards constraints, governments are prevented from imposing restrictions on the ability of individuals to receive services supplied by a provider established in another member state. This includes a prohibition against the requirement that consumers seek pre-authorization or that they declare *ex post* that they have received a service (Article 19). In addition to restricting the ability of governments to limit access to a service, governments are also obliged to insure consumers have information about the providers themselves as well as the nature and quality of the services they

provide (Article 22). This extend to information about consumer protection and includes a provision requiring that governments make available information required to seek redress should a conflicts between providers and recipeients (Article 21).

The Directive 2006/123/EC concerning the services on the Single Market ensures the continuity for improving the European normative and legislative framework in the field of guaranteeing the fundamental freedoms for the service providers and beneficiaries, stipulated in the Treaty Establishing the European Community.

2.3. Administrative changes

The Services Directive contains a number of provisions that speak to the administration of regulatory rules. One can identify two (2) sets of requirements. The first concerns the modernization of *national* regulatory regimes. The directive mandates that governments review and revise authorization schemes with a view toward greater transparency and procedural simplification. The second set of requirements concerns *international* cooperation. The directive calls for the introduction of a mechanism whereby competent authorities across member states are able to communicate on matters pertinent to the administration of the rights of establishment and free movement.

2.3.1. State-Based Measures

To give practical effect to the principles of free establishment and free movement, the Services Directive envisions a process whereby government authorities will *review*, *revise* and *modernize* their administrative rules and practices. Each government is asked to engage in a comprehensive review of existing legislation with a view to identifying provisions and practices that conflict with or are otherwise incompatible with the substantive provisions set out in the directive. Once the review is completed, governments should take the practical steps necessary to insure that, in the phrasing of Article 13, “procedures and formalities should not be dissuasive or unduly complicate or delay the provision of the service.” For example, authorities should eliminate requirements that are essentially equivalent to, and therefore duplicative of, others. Thus, where documentation is required, officials should be prepared to accept any document from a comparable national authority that serve an equivalent purpose (Article 10.3). Further, originals or certified/translated copies should not be mandated (Article 5.3). Any serviceable copy should be deemed acceptable.

The review and revision process should also be used as an occasion for national authorities to *modernize* administrative structures and processes. Central to this modernization process should be the effort to simply, streamline, and enhance administrative efficiency (Article 5). The need to promote clear communication and timely action figures prominently. Article 10.2 holds that government authorities should ensure that authorization schemes are clear and unambiguous, objective, made public in advance, and that they are transparent and accessible. Requests for authorization should be formally acknowledged and the applications should be processed within a “reasonable period” – the length of which must be fixed and made public (Article 13.3). To promote timely evaluation, the directive holds that applications that fail to receive a response within the indicated period “shall be deemed to have been granted” (Article 13.4). In cases where providers submit applications that are incomplete, the directive further holds that authorities are expected to inform indicate to the applicant the nature of the problem, including any additional documentation that may be required (Article 13.6).

To promote objectivity in the authorization process, the directive indicates that governments should take measures to insure that authorities do not exercise their power in an arbitrary manner. For instance, where the number of authorizations for a particular activity are limited in number due to resource constraints or technical capacity, governments should take appropriate measures to insure that the selection process in conducted in an impartial and transparent manner (Article 11). Where authorities find it necessary to issue a negative decision, they should explain fully the rationale. Governments should also have in place a procedure that allows decisions to be reviewed and/or challenged (Article 10.6).

Perhaps the most innovative requirement contained within the directive is the mandate to establish what is referred to as a “point of single contact” (PSC) (Article 6). The PSC is intended to be an administrative “one stop shop” for providers. The PSC is to serve two interrelated functions. First, the PSC will aggregate and disseminate information to providers wishing to enter the national market. Governments are expected provide accurate and comprehensive information about applicable legal

regulations and well as all required procedures and formalities, including such things as the contact details of competent authorities, means for accessing public register and databases on providers and services, and means of redress for providers and recipients (Article 7.1). The second function is to serve as a platform for completing administrative formalities (Article 6.1). The PSC should also give providers the ability to complete all steps at a distance, without having to contact a whole range of administrative bodies or professional organizations, and by electronic means (Article 8.1). This latter stipulation is commonly understood to mean the establishment of a web-based e-Government portal.

2.3.2. Community-based Measures

The second set of administrative requirement concerns cross-border cooperation among regulatory authorities. The aim is to promote "mutual assistance" in the supervision of service providers to prevent rogue operators from avoiding detection, circumventing rules, or acting in an unlawful manner. Governments have a range of obligations in this regard (Articles 28-36). They should respond to requests for information from competent authorities in other member states (Article 28.4). This could include information on the "good repute" of providers (Article 33). Further, when requested, they should be prepared to conduct checks, inspections and even carry out investigations (Article 28.5). The obligation to communicate extends beyond formal requests. Governments are also obliged to take proactive measures to communicate information pertinent to the directive. For example, when gaining knowledge of public interest concerning provider conduct that could cause serious damage to health or safety of persons or to the environment, governments are expected to share that information (Article 32).

To facilitate cross-border communication the directive calls for the establishment of a mechanism to allow a rapid, direct, structured and multilingual exchange of information. To this end, each government is to designate one or more "liaison points" through which to direct communications (Article 28.2). These liaison points are to be communicated to the Commission who will aggregate, maintain and update the database (Article 34).

In 2006 the representatives of the Member States in the Internal Market Advisory Committee adopted a proposal on developing in the Internal Market System (IMI). IMI represents a means to lower the unit cost of the communication between Member States and to support the cross-border cooperation (COM (2007) 724).

The Services Directive within the internal market recognizes the need for administrative cooperation as priority (art.28 to 36) describing hoe Member States should provide each other with mutual assistance; art.34 and 36 and recital 112 of the Directive represent the legal basis requiring the Commission and Member States to develop and use IMI system, taking into consideration the present systems (Matei, 2009).

3. Implementation

All parties involved in negotiating the Services Directive – the Commission, the European Parliament and the member governments – understood that implementation of such a wide-ranging piece of legislation would take time and demand a great deal of local, regional and national officials. Transposition would likely involve a fundamental reshaping of the domestic legal and administrative environment. It would also demand an unprecedented level of cooperation among and between officials. Success, moreover, would only be realized to the extent that all states met their obligations.

3.1. The Implementation Process

Negotiators incorporated into the directive two measures intended to promote timely and comprehensive implementation (Article 39). The first was a lengthy – three (3) year – transition period. Governments had until 28 December 2009 to put in place the required legal and practical measures. The second measure to foster complete implementation was the incorporation of a peer review mechanism. By the implementation deadline, each government was to submit to the European Commission information on all implementation measures taken. The Commission was then to aggregate and disseminate the information to member governments who would use it as part of a "mutual evaluation" process - the objective of which would be to provide a means to confirm compliance, exchange best practices and assess the need for further initiatives.

3.2. The State of Play (as of December 2010)

As anticipated, transposition proved to be demanding. Few governments fully met their obligations at the end of the three year transition period. The Member States have a positive evolution concerning the transposition of the European rules on internal market in the national law, 21 states reducing the average period of transposition by 2 months; Spain, Italy and Slovakia register the best results. In 2010, the deficit of transposing the EU Directives on internal market into the domestic law amounts 0.9%. A *Eurochambers* (2010) survey of businesses released in February 2010 concluded that only nine (9) member states had made "good progress" by the December 2009 deadline (Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, the Netherlands, Sweden, and the UK). A further nine were, in their estimation, making "moderate" progress (Austria, Belgium, Cyprus, France, Luxembourg, Malta, Portugal, Romania and Spain). Eight of the remaining nine (9) were considered to be lagging significantly (Bulgaria, Greece, Ireland, Italy, Lithuania, Poland, Slovenia, and Slovakia. No data was reported for the ninth – Latvia).

Matei and Matei (2011) consider that the finalization of the internal market in 1993, the application of the Directive 2006/123/EC on services and its transposition before the end of 2009 by the EU Member States represent moments for strengthening the Single market, removing the barriers between states for services development so that every citizen is consumer, provider and beneficiary "without frontiers" in the EU.

The analysis of the case law on breach of EU rules was based on eight major subjects: 1. Free movement of services; 2. Freedom of establishment; 3. Freedom to provide services; 4. Freedom to provide services and freedom to establishment; 5. Freedom of establishment and freedom to supply services; 6. Free movement of services and freedom of establishment; 7. Internal market; 8. Activities. It is worth to remark the natural segmentation of states, based on the evolution of EU enlargement: EU 15 during 1996-2003, EU 25 during 2004-2006 and EU 27 during 2007-2010 (see table 1).

Visible influence of the Member States' economic development level on the development of services on single market gains different significance in the stages of EU enlargement; especially in 2004, after the EU enlargement to Central and Eastern Europe (ten states), the trade with services has been developed, fact also supported by the increase of contribution to GDP from 4.6% in 2004 to 5% in 2007.

At the same time we emphasise a focus of the infringement procedures on the subjects generated by „free movement of services" (2007 representing the most active period), „freedom of establishment" and „freedom to provide services and freedom to establishment". It demonstrates the barriers on the market of cross-border services, in education, medical services, financial-banking, legal services, advertisement, television, sports and entertainment activities. The cross-border trade of services is not as dynamic as the trade of goods. As remarked, both the recent EU Member States (Bulgaria, Romania, Hungary, Cyprus, Estonia, Slovakia, Czech Republic, Poland) and the „old" ones (France, Italy, Denmark, Luxembourg, Belgium, The Netherlands) are facing similar problems concerning the removal of barriers in service provision.

Commission assessments largely confirmed the survey data. In a series of assessments issued in February, May, and December 2010, the Commission reported on the status of implementation in each member state (European Commission 2010a, 2010b, 2010c). Like the survey, the Commission's data highlights a mixed picture (see Table 2). On the positive side, progress was being made. By December 2010, twenty-three (25) had passed framework "horizontal" legislation designed to implement the general principles and obligations established in the directive (This figure takes into account two states, France and Germany, who opted not to adopt horizontal laws and instead elected to implement the principles though a series of individual acts). This was up from only thirteen (13) in February. This left only two (2) states - Austria and Greece – among the laggards. But whereas the figures concerning horizontal measures was encouraging, progress on specific legislation designed to insure that existing national laws complied with directive provisions was less encouraging. By December 2010, only nineteen (19) governments had indicated to the Commission that they had made the required changes to sectoral legislation called for by the directive. Two others, Germany, France and Belgium, indicated significant progress. Again, this was a significant improvement on the figures from earlier in the year, but still fell far short of the full membership. The five outliers in the December 2010 assessment – Austria, Greece, Ireland, Luxembourg and Slovenia – indicated that they had encountered "significant delays" and that full implementation would take additional time.

Table 1

Evolution of infringement procedures on topics and groups of EU Member States

	2010 EU27	2009	2008	2007	2006 EU25	2005	2004	2003 EU15	2002	2001	2000	1999	1998	1997	1996
1 Free movement of services	7	9	11	12	9	-	-	9	4	-	-	-	-	-	-
2 Freedom of establishment	2	4	8	6	8	-	-	-	-	-	-	-	-	-	-
3 Freedom to provide services	-	1	4	-	1	-	2	-	3	-	-	-	-	-	-
4 Freedom to provide services and freedom to establishment	-	-	-	-	8	9	3	-	-	-	-	-	-	-	4
5 Freedom of establishment and freedom to supply services	-	2	3	-	-	-	-	-	-	-	-	-	-	-	-
6 Free movement of services and freedom of establishment	-	3	-	-	-	-	-	-	-	-	-	-	-	-	-

Source : Matei and Matei (2011), table 2.

Efforts to establish the Points of Single Contact (PSCs) also reveal uneven results. As of December 2010, twenty-two (22) governments had established what the Commission characterizes as “first generation” PSCs (They were referred to as “first generation” due to the fact that, in many cases, the PSCs may be in existence but the content found thereupon fell short of expectations in terms of available content and limited functionality).

However, of those, only nine (9) allow providers to complete a significant number of procedures online. A further eight (8) allow for some procedures to be completed. In terms of multilingual functionality, the Commission reports that only eleven (11) of the twenty-two (22) PSC sites provide for translations in languages other than their official national languages. Finally, five (5) member governments – Greece, Italy, Romania, Slovakia and Slovenia – were singled-out for failure to create an online presence of any substance or utility (A January 2011 survey released by Eurochambers (2011) shows a similar pattern. While acknowledging that progress had been made since the December 2009 deadline, the surveyed indicated that only fourteen (14) countries had fully functioning PSCs. PSCs in half the member states still did not offer adequate service in relations to the completion of formalities. And only half provide information in a language other than their own).

Table 2

Progress Implementing Services Directive

Implementing Measure	Achieved by February 2010	Achieved by May 2010	Achieved by December 2010	Not Yet Achieved (by Dec 2010)
Adopt Implementing Legislation				
- Horizontal Legislation or Alternative	13 (incl. Romania)	21 (incl .Romania)	25 (incl. Romania)	2
- Specific/Sectoral Legislation	8	12	19 (incl. Romania)	8
Establish "First Generation" PSC	21	22	22	5 (incl. Romania)
Of the 22 MS Who have Set Up PSC				
- Ability to Complete Procedures	14	14	17	8
- Provide Translations	No data	No data	11	16

Source: Data Compiled from Commission (2010a, 2010b, 2010c).

Finally, Commission information notices report mixed progress with meeting the obligation for cross-border administrative cooperation. During the transition period, the Commission developed a specific application of the already-extant IMI. By April 2010, more than 4,600 national, regional and local authorities had registered with the IMI. In December that number had risen to 5,200 authorities. But despite the noteworthy progress in registering authorities, the Commission also noted that actual use of the IMI has been far below expectation. In the first four months of 2010, only about fifty information requests had been lodged. By December, the number had risen to only 170 requests (an average of 15 per month).

Conclusions

Aggregate statistics, while useful as a general measure trends in implementation, communicate little useful about the circumstance of individual countries or the particular challenges they face in implementing the provisions of the directive. For this reason, the balance of the study focuses on the experience of one country – Romania. Romania is an interesting case study because the Romania experience illustrates both the progress being made among new member states in adapting to life within the EU whilst simultaneously illuminating the special challenges many of these countries continue to face. Romania was among the first to adopt horizontal legislation setting out the regulatory framework for implementing the directive. Nevertheless, the country has experienced difficulties both in adopting specific legislation required to give effect to many of the directive's substantive provisions and in establishing a Point of Single Contact that is functional and that meets the expectations of the directive.

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III.4. BULGARIAN PUBLIC ADMINISTRATION FACING THE CHALLENGES OF THE EXPANDING EUROPEAN ADMINISTRATIVE SPACE

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Abstract

This text considers the challenges in front of Bulgarian public administration in the light of the expanding European administrative space. It makes an attempt at outlining the way for changing the pattern of Bulgaria's institutional environment and the necessity of significant change in the central-local authorities balance. What about the responsibilities at national level (place of state), the behavior of local and regional authorities in the European context, strategic challenges facing the administration. The text presents the role of local and regional authorities, management capabilities in partnership, aims and priorities, problematic aspects and necessary changes.

Keywords: Bulgaria, administration, European administrative space, challenges.

Introduction

The attitude of citizens towards the public administration in Bulgaria in its institutional aspect – institutions and organizations of central and local authorities – has always been marked by a sense of subjection and some touch of helplessness. Toa given extent this is due to suggestions about the significance of power, inserted by the now gone totalitarian regime, and is probably the fruit of older and deeper cultural and folk characteristics.

Today, the public administration has quite more different role, other than being an instrument for imposing and demonstrating power. It is made of people and is assigned to serve the people in their diversity: citizens, the business, NGOs and others. How does this process goes?

First, by keeping with the already introduced principles such as: responsiveness and responsibility, transparency and account-making, lawfulness and expediency, etc.

Second, through the development of those principles with new ones, which are the result of Bulgaria's European way, such as the citizens' right of good governance and administration.

Third, with the acquiring of new models, channels and forms of communication between individual interested parties. These interactions shape the new face of public administration and widen the circle of challenges which it is going to face. In this way central and local authorities cannot escape from the classical triangle, known as the equity of market – state – civil society in policy-making corresponding to the conception of good governance.

Fourth, as full EU member-state Bulgaria cannot afford to, and would not want to, develop in a way that only leads to sanctions, proverbial incompetence and ineffectiveness, combined with net financial losses for the state. The voting of the Lisbon Treaty and a set of accompanying acts makes the EU face new horizons. Especially in light of the last and still actual World financial crisis, the Community is seriously rethinking its future intelligent, sustainable and incorporating development. Local and regional authorities could be more effective should they take active participation not just in implementing, but in formulating national reform programs.

This means a change in Bulgaria's central-local authorities balance. The strengthening of municipalities', districts' and regions' social-economic role will continue in the lines of decentralization and regional development. But with much faster paces.

It is because of this that this text presents the challenges of Bulgarian public administration in the wider European context.

Bulgaria's Challenges

The main pillars of the hitherto Lisbon strategy were innovations, liberalization, entrepreneurship, employment and social inclusion, sustainable development and the environment. The strategy Europe 2020 invests in priorities such as development of knowledge, sustainable development, incorporation (social inclusion), innovations, mobile youth, digital society, industrial policy for green growth, the European platform against poverty.

The achievement of these ambitious aims should be done through the wide inclusion of many active subjects.

The European Council will be fully in charge and will represent a central element in he new strategy. The Commission will monitor the progress in relation to the aims, will facilitate the political exchange and will elaborate the necessary propositions for directing the actions and stimulating EU's main initiatives. The European Parliament will be the leading force in *mobilizing the citizens* and will participate in the joint decision-making concerning key initiatives. It is recommended that this partnership approach be acquired also by EU's committees, national parliaments and national, local and regional authorities, the social partners and interested parties and the civil society, so that all parties could participate in the vision's implementation.

Thus, three main priorities are laid out:

- Intelligent growth – the making of knowledge and innovations based economy;
- Sustainable development – encouraging a more ecological and more competitive economy with more effective resource usage;
- Incorporating development – encouraging an economy with higher rates of employment which creates conditions for social and territorial accession.

These priorities and the policies that follow thereupon should be implemented on regional, national and European level.

Bulgaria's Responsibilities

Bulgaria, just like the rest of the EU countries, should take actions in order to reform national systems of administrative governance, scientific and research activities and innovations, in order to encourage high achievements and intelligent specialization, to strengthen common programming and to adapt the respective national finance procedures.

Part of the aims' implementation is securing sufficient availability of cadres with relevant education and focusing on school programs dealing with creativity, innovations and entrepreneurship.

This demands the making of *very close relations between state and business organizations*, which mainly introduce in their activities high-tech products, patents and useful models. It is precisely these organizations that are the main beneficiaries of high-tech cadres, which develops the interrelations between state and business in order to find forms of effective, balanced and bilateral profitable financing.

Better educational results will inevitably have effect on the labour market and young people's participation in it through integrated actions that include directions, advices and education on the work place.

A part of modernizing the entire system of public governance – in the aspect of introducing information and communication technologies – demands coordination of public activities with the aim to decrease network development expenses and thorough some encouragement of using modern and accessible online services (such as e-gov, e-health portal, etc.).

A huge capacity will be needed in order to harmonize the whole legislation in relation to applying the policies on the side of the administration. In this case under capacity we understand not merely the needed human resource, but people with suitable qualification in the area of public finances and governance, but one diffracted through the prism of European practices which will be applicable to Bulgaria and its public administration activity.

The mechanisms for this to happen in an acceptable way for everybody – with the necessary level of publicity and accounted interest – is to work together with the interested parties in different sectors (business, unions, academic circles, NGOs, consumers' organizations).

Under correct usage of these mechanisms the partitioning of the labour market will inevitably decrease and in numbers of regions stimuli for starting owned businesses will be created. Apart from that, the constructive dialogue and the clear strategy in the area of state intervention when it comes to the market reflect onto the positive forms of balance between work and the family life, as well as achieving gender equality. This will favour social inclusion and the making of further successful policies directed at groups under peril. These groups are the ones most easy to recognize on local level and municipalities best know their needs. County municipalities have the opportunity to resolve great part of the problems they are presently facing.

Bulgarian Public Administration in the wider European context

For the Bulgarian public administration a politics of change is needed, one that requires coordinated efforts and serious engagement on the side of all parts of the society: public bodies from all levels, the economic and social partners.

What is necessary is to develop a wide "*partnership for progress*" as a new model for partnership governance. The Lisbon Treaty, introduced in 2000 I remodeled in 2005 as part of the strategy for development and work places did no manage do include some key actors in the whole process. Local and regional authorities are among those who so far were in the background. It is exactly this that justifies the change in the participation balance.

The future lies in the interaction between equal partners. Neither central public administration units, not municipal administrations can afford "haughtiness" in the future dialogue. Cooperation should be the fry in the pan.

Local and regional units and key social-economic subjects should participate fully in the process of developing full-scale partnership.

Strategic Challenges

Bulgaria's public administration should orient itself towards national and territorial strategic planning. National and local bodies should alone distribute their roles and contribution to the future interaction on the way to the country's long-term objectives. He aforementioned short-term and long-term challenges, in their turn, will always accompany them, but they should be overcome, so that concrete results are achieved.

The Lisbon Treaty significantly consolidated the EU institutions' role in outlining the directions for concrete policy-making. Europe is still an institutional and political project on the basis of power sharing, partnership and participation. All possible levers (regulation, coordination, partnership, etc.) should be used in order to encourage national and local authorities to work together.

All this inevitably demands bringing together the visions for desired future changes that the national and local levels have. The practice so far is quite contradictory. It has been a rare case that national politics in given sectors has accounted for the local needs, resources and will. Now there is a real chance for this to change, and in the benefit of local self-governance at that.

The rethinking of governance instruments in the state and the municipalities is of crucial significance for successful implementation of one common national strategy in concert with the wider 2020-oriented EU strategy. Strategic planning should become a common feature of institutions on national level, on the level of districts, municipalities, ad well as on the level of smaller habitats. These strategies should influence the common aims that the state pursues.

The role of local and regional authorities

In order for a common national project to be successful, one that is directed at developing a new sustainable social environment and market economy, it needs the support of local authorities for several reasons.

First, sources of knowledge and innovations very often are found in bigger cities and district cities. This is why within the confines of a territory different sector policies should be coordinated and elaborated through integrated strategy in partnership with bodies of local self-governance, economic and social partners, schools, research centers, etc.

Second, every reform on the European way of Bulgaria should be coordinated with the concrete circumstances that require communication, dialogue with the local population and feedback – one characteristic of the local authorities which no one else could better realize.

Third, there are already developed practices in Europe related with the making of wide networks for cooperation between cities and regions. This is a tested mechanism that has proven its efficacy in the process of exchanging experience, which Bulgarian local authorities could successfully use. Of course, this means that they will gradually transform from the executors of ideas developed on the national level to an engine of reforms, which hey themselves want to happen, thanks to the adopted know-how in general European level.

Governance and Partnership

Bulgaria's success in the context of the common European vision depends on the forms of partnership and governance. It is necessary to engage all levels of governance, in correspondence with their competences and tasks.

Processes in this direction are ever more visibly towards the exclusion of strong hierarchical approach. Local authorities and those that lead the regional policies should by all means be better engaged in the frames of the national context for defining priorities and securing monitoring for progress in ongoing wide-spectrum reforms. The key to success is that they are not subjected by the state, and they should be treated as full-scale institutional and politically acting personae. In order to achieve this system of governance some operative changes are needed.

It is necessary that indicators on sub-national and local level are devised. The aims and achievements of the state should be defined and measured on geographical level, which gives us the opportunity to identify and localize lapses in the progress at places of direct implementation – municipalities, districts and regions. In Bulgaria currently there are 265 municipalities, 28 districts and 6 regions.

Local strategic action plans should be changed on the basis of real local political initiatives, stimulated by the freedom in the process of decision-making. Through the study and generalization of these local plans and their strategic reports on concrete projects it will be possible to receive important information that serves for changing the national agenda.

Strategic aims of the reforms

Creating successful national strategy for Bulgaria on the basis of local and district strategies requires at least several elements: reliable aims; implementable policies; political engagement leading to actions and understanding how all listed so far is interrelated.

The first step is to define aims and indicators. This could create a number of technical issues, but the reality is that we cannot achieve something new which we cannot measure. This is why developing reliable indicators and aims should be basic responsibility of public administration.

Defining the indicators for success is a matter of professional expert knowledge on the side of administration employees. The contact with social partners will be especially important for them because in the process of developing reliable indicators they will have to face the uneasy task to account for the influence of two key factors. On the one hand, indicators should reflect the interests and preferences of citizens – what they understand to be satisfaction out of the changes that happen. On the other hand, indicators should be coordinated with the limitations and challenges in the concrete economic and social surrounding, both on the level of state and on the level of small towns and villages, cities, municipality, district.

From aims to actions

Aims, policies and action plans could be successfully defined only if they are based on deep analysis of the recent condition and future perspectives.

The definition of main aim and indicators for its achievement should be related with the formulation of country-specific aims and priorities. These aims and priorities could be achieved only if reliable policies are maintained on the levels where these are implemented. This determines the specific part of local authorities. They have the chance to be main actors in the making of sector policies on the "bottom-up" principle.

Main priorities

In defining the aims for both the state in general and the lower levels of self-governance, priorities should be clearly outlined: what results the public administration wants to achieve on the corresponding power level, what it values as the most reliable area of investment (priority). This will lead to bringing together national and local levels.

Public administration needs *reliable policies and actions* on both levels – central and local. National aims should be made into priorities, and these priorities into progress indicators.

For the public administration it is important to forecast the policies and action plans results. In this way when aims, policies and action plans are identified, on every level specialist in developing policies should judge what potential undesired consequences out of the actions might emerge.

These undesired consequences should be taken into consideration already in the beginning of the making of individual strategies.

Political engagement

To define aims, policies and action plans is extremely important process which will enforce political engagement. The very process requires keeping with several obligatory steps.

First, the aims of the whole country should be derived from the subnational levels. Local aims in turn should be the result of a deliberation on many levels and agreement between central and local level of power.

Second, for the process of defining aims and policies, time should allotted. Successful strategies and policies need several social levels of engagement. This is a long process and it requires the participation of all interested parties.

Third, it is important that the government and local authorities define what internal policies and actions are needed for achieving the country-specific aims, these measure proposals should be discussed in an environment of mutual political dialogue.

Business as an instrument

Business is no more different than other interested parties. In many cases it brings in its exceptional positive sides on the way to a given reform. This cannot be bypassed from central and local authorities. It is obvious that market actors are often the catalyst of change, since they encompass almost everything we need – from food and goods to services, from research to innovations, from health care services to entertainment.

Reference to business characteristics does not mean reducing to the minimum the part of the public sector, especially when it comes to key and sensitive areas such as education, healthcare, social welfare and others, but rather only to show that the business could play the role of a working and useful instrument.

The labour policy in relation to free jobs in the economy that it secures (or closes) is especially important for the social inclusion and distribution of incomes, just as the conditions and quality of labour are of crucial importance for self-realization. The role of the labour market in the area of education also should not be neglected, especially when it is about professional education. There are obvious benefits from the mutual enrichment between public and private sectors, and in the long run both interests and aims should be equalized.

The business could have significant contribution if policy makers consider the need to secure stimuli for including the market actors.

The role of the Market

The first step to attract business in effective dialogue with authorities and citizens is to remove the now existing barriers. All barriers on national and local level that delimit the achievement of cooperation should be overcome.

This means to reform the regulatory system, directed at the market. Much of the procedures that slow down the business should be rethought, and some should be completely forgotten. This corresponds to bettering the communication between central and local power bodies and economic subjects. Otherwise discrepancies in policies dues to lack of wider inclusion of interested parties will lead to loss of public resources in implementing the policies themselves.

After the factors that demotivate communication cooperation be erased, public administration will have better environment to build cooperation and partnership.

Joint approaches in policy-making

A main challenge before Bulgarian public administration is the policy-making. The basis of this process is laid down onto the introduction of not more, but better and better working regulations. They in turn should be made through joint efforts of all interested parties. This means that it is necessary to make the transition from one model (conflict one) of policy-making to another (cooperative one).

Every interested party has a role to play in the interest of society and should reconsider its approach to policy and cooperation on this basis.

Neither politicians, not the business are unprejudiced to what is going on in today's society. And they cannot afford this! All interested parties have no other choice but accepting that they should go outside their zones of comfort, to reconsider the benefits which they can extract and to work together in the spirit of mutual understanding and cooperation.

In the light of European challenges to our country and the ever more realized necessity of modernization of public administration and its inclusion in the European administrative space, it is necessary to use modern techniques of public governance – making strategies, policy-making, cooperation and partnership which leads us towards processes which could further the reform in governance happen in a successful and reliable way. Every reform could win on the condition that it happens in proximity and understanding to citizens. The key to keep citizens and their organizations informed, to be included in making the sector policies and be informed about the results achieved out of these lies in processes of decentralizing regional governance.

Necessity of Decentralization

Decentralization, conceived as a process where responsibility is given for the implementation of certain functions of local and regional power authorities, should be implemented through common standards and legal guarantees for justice and equity between different municipalities and regions. It is just after the making of this basis that we can make transition towards the real implementation of decentralization, the rethinking and defining of the balance of rights between levels of governance in the state and the measuring of successes or failures in the entire process.

Problematic aspects of administration

After the beginning of the administrative reform of decentralization in Bulgaria, the relations between central and local authorities are still characterized by contradictory results. What are present are the decrease in municipality-offered services, as well as the still existing limitations in their rights for governance of delegated services. At the same time, the set of municipality-offered local services increases.

Financial decentralization does not achieve results when it comes to the decreased rights of municipalities to plan and govern the expenses for delegated services and transfers from relevant ministries. The own sources of incomes are often replaced by compensating subsidies. On the other hand, municipalities have individual budgets which are related with their given rights for partial determination of the size of the local taxes in the legally regulated limits.

The most developed form of decentralization is the political one. Bodies of local self-governance and executive power in municipalities are elected directly by the population. This determines also their participation in various forms of dialogue with bodies of the central authorities.

However, there are still some issues which are not overcome in the already started process

of decentralization, such as: the centralization of some public services and governance rights for delegated services; the low share of municipal expenses in the GDP and the consolidated state budget; the lack of rights in planning and governance of means for state transfers; the local authorities' lack of rights to choose managers of service bureaus.

There are a number of issues in the communication between municipalities and territorial units of central executive authorities. The most of them are related with the different status of individual territorial units. They have too different territorial activity reach – within the confines of one or more districts. Also, the degree of those units' dependency of the relevant ministries varies. Part of them are created as individual administrations, others are organized as territorial services of structural units of central administration.

District governors in turn lead national policy for regional development on the district territory. From this position they have to coordinate the actions of the relevant ministries' representatives of the relevant territory and their interaction with the local authority. The relations between central executive power, its territorial units and district governors are typically de-concentrated.

District governors and the displaced service units of central departments have no financial liability, individual budgets, own incomes, property and others. This leads to lack of coordination of sector policies on district level. The main issues between central executive power, its territorial units and district governors are expressed in different in their territorial reach units of the sector-related ministries; lack of information of the population and municipalities about the functions of territorial units and the services they provide; uncoordinated activity of territorial units with the district governors in resolving regional problems; lack of effective links between territorial units of central executive power and municipal administration; uncoordinated sector policies on district level.

The adoption of the aforementioned instruments for making an effective and cooperative environment in order to devise public policies means that the present issues have to be resolved with priority. And this is possible through gradual elimination of barriers for realization of constructive dialogue both between central and local authorities and between public administration and the rest of social and economic actors.

Regional governance as an instrument

Part of the decentralization process is the process of regionalization, which is linked to the building of regional governance. It has different dimensions at placed according to the level of secured resources, the potential, the political culture, historical traditions, relations between authorities and between citizens and the power in general.

The carrying out of regional policy in Bulgaria is regulated already in the Constitution of R Bulgaria in 1991 and the Act of regional development from 1999. This creates conditions for real actions in planning and devising municipal strategies, districts' plans and national plan for regional development. In this way the accumulation of capacity and skills for planning and strategies development in municipalities, districts and on national level begins.

A more substantial financial provision of regional policy is needed, overcoming the planning issues, capacity building for respecting the European standards in carrying out regional policy and coordination building between central and local levels in the planning process.

Regional policy in Bulgaria could play the role of a suitable instrument in achieving a higher level of social-economic development. This in turn will lead to achieving and sustaining relatively equivalent conditions of life in individual parts of the country.

This predetermines the necessity of the timely and moderate state intervention, in order to secure in the long run balanced regional development. Regionalization is needed both for resolving a number of national and local issues and in relation to the country's Europeanization, directed at economic and social approximation.

Regionalization is among the most successful instruments to use in decreasing the drastic differences which Bulgaria has as opposed to the EU countries, on the one hand, and internal differences between individual regions in the country, on the other.

The Necessary Reforms

The implementation of one development policy needs a different existence and quality of infrastructure; level of education and human resource skills; structure and innovation capacity of the economy; capacity of public administration and of public and private institutions in general; as well as social and cultural factors.

Applying modern European approached that lead to effective inter-departmental communication will help not to perceive the policies as sector policies. Inter-departmental communication in Bulgaria is still a significant problem; it requires serious efforts, in order to achieve real and actual coordination between equal partners in the governance process.

The road to partnership goes through the confident affirmation of decentralization – state regional policy, carried out top-down and going to the levels of regions and districts, combined with municipalities' policies and the bottom-up approach, where the meeting of the two approaches is on the district level.

It is necessary to vote more confidence and to give real competencies to various power levels, so that decisions could be reached where they have to be applied.

In this context of implementing policies that are close to the citizens and are oriented towards the overcoming of differences, the current administrative-territorial units – the districts – will be of greatest cooperation. They are known in the hitherto existing administrative practice of the country and allow for avoiding cardinal administrative-territorial reforms.

The new role of the region

Priority in strengthening the positions of district governors should be the clarification and bettering of the relations between de-concentrated territorial units of central executive power and the municipalities.

The main issues in the relationships between territorial units and municipalities are related with the lack of effective relations between territorial units of the central executive power and the municipal administration and citizens' lack of information about the functions of territorial units and the services they provide. We find an expression of this problem in the complicated coordination and interaction between individual structures on local level, the complicated implementation of effective strategies for development, district governor's inability to implement policy on the local level which affects the efficacy of sector policies on all levels – from national to local.

All this is due to the fact that district governors on the one hand have liabilities in coordinating activities of territorial units, and on the other hand they carry out the control over the lawfulness of city mayors' city councilors' acts by coordinating the policy development in the district. The efficacy of this coordination, however, is influenced by a number of factors: differences in the internal structure of territorial units, their communication with central administrations and differences in territorial reach; municipalities have different sizes and different configuration of bodies of local self-governance.

A way-out of these issues could be found by clarifying the administrative status of territorial units of executive powers; normative regulation of mechanisms for cooperation of territorial units – district – municipality. Modern info-exchange on local level; increasing the qualification level of employees in public administration with the aim of more effective joining of the European administrative space.

Conclusion

Public administration in Bulgaria is facing different and hard challenges. The sporadic success of administrative reforms during the last 20 years shows us that the direction of change has not been always successful (or followed in the right way). Today, Bulgaria as full EU member state has the chance to take advantage of European policies, aims, activities and priorities as a motif, in order to go through the already established way of community development and progress. In this context it is important to realize the meaning of mechanisms such as governance in partnership, that lead to rethinking the hitherto dialogue between central and local authorities.

There remains to see if Bulgarian public administration is to compete and cooperate with the other EU administrations in the process of achieving intelligent, sustainable and incorporating growth. As well as to what extent it will join the European administrative space. We hope this is going to happen!

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III.5. ADJUSTMENT OF NATIONAL SOCIAL SYSTEMS TO THE EUROPEAN UNION

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Abstract

The achievement of social and economic development involves three processes: the increase in gross domestic product per capita, the reduction of unemployment and increase of employment, the reduction of poverty and income inequalities. Directly related to that are the objectives of new EU member states, as well as other European countries that wish to join the Union and thus contribute to their own development – economic and social. Integrating the new Member States and candidate countries represents a great challenge for the EU, and especially for the social systems of individual countries. The reason for this is primarily a variety of social systems and socio-demographic characteristics of these countries. Because of the strong convergence those can adversely affect their economies, but also the entire Internal Market. With the support of financial instruments and measures that encourage convergence at the national and European level, national social policies contribute to overall economic and social development and economic and social cohesion. Economic convergence leads to social convergence, but not necessarily to the harmonization of social systems. The goals of the paper include the proper assessment of different effects and the dynamics of social (and economic) reforms, which enable a greater level of social convergence, the evaluation of the effectiveness of national social policies and the assessment of the ability of individual countries to adapt to the contrasting demands of social security and employment, and economic growth and development.

Keywords: social and economic convergence, European Union, adjustment of social systems.

1. Introduction

The area of Social Policy and Employment is a very important part of the EU acquis, although most of the laws and regulation fall under national competences – in accordance with the principle of subsidiarity. The social situation, public policies and labour market significantly differ in the EU. There is no single model for all countries. Balkan countries, including those who are already members of the Union, aspire to reach the "western" standards of social policy, labour market conditions and institutional/administrative capacity. The important question arises: How feasible is that?

2. Social and economic development in the EU

The so called Social Europe actually evolved with the development of market integration and the strengthening of solidarity among different European nations. EU members have agreed on the basic principles of joint actions in order to encourage employment, mobility of workers, higher levels of training, equal opportunities for all, and generally higher levels of well-being for European citizens. However, significant social, economic and especially demographic challenges arise with the 21st century. That is why the modernization of the European social model is necessary because of the aging European population, which threatens the financial viability of social systems, and due to globalization, which presents a challenge to European competitiveness.

The achievement of social and economic development involves three processes: the increase in gross domestic product (GDP) per capita, the reduction of unemployment and increase of employment, the reduction of poverty and income inequalities. Those are crucial objectives for the Balkan countries as well; regardless of already being EU member states or only candidate or potential candidate countries. The area of the Balkan countries is actually far less “developed” in terms of social and economic categories.

2.1. EU Enlargement

In January 2007, with the accession of Bulgaria and Romania, the second round of the “Eastern Enlargement“ of the European Union has been completed. The next to join the Union should be Croatia, which concluded the membership negotiations in June 2011. It is expected to become a full member in 2013. This is what other Balkan countries are also hopping to achieve in the next decade or even earlier.

Over the past few decades there has been a growing interest in the analysis of spatial implications of economic integration in relation to economic and social cohesion. The continuing economic pressure from globalisation, increasing competition and restructuring within particular sectors could aggravate asymmetric effects related to social systems and economic development, especially if demographic effects are taken into account.

Although intra-EU diversity is nothing new in Europe, the concern among policy-makers and the public about such uneven impacts of economic integration on European nations has been growing: Will the deepening of economic integration result in winners and losers among the different States? It certainly looks so. As achieving better economic and social cohesion is one of the European Union's priorities, the enlarged EU may thus require a reorientation of cohesion policy at European, national and local levels for at least three reasons. First, the uneven distribution of the gains from integration may have a long-term impact on welfare. Second, the related structural change may imply short-term adjustment costs. Third, the integration-induced increase of regional specialization may escalate the probability of industry-specific asymmetric shocks, which in turn has an impact on the net benefits of the European Monetary Union. All these impacts may affect the economic cohesion at the EU and national levels.

The „old“ 15 EU member states formed a club of wealthy countries with relatively homogeneous income levels before the „Eastern Enlargement“. In contrast, the enlarged EU is characterized by marked income differences: the gross domestic product (GDP) per capita of the ten new member states from Central and Eastern Europe (NMS-10), measured in purchasing power standards (PPSs) was roughly 45 percent lower in 2009 than that of the EU-15 (Eurostat, 2011). The difference between these two groups of countries in 2004 was even biggera and the GDP per capita in the rest of South Eastern Europe is even lower.

Integrating the New Member States and candidate countries for membership within the Balkan region in the EU represents a great challenge for the Union, and especially for the social systems of individual countries. This is especially true because of two main reasons: the variety of social systems and the variety of socio-demographic characteristics.

2.2. The “Gap” and the convergence process

Table 1 shows that the absolute gap in wage levels between the new member states and the EU-15 is generally high. In 2008, average gross annual earnings for full-time employees ranged between 82% of the EU average in Cyprus and 62% in Malta and Slovenia to only around 13% in Bulgaria and 21% in Romania. The data suggests a large labour migration potential. This finding is also supported when considering the absolute gap in per capita income levels in 2008 (see Table 2).

Table 1

Earnings in the business economy (average gross annual earnings full-time employees)[*1] in EUR

	2008	Percentage of EU average[*4]		2008	Percentage of EU average[*4]
EU-27	**25.994**	**100**	**EU-27**	**25.994**	**100**
Belgium	40.698	157	Bulgaria	3.328	13
Denmark	55.001	212	Czech Rep.	8.284[*3]	32
Germany	41.400	159	Cyprus	21.310[*3]	82
Ireland	39.858[*2]	153	Latvia	8.109	31
Greece	25.915	100	Lithuania	7.398	28
Spain	25.208	97	Hungary	9.805	38
France	33.574	129	Malta	16.158	62
Luxembourg	51.392	198	Poland	10.787	41
Netherlands	43.146	166	Romania	5.464	21
Austria	39.061	150	Slovenia	15.997	62
Portugal	16.691	64	Slovakia	9.677	37
Finland	37.946	146			
Sweden	37.597	145			
U. Kingdom	46.051[*2]	177			

[*1] Enterprises employing ten or more employees; 2006-2007, NACE Rev. 1.1 Sections C to K; 2008, NACE Rev. 2 Sections B to N. All enterprises for Belgium, France, Malta, Finland. Full-time units for Slovenia, Poland and Latvia.
[*2] year 2007
[*3] year 2006
[*4] without Italy and Estonia
Source: Eurostat (2011).

Table 2

Real adjusted gross disposable income of households per capita, 2008 (EUR)

	2008	Percentage of EU average[*3]		2008	Percentage of EU average[*3]
EU-27	19.292	**100**	**EU-27**	19.292	**100**
Belgium	21.466	111	Bulgaria	5.630[*1]	29
Denmark	19.213	100	Czech Rep.	13.629	71
Germany	23.113	120	Estonia	11.162	58
Ireland	20.074	104	Cyprus	19.500	101
Greece	15.739[*2]	82	Latvia	10.747	56
Spain	19.314	100	Lithuania	11.757	61
France	22.289	116	Hungary	11.395	59
Italy	20.465	106	Poland	11.104	58
Netherlands	21.480	111	Romania	8.522	44
Austria	22.789	118	Slovenia	16.530	86
Portugal	15.629	81	Slovakia	12.758	66
Finland	20.371	106			
Sweden	21.225	110			
U. Kingdom	22.175	115			

[*1] year 2007
[*2] year 2005
[*3] without Luxembourg and Malta
Source: Eurostat (2011)

This measure serves as a rough proxy for both the convergence already achieved and the remaining gap in productivity levels and living standards between the New Member States (NMS) and the EU-15 average. Per capita gross disposable income of households in the NMS range from 29% of the EU average in Bulgaria to 101% in Cyprus. Figure 1 shows the convergence of GDP per capita levels from 1995 to 2009. Most of the NMS achieved good results in that process, however some „old" member states, like Portugal and Italy have not been so successful.

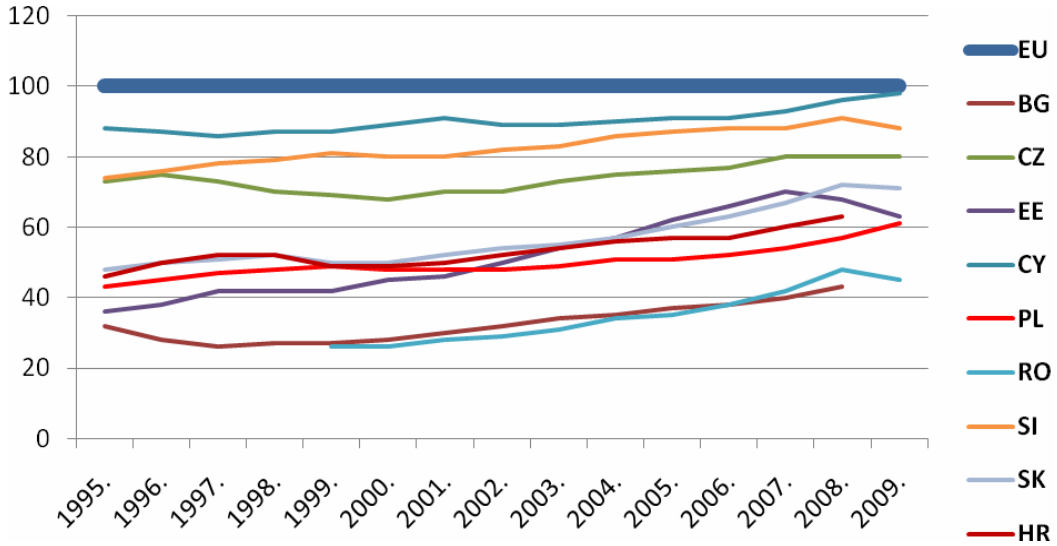


Figure 1. GDP per capita PPS (EU27 = 100) for selected NMS and Croatia

Source: Eurostat (2011).

2.3. Unemployment and poverty in the EU

The level of unemployment in the EU is relatively high (9,6% in 2010), as a result of the European Social Model, and recently the global financial and economic crises. Unemployment levels differ in individual countries, but this doesn't mean that the "poorest" members have the highest levels of unemployment. For instance, Romania (6,9% in 2009) and Germany (6,8% in 2010) have a similar level of unemployment, but Spain doesn't (20,1% in 2010).

People are said to be living in poverty if their income and resources are so inadequate as to preclude them from having a standard of living considered acceptable in the society in which they live. Because of their poverty they may experience multiple disadvantages through unemployment, low income, poor housing, inadequate health care and barriers to lifelong learning, culture, sport and recreation. They are often excluded and marginalised from participating in activities (economic, social and cultural) that are the norm for other people and their access to fundamental rights may be restricted (European Council definition from 1975).

Being "poor" is not the same in different countries. It depends on factors such as costs of living, wages, social services etc. Having less than 18.000 EUR a month makes you poor in Luxembourg, but certainly not in Romania and Bulgaria, where the poverty threshold stands at about 1.000 EUR. Figure 2 displays the share of population thought to be at risk of being poor in the EU and individual member states. Approximately 1/5 of the EU population bears that risk, but the situation differs in member states. Romania, Latvia, Bulgaria, Greece and Spain have the biggest share of potentially poor people, while the smallest share is reported in countries such as the Czech Republic, Sweden and Slovakia. Being an "old" and "big" member state doesn't mean less poverty among the population, as high shares of potentially poor people live also in Italy, the UK and Ireland.

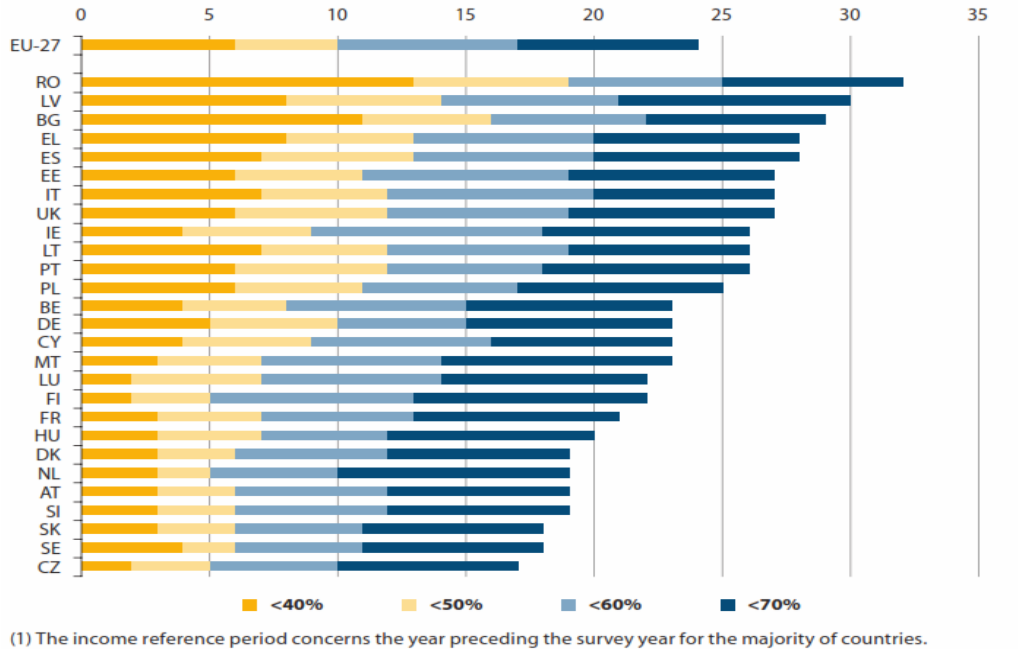
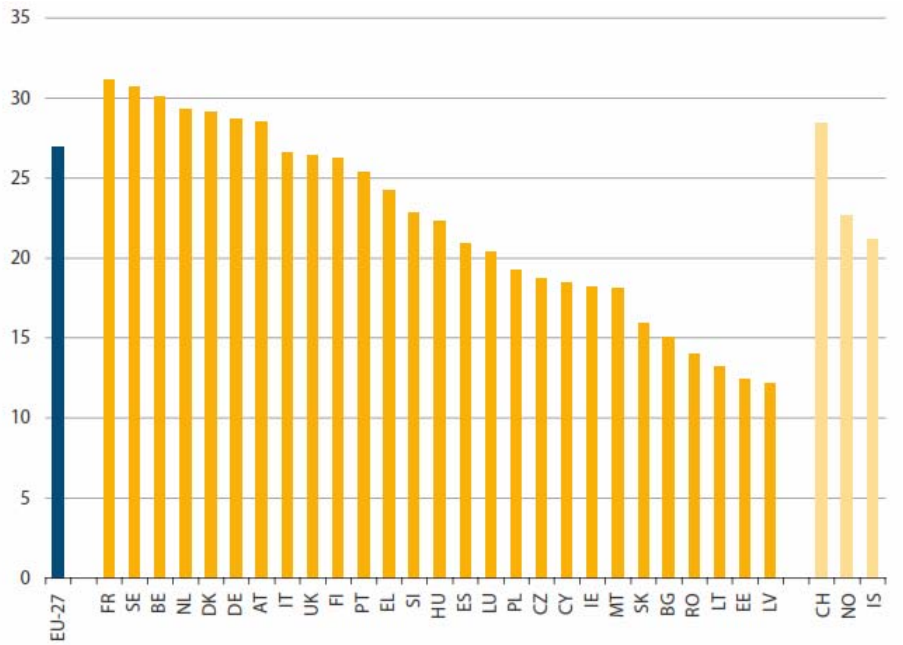


Figure 2. At-risk-of-poverty at various thresholds, 2007 (% of population)

Source: European Commission (2010).

2.4. Social protection in the EU

Social protection is a form of 'safety net' for the vulnerable, poor and needy, the effectiveness of which relies on the amount of resources being redistributed and their allocation. Social protection measures can be used as a means for reducing poverty and social exclusion. The level and structure varies in different states, depending on political, economic and cultural preconditions (Figure 3 and 4).



(1) EU-27, Germany, Spain, France, Italy, Latvia, Lithuania, the Netherlands, Slovenia, Slovakia, Sweden and the United Kingdom, provisional.

Figure 3. Total expenditure on social protection, 2006 (%GDP) (1)

Source: European Commission (2010).

France and Sweden have the highest levels of social protection in the EU, yet the structure isn't the same. In Sweden protection of elderly people not covered by pension systems is quite significant, unlike in other countries. Although being the poorest members, Romania and Bulgaria don't have the smallest share of GDP for social protection expenditures, but they are not much higher than in the three Baltic States.

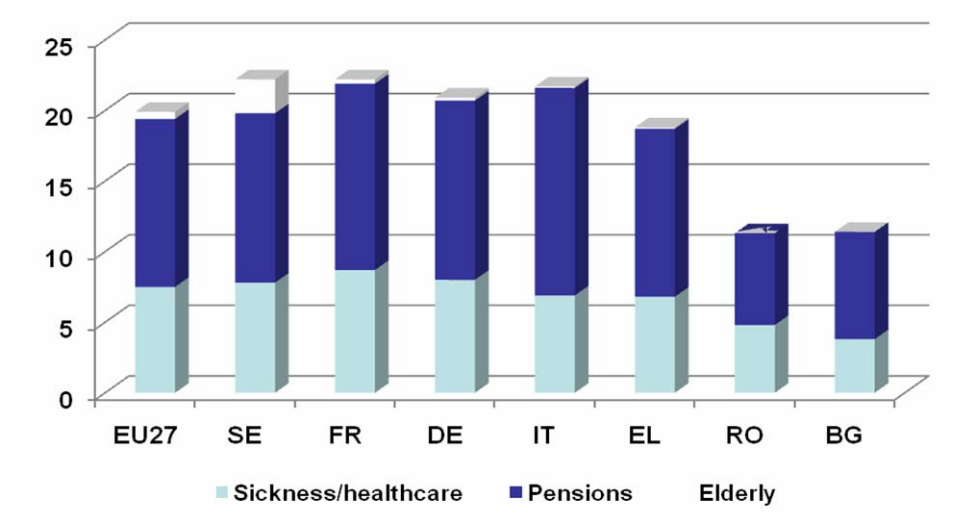


Figure 4. Components of social protection expenditure, 2006 (% GDP)
Source: Eurostat (2011).

The problem of adequate social protection is inevitably linked to the available public resources. Most of the member states have problems with elevated government debts (Figure 5), and cutting public spending nearly always implies less social security. Greece and Italy being members with the highest proportions of government debt are in danger of reducing social rights for their citizens, although already in the group of countries with the highest proportion of at-risk-of-poverty. Romania and Bulgaria (Matei and Dogaru, 2010), on the other hand managed to restrict high public indebtedness, while Sweden obviously managed to reduce the debt despite the highest level of social security.

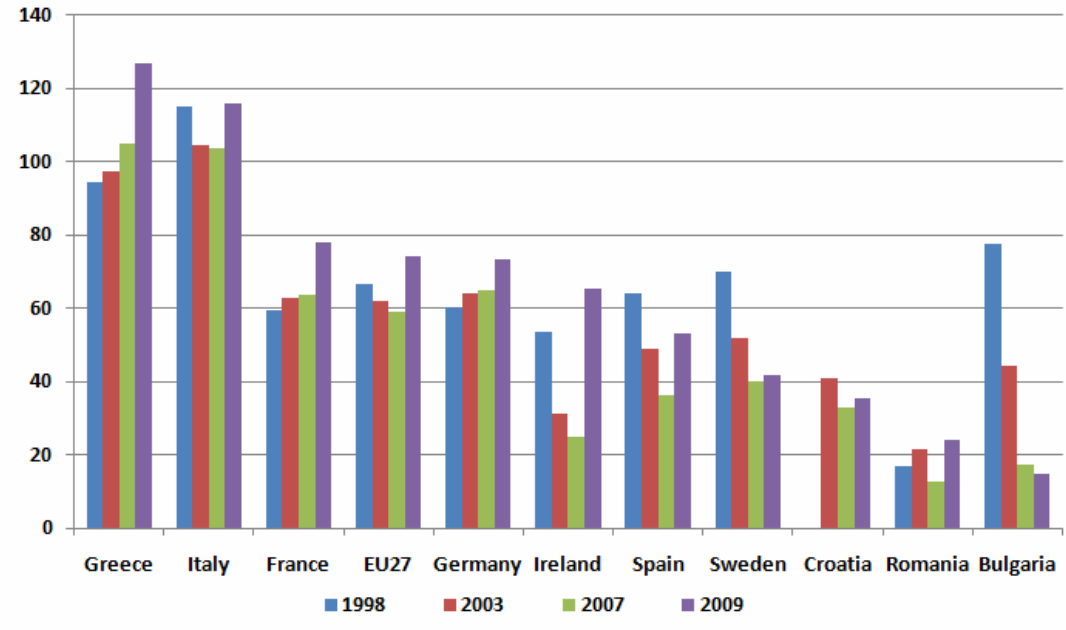


Figure 5. General government gross debt, Million EUR, % of GDP

Source: Eurostat (2011).

3. European Social policy

The Social Policy of the EU aspires to achieve high rates of employment and safe and sustainable incomes for all its citizens. Among other things, it defines and protects workers' rights in cases of collective redundancy, relocation and business bankruptcies, as well as rules on working hours and occupational safety and health. Membership of the Union facilitates easier employment of EU citizens on the European Internal Labour Market.

The European legislation aims to create equal opportunities for all including the protection of the principle of 'equal pay for equal work', and the prohibition of any possible discrimination. As to increase the competitiveness of the European economy, besides employment security and social security, it encourages lifelong learning, while European strategies and funds encourage the employment of those groups affected by the long-term unemployment, as well as the expansion of networks for social services for children, elder people and persons with disabilities. Financial support for employment and other social objectives is mainly related to the European Social Fund (ESF), with a sum of 77 billion EUR in the period 2007 – 2013. Other important instruments include the PROGRESS programme and the European Globalisation Adjustment Fund (EGAF).

The institutional framework of the EU Social policy is primarily made up of the main institutions of the Union (Council of Ministers, European Commission, European Parliament, European Court of Justice), which have decisive legislative, executive and judicial functions at the supranational level. However, the complexity of modern social and employment issues require more specialised bodies which should improve the supranational and national policies. That is why the institutional framework also consists of numerous advisory and subsidiary bodies at European level, among which the most representative is the European Economic and Social Committee (EESC), dealing with sensitive social issues dealt by representatives of the wider society (employers, workers, NGOs etc.). Other bodies are:

- the Committee of Regions (CoR)
- decentralized EU agencies such as:
- the European Centre for the Development of Vocational Training (CEDEFOP)
- the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)
- the European Agency for Safety and Health Protection at Work (EU-OSHA)
- the European Training Foundation (ETF)
- the Agency for fundamental rights (FRA)
- the European Institute for Gender Equality
- other specialized bodies, like the European Employment Service (EURES) and the European industrial relations observatory (EIRO).

Considering that the Social and Employment Policies are subject to the Open Method of Coordination (OMC), the national goals are sometimes superior to supranational goals. This means less effectiveness, which is crucial for the modernization of social systems in the EU.

4. Croatian administrative adjustments to the EU Social Policy

The social expenditures in Croatia are higher than in other transition countries, except for Slovenia. In 2006 they were about 21,5% of the national GDP. Social reforms in Croatia focus on reducing the responsibility of the state, and increasing the responsibility of the individual, the market, the family and the civil society. Nevertheless, guaranteeing the basic social security remains the responsibility of the state. The decrease of public social costs and labour costs should encourage new investments and new employment. This „3D" approach consists of: désétatisation (deetatisation), de-institutionalisation and decentralisation. Croatian priorities are:

- to increase the effectiveness of social assistance
- to implement the decentralization of social welfare
- to increase the availability and quality of social services to the regional uniformity
- to stop the trend of institutionalization and encourage deinstitutionalization of conduct and transformation of social welfare and other legal entities
- to implement computerization of the social welfare system
- to improve the foster-care system in Croatia
- to enhance cooperation with civil society organizations

- to strengthen the preventive role of family and legal protection
- to ensure the requirements for continuing professional education of employees in the social policy area
- to strengthen the role of local authorities and community in the planning of services at local level
- to improve the level of integration of various social services
- to increase the utilization of pre-accession funds, the programmes of the EU and the Structural Funds
- to encourage co-operation at national, regional and local levels.

In August 2007 the Croatian Government presented the Action Plan for the Alignment of Legislation and Building up of Necessary Capacities for the Implementation and Enforcement of the Acquis Communautaire. It was necessary as Croatia was in the process of negotiations for membership with the EU, which gave specific benchmarks for the opening of membership negotiations. These benchmarks included the amendment of the Labour Act and the Occupational Safety and Health Act plus the adoption of an anti-discrimination act and a new Gender Equality Act. Membership negotiations were provisionally closed 21 December 2009 in the field of Social Policy and Employment, while the completion of negotiations in all chapters was reached in June 2011. Croatia is expected to join the EU in July 2013.

Croatia had to build its administrative capacity in order to achieve one of the requirements for membership in the EU. Substantial reforms were made already during the 1990-ies and especially after 2000. Crucial adjustments had undergone during the process of negotiations but some are still going on (Table 3).

Table 3

Administrative capacity adjustments of Croatia

Labour Law • Within the Ministry of Economy, Labour and Entrepreneurship, the Labour and Labour Market Directorate was reorganized in 4 departments: Labour Law Department, Labour Market and Employment Department, Safety at Work Department, Department of EU Aid Schemes and Projects Management in the Area of Labour and Social Security • The State Inspectorate was reformed and enhanced with new tasks and experts • A new Development and Employment Fund was initiated • The Ministry of the Sea, Transport and Infrastructure was adapted for a higher level of supervision of workers in their area of activity • The Judicial Academy was also strengthened in order to admit more future specialists
Health and safety at work • A new Safety at Work Department was introduced within the Ministry of Economy, Labour and Entrepreneurship (Labour and Labour Market Directorate) • The Croatian Institute of Health Protection and Safety at Work and the Croatian Institute for Health Insurance of Health Protection at Work were set up • State Inspectorate was adjusted for higher needs in this area
Social Dialogue • An Economic and Social Council was set up to include representatives of the employers, workers and the government • A new Social Dialogue Section of the Labour Law Department was introduced within the Ministry of Economy, Labour and Entrepreneurship
Employment Policy • The Croatian Employment Service (ca. 1200 employed) was introduced and adjusted for future membership in the Internal Market • Within the Ministry of Science, Education and Sports a new Department for Lifelong Learning and Management of EU Funds was created • The Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity was reorganised in order to encourage the employment of vulnerable categories of the society

• The Agency for Mobility and EU Programmes was also set up in order to prepare Croatia for the EU
European Social Fund • The whole administrative structure, including the Ministry of Economy, Labour and Entrepreneurship, the Ministry of Science, Education and Sports, the Ministry of Health and Social Security, as well as the Croatian Employment Service and the Agency for Vocational Training are undergoing changes in order to boost the capacity for management and supervision of the pre-accession assistance available through the Instrument for Pre-Accession Assistance (IPA), which should later on be replaced by structural (and cohesion) funds after joining the EU
Other administrative capacity adjustments • Because of the more demanding requirements for social inclusion, some adjustments have been made within the Ministry of Health and Social Security and the Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity • Adjustments related to social security improvement were made in the health and pension systems (Croatian Institute for Health Insurance; Croatian Pension Insurance Institute) • Issues of non-discrimination and equal opportunities are dealt more seriously after the formation of the offices of the People's Ombudsman and the Ombudsperson for Gender Equality, as well as the creation of the Office for Gender Equality of the Government of the Republic of Croatia

Created by authors with data from: Government of the Republic of Croatia (2009)

5. Western Balkan countries and the adjustments to the EU Social Policy

The countries of the Western Balkans share numerous social problems: high unemployment, low participation rates, falling birth rates, aging populations, severe poverty, migration of many young and skilled people etc. Social protection systems have been weakened by efforts to cut public expenditure and reduce budget deficits. The post-communist social security systems that have been put in place are relatively weak due to lack of resources and the deterioration in the capacity of many of the institutions of public administration. Limited ability of governments to increase public expenditure for the alleviation of poverty, and the high levels of unemployment have led to a drastic increase in poverty during the transition period and following the various wars and conflicts in the region.

The Western Balkan countries have been converging on rather different welfare models. Relatively high expenditure on social security and social protection is present in Croatia, Bosnia-Herzegovina, Serbia and Montenegro, while it is relatively low in Albania, Kosovo (UNMIK) and Macedonia (FYROM).

In 2006 the European Commission described the social situation in the region as such: “As progress is made on stabilisation and status issues are addressed, the Western Balkan countries will increasingly focus on the reforms needed to approach European standards. The economic and social agenda will come to the forefront, as weak economies, high unemployment and inadequate social cohesion are major problems throughout the area. EU policies in the region should focus more on equitable and sustained development and on extending the benefits of economic growth to vulnerable groups and communities by combating unemployment, social exclusion and discrimination and promoting social dialogue”.

So, What can the Western Balkan countries expect in the future? One of the risks is connected to the social “race to the bottom”. Some countries are trying to attract foreign investors with lower wages and social standards. This liberal approach impoverish the local population but it can also disturb neighbouring countries which lose jobs. The opposite risk is that of the accelerated harmonization of social benefits and wages. Setting to high standards can actually be accompanied by rising unemployment and high indebtedness (like in Greece or Spain).

Western Balkan countries can also expect financial and other support that encourages convergence at the national and European level. However, experts say that economic convergence leads to social convergence, but not necessarily to the harmonization of social systems of different countries. That is why these countries should:

- Provide quality assessment of different effects and the dynamics of social (and economic) reforms, which will enable a greater level of social convergence
- Evaluate the effectiveness of national social policies, particularly in the context of their impact on the labour market
- Assess their ability to adapt to the contrasting demands of social security and employment, on the one hand, and economic growth and development, on the other.

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III.6. SOCIAL RESPONSIBILITY – VALUE FOR EUROPEAN ADMINISTRATIVE SPACE

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Abstract

In European modern societies, in the context of economic, social and political mutations imposed by globalization, organizations need to define new principles of good governance. Governments have assumed sole responsibility in improving the living conditions; enhance the transparency and predictability of social policy measures. This paper aims to answer some key questions about the implications of social accountability by public organizations from the European administrative space in terms of outlining a possible model of European administration. Starting from conceptual determinations of the term social responsibility, throughout the paper we argue its importance and actuality in public policy measures adopted at EU level. This appears as a necessity to outline a new principle, an element of transversal policy which has to be reconsidered in the context of cross new lines: social responsibility - sustainable development - governance. The hypotheses of the study are done by new approaches of the European Commission concerning social responsibility of organizations through the studies and decisions; theoretical and methodological approaches are based on causal and empirical studies concerning the evolution of framework in the field of social responsibility and the impact on the firms in European space. Article brings to the fore the complex issue of social responsibility of public organizations and the implications for decision making at European level, also the necessity to increase its role in economy.

Keywords: responsibility, European agenda, strategy, administrative decisions, governance, sustainable development.

The Concept of Corporate Social Responsibility (CSR)

World Bank defines corporate governance as a combination of laws, regulations and codes of conduct adopted voluntarily, providing companies the opportunity to attract financial capital and human resources and its business opportunity to operate effectively so that to ensure existence by generating long-term value for shareholders and society as a whole. World Bank refers to the ways of implementing corporate governance and the areas that are affected by it. The debates on corporate social responsibility (from private and public sector) have been intensified during the 1990s, first in Anglo-Saxon countries, and in continental Europe, to expand globally. Public interest for such a problem is focused on analyzing the drivers and limits its power because each company, depending on the specific mode of organization and other features, there is a set of specific relationships between different categories of people involved directly or indirectly in the business ("*stakeholders*"). In its business, the company management will have to take account of the conflicts arising from bringing a multitude of interests "*under the same roof*" because efficiency threatening if not properly regulated are also known. Managers are a particular group of stakeholders who, holding power management is both "*judge and party*" and others involved must ensure that wealth will be distributed among them in a fair and free of abuse.

Ten years after inclusion in the European Union Agenda, CSR (Corporate Social Responsibility - CSR) is an important objective in analyzing public policies in European companies' business

strategies through which social and environmental concerns in business operations and stakeholder interaction is done on a voluntary basis. New guidance aims to support sustainable development and growth as described in Europe 2020. CSR has been adopted by companies, investors and business schools of the XXI century. Civil society, academia, companies integrate into their current concept of CSR activities particularly in the general context of current global economic and financial crisis. CSR issues are even more relevant as necessary involvement of responsible business and regaining public confidence.

CSR has a variety of meanings attributed to the dynamic changes from the socio-economic environment, the contextual dependence to economic processes and holistic nature. Dynamics is expressed in that constantly evolving to meet ever new society, context dependent because it relies on historical and cultural traditions that include in its nature. Holistic nature involves various aspects of economic, social and environmental. Concept complexity determines that policy actors to the potential, variety and impact that CSR plays in society in general, companies in particular.

Corporate Social Responsibility is often defined in terms of social impact, work environment and systemic activities. In the context of social, economic and political changes imposed by globalization, the company is no longer simply a manufacturing entity it becomes dynamic and involved within the company. Kofi Annan, general secretary of United Nation, argued in 1999 that big business leaders to join an international initiative called Global Compact, which would bring companies together with United Nation agencies and civil society to support social and environmental principles. The objectives of this work included common understanding and developing ideas and practices relating to the company's approach as a citizen of the communities they serve. Authorship of concept is attributed to Bowen (1953), which states that "*business ethics movement means professional implementation of moral behaviour of managers: the manager becomes a moral agent*". McGuire and others (1988) defined as the involvement of corporate social responsibility in society through transcend economic obligations. Epstein (2001) (Matei and Tuca, 2011) understood the Corporate Social Responsibility (CSR) in terms of "*organizational decisions on certain issues or problems (by way of normative standards) have beneficial effects on stakeholders*." We conclude that a corporate social responsibility expectation requires harmonization of economic, legal, and environmental relationship that society has towards the organization at a time.

National and multinational companies have understood that social responsibility is an imperative of performance and efficiency of organizations. Effective leadership is one of the most important aspects for the study of the organizations. In the process of structuring and efficiency of activities of an organization, leadership is the key to which the performance and productivity. Success of XXI century organizations depends to a large extent by the search, discovery and effective use of the "*talented managers*" and those persons persistent, innovative, goal-oriented, and able to encourage diversity, attentive to environmental challenges, particularly with permanent availability to turn the vision into reality.

Our research aims to answer at two questions:

a. the issue of corporate social responsibility becomes a priority of European leaders agree to new guidelines focus on business ethics movement, the need to reconsider the impact that corporate activities have on the environment, health and safety of people, their social welfare in the European administrative space. So the question arises: what correlation exists between sustainable development, governance and corporate responsibility? We start from the premise that CSR is a handy tool through which EU leaders can generate new behaviors.

b. at European Union level, CSR must be understood as a parameter for the construction of a coherent strategy in this area. The problem that we bring into question is whether CSR is one of the components of sustainable development in the so-called triptych: sustainable development - social agenda - governance. It gives rise to a new vision: it may be a new European entity founded on these new values promoted by CSR governing relations between public and private actors in the European Union? To what extent can European leaders to redefine the corporate governance to meet fair, transparent and efficient European society as a whole.

CSR – a dynamic analysis

Since July 2001, when it was published Green Paper on "*Promoting a European Framework for the Corporate Social Responsibility*", the European Commission has stepped up its actions in terms of social responsibility of organizations in Europe. One year after the Green Paper, the Commission published a communication entitled: "*The Social Responsibility of Businesses: a Contribution of*

Businesses to Sustainable Development". CSR Europe was created later as a platform for discussion among stakeholders in Europe. In 2004 a strategy was adopted in seeking CSR "*Encouraging the spirit of business*". From the moment the issue of Corporate Social Responsibility has become a major concern of European leaders, the principle of corporate governance being a measure of European public policy decision. Social welfare is an objective of the current government, whether we relate to local, regional or national level.

The European economy must be the most competitive and dynamic "*knowledge-based economy*" (Lisbon, 2001) to sustain economic growth through the wise use of resources. Inclusive growth by empowering people aim high levels of employment, increased skills, fights poverty and modernize the labor market and, in this context, the corporate social responsibility plays an important role. The Commission stresses that through the CSR the European leaders can lead to better performance and generate more profits and more growth.

Together with the United States of America (US), European countries were among the first in the world that have adopted public policies to promote CSR among their enterprises. Active policies of the state are now found across the globe, including Brazil, India and China. Some of the most innovative and renowned public CSR policies in the EU had as a model of domain policies promoted by the United States.

In 2006 and 2007, the European Commission took stock of these policies and has published two editions entitled "*Corporate Social Responsibility: National Public Policies in the European Union*". These editions have focused on consideration of the recent policy of the 27 European Union Member States and refer to the structure, methods, scope and purpose of publication.

The current version of the document is structured on CSR issues. They identified eight topics for discussions, in direct cooperation with the European Parliament. Priorities were identified recent trends in CSR policies of European states. Among the most important topics of discussion is remarkable public policy framework on CSR at European and national action plans and strategies on CSR with a focus on human rights, climate change issues, the role of small and medium in promoting CSR.

Since the turn of the millennium, the Commission was an active player in promoting CSR in EU Member States. Since 2006, the Commission undertook to take various initiatives to support CSR awareness and best practices to promote cooperation with Member States, information and transparency, research, education, small and medium enterprises and the international dimension of CSR.

CSR and European Values

In the field of CSR the European Commission has identified several policy areas on which any company or government from the European Union must reflect. They are:

a. *Health and safety at work*. Criteria for health and safety were included by the companies from the European Union in their CSR activities voluntarily. Reflecting the principle of corporate governance in the behavior of organization in the European administrative space proves an effective cooperation among political and publics leaders in member states who understand that their corporate responsibility means an increase in performance and productivity, but also a strengthening of the social welfare of Europeans citizens. Multiplying the national legislation concerning security and work safety would not do nothing but distort the European labor market. In these circumstances, CSR could become an instrument of harmonization of European legislation, favoring labor market access for European citizens with guaranteed rights and fundamental freedoms, promoting the consumption of goods and services in accordance with the principles of good governance.

b. *Human Resources Management*. Commission stresses the need for companies to use responsible and non-discriminatory practices, the transparency and information of company employees and pursuing their professional development throughout the entire life. The assertions are in fact manifestations of social policy pursued by CSR Europe. The three elements of lifelong education, equality and nondiscrimination between women and men at work and the right to information is the triptych of European social policy. Through the corporate social responsibility, the Commission legitimizes its policy elements (the issuing of directives on informing and consulting employees in Europe or the principle of social dialogue held by the Maastricht Treaty).

c. *Environmental Commission* examines a number of economic indicators and social factors that contribute to socially responsible investment. This will lead to an optimal functioning single European market. Through CSR, economical and social indicators are a necessity for the proper conduct of

business relations and the requirements they impose production and business practices which reinforce two important policies of the European Union: environmental policy (generating binding rules for the protection environment in the Member States) and political cooperation involving human rights, democracy and solidarity.

The triptych: *sustainable development, governance and social agenda* support CSR for several reasons:

CSR is a relatively new concept, but the practices of the company's responsible action regarding dates for a long time (1920, 1930) and are in direct correlation with productivity and work performance.

Sustainable development is defined as providing an enabling development need of present generations without compromising the ability of future generations to meet their own needs; Social Agenda is the document that defines the role of the European Union in the field of social development, economic and social rights of European citizens.

Sustainable development was treated as a major element of economic and social development of Member States in the Treaty of Maastricht. However, evidence supporting the concept of sustainable development is reflected in the Treaty of Rome that set the objectives of joint action for social progress through the recognition of the European Economic Community under Article 117 of Community competence in safety and health. Regional policy and European solidarity are defining the concepts of sustainable development.

Interdependence of sustainable development and CSR was achieved only in 2002 by a Communication from the European Commission. Knowledge of CSR is the result of new forms of social and commercial pressures which have led to new perspectives and new values in leading companies. Changing values and new perspectives leading companies are determined by the phenomenon of globalization and information technology developments. These major changes in the companies have opened new horizons and created new responsibilities for companies. CSR thus became the most important element of sustainable development both locally and internationally. Global Governance and the link between business, investment and sustainable development are issues for discussion in the field of CSR.

Based on these arguments the Commission is constituted as a leader of European Administrative Action which aims to legitimize such mandatory rules. Promoting these new values and principles of the CSR must be made by national, regional and local administrative authorities to improve relations with citizens.

The European principle of subsidiary (Article 3 of the Treaty of Maastricht) states that public authorities make the decision closer to the citizen. From the above arguments that CSR is a principle that governs companies (private, in particular) and explains the decisions and their effects on productivity and economic performance. However, the involvement of CSR in the activities of public companies is even more necessary, because the impact of their decisions is reflected in the social welfare of communities.

CSR should not be confused with a substitute for the regulation of social rights and environmental standards. Commission recommended that Member States where no regulations on environmental protection are and social rights, efforts should be concentrated in these directions for defining an equitable basis to socially responsible practices which can be developed. There are opinions suggesting that the only rules of the market are sufficient for good social practice and not government intervention. Triptych CSR, sustainable development, governance, social agenda is in fact a fundamental objective of public policies adopted and implemented by state policymakers. Economic and social imbalances are the direct result of agents' behavior rather than the result of state intervention.

From the historical point of view, governance of the political leaders preceded it on the heads of companies, which are recent organizational forms. Equally, it can be said that the company had the right sources, the principles of democratic states to organize their own power structures and thus to protect the interests of all stakeholders.

From the perspective of power, corporate governance functions not only to legitimize the authority exercised directly by representatives of managers and supervisory bodies. Managers of a company have the right to act in the interest of shareholders "*can sign contracts to buy, sell, make the execution of financial transactions, to hire and fire employees etc.*". Demarcation function of ownership (shareholders) of the function of management (managers) creates conflicts between the two parties whose interests are converging, as a rule, managers are short-term thinking, acting under the impulse of the moment, wish to maximize profit in detriment of shareholders, animated by the ideals long term that matters transmission business from one generation to another, as a "brand" of success.

Adrian Cadbury, founder of applied corporate social responsibility (in United Kingdom) show that key elements of corporate governance are: honesty, trust, openness, performance orientation, responsibility, mutual respect, commitment to the organization. Of great interest is how managers develop models of corporate governance and to align the company's value system, equally in decision making is necessary to take into account the opinion of experienced directors (executives seniors) able to impose by their attitude, respect for rules to prevent conflicts of interest.

First report of Cadbury on 27 May 1992 and completed on 1 December 1992, has held three principles of corporate governance: openness (transparency), integrity and accountability.

a. *Open (transparency)* of the companies is the basis of trust that should exist between those in business who have proposed that goal, success. Although transparency be exercised within limits imposed by the competitive environment, without violating secrecy rules, expressed through an open dissemination and publication of information, ensure work efficiency, promote a Board of Directors determined to share shareholders and other interested entities to information about the company. Experience has shown that "*public exposure of their actions and decisions for consideration by the media, contribute to improving behavior and performance*." Open to business and hence to public opinion, are prerequisites for efficiency and stability, because concealment and falsification of financial statements are real short-term maneuvers that, sooner or later it will come out.

b. The principle of *integrity* involves the adoption of fair and appropriate behavior from the company in all activities undertaken. Integrity is an overriding principle when undertaking prepares financial statements in a fair and appropriate reality. Integrity of reports prepared depends on the integrity of those which make and submit them. Accountability is the effective duty of the Board and is manifested through the quality of information provided to shareholders, because they are able to agree as to the operations of the owners being aware of the situation.

In practice, it often finds that it is not clearly defined responsibility for both executive staff and for decision makers. Decision-making capacity increases as hierarchical position improves. However, the hierarchy of limited liability of officials and force them to define the values with which they work. This does not mean that managers at middle levels do not take tough decisions.

Increasing confrontation with the choice between competing values and options creates a short term high dose of conflict. To some extent, we can estimate that the specialization and hierarchy tend to act together to limit the authority. Thus, specialization limits its jurisdiction (as in formulations such as "*I am not responsible for what happens in the office / services*"). Hierarchy in turn limited managerial authority (in formulations such as "*I do not make the rules*"). Consequently, the hierarchy allows, even forces driving factors to define and limit sets of values within the work of subordinates.

Companies in the European administrative space will have to base their decisions on the principles of corporate governance, especially the principle of social responsibility.

The EU does nothing more than to build an anchor of these principles and establish a coherent framework for public policy to promote CSR. EU standard allows building a system based on clear objectives and verifiable to ensure credibility of CSR practices. By proposing a Community reference framework, the Commission acts as a conciliator between the agents showing different points of view, proposing a framework for cooperation rather than a regulatory framework. European Administrative Space becomes a filter for making this corporate leaders need to take account of social implications. CSR policy becomes a transversal policy with impact on European public policy. Some experts argue that this process is described by neo-functionalists at the beginning of European integration.

Conclusions

Our analysis shows that CSR is a concept that defines the corporate governance of our century. As reflected in the 2020 European Strategy, CSR concerns economic growth based on rational, sustainable resources in a competitive economy by exploiting Europe's leadership race to develop new products and technologies to achieve competitive advantage for European Affairs. Empowering citizens through higher levels of employment, improving skills, tackling poverty and modernizing the labor market are the objectives of CSR at European level. European Commission through its actions identified need and opportunity for responsible policy decisions by all companies by promoting transparency, honesty and integrity, and proposes a framework for collaborative action between the administrations of Member States and the measures adopted by companies in the area of responsibility.

It is true that since its inception, the European Union intrinsically has linked the basic social issues to the economic dimension of CSR, so the CSR was and is a value in the European space.

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III.7. EUROPEAN UNION'S VALUES - BALKANS' VALUES CASE STUDY: CROATIA AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

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Abstract

The European treaties allowed the European Union to be seen more as a political and economic area and less as a space with a common culture and values. However, in order to become a member state of this community, every country should respect such values as democracy, the rule of law, individual freedom and the market economy principles.

Now, according to article 2 of the Treaty of European Union, the EU values are established and they are granted the binding force of the law. Therefore, 'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States ...'. That is why values are at the heart of the European project.

Croatia and the fYRoM have a special status – candidate countries of the EU, but in order to become member states they have to reach the same values as the EU27.

In our study we will find out which the European values are and we will try to determine how the people from the Balkan countries – Croatia and fYRoM – are aware them. We will continue to see, based on the Eurobarometers results, what the EU represents for them, in terms of values. For this reason, we will put together the items obtained in the last years and we will see in the end if the Western Balkan citizens are ready to become EU citizens.

***Keywords**:* citizen's perspective, development standards, the future of Western Balkans

1. Introduction and Methodological Framework

The European Union (EU), as stated in the Preamble of the Treaty of European Union, draws inspiration from the cultural, religious and humanist inheritance of Europe, from which the universal values of the inviolable and inalienable rights of the human being, freedom, democracy, equality and the rule of law have developed.

Peace and prosperity are the main objectives of the alliance that gradually formed in Europe's past sixty years. It can be interpreted as a history of - the means - sustainability and energy, or *Steel and Coal* with which it all began. Sixty years ago (1951) Schuman acted upon Monnet's idea and shaped the dream of peace and prosperity among the big and small nations of Europe.

The head start was a Europe of Six, which became one of Nine as the UK, as Denmark and Ireland joined (January 1st, 1973), of Ten as Greece joined (January 1st, 1981), of Twelve (Spain and Portugal joined as of January 1st, 1986), a Europe of Fifteen as Austria, Sweden and Finland joined (as of January 1st, 1995), a Europe of Twenty-five (Cyprus, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia, Slovakia and the Czech Republic joined as of May 1st, 2004), and a Europe of Twenty-seven (Romania, Bulgaria; January 1st, 2007). There are ongoing talks regarding the possibility of connecting Turkey too to this Alliance of Peace and Prosperity. And every year potential new nations knock on the door to become accepted as Candidate Member States; Croatia, Ukraine and Georgia, to name only three examples.

Sometimes considered essentially as a political and economic area, the European Union is less often analysed via questions about European values. However, as the various treaties show, membership of the European Union is not open to just any country: every country wanting to join the EU must respect a certain number of values, such as democracy, the rule of law, individual freedom and market economy principles. Values are therefore very much at the heart of the European project, which is not simply the construction of a common market. The value is the real meaning; it transcends the world to legitimize it. Values play a significant role in determining what is possible in the EU and what is desirable.

The Western Balkan countries expressed their will (former Yugoslav Republic of Macedonia – 22 of March 2004, Croatia - 21 of February 2003) to become member states of the EU. For that they first of all have to reach and promote the EU common values. In this sense, our study will try to determine if the future EU citizens believe that the EU will promote their interests and their values.

'Becoming a member of the EU is a complex procedure which does not happen overnight. Once an applicant country meets the conditions for membership, it must implement EU rules and regulations in all areas' (European Union web page). As we can see, in general, the Balkan countries have to face a number of challenges (most of them legal and procedural ones) in order to become member states, but our aim is to find out how receptive the Balkan citizens are to these new European values and for that we will try to answer the following question: Will the Western Balkan (Croatia and former Yugoslav Republic of Macedonia) countries follow the same successful path in sharing and respecting the European values? In order to do this we will use the documentary and content analysis to find out the Europeans' perceptions (Eurobarometers no. 64-73) on the EU values and EU membership.

So, we will try to determine if the values that brought together the European countries in the Union (almost 60 years ago) are ranked at the same level by the people from the Balkans. We already know that the Western Balkan countries try to reach a development standard appropriate to the EU one. But, the development, according to Amartya Sen (1999), is 'a process of expanding the real freedom that people enjoy' so it means that first of all they should value freedom.

EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The fact that the future of the Balkans is within the European Union was stated in the EU-Western Balkans Summit-Declaration (Thessaloniki, 21 June 2003).

2. Common Values, Common Future

The European Union becomes a community of shared values. The inviolability of human dignity, the right to life and the prohibition of the death penalty, the right to integrity and the prohibition of torture, freedom of thought, conscience and religion and much more: the rights which young people in the west of Europe today enjoy as part of everyday life were not enjoyed by earlier generations.

Based on its common values, the EU enjoys today a way of life and a social model which differs from those in most countries outside Europe and which is closely linked to the process of European integration. People of diverse intellectual and political backgrounds have helped mould this model for Europe. A model which is characterized by tolerant coexistence with others, solidarity in the event of emergencies, the rule of law and equal rights and obligations for European citizens.

When the EU citizens are asked what the EU means, the EU27 citizens share similar values (see Figure 1) and they recognise that the European values exist because they are the same with the national ones. Instead of this European opinion the majority of respondents in Croatia and the former Yugoslav Republic of Macedonia (fYRoM) believe that European values are part of a wider set of Western values.

The special attachment to Europe as an area of peace is noteworthy but it is declining along with democracy. Peace (35% in 2005 to 24% in 2010) risks to be surpassed by the idea of waste of money with 23%. The social protection is the only item that was maintained at almost the same level since 2005, namely 10% (± 1 point). But a relative majority of Europeans believe that the EU means 'freedom to travel, study and work anywhere in the EU'. This item attracts the EU citizens' attention even though since 2005 has lost 5% of its value.

Nowadays, when we utter "EU", more than 20% (+4% since autumn 2008) of the European citizens think of bureaucracy. We should mention that, in the Eurobarometers ratio this item was the third most frequently mentioned item in these countries even when it dropped at its lowest level. One more negative item associated with the EU is the inadequate control of the external borders, which lost 5 points in the last years reaching 15% in 2010. The lowest level attained by the item was in spring 2009 at the value of 12%.

The loss of cultural identity and the lack of control over crime were also assimilated by the European public opinion with the EU. Crime has shown a slight rise with 3% since 2009 (11%), which mirrors the increase in criminality as a national concern. And also, the loss of cultural identity reaches 12% after we have registered a gradual decrease up to 10% in spring 2009. Even so, the negative associations with the European Union remain in the minority, and none were mentioned by more than a fifth of the Europeans.

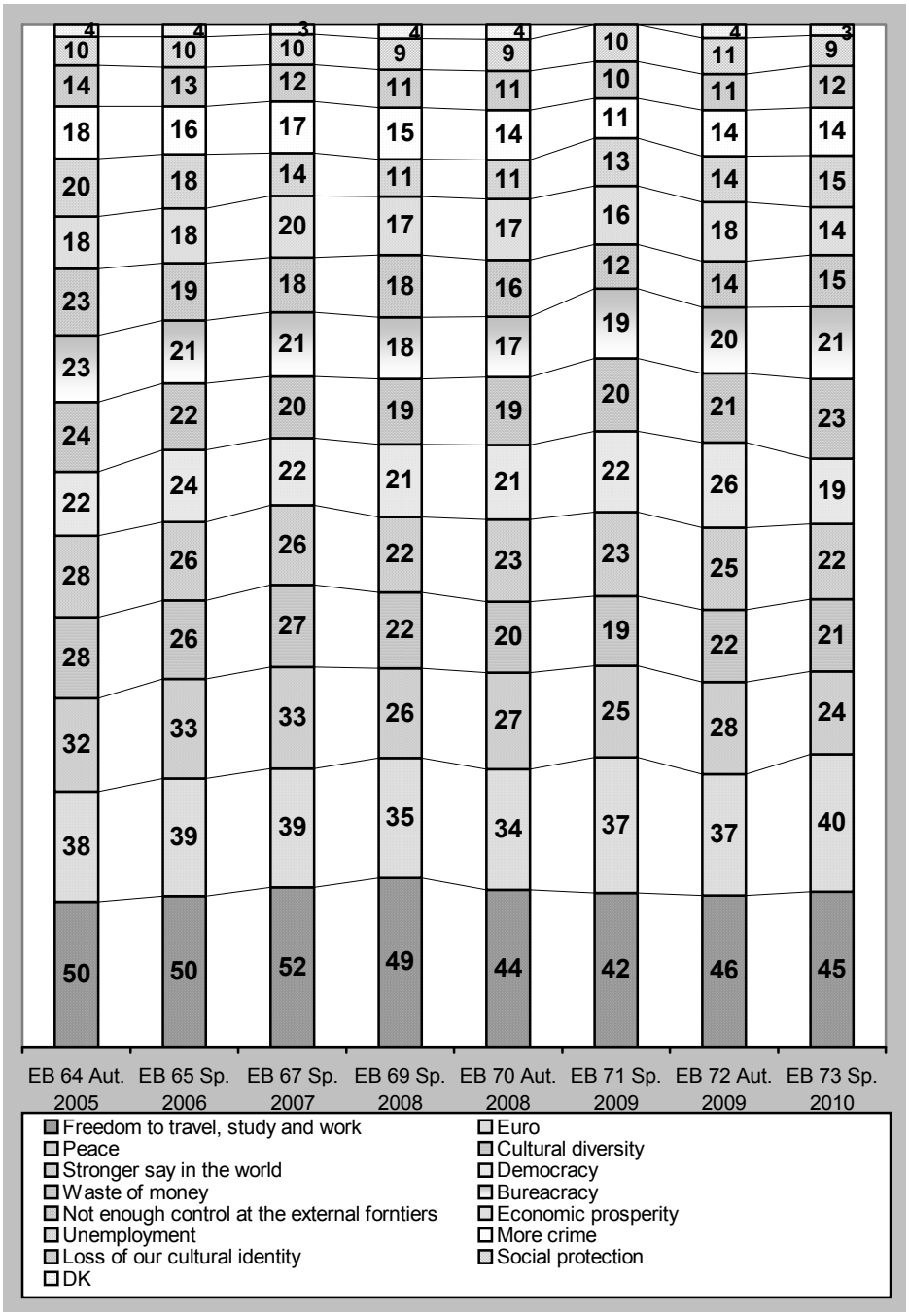

Figure 1. The European Union through the eyes of its citizens

Source: The items (%) shown in the table were taken from the Eurobarometer website (http://ec.europa.eu/public_opinion) and they were arranged so that the reader can see the changes interfered over time.

The candidate countries have a somewhat different image from that of the Member States. The image of the European Union (EB72) is very positive in the fYRoM, where 56% (-5% since EB 70) of the respondents mentioned the freedom to travel and work, followed by economic prosperity (43%, +11%) and peace (35%, +1%).

On the other hand, the Union's image is more fragile in Croatia. Although the freedom to travel and work was by far the most frequently mentioned item with 41% (+6% since EB70), it was followed by a negative item, the fear of the loss of cultural identity, which was cited by 23%(-1%) of respondents.

The respondents' views on the meaning of the EU have not changed much since the previous standard but in time (over a 5 years' period) we can observe a fluctuation which brought, in most of the cases, a decrease of the items. The only exception is the euro, which after a reduction of 4 points in autumn 2008 managed to reach the value of 40% in 2010, a year in which the effects of the economic crisis were evident for the EU citizens.

Despite minor differences in strength of feeling between the various social categories, there is a broad consensus across all European social categories on the trio of values, democracy, human rights and peace, embodied by the European Union. In short, the European Union represents the democratic and humanist values which the Europeans believe matter most. (EB72, vol. 2)

3. The European Values and the global ones

'The majority of the EU27 citizens (54%) think that the European Union Member States are close to each other in terms of values, versus a third of them (34%) who describe this relationship as distant with 13% less than the former Eurobarometer 66' (EB69). The idea that the countries that form the European Union are close to each other in terms of shared values has gained ground (6%) among European public opinion since autumn 2006. (EB69)

The way in which the Europeans perceive globalisation still remains ambivalent. 'On the one hand, it is seen as an opportunity for economic growth, a more outward-looking attitude to culture and a lever for development. On the other hand, it is still seen as a social threat, increasing inequalities and offering benefits more to the large companies than to citizens. All in all, Europeans continue to advocate greater regulation of globalisation and worldwide governance. Overall, these perceptions of globalisation have changed little since spring 2008 (EB69) and spring 2009 (EB71) although there is a slight trend towards a more positive vision' (EB72, vol. 2).

In conclusion, 61% of Europeans now share the view that globalisation is an opportunity for economic growth, while 26% disagree and 13% express no opinion. This view (EB72) is strengthening in the European public opinion, taking into consideration that the proportion of Europeans who agree has increased by 2 points since spring 2009 and by 5 points since 2008.

In the candidate countries, 61% (EB72) of the respondents in the former Yugoslav Republic of Macedonia express an opinion on globalisation; the percentage of those who consider that it represents an opportunity for economic growth is equal with the EU27 one. With 5% less than in fYRoM, Croatians agree with the idea that globalisation is a good thing, but almost 60% of them consider that globalisation does not help the development of poorer countries.

In EB72 the majority of respondents in the fYRoM (62%, +11%) tended to trust the European Union, compared with a minority in Croatia (34%, +2%). After 6 months, in spring 2010, Croatians' trust in the EU was unchanged, even in minority (34%). But in fYRoM we can observe a high decrease, by 10 points, reaching the value from 2008, but it is still the majority opinion (52%). Whereas the trust-distrust ratio had been more or less stable since autumn 2008 (EB70), it has now been reversed. The trust in EU registered a slight decrease at the EU27, by 6 points, getting the value of 42%, while 47% of Europeans do not trust it (+7) and 11% expressed no opinion (-1).

Even though the trust in the EU now registers a slight decrease, 49% of Europeans consider that they are safer because their country is a member of the EU, while 42% do not share this view and 9% expressed no opinion. This positive/negative answers ratio identified in EB73 is identical to that of spring 2008, in EB69.

Perceptions of globalisation are correlated to those of the European Union. According to EB72, the more the respondents trust the Union, the more they tend to be positive about globalisation. The more they distrust the Union, the more they tend to distrust globalisation. Thus, 75% of those who trust the Union consider that globalisation is an opportunity for economic growth, compared with 51% of those who do not trust the Union.

Besides the EU, the other two organisations that best represent the global values are the United Nations Organisation (UN) and the North Atlantic Treaty Organisation (NATO). The UN is seen as the international organism that brings to the fore the global values and NATO is seen as the defender of

the global values. When asked (EB72) about the United Nations and NATO, Europeans confirmed their trust in these two institutions: 55% for the UN and 48% for NATO. Although the trust in the UN remains the majority position, it has also decreased. 49% of the Europeans now trust the UN, 6 points less than in autumn 2009, while 36% (+6) do not trust it. After a rise in trust in 2009, the trust-distrust ratio in EB73 is very close to that measured in 2008.

A majority of respondents (EB72) in the former Yugoslav Republic of Macedonia trust the United Nations (57%, +4% since EB 70) and NATO (54%, +7%), while respondents in Croatia have far more reservations: 51% (-11%) of respondents are suspicious of the UN and 45%(-11%) do not trust NATO. As we already noticed the trust in the UN has declined, and this fall can also be seen in the Western Balkan countries – in fYRoM by 7 points (50%) and in Croatia, there has been no significant change since the previous wave and opinions remain much divided on this question (43% versus 45%).

Finally, as was the case of globalisation, trust in the UN and NATO is also correlated with trust in the European Union. For example (EB72): 68% of those who trust the European Union trust NATO, compared with only 29% of those who do not trust the European Union. EB72

4. EU membership between pessimists and optimists

Fewer than half of the Europeans are in favour of further enlargement of the European Union to include other countries in the coming years (46%), while 43% are against the idea (EB72). After a drop off with 5 points in 2008, the positive opinions record a rise to the detriment of negative opinions. A majority of respondents are now in favour of further enlargement in the future.

'An initial geographical analysis shows a clear difference between the Member States which joined during the last two enlargements (64% of respondents are in favour) and the 15 "pre-2004" Members, where 41% support further enlargement, while 49% are against' (EB72).

Logically, a large majority of respondents in the former Yugoslav Republic of Macedonia (85%) are in favour of the enlargement of the European Union to include other countries in the coming years. By contrast only six out of ten in Croatia share this opinion (56%, - 4 points). (EB72)

The results of Eurobarometer 73 show a change of trend, in comparison with the last two waves, regarding the further enlargement of the EU. The support for further enlargement is the most widespread in the former soviet countries, such as: Poland (69%), Lithuania, and Slovakia (63% in all two cases), Romania (61%) and Estonia (57%). The opponents of further enlargement are in a strong majority in three founding countries: Germany (71%), France (66%) and Luxembourg (63%). However, if in autumn 2009 the average proportion of respondents in favour of further enlargement increases by three points to 46% since spring 2009, now it has declined by six points and represents four out of ten people (40%). Therefore, further enlargement is now only supported by a minority of EU citizens.

In the candidate countries, the situation continues to be mixed: a large majority of respondents in Croatia (63%, +7 points) and above all in the fYRoM (88%, +3 points) are in favour of further enlargement in the future.

In the Eurobarometers it was noticed that a very large majority of the respondents who trust the European Union are in favour of future enlargement, while the opposite is true for those who tend not to trust the European Union.

By examining the reasons given to explain why respondents felt that their country had benefited/could benefit from membership of the EU we can understand why almost 50% of the Europeans consider that the EU is a shield which protects them. Improved cooperation with other countries was the most frequently mentioned reason, followed by the EU's contribution to maintaining peace and strengthening security (31%) and, thirdly, its contribution to economic growth in the respondent's country (30%). A quarter of the people interviewed also mentioned the fact that the European Union gives their country a stronger say in the world (26%) and others sustained that the European Union helps people face the challenges of globalisation (17%).

In the Western Balkan countries, the European Union's contribution to economic growth was the most frequently mentioned argument, with 46% in Croatia and 50% in the fYRoM. Respondents in Croatia are also very responsive to the argument that EU membership would bring new work opportunities (41%). But according to EB73 in Croatia (51%) and in the fYRoM (35%), the most frequently mentioned argument was the potential threat of European membership to local living standards.

A majority of Europeans (EB73) are convinced that their country's membership of the European Union is a good thing. Similarly, a majority consider that their country has benefited from its membership (56%), i.e. 2 points higher than in spring 2008. The decline in the proportion of

respondents, who view their country's membership of the European Union positively, noted since spring 2007, has been halted.

Three-quarters of the respondents in the former Yugoslav Republic of Macedonia believe that their country would benefit from membership of the European Union (74%), while more than half of those in Croatia are pessimistic (55% consider that their country would not benefit from membership of the European Union).

Almost half of the Europeans (EB73) consider that their country's membership of the European Union is a good thing (49%), while 29% think that it is neither a good nor a bad thing and 18% say that it is a bad thing. The decline in positive opinions about membership of the European Union noted in autumn 2009 has fallen by 4 points and and is now at its lowest level since spring 2004.

In the Western Balkan countries, a very large majority of respondents in the former Yugoslav Republic of Macedonia (60%) still support membership of the European Union, although this score has fallen by 6 points since the autumn 2009 wave. Despite a 2 point increase, support in Croatia remains very limited (26%).

As we can see, we cannot strongly say that future EU memberships are accepted by the present EU member states. EU membership is a good thing according to more than half of the EU citizens. The Western Balkan countries, in line with this opinion, are either optimists – dream to become future member states – fYRoM, or pessimists – taking into consideration the long duration of the integration process – Croatia.

5. Conclusions

We started our research stating that, based on the Sen (1999) words, the next EU member states should value freedom. Nowadays EU is seen as a creator of rights and recognised as a promoter of them. As we have already observed, EU citizens believe in the EU because they think that the EU represents for them, first of all, the freedom to travel, work and study.

Based on the EU common values, Europeans will enjoy a common future. But these common values are the national ones and at the same time the global ones. This means that the EU values are connected to those who created them and gave them life – the EU citizens. Even though the future member states – fYRoM and Croatia – consider that the EU values are Western values, they feel connected to them. FYRoM and Croatia support their EU membership, in different ratios, and believe that it will be a good thing even if it will reduce the living standards of local people. Moreover, the European Union values are common values, even for the new candidate countries, but at the same time the EU is a threat to their cultural identity (Croatia - 23%).

In accordance with the principle of 'unity in diversity', the Union shall promote the diversity of its cultures, while 'bringing the common cultural heritage to the fore' (Article 167 TFUE). Also, the EU respects the fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms. After the painful experiences of national-socialism or communist rule in Central and Eastern Europe, respect for fundamental rights first had to be established as a standard. The Charter of Fundamental Rights would further strengthen such protection.

According to the EB in May 2008, 91% of the Europeans felt attachment to their nations and only 49% to the European Union. This means that the EU is at the heart of its citizens but after the national identity. As the EU Treaties state, the EU is additional to the national level and not complementary.

A sixty years' dream – Schuman's dream – a dream of prosperity was surpassed by the realities of the European continent and now we see what Europe has accomplished – the establishment and the recognition of common values, the European ones.

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Chapter IV
The process of administrative convergence at EU level

IV.1. THE MULTI-FOLD OBJECT OF PUBLIC DECISIONS CASE STUDY: LAW ON THE CIVIL SERVANTS' STATUTE, LAW ON THE LOCAL PA, LAW ON EDUCATION

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Abstract

The applicability of the theoretic concept of public decision has specific characteristics as it pertains to each of the state's powers (legislative, executive and judicial). In practice, the decision takes different forms: managerial on the level of the executive power, political on the level of the legislative power and legal on the level of the judicial power. These approaches are not separate, but they are embodied by the tri-dimensional view (managerial, administrative and political) of the public decision, as it follows: the government, as a representative of the executive power applies the political decision coming from the legislative level and observes the other adopted decisions. These can refer to changes, suspensions, introductions, repeals, dismissals, replacements, approvals, extensions or reinstatements. How is this process carried out in Romania? Normally, is the public decision typology righteously balanced in between the three powers? The case study will follow the evolution of this typology for the Law on the Civil Servants' Statute, Law on the Local Public Administration and the Law on Education.

The study is proceeding via bibliographical research, so that the reasoning behind the paper is clearly underlined. Further, the manuscript makes use of direct observation and legislative analysis with regard to the typology of the public decisions.

By analysing the three laws, this investigation aims at showing that even though in the public decision field there are no frontiers between the three decision approaches, namely managerial, administrative and political, this "cross-frontiers" feature does not need to cause ambiguity.

Keywords: public decision, decision instrument, decision object

1. Introduction

The field literature aims at emphasising the rich content that the decision possesses. When looking at it narrowly, the decision can be simply described as a result of a situation analysis or as the solution chosen from a number of alternatives. What needs to be added in the context of our research is the fact that we look in-depth of the public decisions, which can become complicated due to its triple-fold feature. So, before presenting our research, we must underline its framework.

The applicability of the theoretic concept of public decision has specific characteristics as it pertains to each of the state's powers (legislative, executive and judicial). In practice, the decision takes different forms: managerial on the level of the executive power, political on the level of the legislative power and legal on the level of the judicial power. These approaches are not separate, but they are

embodied by the tri-dimensional view (managerial, administrative and political) of the public decision, as it follows: the government, as a representative of the executive power applies the political decision coming from the legislative level and observes the other adopted decisions. These can refer to changes, suspensions, introductions, repeals, dismissals, replacements, approvals, extensions or reinstatements.

This research is substantiating a broader case study which refers to the public decision-making process. The theoretical basis of this research refers to the multiple forms that the public decision can take, among which we underline the managerial (Simon (1944, 1955, 2004), March and Simon (1958), Lindblom (1959, 1979), Weber (1978), Altshuler and Thomas (1977), Kramer (1981)), legal (Rosenbloom and Kravchuk (2005), Alexandru (2003, 2008), Santai (2005), Negoiţă (1993), Oroveanu (1994)) and political (Simon (1955, 2004), Lindblom (1959, 1979), Braybrooke and Lindblom (1970) , Etzioni (1967, 1989), Matei (2006), Androniceanu (1999, 2008)).

2. Methodology

The study is proceeding *via* bibliographical research, so that the reasoning behind the paper is clearly underlined. Further, the manuscript makes use of direct observation and legislative analysis with regard to the typology of the public decisions.

The qualitative research has been greatly improved by using a search engine provided by the Legislative Council of Romania, which allowed us to put in a chronological order the decision instruments that were applied on the three Laws on which our case study focuses. Moreover, this search engine opens new windows of possibilities for a 'zoom out' analysis, and we took advantage of it in the sense that we have identified the decision objects of each used instrument. Going further, this tool was exploited in order to measure not only the frequency of the decision instruments for the defined timeframe, but also the occurrence of the decision objects both per instrument and per year.

3. Hypothesis

Zionts (1997) formulates ten myths that haunt the decision-making process, be it managerial, political or legal.

The first myth refers to the decision itself. What it says is that though sometimes there is a well-defined decision and a timeframe for decision, often there is not. The decision just happens.

The decision maker's myth places the decision-maker in the position of a wise isolated man who takes the decision on his own. In fact, a more truthful scenario is that a group, rather than an individual, takes the decision. Even if such a group is not formed, there are more individuals who can influence the decision.

The myth of a fix set of alternatives. We tend to believe there is a fix set. It is actually dynamic and changing over time.

The myth of an optimal solution. The decision-makers wish to make an optimum decision and to have optimum solutions, but they are probably not able to distinguish between good and optimum. The importance is placed on finding good solutions and sometimes just on finding solutions.

The myth of non-dominant solutions. Most decision makers are not concerned with non-dominant solutions. As soon as they found one solution, they quickly move on to other things. The workload, especially in the public administration, discourages them from being more focused on good solutions, not only on finding.

The myth of utility and value. Though the utility or value function can prove useful for the decision-makers it usually seems to be more important for analysts, less for decision-makers.

The myth of static decisions. During the decision analysis process we distinguish between good and bad decisions, good and bad results. The problem arises when a good decision triggers a less favourable result. The case can be a test for the public manager who should know that the relationship between the decision and its result is important. What if a good decision triggers bad results? The manager should proceed to adjusting, negotiating, and improving the results.

The myth of complexity. The myth again refers to the different views shared by the users versus the analysts. The analyst can find the complexity good, when the users are always looking for simplicity when it can be reached. Further research shall focus on testing this myth by referring to the parsimony law.

The myth of convergence. From the analyst's point of view convergence (mathematical) is the target. At the same time, the decision-maker can be inspired by the converging process, but they can

also face the opposite situation when a process that is not mathematically convergent is good in practice. The final aim is to satisfy the users, and applicability is what they are looking for.

The myth of proven assumption refers to the fact that all the assumptions made in the framework of a technical model must be satisfied so that the decisional model can be used in practice. Researches in this area argue otherwise, but this shall make the topic of a future paper.

This paper's aim is to test the first two myths pertaining to the decision itself and the decision maker. The research questions that we have formulated for the two hypotheses, namely the two above mentioned myths, refer to establishing the way in which the decisional process is carried out in Romania. Normally, is the public decision typology righteously balanced in between the three powers?

4. Testing the Hypothesis

The case study will follow the evolution of the decisions' typology for the Law on the Civil Servants' Statute (Law no. 188/1999), Law on the Local Public Administration (Law no. 215/2001) and the Law on Education (Law no. 84/1995, Law no. 1/2011).

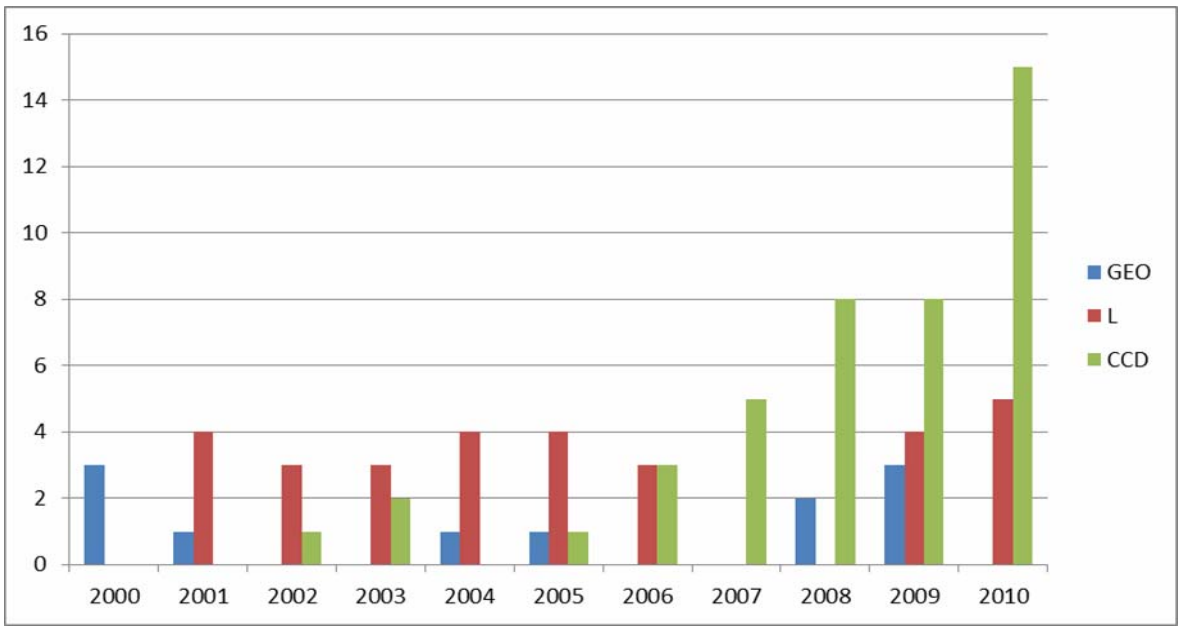
Several items where considered in the process. First of all, the 'age' of the law was established. The three laws were chosen for the analysis not only because they regulate important aspect of the public administration, but also because their time frames range in between 11 and 17 years. Secondly, the decision instruments were established after considering all the ones that have been applied on these three laws, as follows: Law (L), Government Ordinance (GO), Government Emergency Ordinance (GEO), and Constitutional Court's Decisions (CCD). These decision instruments have a different frequency in time and they are diversely applied on each law depending on the decision's object. Therefore, the third element that had to be underlined was the decision object. Our research identifies a number of twelve objects for all three laws: introductions, changes, replacements, suspensions, dismissals, admissions, repeals, completions, reinstatements, extensions, approvals, cancelations of changes. Thus, each of the instruments has specific objects as it follows:

- The Law was identified as having the following objects: introductions, changes, replacements, suspensions, dismissals, repeals, completions, reinstatements, extensions, approvals, cancelations of changes
- The Government Emergency Ordinance (GEO) can embody the following decision objects: introductions, changes, replacements, completions, suspensions, repeals, approvals;
- The Government Ordinance (GO) refers only to repeals in our case;
- The Constitutional Court's Decisions (CCD) can either dismiss or admit.

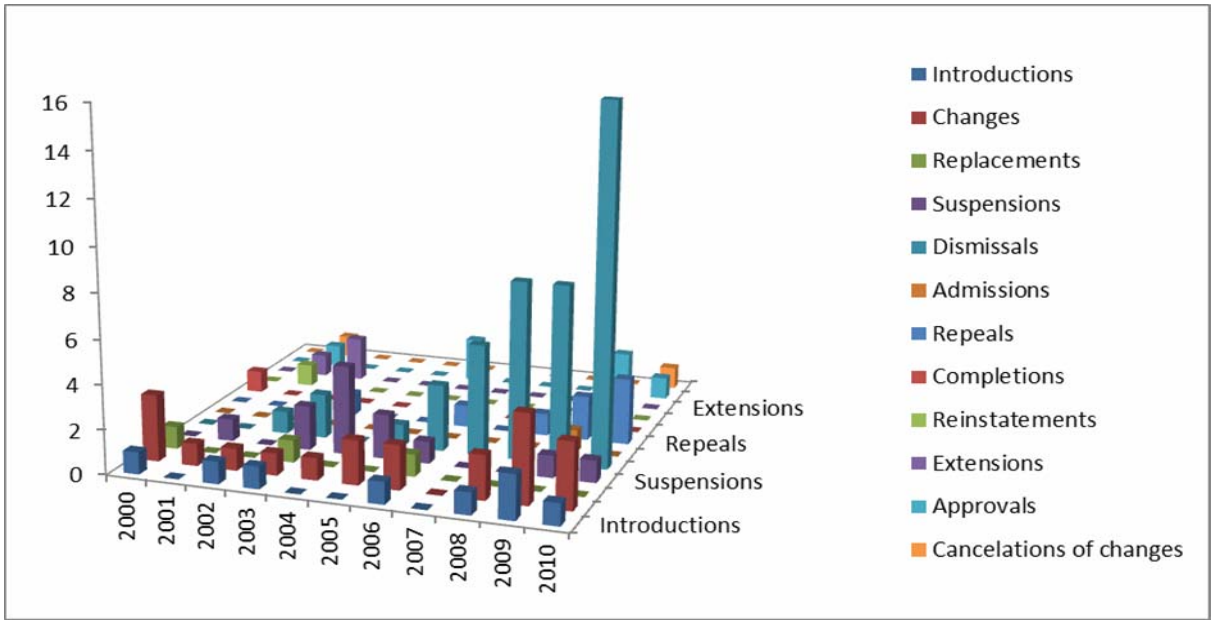
5. Findings

The first decision investigated was the Law on the Civil Servants' Statute. The research shows that for the 2000 – 2010 timeframe for which the information was available the situation is as follows:

- Three decision instruments were applied (out of the four that the general research took into account), namely: Law (L), Government Emergency Ordinance (GEO), and Constitutional Court's Decisions (CCD). The fourth one, Government Ordinance (GO), has not been used;
- Twelve decision objects were identified by analysing each of the three decision instrument applied.



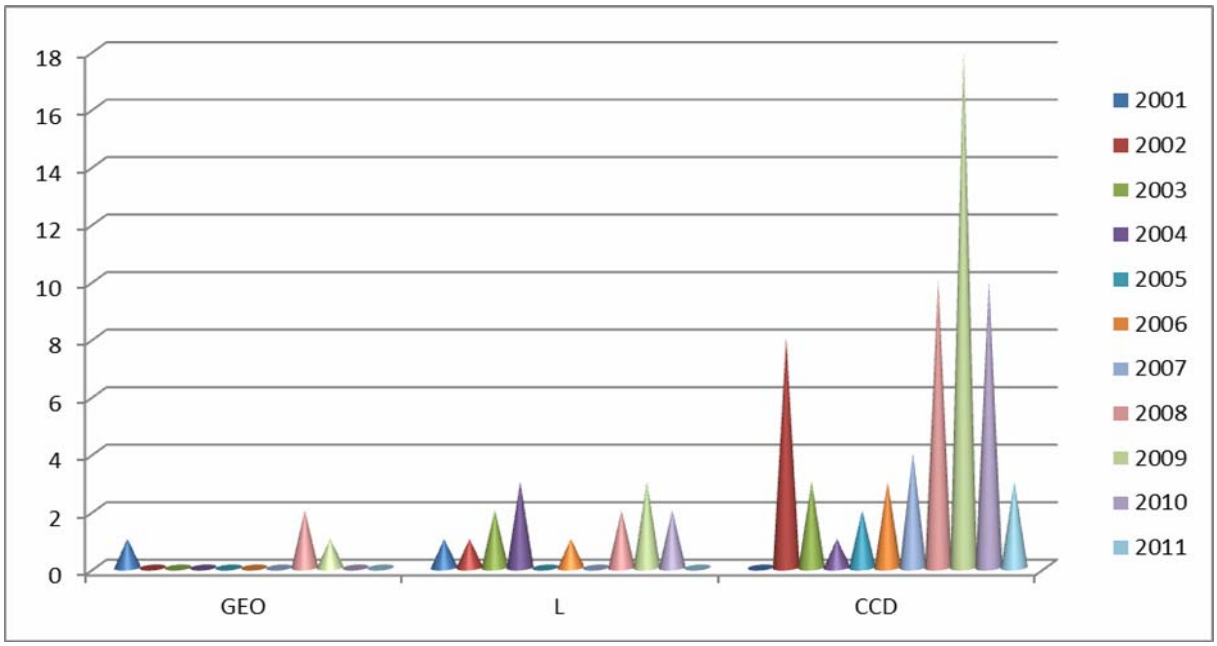
It is worth to emphasize that all state's powers (legislative, executive and judicial) had a role in this particular decision over the ten year period. If the executive power – through its GEO - was the one taking the lead immediately after the law was passed, in the second part of the law's life the judicial power had to be more and more active – through the CCDs.



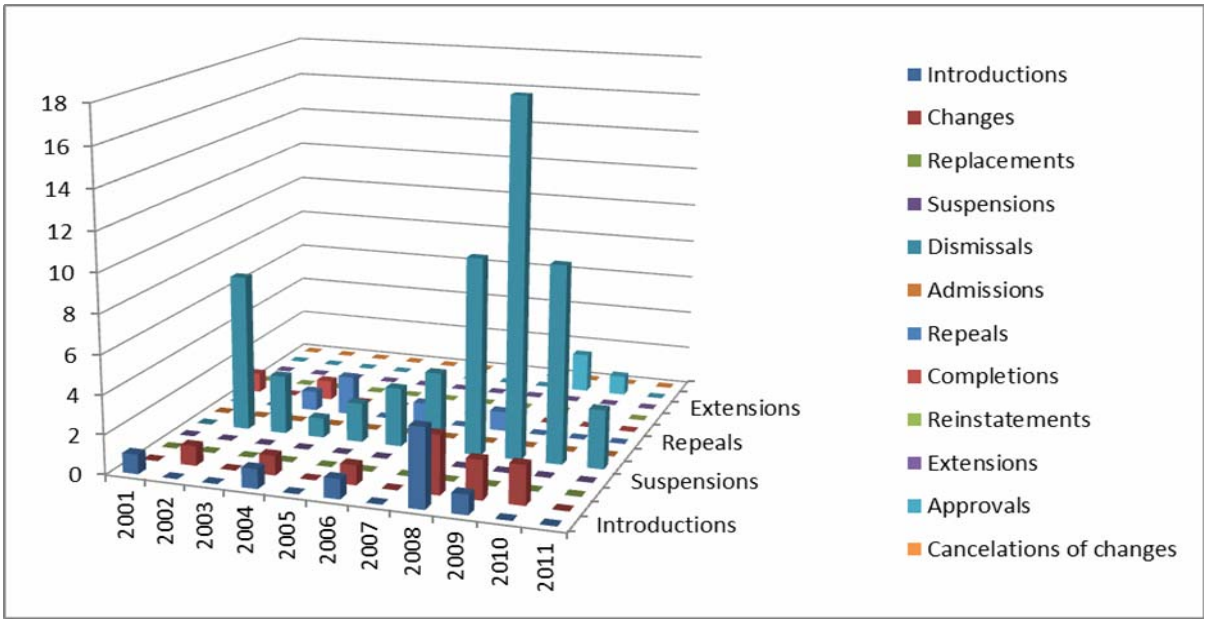
In terms of the decisions' objects are most concentrated in the second half of the timeframe. The 'dismissal' is the most used object, which places the judicial power on the top of the hierarchy in the decision-making process.

The second decision investigated was the Law on the Local Public Administration. The relevant timeframe in this case is 2001 – 2011. Our research on the decision-making process in which all three state's powers are involved is shown below:

- Three decision instruments were applied (out of the four that the general research took into account), namely: Law (L), Government Emergency Ordinance (GEO), and Constitutional Court's Decisions (CCD). The fourth one, Government Ordinance (GO), has not been used;
- Six out of twelve decision objects were identified by analysing each of the three decision instrument applied.



Again, the most active state power is the judicial one. By organizing the available information on decision instrument applied yearly it can be easily seen that the less active state power is the executive one. The peak is represented by the CCDs in 2009.

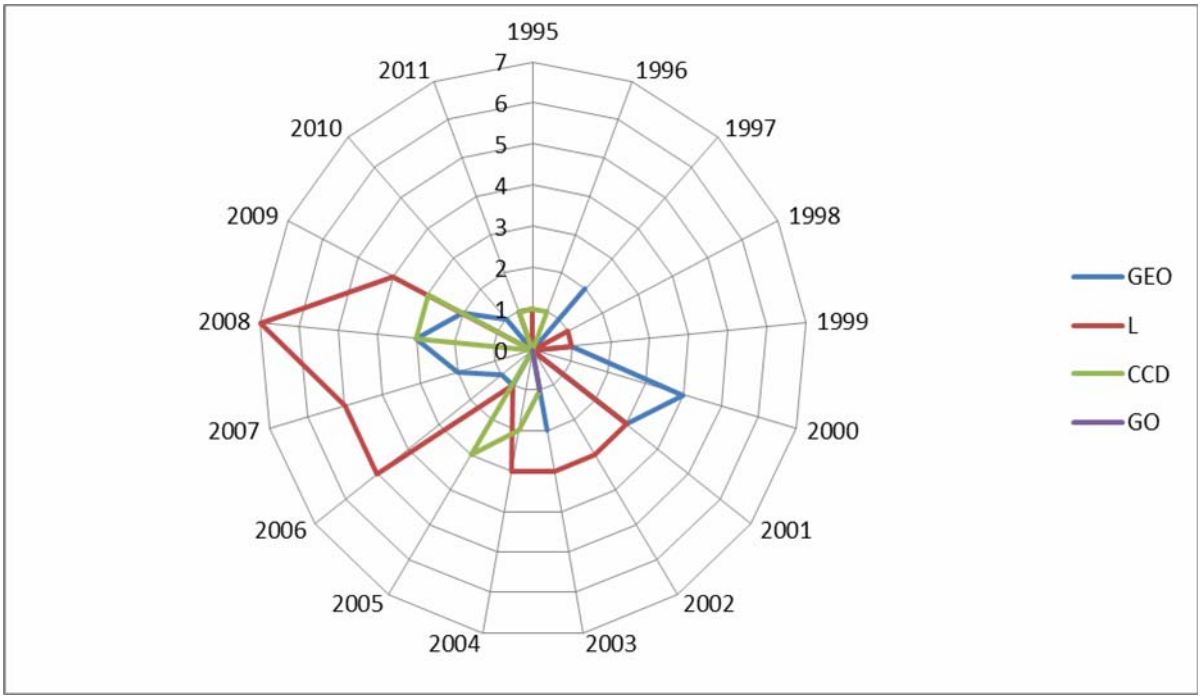


In terms of the decision objects the 'dismissals' is on the first place. There are six decision objects are not represented at all. The reason behind pertains to the low activity on the legislative side, but moreover on the executive side. Decision objects like cancelations of changes, extensions, reinstatements, admissions, suspensions, or replacements are not at all encountered in the decision-making process.

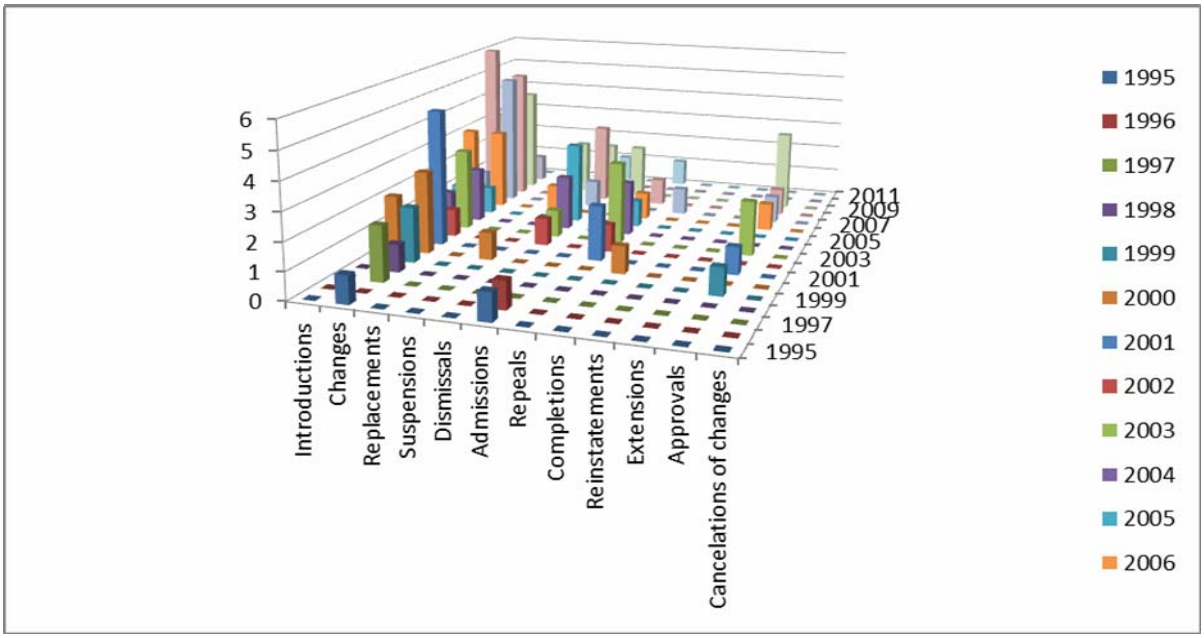
The third decision investigated was the Law on Education. This law has two important features that promoted it for the case study. The first one refers to the long timeframe (1995 – 2011), which

includes a total repeal of the old Law 84/1995 and the approval of the new Law 1/2011, and the second one to the applicability of all four decision instruments. Therefore, it must be underlined that:

- All four decision instruments were applied: Law (L), Government Emergency Ordinance (GEO), Government Ordinance (GO), and Constitutional Court's Decisions (CCD);
- Eight out of twelve decision objects were identified by analysing each of the four decision instrument applied.



Particular in itself, this Law is the most significant when it comes to the involvement of the legislative power in relation to the decision-making process in this case. The peak of the use of decision instruments is in 2008 and it belongs to the instrument of law.



At the same time, in terms of the decision objects the ones pertaining to the Law instrument are the most used, namely the 'introductions' that, in 2008, add up to six in total. As it was reiterated above, this object mainly proves once more that the legislative power is the one taking the lead in this decision-making process.

6. Concluding remarks

Our research paper aimed at testing two of the Zionts' myths, namely the decision's myth and the decision maker's myth. Our case study chose three legal decisions with the sole purpose of identifying the role of each of the three state powers in the decision making process and conclude whether their decision typology is righteously balanced in between them the first myth is invalidated by our analysis, which shows that the decision is not made in a well-defined timeframe, as it is continuously changing through the state's powers will.

The second myth, the decision maker's myth that places the decision-maker in the position of a wise isolated man who takes the decision on his own is also invalidated. In fact, the scenario of a group, rather than an individual, taking the decision is confirmed by the active role that all the three state powers have.

By analysing the three laws, this investigation shows that even though in the public decision field there are no frontiers between the three decision approaches, namely managerial, administrative and political, this "cross-frontiers" feature does not need to cause ambiguity.

7. Future research

Our research has established a number of paths that must be further explored. At the same time, the trend in the field literature strengthens our arguments. Certain lines of research open up:

1. The decision makers should be more problem-sensitive. When facing a decision, they must first establish its magnitude. In this regard, a proposed method is the comparative analysis between the value of an optimum decision and the value of a less optimum one. Do the differences justify the time for analysis?
2. Another issue that should be taken into account by the decision makers pertains to the way an improved criterion can have a negative impact upon another. These trade-offs among criteria represent important research question for our further research.
3. The decision makers should focus in the beginning on making a utility analysis. This does not necessarily mean calibrating a formal utility function, but deciding whether one of the alternatives has a reasonable chance or probability to be truly unacceptable or trigger a disastrous result. Should there be alternatives with very slight chances of producing such results, then only those alternatives must be considered as a set of alternatives in the decision making process. It can happen that no alternative has sufficiently low probabilities of being unacceptable or bad results. At the same time, the decision makers can chose to take a chance with a decision at risk of producing unacceptable results. The key here is to be aware of that risk throughout the entire decision making process.
4. Our further research goes in-depth of the alternatives' scanning. The methods that we analyse refer to both the methods already used in the public sector – like the cost-benefit analysis (Boardman et al., 2004, Mishan and Quah, 200)) – and methods that have been applied more recently in the private sector and we consider them proper for the public administration, too – like the decision cockpit (Georges, 2002). Most of the times, when the decision makers establish a set of alternatives, they limit their choices to that particular set. The additional alternatives are overlooked. This is where the methods that our research is proposing intervene.

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IV.2. THE EUROPEAN ADMINISTRATIVE SPACE AND STATES' SOVEREIGNTY

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Abstract

Much research has been devoted to the emergence and development of a European administrative space (EAS). This paper seeks to address the issue of whether this space limits the European Union member and candidate states' sovereignty. Therefore, it is structured as follows: first, it will try to define the European administrative space, considering the various opinions expressed in the literature in the field; second, it will focus on the means by which this space affects national public administrations; third, it will analyze the traditional concept of state sovereignty and its evolution in the context of the changing world; fourth, it will address the proposed research question; and, finally, concluding remarks will be provided. The paper claims that the existence of the European administrative space does not limit states' sovereignty, be they EU members or candidates. The argument is threefold: first, it is based on the essence of what states' sovereignty means – their legal right to freely express their own will on domestic and external affairs; second, it is based on the difference between the European Union and decentralized polities, in terms of delegation of powers; third, it stresses the fact that limiting sovereignty through sovereignty might not be possible.

***Keywords**:* European administrative space, sovereignty, policy instrumentation.

1. Introduction

In the last decades, the literature in the field has been increasingly dealing with the emergence and the development of a European administrative space; thus, researchers' focus has been on defining the EAS (D'Orta 2003; Hofmann and Türk 2006; Hofmann and Türk 2009), on analyzing whether and to what extent this space influences the national ones or on how the EAS impacts upon the EU member and candidate states (e.g., Matei *et al*. 2008; Matei *et al.* 2011; Lavenex and Schimmelfennig 2009).

This paper seeks to consider whether the EAS limits the EU member and candidate states' sovereignty. This research question could be embedded in a broader attempt to determine in what direction the EAS should be further developed and how.

The latter attempt is, in turn, important given, on the one hand, state officials' reticence regarding possible limitations of state discretion within different traditionally national areas, such as public administrations, and, on the other hand, the need to effectively implement European policies that may require the establishment of common administrative arrangements.

In order to achieve the proposed objective, the paper will first try to define the EAS, then to present the means by which it may affect national administrations; after doing so, the concept of states' sovereignty will be analyzed; finally, the paper will address the research question.

2. The European administrative space

2.1. Defining the European administrative space

Various opinions on what the EAS is have been expressed in the field literature. Hofmann considers it as the interaction of different-level actors for creating and implementing the European law, which determined 'a de-territorialisation of the exercise of power' and the emergence of 'a network of integrated administration' (MZES: 4). In another formulation, the EAS means 'increasingly integrated administrations' that 'jointly exercise powers delegated to the EU in a system of shared sovereignty' (cited by Heidbreder 2010: 2). Hofmann and Türk see this system as 'the story of the development of a system of decentralized yet cooperative administrative structures' (2009: 1), which has emerged and evolved along with the conditions of administering joint policies. However, although this integrated administration is a multi-level system (2006: 1), it is not a 'hierarchy superimposed on member states administrations' (2009: 2). Indeed, it has often been highlighted the active role of national administrations in the elaboration and implementation of European rules and policies. Chiti also points to both national and European components which constitute the organizations and procedures of the EAS aimed at the exercise of European functions (2009: 11). In the same line, Goetz and Meyer-Sahling argue that the European integration promotes 'a bifurcated government': in the process of governing, both national and EU levels are involved, but they are much closer connected along the administrative dimension than along the political one (2008: 13).

In another opinion (Curtin and Egeberg 2008), although an executive order had already been developed in Europe since the 1648 Peace of Westphalia, it has dramatically shifted from bilateral and, then, multilateral diplomacy and intergovernmentalism, to a new order in which the European Commission is the executive centre. However, this new order does not replace the already existing ones, but it is rather layered around them 'so that the result is an increasingly compound and accumulated executive order'.

For Cassese, the EAS is the administrative space with more than one centre of power, with more than one implementing authority, with a 'trinominal' administrative law and an administration without 'special rights and privileges'.

With regard to what the EAS actually contains in terms of legal provisions, it has often been highlighted the absence of the *acquis* within the area of public administration (Matei 2004: 2; OECD 1999: 5). Matei *et al.* describe the European administration as 'a growing process aiming at unanimously accepted as European set of values and standards', thus being more than 'a system of European level institutions and structures' (Matei *et al*. 2010: 3). The concept of the EAS was created due to the need to monitor and direct the reforms of EU candidate states' administrations, and it 'gained virtues specific to a proved European model of public administration' (Matei *et al*. 2008: 58). The concept owes its emergence and evolution as an instrument used to evaluate the reforms of public administrations within the Central and Eastern Europe to SIGMA, consequently to the establishment of the accession criteria.

As such, the EAS has been defined as 'a metaphor with practical implications for the Member States and embodying, *inter alia*, administrative law principles as a set of criteria to be applied by candidate countries in their efforts to attain the administrative capacity required for EU Membership' (OECD 1999: 6). It is the convergence of domestic administrations. The EAS has also been described as part of the Community law, as the progress made by candidate countries is assessed against European administrative standards. However, the harmonizing potential of these administrative standards does not mean that member states should have administrative institutions homogeneously set up; instead, they must all recognize and adhere to the shared principles and standards (OECD 1999: 7-9). These principles are grouped as follows: 1) reliability and predictability; 2) openness and transparency; 3) accountability; 4) efficiency and effectiveness and they are characterized by two important features: first, they sometimes seem to contradict each other and, second, they are broad and elusively defined and, thus, they have been called 'blank concepts'.

In conclusion, at least three main elements of the EAS can be identified in almost all the existent definitions: first, national and supranational actors interact within a multi-level system; second, there is a common model towards which national administrations tend to converge; and third, there is an order, different from the national ones and which is not equivalent with the sum of the national public administrations.

2.2. Policy instrumentation in the European administrative space

This chapter takes account of the 'policy instrumentation' framework, provided by Heidbreder (2010), a typology of four ideal types of instruments which imply 'a specific constellation between supranational and national actors that determines the expected impact of supranational governance' on national administration. The four types are defined by two dimensions: the 'mode of governance' and 'the status of supranational rules on administrative structure and procedures'. The first dimension refers to the relationships established between supranational and national actors, which can be either hierarchical or non-hierarchical. The second dimension distinguishes between: explicit instruments (which target national administrations directly) and implicit instruments (which affect national administrations indirectly).

Combining the two dimensions, the four types of supranational instruments are: administrative standards, administrative ordinances, voluntary coordination and policy compliance.

Administrative standards are established by rules '*explicitly* concerned with administrative policy based on *hierarchical relationships*' (Heidbreder 2010: 5; italics in original) between the supranational and domestic actors. In this case the state is envisaged as subordinated to the supranational body, which promotes single and broadly defined models that national administrations must comply with. The examples of administrative standards given by Heidbreder are the two forms of administrative standards: the administrative law principles substantiated by the ECJ, for the member states, and the same principles, but extended into tangible standards, albeit not formalized within the *acquis*, for the candidate countries (p. 8). However, what drives to the compliance of candidate countries with these standards is what has often been called accession 'conditionality' (Schimmelfennig 2005; Steunenberg and Dimitrova 2007).

Administrative ordinances are created by rules based on hierarchical relationships which have an implicit impact on national administrations. The Commission has own executive powers, but the states must follow the implementation rules – the states are executing bodies under the authority of the supranational actor (Heidbreder 2010: 6). Thus, the difference between administrative standards and administrative ordinances resides in the direct or indirect impact on domestic administrations.

Voluntary coordination between independent national actors is promoted through explicit rules concerned with administrative policy on a non-hierarchical basis. Thus, as rules are not binding and the supranational actor has no sanctioning powers, the state may decide whether a particular administrative standard will be subject to voluntary coordination (Heidbreder 2010: 5).

Policy compliance means that national administrations should be adapted in order for the state to achieve specific policy goals, but the supranational actor has no executive and sanctioning powers, as the relationship between the two is non-hierarchical. Therefore, since adaptations do not depend on any EU instrument, but on the characteristics of the domestic administration itself and on those of the respective policy which is to be implemented, predictions regarding the supranational impact on the domestic administrative level are difficult to be made.

Having presented the instruments through which the supranational level affects the domestic ones, this study turns to its research question: does the EAS limit the sovereignty of EU member and candidate states? Here we assume that, as administrative standards are based on explicit rules and hierarchical relationships, if they do not limit states' sovereignty than neither will the other three instruments of Heidbreder's typology. Therefore, the following parts of the paper will focus on the impact of administrative standards. However, in order to address the research question, it is necessary to briefly analyze the principle of sovereignty; thus, the following chapter deals with states' sovereignty.

3. Defining states' sovereignty

The notion of 'sovereignty' has often been used both within various syntagms, like 'national' or 'popular' sovereignty (e.g., Vrabie, 2001), and within different contexts and with different meanings, ranging from 'the right to freely consent' to 'state's discretion' in certain areas (e.g., Bagwell and Staiger 2004; Wallace 1999: 510, Matei and Matei 2008: 43-44). However, this paper focuses on states' sovereignty – a general characteristic of state power (Iancu 2007: 232) – and on its juridical definition(s), and not on its frequently used meaning as state's discretion in different fields, like the economic one.

States' sovereignty refers to the right of the state to freely decide on its internal and external affairs. Muraru and Tănăsescu (2009: 60) define it as 'the supremacy and independence of power in

expressing and realizing the will of those who govern as a general will for the entire society'. According to Deleanu, sovereignty is the feature of state power, consisting in its right to organize itself, to establish and to resolve its internal and external problems in a free manner and according to its own will, without any external intervention, and respecting other states' sovereignty as well as international public law provisions (1991: 22).

Through sovereignty, the state freely decides to gain and assume international rights and obligations through international treaties. The treaty is, thus, the legal instrument which expresses states' agreement in order to 'create, to modify or to end international rights and obligations' (Miga-Beşteliu 2003: 290), and one of its fundamental elements is its parties' consent. To be valid, the consent must be freely expressed. Thus this freely expressed will of the states is the 'single legal foundation' of their rights and obligations assumed at the international level.

4. Addressing the European administrative space – states' sovereignty question

Within a variety of contexts and formulations, the idea of limited sovereignty has often been evoked. Within these contexts, sovereignty is often seen as states' discretion in different fields: economy, environment and so on. One can discuss about sovereignty in the above-mentioned sense or in the juridical sense. Therefore, considering states' sovereignty as their actual discretion, one might accept that, in fact, their sovereignty is being limited due to one reason or another. Considering states' sovereignty as their legal right to freely decide on their internal or external affairs, then we must reject the idea of its limitation advancing three arguments.

Our *first argument* is based on what states' sovereignty actually is: the power to freely consent to assume international rights and obligations. Given that the rules and principles which form the EAS are based on hierarchical relationships between EU institutions and national administrations, one might claim that they imply a limitation of states' sovereignty – of EU member states' sovereignty because they are imposed by supranational entities, and of candidate states because they must comply with them in order to obtain the EU membership. However, the EU member states are those who created the rules and principles of the EAS, through the European bodies and institutions they formed on the basis of their membership, even though some of these entities are supranational. Moreover, states' membership itself is based on their freely expressed consent and they are the ones who ask for the beginning of negotiations with the EU in this regard. On the other hand, member states may freely decide to withdraw from the Union, after having analyzed the costs and benefits of such a decision.

With regard to EU candidate states, the same argument might be advanced: they must comply with the conditions imposed by the EU because they had freely formulated and expressed the will to become members of the European polity, after analyzing the costs and benefits of EU accession. Thus, this is what has been called the 'conditionality', i.e. the requirement to meet certain conditions in order to gain the EU membership.

One might claim that the need to meet the accession criteria is itself a factor which limits states' sovereignty, given that the international economic or political environments push national states to look for membership within organizations which could provide them more benefits than maintaining an isolation position within the international society. However, calculating the costs and the benefits of joining an international organization (Diaconu 1995: 9), be it intergovernmental or supranational, and deciding to become its member is not a constraint imposed by another – state or non-state – actor. Instead, it is a political decision taken by the state based on its free will.

Moreover, one might stress that the EU is not a pure international organization and that Community law is not pure international law, in particular due to the principle of direct effect and its primacy over national law, but also given the supranational character of its institutions, such as the Commission and the ECJ. However, the accession and withdrawal from the EU are both based on the same principle: the freely expressed will of national states. And, as has been shown above, member states must comply with a legal order, which includes the EAS, instituted by them. This does not transform state sovereignty into 'a pure fiction' (Deleanu 1991: 23): states subordinate themselves to the norms they create, comply with this legal order and 'limit themselves', but they define their own conduct through their own will, acting as sovereign actors.

Our *second argument* is related to a certain extent to the previous one. Starting from the often highlighted resemblance between the EU and decentralized polities, given that there are policy areas in which the EU acts like a decentralized political system where implementation is carried out by both

central and local levels, and local governments are not fully autonomous and independent actors, even if we accept certain similarities among these two types of system, one must also note a crucial difference between them: unlike decentralization, in which the state, as the derivate owner of power (considering that the people or the nation is the primary one), delegates a part of its powers (competences) to its administrative-territorial units, within the EU, its units (i.e. the member states) are the ones that delegate the exercise of some of their own competences to European institutions, thus not altering their sovereign nature. And, as Nizzo has claimed, even if national administrations are structurally national and, functionally, part of the Community administration, they 'are obliged to enforce EC law by virtue of the Treaties and not out of a de-concentration scheme whatsoever' (1999: 4).

Our *third argument* starts from hypothetically accepting the idea of limiting states' sovereignty. As such, if we are to accept the idea that sovereignty is limited, then we should also accept that their sovereignty is limited through sovereignty, which represents a contradiction in itself. What is possible, instead, is to limit the exercise of certain competences through sovereignty. As Professor Alexandru (2007: 8) has clearly argued, the essence of the EU nation-states issue is the redefinition of their functions, and not the end of their sovereignty.

Therefore, the EU law and the EAS, although it is not part of the *acquis*, do not limit the EU member and candidate states' sovereignty. What is limited is the exercise of former national competences by establishing European rules and principles that states must comply with.

5. Conclusions

This paper has sought to analyze whether the EAS limits the sovereignty of EU member and candidate states. Thus, it has begun by defining the EAS and presenting the Heidbreder's (2010) policy-instrumentation framework (the instruments through which this space is able to influence states' internal affairs). As administrative standards are based on explicit rules and on hierarchical relationships between the EU and national actors, they are the instruments most susceptible to affect states' sovereignty, if at all. The underlying assumption was that if administrative standards do not limit states' sovereignty, neither will the other three ideal types: administrative ordinances, voluntary coordination and policy compliance.

The paper has then turned to the concept of state sovereignty and stressed that it embeds two aspects: state's supremacy in deciding on its internal affairs, and its independence in deciding on its international relations. Consequently, it has claimed that states' sovereignty is not limited by external factors, in general, and by the EAS, in particular. In so doing, three main arguments have been advanced: first, the EAS is being created through the freely expressed will of the states, which also freely decide to apply and respect its rules and principles. Second, EU member states are not the same with components of decentralized polities, mainly because while states delegate own powers to their administrative-territorial units, within the EU its member states are those who delegate their powers to the European polity. And third, one cannot accept the idea of limiting sovereignty through sovereignty, which is a contradiction, but it might be accepted the idea of delegating the exercise of state competences through state sovereignty.

Therefore, it is true that states might limit their own discretion within various former exclusively national fields, such as economy, human rights, and social policy, but, considering the concept of state sovereignty in its legal sense, be it in constitutional or international law terms, one cannot accept that it is being limited through states' own will itself.

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IV.3. THE CONTRIBUTION OF EUROPEAN FUNDS TO LEGISLATIVE HARMONIZATION, INSTITUTIONAL APPROXIMATION AND ADMINISTRATIVE CONVERGENCE IN THE BALKANS

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Abstract

Implementation of EU legislation on european funds in the national public administration produces a legislative harmonization, between Union and Member State and between Member States, and an institutional approximation between state's structures. In this respect, the member state develop a national legislation, starting from the european laws witch establish only the guidelines needed to be respected by the state, in the process of coordination and management of funds. Convergence objective of EU cohesion policy aims to accelerate economic development in less developed regions through investment in infrastructure, human capital, innovation and knowledge-based society and protection of the environment, but these can't be possible without an administrative convergence. In this study we used the method of comparative analysis of administrative structures responsible for managing European Union funds in different member states, especially states in the Balkans. In order to form a complex picture of this phenomenon, we analyzed both countries that joined the EU in 2007 (Bulgaria and Romania) and countries that have achieved membership in the european construction before the last wave of accession (Greece and Slovenia). Case Study: Analysis the implementation of EU provisions, regarding the management of european funds, by the Management Authority of Operational Programme Administrative Capacity Development - Romania.

Keywords: cohesion policy; public authorities; administrative convergence; national public administrations.

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1. Introduction

Application of EU legislation on European funds in the national public administration is intended to produce a legislative harmonization (between Member State and EU and between Member States) and an institutional approach.

Between the Union and national levels, in the field of european funds, was done and is done (as a continual process) harmonization of laws. In this respect, the member state develop a national legislation, starting from the european regulations witch establish the guidelines needed to be respected by the state in the process of coordination and management of funds.

EU legislation on European funds established at macro level, a "model" for public authorities of EU Member States in the process of coordination and management of european funds, drafted by European regulations on the management of European funds. "*But, the convergence would imply not only common and shared legal rules, but also increasingly similar institutional, organizational, procedural and behavioral arrangements (Rometsch and Wessels, 1996, Meny et al., 1996)*".

The functions that ensure coordination and management of structural instruments are unique in all Member States (ex: management authority, intermediate body, audit authority), and are set out at EU

level; difference is given by the national institutions witch exercise these functions (management, coordination and audit of european funds), depending on the specific organization of national administrative structures. However, beyond the differences existing between systems of national public administrations, EU cohesion policy generated an institutional approach between Member States, as each Member State receiving assistance grant from European funds is required to create national authorities to manage the funds allocated by the EU cohesion policy.

Also, EU Cohesion Policy aims to reduce the economic development gap between the poorest regions and other regions and between the poorest communities and other communities within the EU. It does this by providing EU co-finance to projects in the Member States which support investment in companies, investment in skills and investment in essential infrastructure. There are three instruments of Cohesion Policy: two Structural Funds (the European Regional Development Fund – ERDF and the European Social Fund – ESF) and the Cohesion Fund. All projects which are co-financed by these funds are organised into Operational Programmes. The priorities for these programmes are negotiated between Member States and the European Commission. The implementation of the programmes is managed by the Member States over a planning period of about seven years, called the programming period.

Institutional and administrative level of harmonization in this field varies depending on the degree of relatedness in terms of organization and functioning of national government of each Member State.

But, in other words, there is a significant contribution of EU funds to administrative convergence - legal and institutional.

2. The role of european funds in administrative convergence process

From a “Brussels” perspective, convergence is defined as the gradual process of constitutional, institutional, procedural, organizational and behavioral innovations and adaptations to EU decision in the integration process. Page and Wouters (1995) argue that the power in Brussels 5 provide a transfer mechanism both for national administrative best practice, thus influencing by Europeanization, the national administrative policies.

The study of the convergence has to describe how the various factors and economic social and political mechanisms act or compete at mitigation of some differences between these entities. As we know, the major objective of european funds is convergence, understood as reducing disparities between countries.

Convergence objective of EU cohesion policy aims to accelerate economic development in less developed regions through investment in infrastructure, human capital, innovation and knowledge-based society and protection of the environment.

The European Regional Development Fund as the most important structural fund in terms of resources, provides substantial financial aid to disfavor areas, reducing disparities in the European Union aimed at strengthening economic and social cohesion.

European Social Fund (ESF) is designed to reduce differences in living standards and prosperity in the regions and Member States of the European Union, thus promoting economic and social cohesion.

The Cohesion Fund finances activities which are part of the following areas:
• trans-European transport networks, particularly European priority projects defined by the E.U. and,
• environment.

In this context, the Cohesion Fund can occur also in in energy or transport projects, as long as they have clear environmental benefits: energy efficiency, using renewable energy sources, development of rail transport, strengthening public transport, etc.

European Social Fund and European Regional Development Fund are based on the principle of co-financing and shared management. Co-financing because EU financial support always goes together with public or private financing. Of course, the EU intervention is linked to the situation on the ground. Depending on a number of socio-economic co-vary between 50 and 85% of the total cost of interventions.

Shared management means that the guidelines for ESF and ERDF actions are developed at European level and application-site is managed by the relevant authorities, national or regional authorities in each Member State, these preparing operational programmes, select and monitor projects. European Commission has the role of supervisory authority under shared management. Thus, for manage european funds each Member State is obligate to establish management and payment authority to verify, certify and reimburse expenses of projects. Also, these authority elaborates internal working procedures, with the approval of European Union.

Administrative convergence, resulting from the implications of EU european funds, respects the two standard of achievement:

- Directly, through coercion, defined as hard power; Here, we take as an example, the unique functions establish at EU level, witch must be found, without exception, in all the states that manages structural funds;
- Indirect, through attraction (persuasion), defined as soft power, through learning and imitation of the model, seen as functional and useful; For example, an authority is designated to manage an operational programme in a member state, taking also into account, the success of homologous authority, from another member state "close" in terms of administrative system.

"*While there is a broad consensus on the definition of convergence as the tendency of societies to grow more alike, to develop similarities in structures, processes, and performances (Kerr, 1983, 3), the empirical and theoretical assessment of policy convergence is generally hampered by the use of different, partially overlapping concepts. Convergence is discussed in terms of match between EU level principles and rules and national institutions, in terms of game playing or competitive selection (Knill and Lehmkul 1998, Scharpf 1996) and it could be looked at from different points of view.*"

All this leads to the concretization and foundation of European Administrative Space concept. But, as we well know from doctrine, a recognized model of public administration at european level do not exist at this moment.

However, in matter of european funds there are some uniformity, desired, sustained and continue, regarding the organization and functioning of public administration, in order to ensure the successful implementation of projects, financed from european funds.

2.1. Comparative analyses: Romania, Bulgaria, Slovenia and Greece

Sociological institutionalism theory claims that organizations tend to become similar as they struggle to become more isomorphic with their operating environment (Meyer and Rowan, 1977). We argue this statement by mentioning the existence of common management institutions of EU funds in member states. To identify common elements and institutional structure developed by member states, in order to manage the european funds alocated through EU policies, in this study we used the method of comparative analysis of administrative structures responsible for managing EU funds in different member states, especially states in the Balkans. In order to form a complex picture of this phenomenon, we analyzed both countries that joined the EU in 2007 (Bulgaria and Romania) and countries that have achieved membership in the european construction before the last wave of accession (Greece and Slovenia). In order that Member States to manage european funds through national administrative system are needed some structural and institutional changes.

During the 2007-2013 programming period, Romania receive, under the convergence objective of EU cohesion policy, grant from European Funds, through seven operational programs:

- Operational Programme "Transport";
- Operational Programme "Environment";
- Operational Programme "Human resource development";
- Operational Programme "Development of the Competitiveness of the Economy";
- Operational Programme "Administrative capacity";
- Operational Programme "Regional development";
- Operational Programme "Technical Assistance" (NSFR Romania 2007-2013)

In order to manage the European Union's structural instruments through the romanian administrative system, were made some structural adjustments through Government Decision no. 457/2008 regarding the institutional framework for coordination and management of structural instruments.

Through the administrative act mentioned above, were designated the public institutions responsible for coordination and management of structural instruments in our country.

The Authority for Coordonation and Implementation of the Structural Instruments (ACIS) function, which imply the responsibility for coordination, preparation, development, harmonization and functioning of legal, institutional, procedural and programmatic framework for managing the structural instruments, is fulfilled by the Ministry of Public Finance.

The Managing Authority (MA) function, which imply the responsibility for the management and implementation of financial non-reimbursable assistance allocated to the managed program, is fulfilled:

- for *Regional operaţional programme,* by the Ministry of Regional Development and Tourism;
- for *Sectoral operaţional programme "Increase of Economic Competitiveness",* by the Ministry of Economy;
- for *Sectoral operaţional programme "Transport",* by the Ministry of Transports and Infrastructure;
- for *Sectoral operaţional programme "Environment",* by the Ministry of Environment and Forests;
- for *Sectoral operaţional programme "Human Resources Development",* by the Ministry of Labour, Family and Social Protection;
- for *Operaţional programme "Administrative Capacity Development",* by the Ministry of Administration and Interior;
- for *Operaţional programme "Tehnical assistance",* by the Ministry of Public Finance;
- for *Programme of Transborder Cooperation Romania - Bulgaria 2007-2013 and Programme of Transborder Cooperation Romania - Serbia*, *for Joint Operational Programme for cooperation in Black Sea Basin Cooperation (as joint managing authority) and Joint Operational Programme Romania - Ukraine – Moldova (as joint* managing authority), by the Ministry of Regional Development and Housing.

The Certification and Payment Authority (CPA) function for operational programmes financed from structural instruments, respectively from pre-accession assistance instrument (PAA), is fulfilled by the Ministry of Public Finance.

The Audit Authority (AA) function is fulfilled by the Audit Authority attached to the Romanian Court of Accounts.

The Intermediate Body (IB) function, which imply carrying out the delegated functions from the managing authority for implementing the managed operational programme, is fulfilled:

- for *Regional operaţional programme,* by the Agencies for Regional Development and Directorate for managing the community funds for SME;
- for *Sectoral operaţional programme "Increase of Economic Competitiveness",* by the Directorate for managing the community funds for SME, National Authority for Scientific Research, Ministry of Comunications and Information Society and Ministry of Economy, Energy, Oil and şi Gas General Directorate**;**
- for *Sectoral operaţional programme "Environment*", by the Ministry of Environment and Forests, through its subordinated structures, without legal personality, organized at the 8 development regions level stabilite by Law no. 315/2004 regarding regional development in Romania, amended and supplemented;
- for *Sectoral operaţional programme "Human Resources Development",* by the Ministry of Education, Research, Youth and Sport, National Agency for Employment, National Centre for Vocational and Technical Education Development and Ministry of Labour, Family and Social Protection, through its 8 subordinated structures, with legal personality, organized at the 8 development regions level by Law no. 315/2004 regarding regional development in Romania, amended and supplemented.

ACIS, MA, CPA, IB and AA functions are organized as distinct structures (general directorate, directorate or department) in the institutions designated for this purpose.

The structures witch fulfil the Managing Authority or Intermediate Body function are involved in the following types of authority relations:

- *hierarchical*, in the institutions where they were organized as distinct structures, in hierarchical authority relations with other general directorates, directorates or departements;
- *functional*, becouse, in our viewpoint, under the functions delegation agreement, witch establishes the coodination and control mechanisms of MA, the IB is under functional subordination of the MA. Managing Authorities continues to be responsable for right fulfilment of the delegated atributions. It should be noted that MA can decide restriction or even withdrawal of the atributions delegated to IB, following the control conclusions, evaluation or audit made. Also, MA issues binding legal acts for IB;

Similarly, Bulgaria receive non-reimbursable funding under the convergence objective of european funds through next seven operational programmes:

- Operational Programme “Transport”;
- Operational Programme “Environment”;
- Operational Programme “Human resource development”;

- Operational Programme “Development of the Competitiveness of the Bulgarian Economy”;
- Operational Programme “Administrative capacity”;
- Operational Programme “Regional development”;
- Operational Programme “Technical Assistance”.

Non-reimbursable funds allocated to Bulgaria are managed by administrative structures similar to those in Romania. In Bulgaria, structures responsible for the management of the structural instruments have been defined as:

- Central Coordination Unit,
- Managing Authorities of the Operational Programs and
- Intermediate Bodies (Council of Ministers Decision No 965/16.12.2005).
- The Certifying Authority and Body responsible for receiving funds from the EU has been designated – the National Fund Directorate in the Ministry of Finance (Council of MinistersDecision No 988/27.12.2005).

A Council of Ministers decree (Decree 965/16.12.2005) officially nominated the names and location of the MAs and the respective IBs, which were established. Each MA is responsible for managing and implementing their OP in accordance with the principles of sound financial management(National Strategic Development Plan 2007-2013 in Bulgaria)

During the 2007-2013 programing period, Slovenia receive, under the convergence objective of EU cohesion policy, grant from European Funds, through three operational programs:

- Operational programme for strengthening regional development potentials;
- Operational programme for human resources development
- Operational programme of the environmental and transport infrastructure development.

In Slovenia one body is appointed as the management authority of all three operational programmes financed by European funds and within the same institution the coordination of the objective, European Territorial Cooperation, is concentrated (National Strategic Development Plan 2007-2013 in Slovenia).

The period 2004–2006 was for Slovenia the first programming period of full inclusion in the cohesion policy. On the basis of experiences obtained through implementation of pre-accession instruments the Republic of Slovenia decided to maintain centralized institutional set-up for managing structural funds and the Cohesion fund. This means that Slovenia had one managing authority and one paying authority within the Ministry of Finance. Where the structural funds are concerned, in the beginning of the period a two-level coordination was planned, based on the Managing Authority function and the function of three intermediate bodies. The experiences showed that this system was not as effective as it was expected, for it decreased transparency and caused excess scope of coordination. At the Government session which took place on December 22, 2005 were approved by the Monitoring Committee, on December 16, 2005 for the programming period 2004-2006, with which the platforms for the integration of the intermediate bodies of the European Regional Development Fund and the European Social Fund into the Managing Authority were adopted. In order to fully meet the requirements of the EU legislation and in order to create a suitable and effective system for implementation of the activities concerning the structural funds and the EU Cohesion Fund, a clear demarcation of tasks is needed as well as the definition of relationship between the involved institutions, as described in the continuation:

- Managing Authority: Government Office for Local Self- Government and Regional Policy (internal organizational units, defined in the act on internal organization and systematization of jobs in the GOSP)
- Certifying Authority: Ministry of Finance, National Fund

Audit Authority: Ministry of Finance – Budget Supervision Office (National Strategic Development Plan 2007-2013 in Slovenia).

The Managing Authority of the structural and the cohesion funds was set up by Decision of the Government of the Republic of Slovenia (Official Gazette of the RS, No. 115/02) in December 2002 within the framework of the Government Office for Structural Policy and Regional Development (hereinafter GORD). The basic responsibilities of GORD were comprehensive management of the structural funds and the cohesion fund and coordination of activities for successful regional development.

In principle, Slovenia will tend to avoid the establishment of new bodies and the emphasis will rather be put on the content and coordination role of the management authority. The central role will be played by the ministries with their qualifications and responsiveness because they represent the main initiators and implementors of development priorities in line with the programming documents

and at the same time they are competent for individual development areas in compliance with Slovene legislation.

During the 2007-2013 programming period, Greece receive, under the convergence objective of EU cohesion policy, grant from European Funds, through six operational programs:

Operational Programme 'Competitiveness and Entrepreneurship'

Operational Programme 'Digital Convergence'

Operational Programme 'Environment and Sustainable Development'

Operational Programme 'Improvement of Accessibility'

Operational Programme 'Technical assistance'

Operational Programme 'Environment and Sustainable Development'

Administrative structures responsible for the management of the structural instruments have been defined as The Central Coordinating Authority, situated at the Ministry of Economy & Finance, witch monitors the sound implementation of Operational Programmes and the effective operation of Management and Control Systems (SDE). It ensures rational programming of actions and funds and conformity with Community regulations (National Strategic Development Plan 2007-2013 in Greece).

3. Case study: Managing Authority for the Operational Programme "Administrative capacity development" - ROMANIA

The system of implementation of the OP ACD follows the requirements defined in Article 43 of Council Regulation (EC) No. 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No. 1260/1999.

The Romanian Government has overall responsibility for the commitments embodied in the strategic documents concerning the Structural Funds and its correct and efficient implementation. In particular, it will ensure the availability and system of access to the financial and other resources necessary to the measures described in the OP ACD.

Managing Authority for the OP ACD

The Government of Romania designated the Ministry of Interior and Administration - Directorate for Administrative Capacity Development as Managing Authority for the Operational Programme "Administrative Capacity Development" through the Government Decision No. 457/2008 establishing the institutional framework for the coordination, implementation and management of the Structural Instruments.

The Managing Authority is responsible for the efficiency and accuracy of management and implementation of the OP ACD according to the requirements of Article 60 of Council Regulation (EC) No. 1083/2006 and Government Decision No. 497/2004 with subsequent amendments:

• Elaborates the OP ACD, in correlation with the objectives and priorities set forth by the National Strategic Reference Framework;

• Ensures the consistency of the OP ACD with the other operational programmes under the coordination of the Authority for Coordination of Structural Instruments (ACIS), the coordinating body of the National Strategic Reference Framework;

• Monitors the achievement of the general objectives and the impact defined

• Ensures the implementation of the OP ACD according to the recommendations of the Monitoring Committee, the regulations of the European Union and the Community principles and policies, especially the ones in the fields of competition, public procurement, environment and equal opportunities;

During the implementation period, the MA may propose decisions on changes and transfers of funds between the OP ACD priority axes. Each proposal to change the contribution from the Structural Funds and to reallocate the financial resources under the OP ACD priorities shall be made endorsed by the OP ACD Monitoring Committee, in agreement with the ACIS. The decision is sent to the European Commission for approval.

For the implementation of this OP, the Managing Authority has decided not to delegate any of its tasks to an Intermediate Body. The reasons for this decision are two fold: there is a small

amount of money involved (approx. 250 MEuro) and the MA for OP ACD has been resourced

to be fully capable to manage efficiently its implementation (Programe Operational 2007-2013).

If the first part of the study have highlighted institutional approximation between Member States in the field of european funds, driven process by the UE legislative provisions and the good

administrative practice in the programming period 2000-2006, the case study proposed is to highlight the impact of EU legislative provisions on national legislation on the management of European funds.

The legal framework at UE level are Reg. no. 1083/2006 and no.1828/2006 and in national level Government Decision no. 457/2008, Government Decision no. 64/2009 and Ministry of Public Finance Order no. 2.548/2009-methodological norms for applying the provisions of Ordinance no. 64/2009.

According to Article 22 of European Regulation no. 1083/2006, Member State shall provide the Commission the following information concerning the managing authority, certifying authority and each intermediate body:

(a) description of theier duties; (b) the chart organization of each authority, allocation of tasks to various services or their indicative number of posts allocated; (c) work procedures for selecting and approving projects financed; (d) procedures for receipt, verification and validation of reimbursement claims submitted by beneficiaries; (e) eligibility rules established by the Member State to apply the operational program; (h) system for keeping detailed accounting records related to operations. To fulfill these obligations MA- OP ACD submitted for approval to the Commission all the information required by european regulation at the beginning of programming period. It is clear that in the field of the European funds managing freedom of action and decision of the national state is limited. First, management of EU funds by public administration authorities is done according to work procedures approved by the European Commission. Any change to these procedures is done only with the Commission approval. In case of MA- OP ACD work procedures were approved by the European Commission Decision no. 5.811/ 2007.

4. Conclusions

As we may see above, european funds has a high importance in the process of institutional apropiations and administrative convergence. However, a big influence is given by the characteristics of administrative system and national policy. In this respect, some states has similar constructions of public space and shared the some roade in the process of integrations in EU,all thise generate o better institutional harmonization.

European funds primarily aims to reduce the economic development gap between the poorest regions and other regions and between the poorest communities and other communities within the EU, but this process can not be achieved without a legislative harmonization between states and a model of good practices in the management of funds. Since public administration plays an essential role in the efficient management of funds, public institutions structure and administrative culture of each country directly affects the achievement of economical convergence.

So, we can said that administrative convergence is a must, in the process of economical convergence in the European Union.

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IV.4. THE CONTRIBUTION OF THE LISBON TREATY TO THE PROCESS OF ADMINISTRATIVE CONVERGENCE

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Abstract

Administrative convergence implies, among other, laws, institutions and national policies adjustment to the provisions of the Treaty of Lisbon. It requires coordination of social, economic, monetary and how to finance the European Union. By the Treaty are implements economic and social model which are based on values such as equality, social development, sustainable development, environmental protection. Also, the Treaty establishes explicit obligations of States on the coordination of economic policies. One of the factors leading to administrative convergence is the legal basis established by the Treaty of Lisbon, in order to improve administrative cooperation between Member States of the Union Treaty, facilitating the exchange of information and of civil servants as well as training Supporting Schemes. The Lisbon Treaty explicitly states that the Commission encourage cooperation between the Member States and facilitates the coordination of their action in all social policy fields. The Commission shall act in close contact with Member States by making studies, arranging delivering opinions and consultations. We identify several factors that determine the administrative convergence: the tools that implement EU policies adopted by the Treaty on the Functioning of the European Union, amended by the Treaty of Lisbon; the principles statues by Treaty on European Union and the Treaty on the Functioning of the European Union, amended by the Treaty of Lisbon; the national law changes; the influence of the administrative procedure.

Keywords: Administrative convergence, the Lisbon Treaty, the Treaty on the Functioning of the European Union, the Treaty on the European Union, principles of the European, right to good administration.

1. Introduction

The Treaty on European Union and the Treaty on the Functioning of the European Union as amended by the Lisbon Treaty, regulate the functioning of the EU institutional system and establish principles and policies for achieving goals.

All operating principles and policies mainly in the fields of competition, economic, monetary, social, agriculture and fisheries, transport, environments, consumer protection, ultimately leading to a convergence in administrative field.

At national level EU principles and policies may not be achieved without the direct involvement of administrative authorities that are responsible for their implementation. All States transpose EU measures ordered by using the same instruments in domestic law: plans, strategies, legislative changes.

At EU level to ensure compliance with the treaties in order to achieve objectives, European Institutions use instruments made available by the founding treaties. Thus, strategies are adopted, directives, recommendations for implementation of the EU Treaty and the Treaty on the Functioning of the European Union as amended by the Lisbon Treaty and prepare reports in order to verify the effectiveness of measures taken. All these tools used by EU countries to contribute to achieving the

determinate EU policy and in many cases require a certain way of action, establish standards and common principles for all member governments.

Thus, administrative convergence results from the obligation of States to respect the Treaty on European Union and the Treaty on the Functioning of the European Union.

Treaty of the European Union does not refer directly to administrative convergence, but in art. 197, introduced by the Lisbon Treaty, refers to administrative cooperation. According to this article, administrative Cooperation Requires:

● Effective Implementation of Union law by the Member States, which is essential for proper functioning of the Union. This is a matter of common Implementations interest.

● Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include: facilitating the exchange of information and of civil servants as well as supporting training schemes.

Also, the Treaty on the Functioning of the European Union provides in art. 114 the "approximation of Laws", referring directly to administrative acts. *"The European Parliament and the Council Shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the Measures for the Approximation of Provisions Laid down by the law, Regulation or administrative action in Member States which had their object the establishment and functioning of the internal market."*

The word "convergence" appears in the Protocol number 13 of The Treaty on the Functioning of the European Union. This impose rules in order to end the derogations of those Member States with a derogation, referred to in Article 140 of the Treaty on the Functioning of the European Union, which applies to states whose currency is not euro. Regulating: the Criterion on Price Stability, the Criterion on the government Budgetary position, the Criterion on Participation in the Exchange Rate Mechanism of the European Monetary System, the Criterion on the convergence of interest rates. Protocol number 13 contains provisions aimed at economic and financial policy Member and can't be achieved without administrative intervention.

2. We identify several factors that determine administrative convergence

2.1 The first factor of the administrative convergence are the principles statues by the Treaty on European Union and the Treaty on the Functioning of the European Union, amended by the Treaty of Lisbon

According to the second article of the Treaty on European Union *"The Union is founded on the values of respect for Human Dignity, Freedom, Democracy, Equality, the rule of law and respect for human rights, the rights of persons Including Belonging to Minorities. Tissue values common to the Member States is in a Society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."*

This fundamental value describe the Principles of the European Union and the principles which applies to the members states. All this contribute to the administrative convergence.

a) One of the first principle apply to the European administration and to the national administration in the *reliability and predictability.* 'These attributes derive from the essence of the rule of law which affirms the law supremacy as 'multi-sided mechanism for reliability and predictability. As an EAS principle it may be rephrased as 'administration through law', a principle meant to assure the legal certainty or juridical security of the public administration actions and public decisions' (Matei, L. and Matei, A., n.d.).

The compliance with the provisions of article 2 from the European Union Treaty makes possible the application of this principle.

b) The principles of *efficiency and effectiveness* is established in the preamble of the European Union Treaty. According to the preamble Member States wish the consolidation of effective functioning of institutions to enable them to accomplish more in a single institutional framework, the tasks entrusted to them.

c) Accountability. 'It is one of the instruments showing that principles like the rule of law, openness, transparency, impartiality, and equality before the law are respected; it is essential to ensuring values such as efficiency, effectiveness, reliability, and predictability of public administration. As it is described by the authors of the EAS, accountability means that any administrative authority or institution as well as civil servants or public employees should be liable for their actions to other administrative, legislative or judicial authorities.

Furthermore, accountability also requires that no authority should be exempt from scrutiny or review by others, which means that, simultaneously or priory, mechanisms for implementation are created.

These mechanisms contain a complex of formal procedures that give a concrete form to the accountability act, as well as supervision procedures that aim to ensure the administrative principle of 'administration through law', as it is essential to protect both the public interest and the rights of individuals as well '(Matei, Matei).

d) *Openness and transparency* draw from the reality that public administration is the resonator of the society, assuring the interface with the citizen, the user of its services'(Matei, Matei). This principle is stated in Article 1 of the European Union Treaty – "*decisions are taken as openly as possible and as closely as possible to the citizen."*

'The above principles are not only theoretical in value. They constitute the base for a unitary application of the principles of the administrative law within the national administrations' (Matei, Matei).

2.2 The second factor of the administrative convergence are the national law changes

Article 288 of the Treaty on European Union, states the principle of direct application of European legal acts. Thus, regulations, decisions, general principles, constitutive treaties, international agreements, directives and decisions addressed to the Member apply directly to law, The regulation is subject to both citizens and institutions of Member States.

Court of Justice has decided that Community law must be applied fully and consistently in all Member States.

Furthermore, countries are obliged to recognize the primacy of Union law over national law. This principle is found in the text of the Lisbon Treaty, which annexes include a "Statement of supremacy." According to it, *"The Conference recalls that in accordance with the jurisprudence of the Court of Justice of the EU treaties and laws adopted by the Union on the basis of the Treaties have primacy over the law of the Member States, as required by the said case law."*

In same case the supranational rule of law prevails over the national rule of law or completes it. In other cases 'supranational law joins national law in conferring the administrative power as well as regulating the administrative procedure and the content of administrative decisions'(Chiti, E, and Mattarella, 2011:75).

International regulations are necessary in order to achieve the EU objectives. In the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Smart Regulation in the European Union, from 8.10.2010, specified that, the Regulation "exist to serve a purpose which is to deliver sustainable prosperity for all, and they will not always do this on their own. Regulation has a positive and necessary role to play". According this communication "smart regulation must remain a shared responsibility of the European institutions and of Member States."

"EU legislation must be implemented properly if it is to achieve its goals. While Member States are primarily responsible for this, the Commission works closely with them. It has put in place a number of measures to help. These include 'preventive action' - paying greater attention to implementation and enforcement in impact assessments when designing new legislation; support to Member States during implementation to anticipate problems and avoid infringement proceedings later on; transposition workshops for new directives such as for regulated professions, insurance, banking, accounting and auditing; and guidelines to help Member States implement new legislation such as for REACH. It is also improving enforcement by prioritising and accelerating infringement proceedings. The Commission produces Annual Reports on the application of EU law which deal with these issues" (Council of the European Union 2010).

"Smart regulation must also be implemented at national level because in certain key fields such as company law, taxation and social security, most legislation is national in origin and because, as mentioned above, Member States are primarily responsible for ensuring that EU legislation is properly implemented. Under the Lisbon Treaty, national parliaments check the application of the subsidiarity principle in Commission proposals and can in this regard contribute to ensuring a higher quality of EU legislation" (Council of the European Union 2010).

"Ultranational law regulates the way in which administrative decisions are made and also its content. Administrative acts must comply with the EU law" (Chiti, Mattarella, 2011: 67). "A large amount of domestic administrative rulemaking is either aimed at implementing or affected by EU law. Some national authorities, endowed by national law with strong regulatory powers, are bound in their

exercise by the law beyond the state. Entire sectors of the economy are ruled by national bodies, whose regulations are affected by EU law. Good Examples are offered by the banking sector, in which national regulations are strongly affected by EU directives, and by the foods safety standars" (Chiti, Mattarella, 2011: 67). "The examples of national banks are relevant because the national banking regulators are bound by extremely detailed Eu directives Similarly, the EU lends ist power to the Codex Alimentarius standard, forcing domestic authorities to issue regulations consistent with them. National authorities are also urged to use their authorization and prohibition power to require private businesses to comply with such standars. (Chiti, Mattarella, 2011: 69).

2.3 The third factor of the administrative convergence is the influence of the administrative procedure

The EU law affect administrative procedures through the Principles and Provisions. One of these principles and also one of the mandatory provision is the right to good administration.

First administrative procedure should respect the right of citizens to good governance. One of the example of the ways in which the general provisions affect the administrative procedure, is about the text of Charter of Fundamental Rights of the European Union, which has become binding in 2009, when the Lisbon Treaty came into force. Art. 41 of the Charter proclaims the citizens` right to good administration. According to this *"Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union."*

This right to good administration includes:

- the right of every person to be heard;
- the right of every person to have access to his or her file;
- the obligation of the administration to give reasons for its decisions.

An important role in establishing the administrative procedure it has the European Court of Human Rights. The Lisbon Treaty provides the Union that the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. According to article 6 from the Consolidated version of the Treaty on European Union "Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law." For administrative procedure is important art.6 of the European Convention on Human Rights which establish the right to a fair trial. According to the Jurisprudence of the European Court of Human this article also apply to administrative proceedings prior to the court settlement processes. According to art. 6 of the the European Convention on Human Rights the administrative institutions are obliged to settle claims in a reasonable time.

These rules have a large impact both, on the rulemaking and on the public servant. So, "all of this principles tend to settle and to impose themselves to national administrations" (Chiti, Mattarella, 2011: 66).

"Apart from the general provisions, similar to the ones that can be found in many national administrative *procedure acts, there are also ultra national law provisions, which regulate special kinds of procedures*" (Chiti, Mattarella, 2011: 66).

One of the examples is the Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts. Besides guiding principles in particular: public procurement rules, including: treatment of contracts procurement of services, special rules on the specifications and contract documents, procedures, rules of publicity and transparency rules in the concession of public works; Rules for contests in services. Thus, Directive 2004/18/EC requires the unique rule for all Member States to award the award of public works Contracts, public supply and public service Contracts Contracts, thereby achieving uniform administrative procedures.

Other examples of the internal European Regular Provisions which is the Administrative Procedures Directive 2006/123/EC on services in the internal market. The Directive establishes a general legal framework of the Wide Variety of Benefits Which services and rules relating to administrative procedures, in order to removing overly burdensome Authorization Schemes, Procedures and Formalities That Hinder the freedom of establishment and the creation of new service undertakings therefrom. The Directive WAS Adopted because it is the EU Considered Necessary to Establish That Principles of Administrative Simplification, inter alia through the limitation of the Obligation of Prior Authorization to Cases in which it is essential and the Introduction of the principle of

tacit Authorization by the competent Authorities After a Certain Period of time elapsed. According to the Reasons Behind Adoption Other Measures Adopted ITS at National Level Objectives to Meet That Could INVOLVE reduction of the number of Procedures and Formalities applicable to service activities and the Restriction of Formalities and Procedures Such Thos Which is essential to in order to Achieve the Objective and general interest Which Do Not Duplicate Each Other in terms of content or purpose. The Directive 2006/123/EC Objective Establish year, common to all Member States, of Administrative Simplification Provisions Concerning and to lay down, inter alia, the right to information, Means and Procedures by the establishment of a framework for Authorization Schemes.

It is important to mention Council Directive 2004/83/EC on minimum Standards for the qualification and status of third country nationals or stateless persons as persons who otherwise would or Refugees Need International Protection and the content of the protection granted. According to the Reasons Behind the ITS Adoption of this Directive the main Objective is, on the one hand, to ensure Member States apply common criteria That for the identification of persons genuinely in Need of International Protection, and, on the Other hand, to ensure That the minimum level of benefits is available for persons in all Member States tissue. The Directive introduces common criteria to AIMS Also recognizing Applicants for asylum for Refugees would introduce common concepts of protection and Needs arising sur place; sources of harm and protection, internal protection, and Persecution.

Other directives include the administrative procedures required of States are found especially in tax, environmental and medical services.

2.4. The forth factor of the administrative convergence are the tools that implement EU policies adopted by the Treaty on the Functioning of the European Union, amended by the Treaty of Lisbon: directives, recommendations, strategies.

One of the tools used by the EU in the implementation of the Treaty of Lisbon, with direct influence on government is Better Regulation Strategy. This focused on Reducing administrative burdens for businesses. The reduction of administrative burdens are bringing tangible benefits for businesses has, Citizens and Public Authorities.

Better Regulation strategy was followed by Smart Regulation Strategy in the European Union. Besides simplifying EU legislation, act to reduce administrative boundaries, in order to Achieve Sustainable and inclusive growth set out by the Europe 2020 Strategy. "The Commission is convinced, however, That in Addition to Delivering this programs, efforts must continue to reduce administrative burdens WHERE Possible. This CAN BE best done as part of a broader approach which takes account of all determined the efficiency and Factors which Effectiveness of Legislation. (...) This will help to address stakeholders' Concerns Businesses That Do Not Always Feel the Benefit of administrative burden reductions, Including Because of Obligations Which produce 'irritation' Even if they taxable little cost "(Council of the European Union 2010).

Smart Regulation Strategy in the European Union fallow to: Improving the stock of EU Legislation, Ensuring That is the best Possible New Legislation; Improving the Implementation of EU Legislation, Legislation Making clearer and more accessible.

Another example of a document issued to achieve policies, made by the Treaty of Lisbon, for Reducing Administrative Burdens in the EU is the Reduction Sector Plans and 2009 Actions. To verify the efficiency and compliance with these documents and whit the previsions of the Treaty of Lisbon reports are prepared. Some of These reports are: Annual reports on Better Lawmaking, Implementation of the Lisbon Strategy Structural Reforms in the context of the European Economic Recovery Plan - Annual Country Assessments, Report to the European Parliament and the Council on the Progress in Romania under the Co-operation and Verification Mechanism, Cohesion policy: Strategic Report on the Implementation of the 2010 Programmes 2007-2013.

2.5. The fifth factor of the administrative convergence is the way that institutions work and duties they have been conferred on them.

So, The European Parliament shall, exercise legislative and budgetary functions, exercise functions of political control and consultation as laid down in the Treaties; the European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof; the Council shall carry out policy-making and coordinating functions as laid down in the Treaties; The Court of Justice of the European Union shall ensure that in the interpretation and application of the Treaties the law is observed.

But the most important role of the Commission According to art. 17 of the consolidated version of The Treaty on European Union. "The Commission shall promote the general interest of the Union and to take Appropriate Initiatives That end. It shall ensure the application of the treaties and of Measures Adopted by the Institutions pursuit to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programme. It shall Exercise coordinating, executive and management functions, as laid down in the Treaties".

The difficulties in exercising the powers provided for in art. 17, because of how decision-making, were removed by modified to the Treaty of Lisbon. "the Commission *may be affected by enlargement, and with enlargement, policy-making in the Commission may have to be pitched at a level of principles, instead of administrative detail. It has to also been suggested that policy-making in the Commission may become slow and cumbersome, as the Commission has to navigate a variety of interests internally. On the other hand, other studies have shown that the speed of decision – making in the EU is unlikely to by affected by enlargement. Further, the Treaty of Lisbon has envisaged this problem and provides for a possible cap on the number of Commissioners to be at two-thirds of the number of Member States from 2014. Member States who do not have voting Commissioners in the Commission at any one time may however be assured that their non-voting Commissioners could assume voting positions by rotation, so as to satisfy Member States` representational interest*" (Chiu, 2008: 220)

3. Conclusions

In this study we started analyzing the influence of EU Treaties as amended by the Lisbon Treaty and implementing legislation on administrative convergence, but they are not the only influenced elements. Analyzing factors with a role in administrative convergence we can summarize in the following list: European Union treaties and secondary legislation to implement their constant; contact between officials of Member States and between them and those of the European Community; European Court of Justice; the phenomenon of taking over the European legislation, academic programs, voluntary imitation of the superior model (Alexandru, 2008:878-880).

We conclude that the effects on convergence of administration consists of the: creation or extinction of rights and duties for citizens for public service and regulators, implementation of EU policies and better functioning of the EU. But the most significant effect that can have the administrative convergence is to create a European model of public administration.

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IV.5. ASPECTS OF NATIONAL POLICY CONVERGENCE. LABOR MARKET EXPERIENCES OF EMPLOYMENT IN SOME BALKAN STATES. CASE STUDY

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Abstract

In a changing and moving world, with interconnected actions that create interdependence, the administrative institutions and systems must be flexible and transparent in order to adapt to those changes and create the best conditions for the development of social life in all aspects. EU expansion has mainly reduced the capacity of Balkan states of adjusting their administrative structures and models promoted by the EU standards. The discussions around this theme are founded on traditions, economic, social, cultural, administrative values of the states in the Balkans in relation to those promoted in Western countries and the EU. Our study on the convergence of the public policy considers the description of how various factors and economic, social and political mechanisms act or compete in mitigating the differences or gaps between entities. Therefore the research attempts to highlight some elements of the convergence of national public policies between Romania, Bulgaria, Greece and Croatia in the labor market employment. This is because we believe that obtaining a degree of convergence in the national public policies is a vital requirement for the incorporation of public administration in European Administrative Space and administrative system transformation into an instrument for achieving the desired convergence. In this article we will focus on convergence analysis of national public policies, on the premise that it is impossible to obtain a strong European construction in the absence of effective public administration at both levels, national and European level.

Keywords: convergence, europeanisation, public policy, labor market employment.

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Introduction

In a changing and moving world, the administrative institutions and systems must be flexible and transparent in order to adapt to those changes and create the best conditions for the development of social life in all aspects.

Employment policy aims to: increase employment and promote adaptability of disadvantaged groups (young people with low education and qualification, long-term unemployed, people over 50 years old) on the labor market. (Matei, Dogaru, 2010) Employment is the balance and efficiency factor of labor market functioning and of fostering economic growth.

The general objectives of the European strategy on employment are: achieving sustainable economic growth and creating more and better jobs. Our analysis on labor issues in the Balkan states is based on the existence of a similar social model, which is based on almost the same principles: respect for the law, trust, preventive measures, sustainable results, effectiveness, efficiency and consistency.

Our subject is the policy of employment in some Balkan states. The sample on which we will do our analysis consists of the following group of countries: Romania, Bulgaria, Greece and Croatia.

This is because we believe that obtaining a degree of convergence in the national public policies is a vital requirement for the incorporation of public administration in European Administrative Space and administrative system transformation into an instrument for achieving the desired convergence.

1. National policy convergence

Europeanization is seen as the process of globalization in the European field and it is the continuous integration of a state, including, among others, its impact on national administration (Matei 2004).In this context the importance of the social dimension of globalization has increased. Therefore, the openness of an economy can lead to fragility and volatility of labor market economic policies and their effectiveness if the states have not achieved the necessary institutional and functional adaptations required by the new economic and social conditions.

Trying to build a perspective upon this issue, we conclude the following: in the context of home market the amplification of the European integration involves at a national level some degree of convergence and that the convergence of governance systems does not only involve common and shared norms, but also institutional, organizational, procedural arrangements, and similar behavior (Rometsch, Wessels, 1996, Meny et al. 1996).

Thus, emerges the idea that the European context has several features that allow convergence of national policy and European administrative space, but also that in any process there can be found items that contravene this direction. Studies on how the administrative systems are responsible for European integration and Europeanization process focus on three possibilities. These point out the way on which the Europeanization may affect the differences between the national and administrative systems (Knill 2001): the possibility of administrative convergence, defined as the existence of the same styles and features of national structures due to the influence of European policies; the situation of administrative divergence, representing the fact that the differences between administrative systems of European countries are growing; the posibility of maintaining / persisting the same differences between systems of the Member States.

1.1. The concept of convergence

The convergence's analysis takes into account the description of how various factors and economic, social and political mechanisms act or contribute at mitigating the differences or gaps between the entities. Although there is some consensus on the definition of "convergence", meaning "companies tend to develop as similar as possible, to develop similar structures, processes and similar performances" (Kerr 1983), the empirical and theoretical evaluation of the policy of the convergence is generally hampered by different uses of the concept, partially overlapped on the same concepts.

The concept of convergence is defined as "a set of common and shared rules of similar institutional, organizational, procedural and behavioral arrangements." (Matei, Dogaru, 2010). The national policy convergence is the process of the policy transfer and the resilience of national policies and institutions to external pressures. Thus, organizations tend to be similar, struggling to become more compatible with the environment in which they operate. The increase of the number of international organizations, associated with the globalization of information and knowledge have accelerated the production of studies about the transfer in public policy, in which the idea of transfer is close to the recent meaning of the concept of "convergence."

The concept of convergence is analyzed in terms of similarities between the principles and rules of European and national institutions, in terms of game rules or competitiveness (Knill, Lehmkul 1999, Scharpf 1996) and may be seen from different perspectives. Originally, the meaning is that countries with a similar stage of economic growth tend to convergence or how Wilensky says (1975) "regardless of their political economies, regardless of their unique cultures and histories, societies become more similar in terms of social and ideological structure". According to Pollitt (2001), 'the administrative convergence' is a concept without a clear meaning, but as a common model it involves a reduction of differences and disparities in administrative structures.

Different national administrations develop in the same manner, leading to more consistency and coherence between the different administrative structures. Wessels and Rometsch have also argued that the "merger" between national and EU administrations took place. The purpose of this process is

convergence, which can be expressed as a set of common features of the administrative models (Rometsch, Wessels in Matei 2010).

From the perspective of the authorities in Brussels, on the other hand, the concept of "convergence" is defined as the degree of innovation and adaptation of the constitutional, institutional, procedural, organizational and national process of the European decision-making behavior.

Thus, based on literature reviews, we distinguish the following values and principles essential for administrative convergence: 1) democracy and the rule of law, 2) objectivity and neutrality, 3) awareness and transparency, 4) trust, 5) independence and professional administrative services . Consequently, the Member States are expected to converge to a single model. The same trends are expected from institutions in the institutional environment that are under a mutual pressure (Matei 2010). On this first section of the paper, we conclude that researches have highlighted some signs of convergence between national administrative systems (Bulmer, Burch, 1998, Olsen 2003).

2. Employment on the labor market in some Balkan states. Case Study.

2.1. European Strategy for Employment

European employment strategy is a series of objectives common to all the Member States to form an analytical and political framework in order to assist the Member States and the social partners in the modernization of labor markets and other structural policies in those states.

On the 26th of March 2010, the European Council endorsed the European Commission's proposal to launch a new strategy for employment and economic growth, Europe 2020, based on an enhanced coordination of economic policies, which will focus on key areas in which necessary actions to stimulate Europe's potential for sustainable growth and competitiveness are needed.

On the 13th of July 2010, the Council adopted a recommendation on the broad economic policy guidelines of the Member States and the European Union (2010-2014) and on the 21st of October 2010, a decision on guidelines of the employment policies of the Member States, which form together "integrated guidelines". The Member States were invited to consider the integrated guidelines in the economic and national employment policies.

On the 12th of January 2011 the Commission adopted the first annual review of growth, marking the beginning of a new cycle of economic governance in the EU and the European Coordination of the first half of ex-ante and integrated policy based on Europe 2020 strategy.

On the 25th of March 2011, the European Council endorsed the priorities for the budgetary consolidation and the structural reform (in accordance with the Council’s conclusions of the 15th of February and the 7th of March 2011 and as a result ofthe annual review on the increase by the Commission). He stressed the need to prioritize restoring solid budgets and sustainability of public finances, reducing unemployment through labor market reforms and submission of new efforts to strengthen growth.

2.2. Employment policy in Romania, Bulgaria, Greece and Croatia

To "measure" the national policy convergence it is necessary to compare the political changes of the four analyzed countries and assess whether they are moving in the same direction. It is the case in Romania, Bulgaria, Greece and Croatia, states we analyze in this paper and to which we seek the most fair arguments. The subject is the policy of employment in the four states, but for a more complete approach we begin the analysis by presenting several arguments which advocate national policy convergence. A first argument in the thesis of convergence between the four countries is the traditions, the similar cultural, economic and social values caused by the domination of the Ottoman Empire and then the Iron Curtain. All three Bulgaria, Romania and Croatia are countries of the former socialist block, whose efforts for freedom were marked by the adoption of a democratic constitution in 1991. Greece was a neighbour of the socialist block, whose influence was fully felt. Also, EU membership entails, among other things, the acceptance of certain common administrative standards. Ziller (1998) mentions in his work that states are under a continuous pressure regarding the influence of the other neighbors.

In terms of national policy convergence of the four states on the topic of employment, we consider the arguments already presented as a basis to which we specifically add a set of common features to the four countries obtained from the European social model. Thus, despite the intra-European differences, the different historical experiences of the European countries it is often referred to the

existence of a European social model (different from the American or Japanese).The main features of this model are: extensive social protection, social conflict resolution through consensus and democratic methods, social dialogue (Matei, Dogaru 2010). It is important to remember that each country has its own social model, but, however, social models of Romania, Bulgaria, Greece and Croatia are based on common values, as above.

Until recently, the social policy promoted by Romania, Bulgaria, Greece and Croatia was guided by the principle of passive social protection, but the new social phenomena have led states to shift to the active social public policies to create a just social order. Currently, both countries promote an active employment policy. Through these active public policies consisting of information and counseling, mediation, programs and measures for employees, training, advice and assistance into starting a business or pursuing a private businessstates aim the integration of the unemployed in the labor market and the improvement of the correlation between labor supply and demand.

European Union member states, including Bulgaria, Romania and Greece (including the EU candidate country Croatia) base their policies on employment three main objectives considered of major importance in the European Employment Strategy, namely: 1) full employment of labor, 2) improving quality and productivity, 3) strengthening social cohesion and inclusion.

The political tool proposed to achieve these is called "the open method of coordination" (the Open Method of Coordination (10)) and the joint paper on employment priorities assessments (Joint Paper on Employment Priorities Assessments - JAP) is the first stage of Employment cooperation between the European Commission, EU members and candidate countries.

2.2.1. The content of the public policy of employment

The employment policy promoted by Romania, Bulgaria, Greece and Croatia is formulated and harmonized according to the European and international standards reflected in the European Employment Strategy, with the priorities of the latter, the recommendations of the International Labour Organisation of the Economic Cooperation and Development Organisation and other international organizations.

The employment Strategy in Bulgaria was stated according to the following documents: Human Resources Development Strategy 2000-2006, Evaluation Report on employment priorities in the Republic of Bulgaria (2002), the National Economic Development Programme Government of Bulgaria, "Bulgariansare the fortune of Bulgaria," the National Strategy for Social Policy (2002), found in the message "Better regulation and social justice." Regarding Romania, the strategy is based on the following documents: The Government of Romania, the Joint Assessment of Employment Policy, the National Human Resource Development (2007-2013).

The strategy of Romania and Bulgaria stresses that their objectives are formulated in accordance to the three major objectives of the European strategy for employment. The strategic objectives of the two documents are about the same. Romania has as proposed medium and long term objectives: 1) the increase of the employment of older people and thereby combating the effects of structural unemployment, 2) the promotion of the adaptability of workers, 3) the promotion of social inclusion and the strengthening of social dialogue, while Bulgaria aims to: 1) increase the employment and limit the unemployment, 2) improve the quality and the productivity of the labor force, 3) achieve social cohesion and reintegration of vulnerable social groups who are least likely to participate and integrate in the labor market. Throughout both strategies, a number of sub-objectives were established for each objective.

Regarding Bulgaria, the activities required to implement the objectives set out above can be divided into the following main dimensions: 1) active measures to prevent and limit unemployment and increasing public participation in the labor market, 2) economic policies that promote employment, 3) promotion of entrepreneurship and provision of incentives for SMEs to create new jobs, 4) transformation of informal employment into formal employment, 5) increasing the capacity of workers to remain active in the labor market and the introduction of active aging, 6) increasing the adaptability of the workforce to the changing economic conditions, 7) the development of human capital and the enablement of policies for lifelong learning; 8) the development of policy for equal opportunities and labour market accessible to all social groups; 9) the development of active labor market policies, which tend towards full economic and social integration of risk groups in the labor market; 10) limitation and overcoming of regional disparities in employment (Employment Strategy of Bulgaria 2004-2010).

In comparison to these, the main dimensions of development under the employment strategy of Romania are: 1) active and preventive measures for unemployed and inactive people, 2) creating jobs

and promoting entrepreneurship, 3) promoting adaptability and mobility in the labor market , 4) human capital development and enabling lifelong learning policies, 5) increasing labor market supply and promoting active aging, 6) gender balance; 7) transforming undeclared work into proper employment, 8) combating the regional disparities regarding the employment (Employment Strategy of Romania 2004-2010).

So, after analyzing the documents we witness that there are some common principles and elements for Romania and Bulgaria. To all these elements we addthe fact that the law of the two states is founded on the civil law system (Reitz 2007). Labor relations between employees and employers are primarily governed by the Constitution, international treaties in which Romania and Bulgaria are part (following ratification by each parliament) and by national legislation.

Labor market rigidity mainly affects young employees and those with low education. Greece records high levels of labor market rigidity, which creates pressure on the economy especially in times of crisis. In Greece, the maximum allowed number of successive employment contracts for a specified period and the maximum cumulative duration of them is of 3 contracts and 24 months.

In the last decade, the increase of Greece was based on unsustainable factors: the expansion of consumption and investment in housing has been accompanied by a real wages growth and a rapid credit growth, a drecrease oof real rates, associated with the euro adoption and the financial market liberalization, contributed to this expansion. The global crisis of 2008-2009 exposed the vulnerable aspects, including unsustainable fiscal policies, partly hidden by the unreliable statistics and the temporary high level of income, a labor market and rigid products, loss of competitiveness and the increase of external debt.

Greece has pledged to implement the economic and financial adjustment program, to correct budgetary and external imbalances and to rebuild confidence in the short term. In the medium term, Greece should establish a growth model that should rely more on investment and exports, thus supporting growth and employment. The program provides extensive action on three fronts: (i) a consolidation strategy focused at the beginning, supported by structural fiscal measures and by an improved fiscal control, (ii) structural reforms of labor markets and products to boost competitiveness and growth and (iii) efforts to preserve the stability of the banking system.

Croatia is on the verge of exceeding the transition period in the EU accession process, this revealing into a particular labor market flexibility. The effects of adopting the European social policies on labor market in Croatia show that the institutional reform process, has led to eliminating the legislative restriction on employment, which resulted in reducing long-term unemployment (Šošic 2005). Thus, the effectiveness of active population growth measures increased. Moreover, these reforms have led to an increase in unemployment, which resulted in reducing its grant period and into a greater labor market flexibility. The influence of the new institutional framework has led to a lower unemployment in Croatia. This will lead to poverty reduction, lower long-term unemployment and a possible elimination of insecure and poorly paid jobs (Arandarenko 2004).

2.2.2. The structure of public policy employment

Labor market institutional framework consists of a set of institutions with responsibilities and duties regarding the development, the implementation and the monitoring of employment policy.

The main institutions with responsabilities regarding the employment policy are: the Government or the Council of Ministers, ministries, particularly the Ministry of Labour, Family and Social Protection (Romania), the Ministry of Labour and Social Policy (Bulgaria), the Ministry of Labour and social protection (Greece) and the Ministry of Economy, Labour and Entrepreneurship (Croatia) working with other ministries to implement social policy, the National Agency for Employment, regional and local institutions, trade unions and employers.

Conclusions

The answer at whether there is a degree of convergence between the public administrations of the two states is that "there are certain mutual values and principles, developed by the administrative practices and by the traditions of the contemporary European democracies with a strong influence on the EU's administrative area as a whole and on each Member State individually.

Therefore, obtaining a certain degree of convergence in the national administration is a vital requirement for the incorporation of the public administration in the European Administrative Space

and the administrative system transformation into an instrument for achieving the desired convergence.

According to the general definition given to the concept of convergence, namely "a set of common and shared rules, similar institutional, organizational, procedural and behavioral arrangements" the research on the labor issues in the two states showed a similar social model, which has approximately the same basic principles: respect for the law, trust, preventive measures, sustainable results, effectiveness, efficiency and consistency.

Having regard to the social model promoted by Romania, Bulgaria, Greece and Croatia, we can conclude that these countries share the continental social model values (a strong accent on social protection and pension systems and a great importance given to trade unions). We open a parenthesis to mention that in Europe four types of social models were developed: the Nordic model, the Anglo-Saxon model, the Mediterranean model, the continental model.

Also note that the hypothesis of convergence between the four states is validated by the similar structure and functions of the institutions responsible for implementing public policy on employment. Moreover, the two countries are members of the EURES, tool that facilitates the improvement process of employment.

Following the theoretical documentation and the statistical data analysis we conclude that we can speak of the existence of a certain degree of convergence between Romania, Bulgaria, Greece and Croatia with a similar social model and consider that this trend of convergence of the national public policies may be encountered at other EU Member States.

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Employment Strategy of Romania 2004-2010
Employment Strategy of Bulgaria 2004-2010

IV.6. EMERGING ADMINISTRATIONS IN SOUTH-EAST EUROPE

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Abstract

The aim of the article is to explore the characteristics of the emerging administration of the states from the South-east Europe under the changes and reforms imposed by the European Union pressure and also to present what means these characteristics. EU throw his policies and strategies has a great impact on economic and social conditions in the European states and thus on their economic competitiveness. These countries have to face with political changes, economic changes, social changes and demographical changes. Starting from these premises and under these conditions our research will go on trying to identify the way in which the administrations from south east Europe become emerging, which are the conditions and the instruments that lead to this situation and if there are models and principles that can be internalized to achieve an European Administrative Space.

Keywords: emerging administration, states, reforms, transition, South-East Europe.

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1. Introduction

When looking the explanation of the word „emergence", we started from the explanation given to this word in the perspective of the principle of emerging systems. According to J. Huxley (in Corning 2002) the emergency phenomenon in the natural world implies a multi-level system which interacts with the two parts –the inferior and the superior of the system and or with the exterior or interior medium. Moreover, these emergent present systems have in their turn an up and down influence – especially in an orizontal plan.

There are a few relevant examples: the scholar system, the ecosystem, the political systems, the local societies, the interacting systems inside small groups and so on. These can be explained as: „an ensemble of unimportant elements which exist in different states or conditions. If the changes of state are measurable we can consider these elements as variable and the state of the system at a given moment will be the values list of these elementary variables" (Lugan, 1993).

All these mustn't take us to the conclusion that it is about a strange thing connected to the physical systems, because the feature of emergence is not limited only to the biological and physical systems but this is also characteristic to other social, economic, political or administrative systems, too. Thus, the emegence system can be found in different places such as the traffic models, towns, government political systems or economy and market phenomena, organizational phenomena when simulating on computer. Everytime there is a multitude of individuals who interact with each other, many times there is a moment when the disturbance simulates order and something new appears: a model, a decision, a structure, and even a direction change, etc.

The analysis of the paper stops upon the way in which the public administration gets the ability of being emergent and what this thing means at theoretical and practical level. The ideea of the emergence of public administration understood as changes and reforms can be also find in specialty

literature regarding the study of public administration, for example in the studies made by Meneguzzo, Fiorani, Mititelu, Matei and Cipoletta (2010:49-78).

It is certain the fact that the public administration can't be considered separately, it is integrated part of the global social system, having powerful influences upon this and and being in its turn influenced.

So, if we consider the public adminstration from the systems theory perspective, we can state that this implies studying this taking into account the position and the connections with the other subsystems, conections which influence its own configuration. In this way, the administrative system appears as a component part of a more general part of a social order, which acts upon it as a constraint (Matei 2000).

During the last decades the word „emergence" was associated and used especially with the economics systems concerning the emerging economies or markets.

The term of „emerging market" was introduced by Antoine W. van Agtmael (from The Mondial Bank) in 1981 during a conference which was taking place in Thailand. In that period Thailand was considered a third world country and this expression used to discourage investors. Presently, the word "emerging" as Ashoka Mody considers in his paper *"What is an emerging market?"* was referring to countries with a high volatility and which are in transition, facing economic, political, social and demographic nature changes. These economies have a more alert growing rhythm in order to cathch up with the developed countries, offering the possibility to those more prepared people to take extra chances to get higher profits/ results.

The countries from South-east Europe have known also this general framework of emerging system, respectively the economic, political, social and demographic nature changes and they have undoubtely an impact upon the sytem of national administrations. These countries are in transitions and they are trying hard to catch up with the other countries to reach the the established objective: the accesion and integration in the European Union. Proof of this are the reform strategies and the European integration policies taken by these states.

2. Emerging Europe: cycles of the emerging states in South-East Europe

Emerging Europe was defined through the following states: Bulgaria, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Serbia, Montenegro and Turkey.

Regarding the Balkan area of emerging administration we can divide the states regarding their relation with the EU as: old Member States: Greece; recent Member States: Slovakia, Slovenia, Bulgaria, Romania; acceding countries: Croatia; candidate countries: Turkey and FYROM and potential candidate countries: Albania, Bosnia-Herzegovina, Montenegro, Serbia.

The states in south-east Europe have some common features characteristic to this specific geopolitical area: they have all known the totalitarian systems, the centralized economy, the politicized administration, and all countries gave up their former political systems and are subject to a permanent changing process at all levels, strongly influenced by the European Union and the values this promotes.

The Europeanization, seen as a globalisation process in the European field, represents a situation which contributes to the European integration and has, among others, its impact upon the national administrations (Matei 2004). In this context, the social dimension of the globalization has more importance. The opening degree of an economy can determine the fragility of the work force market of the volatility balance politices and of its efficiency, as well for the countries which are not institutional and functional adapted to the new social and economic conditions (Matei and Dogaru, 2010).

So we can consider the fact that the emergence of the south east European countries follows „a line with two successive anchors: the first, which corresponds to the interior transition, of abstract nature, and the second, specific to the exterior transition, of contingent nature" (Dinu et al. 2007).

2.1 Cycle 1: The internal transition

This cycle what characterizes the emerging countries from the south east Europe is represented mainly by the rupture from the old communist regimes (the example of the countries from the former Yugoslavia or from Bulgaria).

Through the internal transition, a country chooses to enter in a built order on hierarchical dependences. It is the the globalization developed on the principle of the explanation unicity (Dinu

2006). The ordering principle this globalization develops is that of adversity, the only base of the hierarchical systems of the *top down* type.

The parts which manage their dependences tend to imitate the the bahaviour of the whole, and the whole fits permanently with the performances of the parts in their effort to act in the negotiation space of the communitary. In this case the parts are represented by the countries from south-east Europe and the whole is represented by the European Union. The communitary space, as a result of the decision to use together the sovereignities, to escape the constraints of the identitary values, of the nature of the ideology state-nation, it means the working of a mechanism of balancing the rights and responsabilities, focused on the individual choice in capitalization of the natural rules of living together, esentially a fulfillment of the individual as a social being.

The post communist transition ends once with the realization of the real convergence with the model of the postcapitalist transition. The getting out of the alternative was for all countries from Central and Eastern Europe which integrate in the European Union the giving up to all forms of order that consider the first modernity (Dinu, 2007).

2.2 Cycle 2: The external transition

The cycle of the external transition, as a form of emerging countries in south-east European is represented by the integration model proposed by the European Union. It was in an external political dilemma upon the countries in the Balkans, oscilating between including and excluding. On the one hand, the European Union understands that the security, prosperity and stability in the Balkans depend mainly by offering these countries a European persepective. Consequently, all the countries have the statute of potentiel or real „candidates" to join the European Union.

The European integration, as a form of the external transition and part of the emerging coutries from south-east European, illustrates the experience of the open systems of *bottom- up* type. The change as a learning process „as a principle of harmonious competition of cooperative nature, which opens the main way of globalisation, as a building paradigm of another idea of global order than a hierarchical one" (Dinu 2007).

This European version, which means spreading the EU rules, the political organisation and the ways of government beyond its territory and a process of changing in the institutional national practices and of politics which can be attributed to the European integration, can be named *Europenization* (Hix and Goetz 2000, Olsen 2002 in Trauner 2009).

To all these can be added some values that will be common to all countries that want to perform this process, values that make up the European integration model: the market- in its institutional form, the democracy, the cohesion – with its social, economical and territorial dimensions, the multilevel governing or the convergence (economic, administrative).

These promoted values can be found in the Europenization process that was identified for the first time for the countries in Eastern and Central Europe and this was then adapted to the states in Balkanic Europe which was in pre-accesion process. The key to understand the Europeanization from the Balcanic states mustn't focus only on the obligations associated with a possible accesion to the European Union (understood as a conditionality of the members), but also as a supplementary means of external levers (Traunern, 2008).

As Dinu (2007, p.156) was stating, the success of the emergence depends on the consistence of the vision upon its cycles. The cyclicization of emergence in the European countries contains a paradox: so that the success of the changes from the first cycle to be sure there must be started the changes which are specific to the second cycle. It was chosen a change that can't be ended unless they choose another change what implies the first, just to overcome it. The two transition cycles are apparently continuous but in reality the exterior transition cycle comes with a paradigm that changes the first in a special case used in a remodelled context which absolutely loses its universalization potential through unicity.

3. Emerging public administration

The emergece of public adminstration of the south east European states cannot be conceived beyond the process of Europenization and European Integration. This process is the one that generates the institutional transition and leads to creating different unavoidable and irreversible changes at the level of the states which would like to become members of the European construction.

The institutional changing is determined by the resize of the instruments and the redistribution structures of the resources at society level (Börzel 1999).

3.1 The process of Europeanization and transferring rules in Balkan Europe

The European Union has a strong interest in extending its influence in the Balkans. Because of the conflicts in the 1990s, the stability in the Balkans – in the European courtyard – has become a priority of the European politicies. The European Union wishes to prove its ability to promote the after conflict stabilization, and the rehabilitation in this part of Europe. Because of this stategic interest in the region, the European Union introduced a prejoin setting (Renner and Trauner, pp. 453-454). This setting imposes the official beginning of the the Europeanization process.

Between 1998 and 2002, the main objective of the communitary assistance for the balkanic region on the whole tageted to the infrastructure and the democratic stabilization, (including the help for the refugees), representing 27% and respectively 20% from the total assigned to the assistance (Figure 1 and 2). Also, since 2002 the allocations to build an administrative capacity have gradually increased.

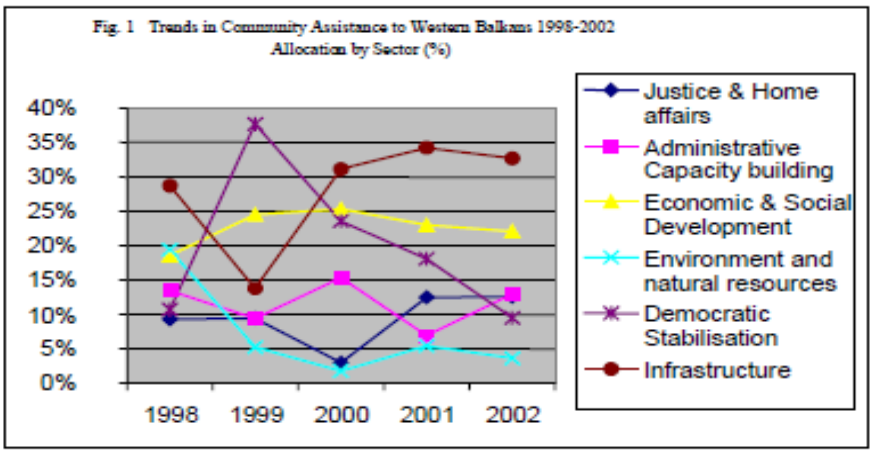

Figure 1. Trade in Community Assistance to Western Blkans, Source: The Stabilisation and Association process for South East Europe, European Comission, Brussels, 2003

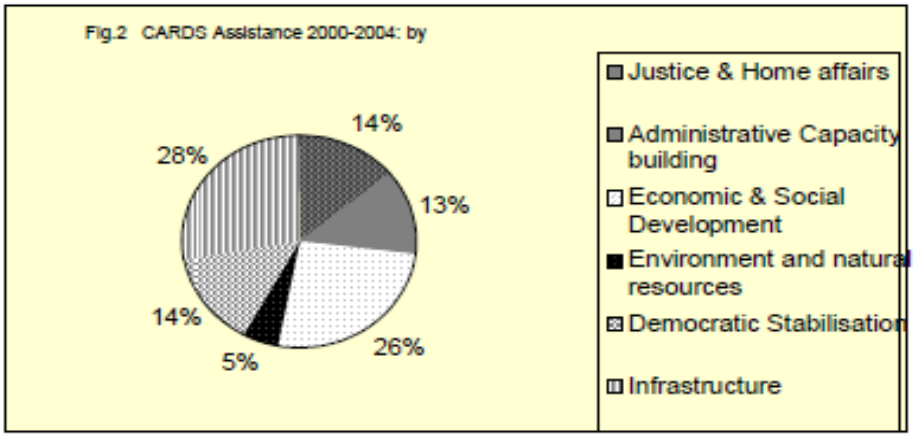

Figure 2. Assistance 2000-2004, Source: The Stabilisation and Association process f or South East Europe, European Comission, Brussels, 2003

For the Balkanic Europe, EU has introduced the Stabilization and association process, and targets to the alignment of the countries closer to the European strucures, with the final goal of complete integration in the EU (see table 1). In each of the cases, The Stabilisation and Association Agreement can be considered as a bilateral business between EU and the requesting country. In exchange of the

fulfilling of the political and economic conditions in the selected fields of policies, the states that aspire to the candidate statute start from a step by step process to the statute of member in the EU this process is characterized by a series of changes generated by the fulfillment of some criteria, among which we can mention the bureaucratic criterium, what generates different strategies of reform upon the national public administrations of the states.

Table 1

The situation of the countries from Balkan Europe and the EU

Countries	Stabilisation and Association Agreement		Application for membership	Candidate country	Accesion negotiation
	Date of signature	Entered into force			
Albania	June 2006	-	-	-	-
Bosnia-Herzegovina	June 2008	-	-	-	-
Croatia	October 2001	February 2005	February 2003	June 2004	October 2005
FYROM	April 2001	April 2004	March 2004	December 2005	-
Montenegro	October 2007	-	-	-	-
Serbia	April 2008	-	-	-	-

Source: Adaptation from: Western Balkans: Enhancing the European perspective, Europan Comission, Brussels, 2008.

3.2. Emerging public administration: a study upon the reform strategies in the south east European states

In this subchapter we will analyze the emerging process of the public administration of the south east Europe states seen as a process of institutional changing corresponding to a process of transition from democracy of the former communist countries versus that of fulfilling the conditions imposed by the EU accession or of the obligations that come from the statute of member of the EU.

Using the premises of the emerging administration, we will present the main elements of the conditionalities imposed by the European Union to the candidate countries, respectively Croatia and FYROM. Taking into account the change occured after getting the statute of state member, of the way in which it is understood the institutional relationship between the member states and EU depend from now on the elections concerning the institutional arrangements realized in the change process remembered above, we will present the main changes that have taken place in the public administration from Bulgaria (as a member state of EU since 2007). In order to identify a setting in which EU influences throw its politcies other states except those which are members or candidates, we will present the reform strategy that Albania implemented, as a possible candidate state at the EU.

3.2.1. Croatia

From the historical point of view, Croatia, even when it was part of the former Yugoslavia, it wanted to be a part in the „ European Club" which used to represent, and still does, the vector of change of this country (Ivan and Iov, 2010). Croatia has known an internal transition through which it passed from a republic part of a federation, to a sovereign state, from the system of an only party to the pluralist democracy and from a foreseen economy to a market one.

Of course, besides this process of internal transition, Croatia is in full exterior transition process, generated by the aim of accession and the integration model of EU, as well as the reforms implemented at the state level.

One of the main goals of Croatia from the last period has been the accession to the EU. Croatia sent the request of becoming a member of EU on the 21st of February 2001 and it got the official statute of candidate state for accession on the 18th of June 2004, and the accession negociations were begun on the 3rd of October 2005. A very important part of these negociations is represented by the public administration reform.

The modernization of the public administration in Croatia is based on two elements: the doctrine of the new public management and the principle of the good governance (Ivan and Iov, 2010). The doctrine of the new public management is oriented to the market economy, the reform process, the development of the professional level, meaning the: transposing of the values, practices and instruments from the private sector management into the public one (Kopric, 2001 in Ivan and Iov, 2010).

Based on these two principles, in the context of the process of accession to the EU, the public administration from Croatia must reach two objectives: modernization and Europenization.

The beginning of the reform process can be considered as being the one in which was signed the Stabilization and Association Agreement and this led to using different reforms to reach the traditional criteria imposed by EU, respectively political, economic and administrative.

The strategy of reforming the the public administration which began by the revision of the Constitution in November 2000, and this brought changes to the local government system. So, there were defined and extended the competences of the local goverment structures, the obligation of the state to offer financial help to the poorer territorial structures and it was introduced the concept of regional self-governance (Vidaèak, 2004).

Starting from these constitutional changes, it was adopted the Law concerning the local and regional self-government, law which was adopted in July 2001. The law is about the decentralization through the providing by the local governmental bodies with great competences in the education and social welfare fields, in the health field, as well in the way of conceiving the organizatory structures. The adopting of this law was accompanied by a series of other legislative changes which improve the organising of the local and regional self-administration, the field of using their activity, the territorial organising, the electoral system and the way of financing.

In March 2008, the Croatian Government adopted the Reform strategy of public administration for the period 2008-2011. This established a strategic setting for the future reforms upon the public administration. Thus, the main objectives presented by the strategy are: the growing of the effectiveness of state administration, increasing the level of the quality of administrative services, the increasing of transparency and accesibility to the public administration, the consolidation of the standards of the rule of law, reducing corruption and the growing of the ethics in the public administrations, the using off modern tehnologies of communication and information, the inclusion of the Croatian public administration in the European Administrative Space (Vašiček et al. 2009).

Concerning the free access to the information of public interest, in 2003 there was adopted the Law regarding the free access to information, which targets at providing the openness and transparency in the public actions of the public authorities. In 2009 the The report showed the fact that the law gets the effected wanted and the public authorities have offered the required information in most of the cases (Kandžija, Mance, Godec, 2010).

From the strategy of reformation the Croatian public administration it was part the General Act of administrative procedure, adopted in March 2009 and entered into force on the 1st of January 2010. In spite of all these, the SIGMA evaluation upon Croatia was considering the fact that a great effort in the organization and of informing is still necessary to take advantage completely of the opportunities of changing offered by the new the General Act of administrative procedure. In the meantime, an urgent revision of the special established procedures in different laws is necesary.

Too, 2010 the Law on administrative disputes was adopted, which is to enter into force 2012. The law creates a setting for a more effective administrative justice, a better control upon the administrative documents and it also contributes to improving the citizen's rights (SIGMA Assesment Croatia 2010).

Regarding the institutional setting of the organizing of the Croatian public administration, we can notice that here were made a series of changes, too, in order to increase the organizing effectiveness of the public administration. So, in 2008 the Government structure was reorganized by reducing the number of ministries from 19 to 13.

Too, in order to emphasize the developing of the public administration and to offer administrative support for decentralization in July 2009 it was created the Ministry of Public Administration, which took the tasks of the Central Office of State Administration. The Ministry has to consolidate the administrative and management capacity of the governmental bodies and structures which are responsible with the state administrative reform (Vašiček et all. 2009).In May 2008, it was reorganized the Governmental Office of Internal Audit.

Although in the Croatian Republic there were a lot of important changes, concerning the reform of public administration, SIGMA identifies the fact that there must be done important steps in depolitization of the public administration and training the civil servants to fulfill their job tasks.

3.2.2. The Former Yugoslavian Republic of Macedonia (FYROM)

FYROM declared its indepencence to Yugoslavia on the 8th of December 1991, after being constituted as separate country after adopting by the Parliament of the Constitution in November 1991. This developed a parliamentary democracy, a civil society, a rule of law and a market economy.

The strongest objective lately has been the accession to the European Union which Macedonia propsed to itself. This implies fulfilling some conditions imposed by the EU among which we can mention the public administration reform. In this way, the EU offered FYROM technical assistance and expertise as well financial help by PHARE and CARDS, and from 2007, in the pre-accesion period it benefited by the new IPA instrument (EPARM, 2007).

The greatest preoccupation for FYROM, ever since the declaration of its independence, has been the politization of the public service, which implies especially the interference of the ruling political parties in the organizing structure of the service. Solving this problem was a starting point in the reformation of the public administration in Macedonia. Thus, in July 2000, the law regarding the statute of civil servants was promulgated but, unlike other central and south-eastern countries experiencing tranzition which chose a career system for the civil servents, The Republic of Macedonia adopted a system based on positions (of working places). As well, The Agency of Civil Servants was founded and its main purpose is to perform special training courses, assistance in the ellaboration of the human resources policies in the field, to protect the rights and the liberties of the civil servants, to promote the development of the public service and the collection and administration of the data concerning them.

The first Reform strategy of the public administration was adopted in 1999 by the Government of FYROM. This strategy contains the criteria to be reached: legality, transparency, competence, stability, responsibility, predictibility, equal treatment, efficiency, and ethics.

The main purpose of the reforming strategy of the public administration in Macedonia has been that of developing both structures (central and local administration) to offer a better support to a democratic society and to a functional market economy.

At first, the strategy established a Commission of the Public Administration Reform inside the Ministery of Justice. This ministery coordinated the entire reformation process. The Commission was turned into The Unit of Reforming the Public Administration and it is subordinated to the General Secretary of the Government.

The objective of the Reformation of the Public Administration in Macedonia was also the decentralisation of public administration. The reform of the local self-government started in 1999 and it has been intensified since signing the Ohrid Frame Agreement in 2001.

So, the Constitution was amended for implementing the Frame Agreement which established the transfer of competencies from the units of the central public administration to those from local level. In 2002 The Law of the self local government was adopted and, according to its stipulations, city authorities have general competence for all the local issues. These have the right to perform activities of local importance which are not explicitly excluded from the incidence of state authorities (Markic, 2005).

Because the reforms in the tranzition countries have to be strong, with visible changes, the decentralization needs succesful cases of the overall project. All these processes consisted in the sources of changes seen in the number of cities in the country (Risteska 2009).

Despite all the advantages and disadvantages, of the challengies and opportunities, The Project of Decentralization of FYROM proved to be an instrument of democratization, stabilization and the adjustment of the country in the process of the European integration.

3.2.3 Bulgaria

In Bulgaria the reforms for establishing a democratic society started in 1990. The experience of Bulgaria, as well as that of the other former communist countries in Central and South-Eastern Europe, showed the fact that during the tranzition, the ability of formulating and implementating of policies is essential for transforming the country.

During the tranzition Bulgaria had to define the role of the state among the emerging markets. The state, which monopolized all the economics spheres, had to withdraw in order to exercise its sovereign

functions and to create the proper environment for the economics agents. Therefore this policy, which aims to the improvement of the performances of the public administration, has to be taken into account among the objectives of the public sector reform (Borissova, 2007).

The reform of the public administration in Bulgaria was one of the main conditions of the accession to the European Union and of the fulfilment of the criteria imposed by this process. So, the administrative reform in Bulgaria was influenced by the two main vectors: the adjustment of the public sector to an efficient performance and fulfilling the accesing criterias to the European Union.

The reform of the public administration in Bulgaria started *de facto* in 1998 and the EU played an important role in establishing the direction of the reform.

In 1998 the Strategy for Building a Modern Administrative System was adopted. At that time the reform was targetted especially on the institutional and legislative arrangements for the modernization of the administration. The most important laws were The Law regarding civil servants which represents the basic standard of the civil service, and the Law of the Administration which delimits the structure of the political and administrative bodies of the state and the local administration and its authorities (Katsamunska, 2010a).

The reform continued in 2002 by adopting the Strategy of Modernizing the State Administration from the accession to the integration as well as a strategy against corruption.

As concerning the professionalization of the civil service, a Strategy for the Formation of the Employees in the Public Administration was adopted. This was the purpose of the professional improvement of the skills and qualifications of the administration workers in order to develop the capacity of the Bulgarian public service.

Regarding the integrity of the civil service and the necessity of good governance, the Bulgarian authorities adopted the Strategy for a Transparent Ruling and for Preventing and Fighting Corruption.

After Bulgaria's accesion to the EU on the 1st of January 2007, special facilities were made to support the accession, and, at the same time, to protect the good functioning of the EU policies and institutions. In the field of the public administration, most of the government actions were aimed to the modernization of this system to match the objectives of the Lisbon Startegy. Reforms were adopted in order to apply the principles of good governance, the implementation of I.T. in the activity of the state administration, as well as the improvement of the human resources management in the state administration (Katsamunska, 2010b).

The accession to EU supposed also the absorbtion of the European funds, which is the obligation of the public administration. So, a series of reforms were made in this area, too. These funds need to be efficiently managed and the structures of financial control favourize the appliance of the entire cycle of project – from the study of fezability and the conceiving of the project to betting and contracting before and after evaluation (Katsamunska, 2010b).

After the accession Bulgaria is still having serious problems in the public sector because the reforms haven't reached the wanted effects. Generally speaking there is progress in the field of public administration, undoubtedly, but the shortcomings present in the administrative and judiciary capacity, either local or central or regional prevent Bulgaria from benefitting completely of the EU assistance (Katsamunska 2010b).

3.2.4. Albania

Albania is a transition country, as well as the other Balkanic countries. The need of a reform in the public administration was admitted by the government of Albania in the Strategy of reform for socio-economical development. The Strategy of the Government for the state administrative and institutional reforms is included in the consolidation of the public policies; the improvement of the policy and the programme of implementation; transparency, efficiency and responsibility of the relations between the government and the citizens and the public responsibility (Cepiku, Mititelu, 2010).

One of the most important steps in the reformation of Albania's public administration was the fact that the Parliament adopted the Law regarding the Statute of civil servants in 1999. This represented a firm legal base in the Department of Public Administration and of the human resources in this field of activity. This law created a mixture of public functions, based especially on positions, combined with elements of a career based system (SPAIR, 2007-2013).

Nowadays the reform of public administration in Albania includes: a structural and functional reform, the extension of the application of the civil service, the reform of the payment reform (Selenica 2008).The structure and functional reform concerns both central and local/regional.

At the central level the process of reform of the executive started in 2005. Today there are 14 ministries instead of 17. At the same time, a structure reform took place and it reformed the missions and the strategy objectives, the organization structures, the functions and the job descriptions. Most of the ministeries have territorial bodies in districts and regions. This territory structures are coordinated by a prefect who is more symbolical as in fact these structures are strongly connected to the ministries.

The most important task of the salary reform was to correlate the salaries with other incentives in the Albanian public administration. So far the correlation includes the salary of high state officials, the constitutional staff and of other independent institutions, taking into account the president's salary as point of depart.

The reform of the public administration revealed a weak system of government and corruption on a large scale which needed a profound reform of the public management. The strategy and the steps of the reform were as follows: the improvement of the fields where the government is the main supplier (public order, health, social protection, the market of labour, the environment protection, public transport, etc.) (Cepiku, Mititelu 2010).

4. Conclusion

At the beginning of the paper we wanted to find what are the ideea emerging administrations and the significance of this concept.

We noticed that the emerging characteristic is specific for the systemic analyses. The system of public administration is inter-related with other systems which influence it. This is a sub-system of the global social system with strong political, social, economical, cultural determination, in a complex connection with its environment (Matei 2009).

The emerging of public administration was regarded from the perspective of the transition to which the countries in the Balkan Europe are subjected with a stress on the strategies of reform in the public administration under the guidance of the EU rules.

The paper analyzed the reform of the public sector in the transition countries in the South-East Europe and the way they understood to pass through it, a feature of the emerging administrations.

This study made on the reform strategies made us notice that all the countries in the South-East Europe started the reform of public administration with the reformation of the civil service and with funding specific institutions whose purpose is implementing the reform measures. Another key element of the reform was to professionalize the civil service, the concern for the continuous training of the civil servants, as well as eliminating of the politics, create a more efficient and effective public administration and incrase the transparency in the public sector.

For the Balkan countries the EU represented the catalyst of the reform process in the public administration. The Stabilisation and Association Act was the official start of the external transition for these coutries (the process of European integration). Thus, the process of Europeanization included similar measures in the countries of South-East Europe at the level of public administration. So, we can affirm that the emerging administrations in south-eastern Europe is strongly influenced by the internalization the principles promoted by EU that lead to a European Administrative Space.

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IV.7. THE ORDINARY LEGISLATIVE PROCEDURE AS A TRANSVERSAL VECTOR FOR ADMINISTRATIVE CONVERGENCE IN THE EUROPEAN UNION

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Abstract

Mainly approached from a sectoral point of view, the process of administrative convergence is first and foremost structurally supported by the European procedures governing the European decision-making process. The paper argues that the ordinary legislative procedure itself has acted as a transversal vector of the administrative convergence process both on the formal and informal levels. The ordinary legislative procedure provides very sophisticated tools that contribute throughout the whole cycle of policy-making to the administrative convergence. The impact assessments and the compliance tests with the Charter of Fundamental Rights including the right to good administration ensures ex ante that the draft legislative proposals meet the basic requirements for a good administrative final act. On an institutional level, the active national experts defending their interests in various structures of the Council of the EU have the possibility to add real national value to each European piece of legislation and, thus, to play the part of convergence agents. At the same time, the interplay of the European institutions within the framework of the ordinary legislative procedure, formerly known as the codecision procedure, had triggered sophisticated strategies that also directly contributed to the administrative convergence in the European Union.

Keywords: ordinary legislative procedure; administrative convergence; decision-making process.

1. Introductory Remarks

Mainly approached from a sectoral point of view, the administrative convergence in the EU has been supported by the legislative procedures underlying the decision-making process. This paper argues that the ordinary legislative procedure provides throughout the whole decisional cycle various instruments of diverse nature which have structurally and transversally contributed to the convergence of an administrative space in the European Union. Therefore, the ordinary legislative procedure could be seen as a transversal vector of convergence, as it concerns different vertical policies, involves different institutions and actors and impacts both on the informal and formal decisional spaces. It is a transversal supra-mechanism in the sense that it provides a whole series of decisional safety clauses at different stages of the procedure in order to ensure a good decision-making act leading to a high quality final legislative act codifying effective policies to be subsequently successfully implemented at national levels.

The ordinary legislative procedure, commonly known as the codecision procedure, has been a 'laboratory for innovation' in the field of administrative convergence through the mechanisms put in place over the time and meant to improve the decision-making process. Due to its importance, the codecision procedure has also constituted a traditional 'battlefield' for institutional power, especially within the 'institutional triangle' made up by the European Commission, the European Parliament and the Council of the European Union. Over time, new actors entered the codecision stage such as the the Committee of Regions, the European Economic and Social Committee, or, since the entry into force of the Lisbon Treaty, the National Parliaments.

Introduced by the Treaty of Maastricht, the codecision procedure has undergone an impressive development. If, at the very beginning, it had been applied only to 15 domains, the Treaty of Amsterdam extended its scope to 38 domains, whereas the Treaty of Nice sealed its application to 45 domains. Finally, the most important change was introduced by the Treaty of Lisbon which made the codecision procedure the ordinary legislative procedure currently applied to 89 domains (European Parliament, 2009: 8).

Regulated under article 294 of the Treaty on the Functioning of the European Union (TFEU), the ordinary legislative procedure has one, two or three readings. A legislative act cannot be adopted under this procedure without the consent of the Parliament or of the Council. Since the entry into force of the Amsterdam Treaty an agreement can be obtained in one of the three readings, without the need of going through all three stages (European Union). The third reading is preceded by a conciliation committee. Detailed flow charts of the codecision procedure can be found on the website of each of the European institutions. The European Commission, for instance, provides one on its codecision website (European Commission, 2011a).

2. Tools of the ordinary legislative procedure

The direct or indirect involvement of various actors ensures a multiple check of the compliance of the legislative proposal with different interests and with different administrative practices and rules.

The Commission as a legislative initiator has to ensure the protection of the common general interest of the Union since the pre-elaboration (white papers and green papers) and the elaboration of the legislative proposal through a complex consultation process involving impact assessments, consultation of national experts, trade unions, NGO and so on. Thus, national administrations have the chance as early as possible in the decision-making cycle to guarantee the representation of their interests in compliance with the national administrative practices in the legislative draft.

The European Parliament has to ensure the protection of the interests of the European citizens through the three readings during which it acts as full colegislator endowed with the power to amend or even reject the legislative proposal. Earlier in the procedure, the consultation of the National Parliaments also ensures compliance of the legislative proposal with the national laws or provide the occasion to improve the initial legislative draft by suggesting useful amendments stemming from national practices which could be later taken over by other Member States through the implementation of the Union's law.

The Council of the European Union has to ensure the protection of the interests of all Member States in the legislative proposal, be they political at the higher decision level (Council of Ministers) or political and/or technocratic at the lower decision levels (working parties and COREPER). At the same time, some governments have the opportunity to codify a certain policy at Union's level which is unacceptable at the national level or which could never be put into practice out of lack of majority in the national parliament. After the entry into force of the European legislative act, that policy could subsequently be implemented at the national level.

The local and regional bodies already obey national administrative practices and rules. Through the consultation process they have the possibility to improve some of these by the subsequent implementation at national, regional and local level of a Union policy or to add – in a *bottom-up* approach - certain value to the proposal under consultation by suggesting and integrating certain of their national, regional or local good administrative practices which could be later taken over by other Member States.

Trade unions, NGOs or enterprises already obey different national rules and administrative requirements or experience some problems in their relation with the national administrations. Therefore, they can either signal some national problems that could be remedied through a *top-down* approach, suggesting for example the reduction of some administrative burdens in some fields, or share some national practices which could be integrated in the legislative draft to help some interested parties from other Member States in the implementation phase.

From a procedural point of view, the existence of three readings, as mentioned above, puts into place a triple safety clause meant to adjust, during different stages, the interests of the parties involved. If an agreement cannot be concluded after the first reading, the contents of the draft piece of legislation can be adjusted to meet the interests of all parties during the second reading or, in exceptional cases, the third reading preceded by the Conciliation Committee. Therefore, the three readings constitute three different windows of opportunity for interests' convergence, especially for the

Council of the European Union (and consequently for the national experts coming from national administrations) and for the European Parliament.

At the same time, the existence of time constraints and stricter procedural requirements during the second reading, the conciliation and the third reading guarantees the adoption of a certain legislative piece in reasonable time and an effective and smooth functioning of the ordinary legislative procedure as a whole. The indefinite extension, beyond any time limit of an ordinary legislative procedure would risk rendering the legislative act inappropriate to the recent development of the social, economic and legal environment.

3. Commission's administrative tools in the policy-making process

The constant power struggle within the institutional triangle at the decisional level led to the creation and emergence of some useful policy instruments in the realm of the codecision procedure which support the administrative convergence. Constantinesco (2006: 217-218) identified two ways through which the Commission attempted to respond to 'its institutional eclipse', to 'its loss of influence' by strengthening its position in the decision-making process, namely:

a) the launch in 2001 of the White Paper on European Governance and

b) the reform of its mode of action in compliance with the subsidiarity and proportionality principles with a view to 'better regulation'.

The European governance is defined as referring to 'the rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence' (European Commission). The changes proposed by the Commission in this context had been grouped into four categories: improving involvement in shaping and implementing EU policy; improving the quality and enforcement of EU policies; stronger link between European governance and the role of the Union in the world and the role of the institutions. In the first category, one of the actions of the first sub-category *Making the way the Union works more open* directly concerns the codecision procedure: 'Council and the European Parliament should make, from the beginning of 2002, information available more rapidly about all stages of the co-decision process, particularly concerning the final, so-called conciliation phase' (European Commission, 2001: 11).

In this realm, the White Paper on European Governance would have been a pretext to revitalize the technocratic legitimacy of the Commission in the decision-making process by opening a wide experimental field for the Commission.

The good governance concept is mainly seen as a hybrid concept integrating the concept of good administration. Bemelmans-Videc in Bousta (2010: 230) considers that the 'principles of good governance are a combination of principles of good administration (effectiveness, efficiency, legality) and ideas of democracy or ethics'. Still, while the good governance focuses, in a political framework, on objectives and results, the good administration focuses on the means of the administration to reach these objectives and results (Bousta, 2010: 230).

In the preparation phase of the legislative proposals, there are some instruments ensuring the compliance with the principles of good administration and/or good governance, which contribute to the technocratic legitimization of the European Commission in the decisional process. On the website of the European Commission (2010a), the Commission's proposal is seen as 'the result of an extensive consultation process, which may be conducted in various ways (impact assessments, reports by experts, consultation of national experts, international organisations and/or non-governmental organisations, consultation via Green and White Papers, etc.)'.

The most interesting better regulation policy instrument in our opinion is to assess the intrinsic quality of the legislation from its very elaboration through the assessment of the concrete effects that policies regulated at European level may have on society. As worded on the Governance website of the European Commission: 'Before the European Commission proposes new initiatives it assesses the potential **economic**, **social** and **environmental** consequences that they may have. Impact assessment is a set of logical steps which helps the Commission to do this. It is a process that **prepares evidence for political decision-makers** on the advantages and disadvantages of possible policy options by assessing their potential impact' (European Commission, 2011b).

In a Conference on Innovation and Creativity in European Public Sectors, organized by the European Policy Centre (2009) in Brussels in April 2009 (European Year of Creativity and Innovation), Marianne Klingbeil, Director for Better Regulation, Evaluation and Impact Assessment of General Secretariat of the Commission pointed out how the Commission changed its way of working, speaking

of a 'cultural change' in drafting legislation. The Commission's proposals must rely on specific impact assessments and take into account the views of key stakeholders in the concerned areas through consultations made via the Internet, conferences and other forums. In 2008, for example, the General Secretariat rejected 30% of the legislative proposals developed by different Commission's services because of insufficient consultation of the involved stakeholders or incomplete assessments of cost effectiveness. That demonstrates the internalization of the principles of efficiency and effectiveness upstream the decision-making process. Moreover, looking at the organizational chart of the General Secretariat of the European Commission (2011c), at least three directorates directly related to better regulation can be observed.

In the Report of the European Court of Auditors (2010), "*Impact Assessments in the EU Institutions: Do They Support Decision-Making*?', it is recognized that "the system which has an unrivalled scope among existing ones, is considered to be good practice within the EU and is supporting decision-making within the EU institutions' (European Commission, 2010b: 2). In this regard, the Report of the European Court of Auditors represents a formal validation of the system assessing the impact of legislation implemented by the European Commission.

The figure below extracted from the same report (European Court of Auditors, 2010: 15) portraits a picture of the evolution of impact assessments between 2003 and 2008:

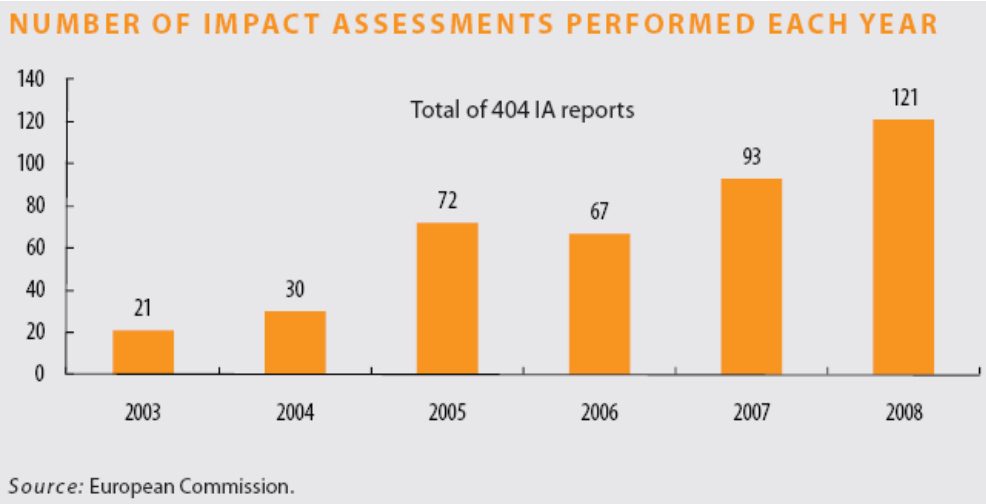

Figure 1. Number of Impacts Assessments Performed Each Year (2003-2008)

Furthermore, according to a more recent press release of the European Commission, by the end of August 2010, the Commission has carried out 520 impact assessments (European Commission, 2010b: 2). The steady increase of impact assessments over the years is an indicator of the higher quality and effectiveness of legislation not only in terms of better/smarter regulation, but also in terms of socio-economic and environmental development, since it seems that more and more legislative proposals are identified as having strategic implications for the EU and therefore subject to impact assessments.

On the other hand, ever since 2001 the European Commission has implemented a 'compatibility check' of the secondary legislation proposals with the Charter of Fundamental Rights, *ex ante* paving the way to the promotion of a true 'culture of fundamental rights' in the decision-making process (Burgorgue- Larsen, 2008: 57*),* also enclosing the right to a good administration provided for under article 41 of the Charter. Still, it should be noticed that, at the very beginning, the creators of the Charter thought of the right to good governance which had finally been replaced by the right to good administration considered to be more restrictive than the former one (Diarra in Bousta, 2010: 230).

The fact that, according to a recent Eurobarometer ordered by the European Parliament and the European Ombudsman (2011), the citizens of the European Union consider the right to good administration by EU institutions as the second most important citizens' right behind the right to move and reside freely will undoubtedly act upon the importance granted to its observance in the policy-making.

4. Convergence actors in the Council

According to article 16 of the Treaty on the European Union (TEU) 'The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties'.

Still, as shown by several studies, approximately 85% (Hayes-Renshaw and Wallace in Lewis, 2003: 1009) of Council's decisions are 'taken' *de facto* at lower levels of the decisional pyramid (COREPER and working parties) which points out that, *de facto* 85% of Council's decision are 'taken'/agreed upon in an informal way (Lewis, 2003 : 1009), although article 16 TEU provides for the COREPER to only be responsible "*for preparing the work of the Council*'. Therefore, the Council practically deliberates only on 15-20% of the files which reach the table of ministers as 'B points' meaning that no agreement has been reached at lower levels (Hayes-Renshaw and Wallace in Hix, 2005: 83).

At this point, it is worth clarifying some aspects of the very intricate jargon of the decision-making process. The 'A points' (also known as 'Items A') and 'B points' (also known as 'Items B') with their informal variants ('false A points' and 'false B points') codify the importance and the sensitivity of the decisions. A 'point A' designates a file on which an agreement had already been reached. A 'point B' designates a file subject to discussion in the Council (O'Dwyer, 2010: 517).

A false 'B point' designates a file on which an agreement has been reached but which is still subject to discussions in the Council out of political reasons. Although very little known in the European jargon and in the European Institutions there is a fourth category of files worded as 'false A points' which – according to an anonymous European official - designates the files which, although ranged as A points, still risk to be discussed in the Council out of various reasons. Not to mention that there are also files which may pass from a 'B point' statute to an "A point' statute on the Council's Agenda, as it was the case for the proposal for a Regulation of the European Parliament and of the Council on the Citizens' Initiative.

Furthermore, it seems that 70% of the agreements on the legislative drafts, mainly related to technical matters, are already reached at the level of the working parties and are transmitted to COREPER as 'points I'. In addition, the COREPER normally concludes agreements on 10-15% (Wallace, 2005: 58) more files coming from the working parties as 'points II' which are generally more political and could not have been solved at the lower level. Points I and II reflect points A and B respectively at a lower decisional level. Whereas 'points I' refer to files adopted without any kind of discussion in COREPER, 'points II' refer to files which need to be discussed in COREPER.

In the figure below, we developed a pyramid to synthesize the decision-making process in the Council of the EU. The term generically used of 'decision' may concern any of the three legislative acts adopted by this procedure, namely regulation, directive or decision.

The figures formerly mentioned point out that the decision-making process is subject, at the Council's level, to a process of 'technocratization' or of "bureaucratization' as most of the decisions are *de facto* agreed upon at the level of national experts stemming from national administrations. Moreover, they seem to act as convergence actors who maintain regular contact between European and national administrations in close interdependence with the national social and economic environment. Acting both at the European administrative level (in the working parties of the Council) and at the national administrative level in their home administrations, they have to ensure the compatibility and coherence of both systems and to act as change actors, where appropriate.

Matei and Matei (2010: 15) see in the public administration 'a social "resonance box" that synthesizes and exteriorizes the effects of different social, political, or economical mechanisms and processes, towards the European level'. In this context, it is obvious that the role of experts in the working parties as connective agents between national administrations and European administrative system depends very much on their quality, their ability to 'synthesize and externalize' objectively 'the effects of various national social, political or economic mechanisms and processes'.

Discussions of the proposal in the experts' groups are extremely laborious and detailed. The use of a particular word can give rise to discussions that might continue during several sessions. That is the reason why these experts are nicknamed, in European jargon, 'comma people' precisely to emphasize the importance of each word and even of each punctuation mark. Or, if the subsequent implementation of certain policies covered by the act in question may create problems at the national level, that may be also because the national experts who participated in the working group did not perform well their duty and did not ensure the integration/regulation of certain national sensitivities in the European legislative proposal.

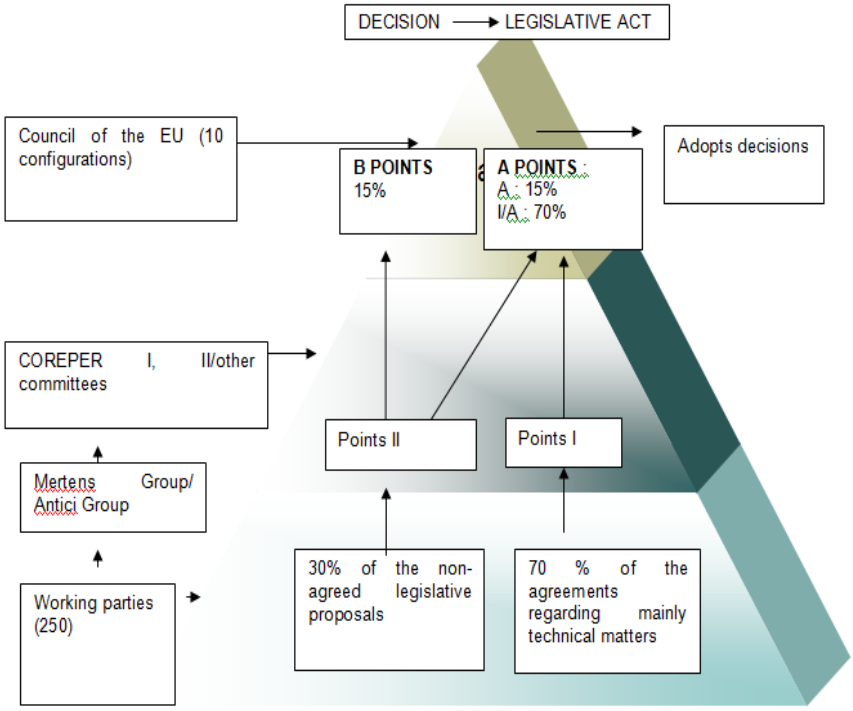

Figure 2. The Decisional Pyramid in the Council of the EU

Unfortunately, as shown by Daniel Guégen in Euractiv (2010) even in 2010 'some new Member States' representatives still consider their countries as second category member states' despite "a lot of progress in languages, knowledge of lobbying and the decision-making process", and their passivity and shyness prevent them to influence the strategic decisions of importance to them'. This subsequently impacts upon the qualitative representation of their interests in the elaboration of European policies, which are then implemented at national level in all Member States.

5. Outlook for the future

Ever since its creation, the codecision procedure has acted through its actors (European Institutions, national experts, various stakeholders), its procedural tools (time limits, three readings, etc.) but also through the better regulation policy instruments (impact assessments, consultations, Charter Strategy) involved in its early stage as a transversal vector for the administrative convergence in the European Union.

Still, the decision-making process has been subject to many formal and informal transformations reflecting the social, economic and environmental developments. Where the adjustments of the procedure could not have been done at the formal level, the natural adjustments took place in the informal space leading to a delocalization of the *de jure* decisional centre of gravity. The fact that national experts seem to act in a more effective way as administrative convergence actors working by some informal rules and the fact that most of the decisions are taken *de facto* in an 'informal way' undoubtedly open interesting perspectives of research in the administrative convergence area.

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Chapter V
Efficiency, effectiveness and responsibility in the European Administrative Space

V.1. EVOLUTION AND PUBLIC SYSTEM REFORM IN THE BALKANS

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Abstract

This paper proposes that, through a comparative analysis, performed on public administration in the Balkan area, to highlight the public system reform and its evolution, and the influence of European legislation and also the programs promoted by the European Union in this area. Balkan states, members of EU: Greece, Slovenia, Bulgaria and Romania, are perhaps more than any other EU countries, in the centre of interest regarding external development assistance including financial assistance. Public administration reform occurs slowly, through public administration extent and addressing to her inefficiencies. Abused discretionary power leads to inefficient and unreliable legal system. Therefore, an analysis of public management system in the Balkan States is still necessary. Good governance and public administration reform for these countries also include ensuring the application of a regulatory system and improve efficiency and accountability in the public sector. This paper also aims, through a descriptive and exploratory research, to analyze the public reform in Albania, which is an emerging non-EU state. The study case will analyze the complexity of the public administration transition in this country.

Keywords: Balkans, administration, evolution, development, policies, governance

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1. Introduction

The administration occupies a variable space, dependant on the different types of social organizations and it has a history which is inextricably linked to that of the society it serves. The administration didn't exist throughout all time; it appeared seemingly simultaneous with the advent of social division and it was built progressively with the formation of the Modern State.(Matei 2006).

In his book, "Public Administration" (Alexandru 1999), Alexander I. defined Administration as the "primary content of the work of the executive power of the State; the system of public authorities which perpetrate the executive power; the leadership of an economic agent or a socio-cultural institution; a compartment comprised of productive organizational entities, etc."

The public administration in the Balkans has evolved and transformed, as was natural to happen, and, for some states, it became necessary to adjust on the fly to the new requirements of the EU.

Haunted by their past communist influences, the Balkan counties had a tougher road on their way to public administration reform than the States outside the influence of Communist regime.

The identification of both positive as well as negative factors results in an x-ray of past and current situation which helps identify common points and differences between the states. Balkan EU Member States – Romania, Bulgaria, Slovenia and Greece - had different challenges in terms of public administration, from structural to decisional, all influenced by the governance and policy held in different time periods.

Unlocking the newly communist-free Balkans toward public administration reform, quickly became a *grandiose* spectacle, absolutely important for researchers to watch, under the *gaze* of the States of Western Europe.

2. The Bulgaria-Romania Case

Due to the Communist regime legacy, Balkan States Romania and Bulgaria had quite a wearisome road trying to achieve a democratic system which can positively influence public administration.

The accession of Bulgaria to the EU has been accompanied by a series of specific complementary measures for preventing or rectifying shortcomings in several problem areas. A mechanism for cooperation on and monitoring of progress in the fields of judiciary reform and fight against corruption and organised crime has been created. This is an indicator of the exceptional importance of the measures undertaken and that should be undertaken for preventing and counteracting to corruption.

For the two States, the EU was perhaps the decisive and important factor in pushing forward the development and reform of public administration.

Including in Romanian and Bulgaria, public administration should generally address, the following areas:

- The development of a conflict of interest policy for civil servants
- Anti-corruption measures in public procurement
- Anti-corruption measures in the customs administration
- Anti-corruption measures in the tax administration

At each stage of development, public administration has its own specific traits. The main features of the Administration at present are as follows: (Shivergueva, Nachev 2011)

- The Administration is subordinate
- The Administration is hierarchical and logical
- The Administration is remunerated, civil, secular and egalitarian
- The Administration is formalized, written and bureaucratic
- The Administration has a character of continuity and requires increasingly more specific knowledge
- The Administration is organized vertically and horizontally
- The Administration is constantly evolving and expanding.

Administrative reform in Romania has suffered throughout the years from a chronic lack of strategic vision at central governmental levels. There is a lack of clear criteria to guide and evaluate the medium and long-term evolution of administrative institutions and practices.

2.1. EU influences after the accession of the two states in 2007. Example regarding Cohesion Policy 2007-2013

The new cohesion policy 2007-2013 recognizes the importance of cross-border cooperation, transnational and interregional cooperation, which is one of the essential objectives of expanded Europe.

European Territorial Cooperation objective financed from the European Regional Development Fund aims to strengthen both cross-border cooperation through joint local and regional initiatives and transnational and interregional cooperation.

This program involved a series of institutions and public associations of both countries (as well as other partners) such as:

- Ministries that have a direct interest in the management of assistance from the structural funds
- Regional development agencies and the Office of Regional cross-border cooperation
- Local public administration
- Organizations for regional/local environmental protection
- Economic and social partners at the border
- Non-Governmental Organizations

- Regional/Local universities and educational institutions.

The gradual development of economic links, improving infrastructure and networks of cooperation which are lagging behind, the development of strategic concepts such as regional development, marketing, logistics and tourism, cooperation between universities in order to increase the quality of education (including training bilingual) and in the field of research and innovation, improving employment opportunities and the quality of human resources, promotion of cultural relations and protection of cultural heritage poses challenges that can be better faced using a common cross-border approach.

The influence that this program has on the public administration institutions of the two States is obvious. The involvement of the ministries of the two States, their cooperation in different programs leads to a common approach in development, especially economic and social.

The two EU member countries are proposing also through this program a drastic reduction of the traditional functions of the border as an obstacle to cooperation in the economic, social and cultural areas, and will remove administrative barriers to the free movement of goods and persons. In this regard, a cooperation strategy arose which focuses on issues and opportunities that appeared when the border is an important factor and cross border action is key requirement. The proposed strategy focused on improving the level of cooperation in the economic, social and cultural areas.

Therefore, the involvement of private and public actors can only enhance both the level of cooperation between public administration institutions and cooperation between public institutions and private ones.

Interventions of the structural funds in the context of National Strategic Reference Framework of Romanian and Bulgarian for the period 2007-2013 and the sectoral and regional operational programmes will bring a significant contribution to the achievement by Romania and Bulgaria the strategic objectives set by the new EU cohesion policy, such as accelerating the convergence of States.

2.2. Grants capacity absorption by local public administration

I will take as example the Dolj County, where the Cross-Border Cooperation Romania-Bulgaria Program, registered a highly modest rate of accessing, namely of the 81 funding contracts signed so far, the institutions of the Dolj County are the main partners in the framework of 8 contracts, a ninth being in pre-contracting process. Out of a total of 9 projects financing contracts for Dolj County, only one is implemented by a local public administration (Preliminary study, june 2011, *Maximizarea avantajelor comparativ în regiunile trans-frontaliere, Modernizarea instituţiilor, societate civilă şi politici europene* – European research project carried out under the CBC Romania-Bulgaria).

Another relevant indicator is human resources. In Dolj County, for example, in terms of concrete accountability of personnel from Mayoral offices in the direction of opening relations with similar institutions in Bulgaria, only 8% of respondents named the persons responsible therefore.

Therefore, the acute lack of expertise in the field indirectly explains the management of projects and the small number of relations, supplemented by the absence of individuals directly responsible for stimulating cross-border cooperation.

Also the financial capacity of local public administration is a binding criteria and an advantage that can sustain ability mayoralties to access investment programmes with European funding. More than 70% of respondents said the absence of the mayoralties of financial capacity to support the investment projects.

Possible solutions include:

- Ensuring human resource to competently and not least stable by replenishing the staffing shortages (where they exist) by developing partnerships with other actors (*NGOs, SMEs*) who have experience in the field of structural funds; ensuring workforce well trained as a long-term strategy; strategies for developing human resources which also include an assessment of them,
- Development of inter-institutional partnerships and exchange of best practice through organization of regular sessions and exchange of "know-how,
- Redeployment of strategic development plans by local income-bringing investments,
- The establishment of a viable local development strategy, based on the knowledge of the factual situation.

3. The Slovenia Case

In Slovenia, under Communism, life was like other States in the area. The administrative system did not do anything other than to carry out orders which came on the line of policy at the Centre. In other words, the Slovenian Government was oriented only towards the implementation of decisions and instructions received, and not towards solving actual problems. At the beginning of the transitional period, public administration of Slovenia was characterised by bureaucratic inertia, lethargy, dependency, lack of professionalism and creativity. In this context, the Slovenian administrative reform has been hit by several aspects: political neutrality, heightened interlocking, inconsistent interpretation of laws, the deficiency of financial and human capital.

Following independence in 1991, the administrative reform in Slovenia was developed first on a non-systemic base. In other words, with the independence of the State administrative system began to develop first in directions which until then headed under the control of the Yugoslav federal State. As a result, the structure of the State became a collage made up of old and new institutions, giving birth to a vaguely defined authorities and major shortcomings. The main project which marked a major reform of public administration system in Slovenia is called Managing Administrative Systems through Training, Education and Research (M.A.S.T.E.R.), implemented under the supervision of the Swiss Government. In the period 1996-1996, when the draft was held, the State has trained M.A.S.T.E.R. public servants in the field of systemic development of public administration. Implementation of this project gave birth to a new institution, namely the Office of the Organization and development of public administration of the Ministry of the Interior, which became responsible for administrative reforms. Academy of Administrative Science was also established for the purpose of public education specialists.

The European Commission recognised the progress made in public administration of Slovenia since 1997, criticising the slow pace of preparation, however, the adoption and implementation of the fundamental legislative acts. All these legal acts were able to be adopted by Slovenia narrowly in May-June 2002.

Referring to the problems of implementing administrative reforms, the Institute of Macroeconomic Analysis and Development has stressed the following points in the field of public administration:

- first of all, public management rely improperly on the criteria of hierarchy, rather than effectiveness, giving birth to the inefficient use of human resources;
- Secondly, there is a disparity between government departments and the harmonisation of organisation required by economic policies;
- Finally, the strong centralization leads to significant differences in regional development.

Slovenia has made huge efforts in the development of institutions, as a modern market economy. The period of transition in Slovenia was accompanied by several types of changes, which have already applied to the full resources of the State, politicians and those of the public administration system, managing to successfully meet all the criteria for joining the European Union according to the timetable proposed. However, there remain many issues to resolve, and mostly come from a certain political inertia and resistance to change. State institutions have still need improvements and development. "Issues such as inflation, financial sector inefficiency, ineffectiveness of Justice or the capacity of absorption of EU structural funds have their origins in the faulty functioning of all the public institutions".

Organizations in the area of public services are also encouraged to function in a manner more entrepreneurial. But, says Stuart S. Nagel "management of a company in the area of non-commercial use is different from the management of a company's commercial activities in the area (Nagel 2000). Differences arise from the fact that public sector organizations have a different type of business operations and relationships with those who use their services.

4. The Greece case

In Greece, the discretionary powers of the Administration were restricted by the prohibition of the hijacking of power, while the Council of State recognized the following principles of discretionary powers by administrative court held: equality before the law, the impartiality of the Administration, the rule that the Administration must operate in good faith and the rule of proportionality.(Alexandru 2000)

Going from the theoretical to the practical level, the situation of public administration and influenced the current economic system is on an uncertain realm. How the public administration and what impact it had its work among citizens? Lack of control of public expenditure, to rationalise the special benefits received by employees of the public sector have led to a *weakening* which has influenced the economy and the stability of public administration.

There is remarkable consensus across the party political spectrum in Greece on the impediments hindering the effectiveness of the public sector. In Chrisanthi Avegron opinion in “Information Systems and Global Diversity” are include the following:

- direct political control of public administration, with the top position of public organizations filled by government appointees,
- ad hoc recruitment procedures that allow the government of the day to use public sector employment as a mechanism of social policy and to favour their supporters. Also the lack of technical criteria in recruitment leads to high numbers of poorly qualified employees,
- preparatory education for civil servants is generally considered inadequate and the School for Public Administration, which was established in 1980 has not be able to fulfil its demanding role,
- politically influenced promotions and in service-transfers. Civil servants enjoy a number of privileges such as a job for life, relatively generous pensions, and other social security benefits.
- formalistic functioning according to the letter of regulation. The code of practice in the Greek civil service gives major emphasis to obedience to the orders of superiors, discourages initiatives, and results in avoidance of responsibility.

As possible ways of reforming, the following have been recommended:

- administrative procedures should be simplified further and efforts to improve regulations should continue,
- the management of public administration should be improved further, with a focus on the recruitment of high quality entrants into the service; the incentive structure of the system should be improved to encourage better productivity; policies of only partial replacements of retirees from the public sector should continue. Measures to help the redeployment of redundant public workers are needed, together with better possibilities of part-time employment in the public sector.

5. The Case of Albania

In 1939 Albania was still the poorest and least - developed country in Europe. About 85 per cent of its 1 million inhabitants lived in rural areas, and 80 per cent depended on agriculture and herding. Around 90 per cent of national income was derived from agriculture. Average life expectancy was thirty – eight years. Around 80 per cent of adults were illiterate and only 37 per cent of school – age children attended school. The country had only 18 secondary school, no university, 155 doctors, forty-four dentists, eleven hospitals and 15.000 non-agricultural workers. Albania’s per capita national income was only about half that of Yugoslavia and Greece. In 1938, industry accounted for just 4.4 per cent of national income (Bideleux, Jeffries 2007).

The bureaucracy is large, inefficient and lacking a culture of efficient administration. Equipment and infrastructures have improved over the years, but are still insufficient to carry out the task required. The main problem, however, is the quality of human resources. Personnel are not competent and properly trained and are subject to a high turnover. The lack of capable administrators at all levels of public administration is a serious drawback (Bogdani, Loughin 2009).

The European Commission also fired a warning signal in regards to the depolitization public function, increasing wages and improving career civil servants and the introduction of a performance management to increase efficiency in public administration. In my opinion, these things could be achieved only through the "abolition" of corruption, changing the mentality of the population through education, including media campaigns for raising awareness of the importance of economic and social development.

Regarding strengthening of the administration’s stability the main actions taken by the state were refer to:

a) improvement of the legal and institutional regulations defining the division between the political and administrative level including the rights and obligations of each;

b) strengthening of the Civil Service Commission’s role as an instrument to reduce abuses in the framework of the Civil Service Status;

c) insuring the full implementation of the Civil Servant Status and other principles of public administration in the units of regional governance, where problems must occur, and the expansion of the principles of the Civil Servant Status in other government institutions like fiscal institutions, the customs and the diplomatic service;

d) promotion and education of stakeholders to the importance of strengthening administrative stability versus political imperatives.

Improving performance in public administration has been a continuing problem, the stability of the public function being in direct relationship with improvement and performance increase for public servants.

With regard to the decentralization of public administration in Albania, it has been a priority which included steps well determined. In 2003, for example, concrete measures have been taken by transferring functions to municipalities and communes: decentralization of the educational system, social assistance, health care and improving the tax system.

6. Conclusions

Of course that the evolution of public administration for the Balkan States, mentioned above, was a tedious, but it was one which also includes significant results. The common evolution of public administration for Romania and Bulgaria was slow under the *gold* communist regime and was in desperate need of a resuscitation of the system after the 1990s.

Currently, for Romania and Bulgaria, EU membership has both created obliged and obligation: reforming the judiciary, public administration, rooting out corruption and even converting the entire system of values of socially. This is so that the evolution of public administration for the two States, can be tracked and when we talk about the capacity of absorption of the structural funds (e.g. the Cross-Border Cooperation between Romania and Bulgaria). Studies and practice show that meet major difficulties both in terms of securing co-financing and training human resources in the area. Experience can give results greater and more positive for the following Operational Programs 2013-2020.

If we look at the case of Greece, at present, we are forced to bring into question public administration. What is the path to a resolution of the situation? Policymakers and the European Union *curtain* will induce results more or less positive for citizens.

Albania, as an emerging country, will be the subject of study for many researchers due to the impressive mechanisms and struggles being waged against corruption in the public system. Increasing the development level of any society, especially in this case, needs to start from the good governance of an efficient public administration.

Finally, one can say that, it is where public administration operates under optimum and efficient standards, with a complete enterprise management mechanism, there we retrieve a State with a good marketing, high social and cultural development.

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V.2. THE SOCIAL ENTERPRISE: A LITERATURE REVIEW

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Abstract

The transformations occurring in the last years in the international area have strongly affected the European administrative space. The national administrations are facing multiple problems concerning the financial, human, technological, etc. resources, and in this context, the public services must continue applying the principles of continuity and adaptability to meet the needs of citizens.

Concepts such as social entrepreneurship, social business, social enterprise, public -private partnership become increasingly more important, models of good practice being more visible in Western Europe comparing with Central-Eastern Europe or South-Eastern Europe.

The aim of this paper is to offer a literature perspective on the concept of social enterprise, which will lead to a comprehensive approach on the topic. The study will use an exploratory research method and data collection, reflecting the differences between Western, Central-Eastern, South-Eastern Europe literature, based on documentation in international data base and journal article reviews.

Finally, the study will be able to underline the key points of social enterprise theories, thus proving the applicability of the concept in practice and the role of social enterprise in the development of European administrative space, with special focus on the Balkan area.

***Keywords**:* social enterprise, literature review, the Balkans

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Introduction

The social enterprise concept becomes more and more present in practice, in USA and Europe, many NGOs and associations are trying to find the transition ways from the current form of organization to the one of social enterprise.

The literature of social enterprise is abundant in Western Europe, especially in UK, but one can observe the lack of literature in Central- Eastern and South – Eastern Europe.

The aim of this paper is to underline the lack of literature in South Eastern Europe, especially in the area of Balkans, were the practice has demonstrated that there can be many successful models of social enterprise.

The first part of the paper will define the concept of social enterprise through the literature, the second part refers to the review of articles in Social Enterprise Journal and an analysis of the literature, the third part is dedicated to the concept of social enterprise in Balkan area, more specifically in countries as Croatia, Serbia, Albania, Kosovo, Montenegro, and the last part reveals some findings of the paper regarding the common aspects of the analyzed articles.

1. Definitions of the concept in literature review

The social enterprise literature warns that social enterprises are essentially different from the private sector, public sector and traditional not-for-profit sectors (Royce, 2007:11).

Defining social enterprise is a challenging task. It is even harder doing so in a way that would enable a commercial bank to offer credit to businesses in the social enterprise sector (Hare, Jones and Blackledge, 2007:113)

The construct of social enterprise emerged in mainland Europe and in the United States (US) in the early 1990s (Defourny and Nyssens 2006, in Teasdale, 2009:3), although some of the organisational forms associated with social enterprise have been in existence since the industrial revolution. However definitions attributed to the construct vary cross nationally. In the US, social enterprise is usually used to refer to market based approaches to address social issues (Kerlin 2006, in Teasdale, 2009:3).

Social enterprise is a nebulous term that has entered into common use in the past 10 years through the efforts of a fraught coalition of very different interests that have emerged from the cooperative movement, some parts of the voluntary sector and more recently, for-profit social businesses with a social purpose (Teasdale, 2010a in Lyon, Teasdale, Baldock, 2010:2).

Social enterprises are challenged to take up the business challenge and wear the enterprise 'hat' and portray firstly, who and what they are (mission and marketing), and secondly, to demonstrate that they can do what they say they can (accountability and transparency) (Bull, 2007:64).

2. Journal Articles Review

2.1. Social Enterprise Journal

Frances Hines, 2005, *Viable Social Enterprise - An Evaluation of Business Support to Social Enterprise*, Social Enterprise Journal, Vol. no. 1, Issue 1, p.13-28

The paper is based on a research undertaken in 2004 by Triodos Bank, across UK, with the aim of identifying the challenges that social enterprises face in achieving their social, economic and environmental objectives. Starting with the introduction of historical perspective of social enterprise, the paper analysis some problems that this sector faces in the process of provision of business support, with specific focus on 2 case studies the electrical and electronic waste refurbishment and recycling sector and the care sector. Also, there is provided a summary report of *Turning Big Ideas into Viable Social Enterprise:* Investigating the Ways in Which the Right Technical Business Support Can Turn Real Social Needs into Viable Social Enterprises.

Bob Allan, 2005, *Social Enterprise: Through the Eyes of the Consumer*, Social Enterprise Journal, Vol. no. 1, Issue 1, p.57-77

This paper represents a report prepared for the National Consumer Council, UK, and analysis the social enterprise through the consumer perspective, by answering to the very important questions How can social enterprise make its case for consumer support?, How is the consumer to assess this social offer? What type of social offers do consumers want? And how does this differ among consumers?

According to the author, there are 3 schools of thought on how social enterprises should be promoted and each of these schools will emphasises one of the common characteristics of social enterprise, such as enterprise-oriented, social aims and social ownership.

The consumer is characterized as individuals seeking out intermediaries that they respect and can trust and they are looking for agents who can represent the consumer, and apply the filters they choose.

In this respect, the research shows that the consumer wants to see these new business models developed, no matter how sceptical they are about some of the current efforts.

Kristen Reid, Jon Griffith, 2006, *Social Enterprise Mythology: Critiquing Some Assumptions*, Social Enterprise Journal, Vol. no. 2, Issue 1, p. 1-10

The social enterprise, through this paper, is analyzed as an institution, in 3 directions: social enterprise must be a collective or democratic pursuit, social enterprise is institutionally different from earlier mechanisms to usher in a 'third way', social enterprise is better than doing nothing.

The author follows the points of social enterprise stakeholders and the institutional framework, trying to trace the origins of these myths and assumptions and to explain their purposes, explore what they have in common and see what direction they lead in, before offering some thoughts about how to re-connect rhetoric with reality.

Mike Bull, Helen Crompton, 2006, *Business Practices in Social Enterprises*, Social Enterprise Journal, V**ol.** no. 2**, I****ssue** 1, p. 42-60

This paper represents the analysis of the findings of a project funded through the European Social Fund (ESF) to investigate and develop managerial skills in the sector, using qualitative and grounded research investigation methodology in Greater Manchester and Lancashire in 15 social enterprises.

The aim of the paper is to achieve two objectives, to develop a strategic understanding of social enterprise business practices and issues and to develop baseline information to develop a management tool based on the BSC (Balance Scorecard) framework, so it will provide a better understanding of social enterprise business practices and issues.

The aspects analyzed were: problem of definition and mapping, the background, emerging business practices, the balanced scorecard as a business management tool, methodology used, findings.

Mathew Todres, Nelarine Cornelius, Shaheena Janjuha-Jivraj, Adrian Woods, 2006, *Developing Emerging Social Enterprise Through Capacity Building*, Social Enterprise Journal, Vol. no. 2, Issue 1, p. 61-72

The paper underlines the relation between capacity building and the emergence of social enterprise, based on the findings (through participant observation, questionnaires and focus-group data) of analyzing two emerging social enterprises within the WestFocus project. There is created a comprehensive model for social enterprise development, that outlines the role of capabilities building.

Zia ul Islam, 2007, *A New Model for Supporting Social Enterprise Through Sustainable Investment*, Social Enterprise Journal, Vol. no. 3, Issue 1, p. 1-9

The paper is based on the practice of HELP Foundation, a not-for-profit organisation (NPO) formed by a group of professionals, businesspeople, industrialists and public servants to develop a replicable model for poverty-alleviation through social enterprise, thus providing ways and means to set up sustainable institutions in the direction of offering support for people in poverty. The methodology involves the using of literature and surveys, interviews with clients, staff and benefactors of HELP and forms completed by clients and interviews with beneficiaries of the various schemes.

One of the author conclusions is that the Social enterprises can be set up in urban slums through joint ventures between an NPO funder and small businesses that have the capacity to expand.

Maureen Royce, 2007, *Using Human Resource Management Tools to Support Social Enterprise: Emerging Themes from the Sector*, Social Enterprise Journal, Vol. no. 3, Issue 1, p. 10-19

The aim is this paper is to demonstrate the connection and influence of HRM in issues related to social enterprise, using for the analysis two case studies tracing the development of 17 social enterprise organisations in the northwest of England, using informal, unstructured interviews, notes and board discussions over a five-year period.

To achieve the purpose of this paper, the author followed aspects such as labour market relationships within social enterprise, resourcing and skills to support social enterprise, leadership and operational strategy within social enterprise, case studies. The case studies are very important in highlighting the leadership styles and communication skills as factors in the success of sustainable growth in social enterprises.

Sinéad McBrearty, 2007, *Social Enterprise - A Solution for the Voluntary Sector?*, Social Enterprise Journal, Vol. no. 3, Issue 1, p. 67-77

The aim of this paper, which is the identification of the factors affecting the success and failure of voluntary organisations that apply the social enterprise model in achieving financial and social objectives, is based on the arguments that there is a lack in the topic literature and that the policy in adopting the concept of social enterprise is directed for the modernisation of the voluntary sector.

The research was lead by the question why social enterprises models do or do not work in the voluntary sector and the area of research is represented by five separate consultancy projects with voluntary sector organisations. These five organisations are described by Pearce as being voluntary organisations seeking to generate funds through trading activities.

The in findings section, there are exposed the critical success and failure factors affecting the third sector organisation implementation of social enterprise models, both at organisational and sector level.

Mike Bull, Rory Ridley-Duff, Doug Foster, Pam Seanor, 2010, *Conceptualising Ethical Capital in Social Enterprise*, Social Enterprise Journal, Vol. 6 No. 3, p. 250-264

The aim of this paper is to fill the gap related to the current conceptualisations of social enterprise, in the economic aspects of a business model and a frame reference on social capital perspectives. An alternative conceptualisation in the field of social enterprise is the ethical capital.

Keywords such as business ethics, social capital and non-profit organisations were identified in this paper, which is based on exploratory research methodology, bringing together perspectives on the ethical capital through authors' visions.

The first conceptualisation is the economic lens, the second one is the social capital lens and the third is the ethical capital. Ethical capital certainly provides an alternative view to the traditions of mainstream economics.

This research looks forward for a next research, by answering to the question If the social enterprise movement can widen the conceptualisation away from business and revenue to one that incorporates a view of fostering ethical capital, might this help re-frame and achieve the radical changes advocated by Bornstein (2004), Drayton (2005) and Emerson and Bonini (2004)?

Monica C. Diochon, 2010, *Governance, Entrepreneurship and Effectiveness: Exploring the Link*, Social Enterprise Journal, Vol. 6 No. 2, p. 93-109

The research paper has the purpose of exploring the role of the Board of Directors in encouraging entrepreneurship as a strategy for goal achievement among newly formed social purpose organizations, based on multiple data collection methods – including in-depth interviews and non-participant observation – are drawn upon in the investigation.

Starting with defining the concept of social enterprise in the light of Board of Directors, the paper continues with the entrepreneurial strategy, which is understood as "a comprehensive action plan that identifies long-term direction for an organization and guides resource utilization to accomplish goals with sustainable competitive advantage" and then the aspects of organisational governance.

The data gathering involves 12 organisations in two rural communities, selected by consulting with a broad range of economic policymakers, practitioners and academics, based on three criteria: similar contexts, different levels of economic development (outcomes) and similar time period of engagement in the development process.

The results of the analysis demonstrated the importance of governance and the findings of the paper have implications for both theory and policy.

2.2. Analysis of the literature review

This analysis represents a research in the literature of social enterprise in three important group publishers for the Europe region – Science Direct, Oxford and Emerald, research that underlines the meanings of knowing in detail the main key words used and the regions where scholars and practitioners were interested in writing and sharing their experiences. Also, an important aspect of this research is the variation of the articles in literature during 2004-2011.

Methodology – The research area covers 94 articles in literature, identified in different regions in Europe, USA, Japan, China, Bangladesh, etc, in a time frame between 2004 -2011.

Findings

The papers were identified as been written in different countries of Europe, but also in USA, Japan, China, Pakistan or Bangladesh.

Table 1 shows that the majority of articles were written in UK, a country that demonstrates a great interest in the area of social enterprise and many successful models in practice.

Also in New Zeeland, USA and Korea there is a great interest in writing articles about the social enterprise (as note: the research was made analyzing literature in three group publishers in Europe).

In Table 2 is obvious that the most used key words are social enterprise, small enterprises, small to medium-sized enterprises, public administration, entrepreneurialism, social responsibility.

This demonstrates the interdependence between the social enterprise and public administration and the fact that some practices of private sector can be applied to the public sector, thus the public can prosper by applying certain principle of entrepreneurialism.

Table 1

Frequencies of articles in analyzed literature

		Responses		Percent of Cases
		N	Percent	N
Region(a)	Europe	3	3.1%	3.2%
	UK	64	65.3%	68.1%
	Italy	1	1.0%	1.1%
	Poland	1	1.0%	1.1%
	Belgium	2	2.0%	2.1%
	Estonia	1	1.0%	1.1%
	Sweden	1	1.0%	1.1%
	France	1	1.0%	1.1%
	New Zeeland	4	4.1%	4.3%
	USA	6	6.1%	6.4%
	Canada	2	2.0%	2.1%
	Eastern Asia	1	1.0%	1.1%
	Korea	3	3.1%	3.2%
	China	2	2.0%	2.1%
	Japan	1	1.0%	1.1%
	Bangladesh	1	1.0%	1.1%
	Pakistan	2	2.0%	2.1%
	Philippine	1	1.0%	1.1%
	Egypt	1	1.0%	1.1%
Total		98	100.0%	104.3%

Social responsibility becomes more and more important in developing social businesses, but also regarding corporate social responsibility, many companies being interested of contributing at local level regarding the communities.

The key words identified as being more frequent in the literature show their influence and contribution to the public sector development.

Table 2

Frequencies of Key Words

No.	Key word	Frequency	Percent
1	Social enterprise	39	41.5
2	Small Es	24	25.5
3	SMEs	24	25.5
4	NP Organisations	12	12.8
5	PS Organisations	3	3.2
6	Social Economy	5	5.3
7	Public Administration	24	25.5
8	Third Sector	3	3.2
9	Enterprise Economics	6	6.4
10	Entrepreneurialism	23	24.5
11	Entrepreneurs	6	6.4
12	CSR	5	5.3
13	Social Responsibility	24	25.5
14	Sustainable Development	4	4.3

Table 3

Frequencies of articles during 2004 – 2011

		Responses		Percent of Cases
		N	Percent	N
Yyear of publication(a)	2011	12	12.8%	12.8%
	2010	16	17.0%	17.0%
	2009	12	12.8%	12.8%

		Responses		Percent of Cases
		N	Percent	N
	2008	19	20.2%	20.2%
	2007	14	14.9%	14.9%
	2006	13	13.8%	13.8%
	2005	7	7.4%	7.4%
	2004	1	1.1%	1.1%
Total		94	100.0%	100.0%

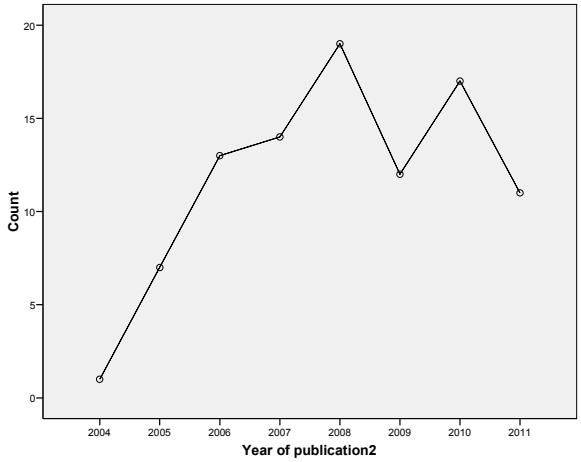

Figure 1. Variation of articles during 2004-2011

3. The literature review in Balkan area

The previous part of the paper showed that there are many articles in the social enterprise literature, but this applying more in Western Europe, more specific in UK.

One can observe that there is a big lack of social enterprise literature in the South Eastern Europe, even more in the Balkan area.

What does the concept of social enterprise mean in countries in the Balkan area? Which models do these countries apply? Which are the main directions?

3.1. The case of Croatia

Mladen Ivanovic, 2006, *Possible Paths for Social Enterprise Development in The Central and South East Europe. Croatia Case Study*, Zagreb

The author reveals the fact that the not-for-profit legal forms are suitable for social entrepreneurship, such as association , that can be established by minimum 3 domestic or foreign physical or legal persons and with no financial requirements, foundations that can be established by one or more domestic or foreign physical or legal persons, with financial resources or assets needed for establishment and the performance of economic activity is limited and the not-for-profit institutions.

Table 4

Main areas of activities (Ivanovic, 2006)

Before 1990	Employment of people with disabilities
1990-2000	NGOs were mostly focused on its mission, its target groups but on entrepreneurship; To significant extent NGOs were financed by foreign donors
After 2000	Social care- providing non-standard social services on the local level Income generation/employment – initiating different activities and providing range of services in order to secure its own sustainability or to increase employment in it's surrounding

Table 5

Pro and contra arguments (Ivanovic, 2006)

Pro	Contra
Existing need for social enterprise	Legal framework is unfavourable
Some traditions and experience	Local governments don't recognize opportunities in social entrepreneurship
Recognition of social enterprise by some authors	No incentives or policies which support social enterprises
	Limited interest of donors
	Lack of skills within NGOs leaders

The author's final remarks indicate that social enterprises must become one of the priorities in the Government's policy, that the continuation of decentralization can have a positive impact on development of social enterprises and the NGOs leaders must develop entrepreneurial skills.

3.2. The cases of Albania, Montenegro and Kosovo

A handbook of Euclid Network named *Reach for The Stars: A Guide to Develop the Financial Sustainability of NGOs in Western Balkans* was published in 2009. This presents the beginner's guide and the case studies in applying for EU funding and the social enterprise for the regions of Kosovo, Albania and Montenegro.

The section of social enterprise presents an introduction to a range of social enterprise ideas in the Balkans and the risks and challenges that these social enterprises can face.

The partners of the project were Euclid Network, the first European network of NGO leaders, Albania - The Human Development Promotion Centre (HDPC), which aims to promote the active civil participation in the process of social, political and economic reform in Albania, Montenegro: The Centre for Democracy and Human Rights (CEDEM), which aims to raise awareness about the need for a proper and successful democratic transition in Montenegro, Kosovo: The Advocacy Training and Resource Centre in Kosovo (ATRC), a full-service NGO training, resource and information centre.

Table 6

The three case studies trying to become social enterprises

Country	Name of social enterprise	Year of stablishment	Main field of activity
Kosovo	Aureola	1995	Providing shelters and emergency aid to internally displaced persons
Montenegro	PR Centre	2003	Press centre delivering services to various political, national and religious bodies
Albania	Albanian Disability Rights Foundation	1994/ reconfirmed as NPO in 2002	Supporting and empower the disabled community and to encourage cooperation between other disability NGOs

3.3. The case of Serbia

Social Enterprise: *A New Model for Poverty Reduction and Employment Generation. an Examination of The Concept and Practice in Europe and the Commonwealth of Independent States,* 2008, EMES- European Research Network, UNDP

The publications reflects the results of a project that lasted two years, evaluating the situation of social enterprise in 12 countries, such as Poland, Czech Republic, Slovenia and Lithuania, Ukraine and Serbia.

Regarding the situation in Serbia, the analyzed aspects are: the background for social enterprise in Serbia, social enterprise development trends, SWOT analysis of social enterprise development and recommendations.

It has been noted that in Serbia the concept of social enterprise is not delineated in relevant legislation and currently they exists in forms of non-integrated initiatives, addressing to the problems of unemployment and social disintegration on a small scale, for example associations of citizens, cooperatives, social cooperatives, vocational enterprises for persons with disabilities, spin-off enterprises in the form of limited and joint-stock companies, incubators, agencies for the development of small and medium sized enterprises.

Table 7

Social Enterprise Mapping in Serbia, 2007 Source: Second Development Initiative Group (in UNDP Report, 2008)

Types of organisation	Number of identified SEs	Percentage of the SE sector in Serbia
Associations of citizens	162	14.2
Cooperatives	898	78.6
Enterprise for PWDs	55	3.3
Spin-off enterprises	24	2.1
Agencies for SME development	13	1.1
Business incubators	6	0.5
Other SEs	2	0.2
Total	1.160	100

4. Findings

The majority of the analyzed articles are research paper, with some exceptions such as case study or conceptual paper.

The following table shows some common aspects of the literature review, with special focus on key words, purpose, research methodology:

Table 8

Common aspects of the literature review

Item	Common aspects
Key Words	• Social enterprise • Non-Profit Organisations • Social Services • Society • Disadvantaged groups • Entrepreneurialism • Entrepreneurs • Public Sector Organisations • Enterprise Economics
Purpose	• To explore the institutional context and dealing with the history and main features of Social enterprise • To highlight the conceptual and technical difficulties in mapping SE and the latest developments • To identify the ways to respond to the needs of people in need • To address the governance of “fair trade social enterprise” • To develop a coherent and robust methodology for social impact measurement of SE, that would provide the conceptual and practical bases for training and embedding • To analyze the evolution of the SE concept at an international level
Research	• Data drawn- laws, regulations, forum, transcripts, new reports

Item	Common aspects
methodology	• Desk –based research of the grey literature • Set of knowledge exchange activities – scoping workshops, placements and online tool • Face-to-face interviews and semi-structured interviews • Survey data and structural equation modelling technique • Comparative method

Final remarks

It has been noted that in the Balkan countries there is no legal framework for the activity of social enterprise, meaning that governments are not enough supporting the development of social enterprises.

The most frequent forms of organisation were identified as being the associations, NGOs, cooperatives, social cooperative.

The main problems that these organisations face are related to the lack of local financing, which lead to problems of sustainability, there is a great need of specialists with experience, also there can be no strategic orientation regarding the delivery of support services for the disabled persons.

The literature in the area of Balkans needs to develop by taking the examples of literature in Western Europe, where there is a great interest showed by both the academia and practitioners.

By developing the literature in this field, the countries in Balkans can adopt and improve models of social enterprise, thus with great impact on the local economic development.

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V.3. EFFICIENCY AND EFFECTIVENESS IN ROMANIAN LOCAL PUBLIC ADMINISTRATION

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Abstract

Thinking of the importance of local administration for each state within the framework of the European Union I find it of great interest to carefully analyse the reflection of the European principles for public administration, especially the ones regarding efficiency and effectiveness, in a former communist country such as Romania. The study and practice of public administration necessarily involves the clarification and updating of several important concepts. The difficulty in conceptualizing public sector efficiency and effectiveness in the context of democracy and governance is due in part to varying administrative and political values.

Keywords: *reform, efficiency, effectiveness, local administration, public management*

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Introduction

Public administration is undoubtedly a field in a continuous interaction with everyday's realities. It is interconnected with society's greatest problems and becomes a concept that is often difficult to grasp in a single definition universally accepted by scholars. Thus the main approaches of government that seems to come immediately on to one's mind when thinking of it: the political approach, the managerial approach and nevertheless the legal approach.

Numerous attempts in the search of a definition bring down a number of features related to the executive part of government, the creation and implementation of public policies, the active participation and interactivity with the life of citizens, a clear separation of government from the private offering of goods and public services with an important role in law enforcement issues. (Hintea, 2003:89). It becomes obvious that administrative sciences must be regarded as interdisciplinary sciences, which must be treated by scholars with scientific strictness and impartiality but frequently with a glance from different perspectives.

Administrative sciences have undergone an extensive remodeling and transformation process especially in the last 30 years. This process was actually a result of the changes in government types of the most developed countries, where governments have had to adapt their practices to the challenges of globalization and the societal crisis caused by it. Yet with the tumultuous crash of „the iron curtain" the door was opened for democratization in Central Eastern and South Eastern Europe and with this a rampant process of administrative reforms started within the former communist countries too.

In the early '90 the former Socialist Republic of Romania was facing great challenges on its path towards political and economical stability. A centralized obsolete system had to be removed in order to make place for a capitalist market and a democratic regime, all this being done by using a human resource preponderantly with a "red" background of administrative know-how. A new Constitution and an abundance of laws were forged in order to re-establish Romania's democratic course.

The western model of reshaping the country's administration was granted with an overwhelming support from the people, whom during those harsh years remained very optimistic looking at the perspective of rejoining their European brothers within the modern "El Dorado" of the European Union. This incredible boost of confidence into the EU and its institutions managed to push forward all the major policymakers towards making the reforms needed in order to become a member of it. The accession criteria were conceived in Copenhagen (1993), Madrid (1995) and Luxembourg (1997) and impose to the candidate states a set of conditions: related to democracy issues (rule of law, human rights, protection of minorities) economical issues (a functional market economy) political issues (adherence to the objectives of the political, economic, monetary Union of the EU, resulted from the membership obligations) (Matei, Matei, 2010:2). Albeit political consensus was seldom and only for short periods achieved, too much time being wasted on bargaining and internal political negotiations.

In the mean time, while not only Romania, but all the former soviet influenced countries were struggling with their new administrative problems, in the more stable and developed countries which already experienced some troubles with their public systems management theoreticians quarreled about the benefits or the drawbacks of the new public management. This is the approach that brought to the public administration the ideas of performance crafted in the private sector: economy, effectiveness and efficiency.

Thinking of the importance of local administration for each state within the framework of the European Union I would find it of great interest to reveal - if found - the reflection within the Romanian laws of the European principles for public administration stated by the SIGMA papers No.27 from November 1999, especially the ones regarding efficiency and effectiveness, in a country such as Romania. This paper will address these two concepts also in regards to the way they are used by the public management theoreticians.

The study and practice of public administration necessarily involves the clarification and updating of important concepts such as the ones mentioned above. Research using an ambiguous or inconsistent conceptualization of those concepts has the potential of producing questionable findings that can limit the interpretive power of the analysis. Difficulty conceptualizing public sector efficiency and effectiveness in the context of democracy and governance is also due to varying administrative and political values.

"According to OECD reports and scholarly writing, the reasons for cross-country differences in incentive systems lie in countries' administrative traditions (OECD, 2004a, 6; Peters, 1997, 86). A country's administrative tradition ''brings together several characteristics of administrative systems and demonstrates how these elements fit together to create more or less coherent institutions'' (Peters, 2008, 18), and should be separated from the much broader and more value-oriented concept of organizational culture (Hofstede, 1991)" (Dahlstrom, Lapuente, 2009:584).

The most encountered typological pair in the literature about administrative traditions it seems to be the one composed from the Anglo-Saxon countries, on the one hand, and ''Rechtsstaat'' traditions, actually including European and Scandinavian countries, on the other (Pollitt and Bouckaert 2004 apud Dahlstrom, Lapuente, 2009). Speaking about the reforms back in the '80s in the United Kingdom and the United States, several authors tried to explain the concept of new public management as a characteristic of a public interest administrative tradition (Castles and Merrill, 1989, 181; Pollitt, 1990 apud Dahlstrom, Lapuente, 2009).

Either new or traditional, the views on public administration and their accompanying theories have encountered numerous criticisms, but as J.J. Rousseau said if the legislative power is the heart of the state, the executive power is the brain that puts all the moving parts working together. And I think it is the job of both scholars and practitioners to make this machinery smoothly approach the destination desired by its passengers, the citizens.

1. Governance through effectiveness and efficiency

When thinking about these two concepts one might mix them up, either thinking they have the same meaning or might transmute their meanings failing to understand which suits better the description of a modern public administration. I shall present in the next pages a few theoretical aspects in order to better comprehend the utility of these concepts for administrative sciences.

"Governance seems to be a suitable concept for analyzing virtually all problems that are at least vaguely connected with the process of achieving goals in a complex environment (see Pierre and Peters, 2000: 14). It serves as a particularly compelling point of reference whenever public administrations or even whole states appear to be unable to achieve the goals set by political

decisions." (Mehde, 2006:60) Having many functional interpretations the term is not exclusively used only by the public sector. Often different organizations make use of it in their activities especially when related to the activities involving other partners. (Mehde, 2006)

"Public governance theory therefore is to be seen as a set of theories about how government can get things done" (Mehde, 2006:62). It is "public" still reminding us the traditional characteristics of government but the updated term "governance" stands as the label which tells us that nowadays governments have acknowledged that there are also other stakeholders involved in achieving the aims of the public sector. "Drawing less on the question of who is acting, governance can also be defined to include different modes of coordination of individual actors, so that, in addition to hierarchies and networks, markets and associations or communities are also included" (Mehde, 2006:62).

As seen, the academic approach on public governance is closely guiding us to understand it as a management of resources and policy-making by means of exercising authority. It is a process which implies a series of tools at the hand of different policy stakeholders, used within a legal framework, aiming to accomplish the political, economic, cultural and social missions of the public sector. In addition *good governance* is more of a normative conception of the values which set a pattern for the act of governance, and of the method of interaction between social actors in a certain social context.

Even though, once again, there is no generally accepted definition of this concept, a set of principles had been identified in order to stress good governance in any society. If we search for these principles our academic quest will often lead us towards: participation, rule of law, transparency of decision making, accountability, predictability and *effectiveness*. These are also generally seen as the cornerstone principles of sustainable development. I will not continue commenting on their meaning, instead I wish to add a few more comments connecting these principles to the public administration and afterwards I will focus more on the twin pair *effectiveness*/*efficiency* as soon as they will once again be referred at.

"Public administration reform, aiming at good governance and modernization of the state, is not an original goal, while its implementation differs from country to country. The term "good governance" has been discussed in the literature and has been extensively used by international organizations such as the World Bank (WB), the International Monetary Fund (IMF) and the United Nations (UN). It is a broad term that includes values and practices such as legality, justice, trust of laws and institutions, *efficiency*, responsible budgeting, management of human resources and crisis management. Good governance has thus become an elastic term rather than a concept in its own terms." (Xenophon, 2008:2)

Reform is considered as a fundamental part of a national effort to improve efficiency, increasing the competence and effectiveness of public administration, increasing the expertise, professionalism, knowledge and transparency. The administrative reforms may be complex, including changes as a result of pre-accession, accession processes, Europeanization and recently the effects of the world economic and financial crisis. We speak about a transformation of the national public administrations in line with the development of the administrations of the „European Administrative Space".(Matei, Matei, 2010)

The extensively used term of "good governance" became more of a "container concept", merging a mixture of principles being similar to other too generous concepts such as globalization. The attempts to find a single definition to embody it would probably end up in never-ending discussions about the meaning of governance and to normative research of *what* is "good". Basically we should regard it more like a term different than "governance" – used mainly by politicians and technocrats' - simply suggesting us that governance should be rather "good" than "bad" (Ladi, 2008:2).

"Based on the fundamental elements defining the concept of good governance in the democratic states and the principles of public administration, defined and re-defined by national jurisprudence and jurisprudence of the European Court of Justice, the field literature develops the concept of „European Administrative Space" (EAS) as specific component of the „European Legal Space" (ELS), territorially being „the geographic region where the administrative law is uniformly enforced" (OECD, 1999 apud Matei, Matei, 2010:3)

Discussions about a "European administrative space" are the result of the aspirations of defining the administrative requirements for the EU membership in the perspective of enlargement. This is also due to the fact that the administrative systems of the countries in Central and Eastern Europe were often regarded as the exact opposite of the modern western-type, despite their efforts to transform and reform. This struggle to create administrative capacities comparable to the structures in the older EU member states led to a flow of consistent literature on the topic. (Siedentopf, Speer, 2003:10)

"The idea of the European administration appears explicitly and implicitly in the EU documents. One of them, concerning the European Constitution stated that <*in achieving their missions, the Union's institutions, bodies and agencies shall openly, efficiently and independently support the European administration*>. Otherwise, the same document discusses the promotion of the *good governance* (article 49) or that of *global good governance*" (Matei, Matei, 2008: 40) .

Thus we assume that there is a set of common European principles, rules and regulations uniformly enforced within the geographical borders of the European continent which guide the construction of public administrations of the embodied countries. (Cardona, 1999 apud Matei, Matei, 2010). Similarly to the values of good governance the EAS principals stand for: trust and predictability, openness and transparency, accountability*, efficiency* and *effectiveness.* We can identify here a strong link which stresses not only the normative importance of such values, but moreover their practical applicability and conversion in to concrete measures.

"The development of a more responsible and competent method of governance calls for measures to enhance government *efficiency*, openness and transparency, while promoting the involvement of citizens and civil society institutions in public affairs. Such a method of governance would reduce barriers to communication between politicians, civil servants and citizens through a broad – based and on going debate about key political priorities and measures of implementation, a debate which should be conducted by civil society organizations." (Potucek, Martin et all. 2004:93).

"The enforcement of the principles of *efficiency and effectiveness* in the public sector in general and in public administration in particular is relatively recent. According to some authors, efficiency represents a managerial value, which consists in maintaining an optimum balance between the resources allocated and the outcomes; effectiveness becomes also a related value aimed at ensuring that the public administration work succeeds to attain the objectives and to solve the public matters, allocated by law and governing programs, or as asserted by Ziller (1999) it is possible to agree with a common definition of administrative law comprising a set of principles and rules applicable to organization and public administration management and to relations between administration and citizen." (Matei, Matei, 2010:4)

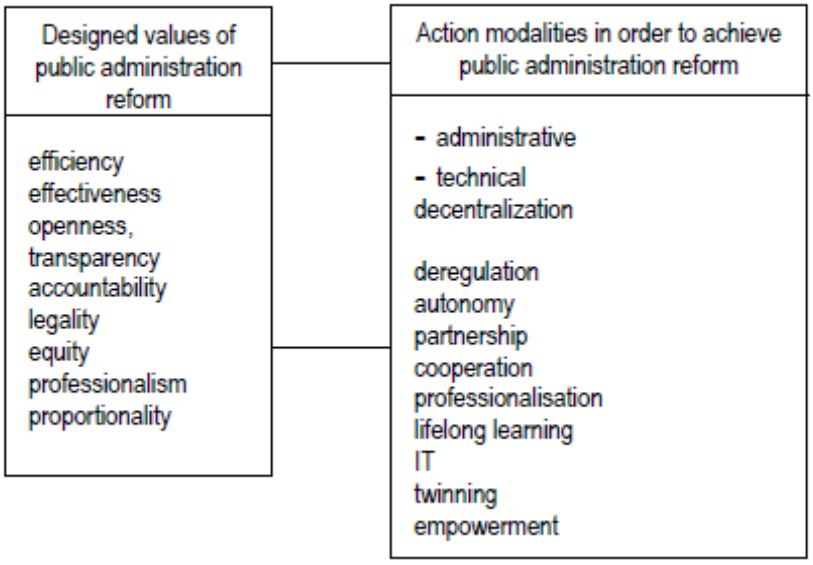

Figure 1. Dimensions of public administration reform in Romania, according to Matei, Lucica**.** 2009. Romanian Public Management Reform: Theoretical and Empirical Studies. Vol 1**.** Administration and Public Services**, p**p.36 Bucureşti: Editura Economică

"Since the mid-1970s there have been numerous reforms of public administrations, many of which have been in line with what is generally known as new public management (NPM). Two influential observers conclude that with the exception of war times ''there never has been the extent of administrative reform and reorganization that has been occurring during the period from approximately 1975 onward'' (Peters, Pierre, 2001:1 apud Dahlstrom, Lapuente, 2009:577) This "revolution" within the public administration is mainly responsible for emphasizing key concepts of management into the pulsing core of public administration, the local public administration.

The new public management lies in an aggregation of several values in the management of public employees (less ‘‘egalitarianism,’’ more ‘‘individualism’’; more ‘‘hierarchism’’ or active control) and in several doctrinal components like: professional management of public organizations, explicit and measurable standards of performance, greater emphasis on output controls, shift to disaggregating of units, change to greater competition in the public sector, stress on private sector styles of management practices, and emphasis on greater discipline in public sector resource use (Hood, 1996:268–69 apud Dahlstrom, Lapuente, 2009).

“Scholars of comparative public administration have demonstrated that NPM is not a fixed and consistent dogma but a ‘paradigm’ produced by syncretism (Hood, 1991, 1995), a mixture of ideas, beliefs, values, slogans and policy narratives supporting a practical repertoire of managerial recipes, techniques and instruments: one can even argue that NPM is more of a ‘praxeo-logic’ than an ideology” (Dreyfus, Eymeri-Douzans, 2006; Eymeri-Douzans, 2010 apud Cole, Eymeri 2010:396)”

I felt the need for this short reference to the NPM in order to sort out the conjectural correlation between the sets of principles and values of the trilateral: *new public management – good governance – European administrative space*, all leading to important changes for the public sector. But coming back to our area of interest *efficiency “*is undoubtedly the key word in justifying mergers, as it is used to rationalize organizational split-offs and specialization, and moreover to justify any policy orientation in our era of managerialism” (Cole, Eymeri, 2010:397) while “public administration *effectiveness* is inseparably linked with a vibrant civil society (without which fair and efficient policy is less likely)” (Potucek, Martin et all. 2004:93)

If we are to go to the roots of the word itself – and sometimes in order to dismiss any doubt is better to do so - we find out that ***effectiveness*** (formally known also as ***efficacy***) is explained as the ability of something to produce the right result and *efficiency* as the quality of doing something well and effectively, without wasting time, money, or energy (LONGMAN – Dictionary of contemporary English, accessible at http://www.ldoceonline.com)

To economists, efficiency is a relationship between ends and means. When we call a situation inefficient, we are claiming that we could achieve the desired ends with less means, or that the means employed could produce more of the ends desired. “Less” and “more” in this context necessarily refer to less and more value. Thus, economic efficiency is measured not by the relationship between the physical quantities of ends and means, but by the relationship between the value of the ends and the value of the means. (Heyne Paul, The Concise Encyclopedia of Economics http://www.econlib.org/library/Enc/Efficiency.html)

$$\text{Effectiveness} = \frac{\text{REAL OUTPUTS}}{\text{PLANNED OUTPUTS}}$$

$$\text{Efficiency} = \frac{\text{OUTPUT}}{\text{INPUT}} = \frac{\text{RESULTS}}{\text{RESOURCES}}$$

The *effectiveness* in any organization characterizes the fulfillment degree of its established objectives and standards and can be measured by comparing the final results with predetermined outcomes. On the other hand efficiency means the ability to carefully exploit the usage of resources and is measured by comparing the end-results with the efforts involved and the resources spent.

Effectiveness basically consists in doing the best to be sure that the achievements of public administration are fruitfully in reaching the goals and solving the public problems within the legal framework set for it by any given government. It usually involves a process of analyze and evaluation of the public policies in place, in order to estimate the way public administration and civil servants materialize them. This being said the time comes for us to also mention about the accountability of civil servants which undoubtedly relates to efficiency in the performance of public administration. (SIGMA, 1999)

“The recognition of efficiency as an important value for public administration and civil service is relatively recent. Insofar as the state has become the producer of public services, the notion of productivity has entered the public administration. Today, because of fiscal constraints in many states, the efficient and effective performance of public administration in delivering public services to the society is increasingly studied. Efficiency is characteristically a managerial value consisting in essence of maintaining a good ratio between resources employed and results attained.” (SIGMA, 1999:13)

There are as expected some critics of economic efficiency cherishing that it is not an appropriate measurement tool for public policy because of it’s too much interest for the money spending despite

other important values. Yet the supporters of the concept would agree that economic efficiency is not the most precious "good" in life, nevertheless just because of that it does not mean it should not be used appropriately when talking about public spending. (Heyne)

"Efficiency as a managerial value might seem to conflict with the rule of law and due procedure as a political/democratic value. Public managers often see legal procedures as restrictions inimical to efficiency. Following established procedures may go against an economic use of means, and can adversely affect the ratio between costs and outcomes of an administrative action." (SIGMA, 1999:14).

There are examples of efficiency and effectiveness of public administration being embodied within the Constitution (Spain 1978), all together with the classical principles (the rule of law, transparency and impartiality). And deriving from such an approach different administrative laws nowadays refer to economy, efficiency and effectiveness (the three E's mentioned earlier also in this article) as the principles that must be incorporated by the public administration and indirectly by it's actors, the civil servants' in all their activities and decisions.(SIGMA, 1999)

"There is also a concern that this growing autonomy of the bureaucrats and the expansion of business-like managerialism will damage the integrity of civil servants and the sound, ethical basis of the public sector. This may be especially a problem in the case of the CEE countries, which do not have strong historic traditions of a legal state and constitutionalism and in which political systems have been oppressive." (Jenei, Zupkó, 2001:82)

"This conflict raises a large number of issues. A number of institutional and legal solutions attempt to address this contradiction. Among the institutional ones can be cited the process of transferring production activities towards the private sector via contracting-out, keeping for public administration the role of policy-making and monitoring the contract. Legally, the enactment of a wide and complex series of laws on public procurement has developed as part of administrative law. The EC directive on public procurement has proved to be an important source of homogenization of legal principles throughout the EU." (SIGMA, 1999:14)

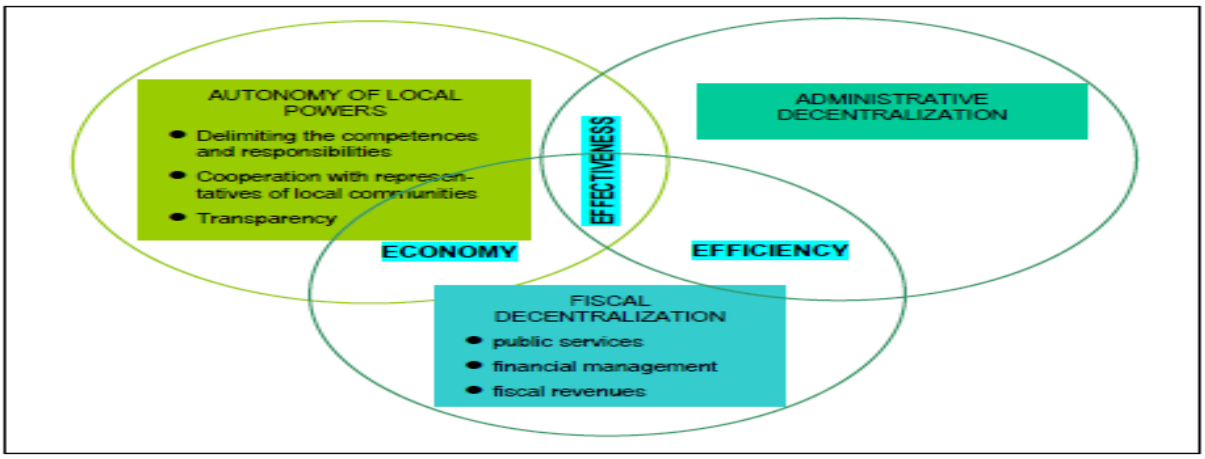

Figure 2. A representation of the 3 E's at local level, in a decentralized administration according to Matei, Lucica, 2009:68

The principle of efficient administration is nevertheless one of the guiding criteria of the European Community law, especially in the respect of Community directives and regulations appliance. The proof of this principle being a matter of great importance is the fact that both old and new member countries were bound to make some adjustments to "their domestic organizational and administrative structures and decision-making arrangements in order to be able to efficiently and effectively enforce European legislation and, in general, to ensure effective co-operation with Community institutions". (SIGMA 1999).

2. A focus on Romanian laws related to public administration

In Romania the system of public administration is structured according to a three-tier system of government: central, county and local. According to available data of the National Agency of Civil Servants, Romania a country of 21 millions inhabitants has 110,426 civil servant positions with an

effective employment of 87.97% of the total (15.14% central positions; 39.90% local level the rest 45% attend territorial civil service positions). (Cepiku & Mititelu 2010)

The territorial administrative divisions of Romania consist of counties, which are formed by communes, towns and cities (larger towns). County councils and Municipal councils are upper level of public administrative structure whereas town councils and commune councils are lower levels with 6 additional district councils of Bucharest (Coman *et. al.*, 2001, p. 371 apud Cepiku & Mititelu 2010).

"It has been argued that effectiveness of the basic units of government depends upon municipality size (Dahl and Tufte, 1973; Newton, 1982). Large units are capable of better utilizing systemic capacities in order to provide public services, while smaller sized municipalities provide more opportunities for citizens to participate directly in governance (Horvath, 2000)." (Dacian and Neamtu 2007:632)

The transfer of competences from central level to communes, towns and counties, and implicitly, the creation of new forms of organization and coordination of national and local policies represent the major step undergone by Romania since 1990 in the decentralization of power, authority and decision (Matei L., 2009, p. 22).

There were, according to Cepiku and Mititelu 2010, four phases in the process of transformation of Romanian public administration after 1989:

I. 1991-1994: changes in the structure and funding of local authorities (a local taxation system).
II. 1998-2000: a phase of administrative and financial decentralization
III. 2001-2004: a set of new rules for certain functions of local authorities, especially for public services or utilities.
IV. Starting with 2004: a phase of designs and approvals of the necessary strategies and laws in order to prepare Romanian administration for the admission to EU.

The Romanian Constitution (adopted in 1991 and revised in 2003) emphasizes three fundamental principles for the public administration: decentralization, local autonomy, and the deconcentration of public services (Profiroiu, 2006 apud Cepiku, Mititelu 2010). In Romania, territorial administrative decentralization is based on a community of "public interests" of the citizens belonging to a territorial-administrative unit, "recognizing the local community and the right to solve its problems' and technical and financial decentralization of the public services, namely transferring the services from the "center" to local communities, aimed to meet social needs." (Matei, 2009, p. 13).

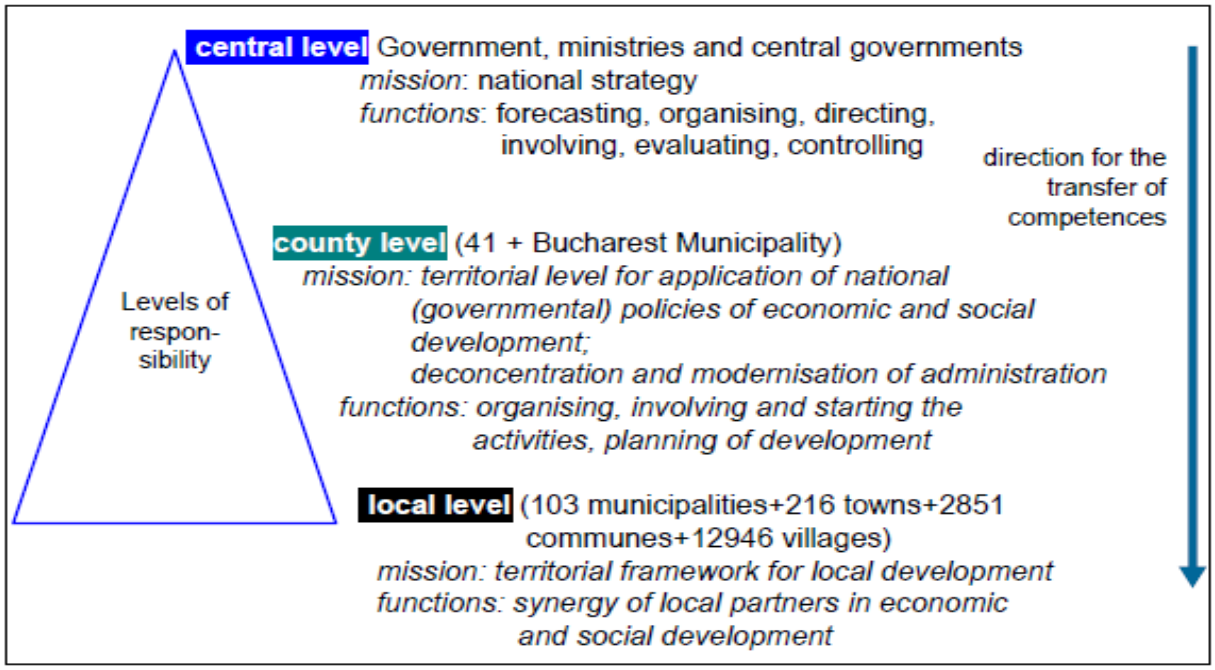

Figure 3. A pyramid of responsibility levels in Romanian Public Administration, according to Matei, Lucica 2009: 36

As for the legal framework of Romanian public administration, also according to Matei (2009), we must mention the following guiding laws and normative acts:

- Law of local public administration **no. 215/2001,** with the future changes that regulate the general regime of local autonomy, defines the assignments and competences of local authorities and strengthens the responsibility of the elected officials toward the citizen;
- Law on public utilities services no. **51/2006,** with the further changes that establishes the unitary legal framework concerning the establishment, organisation, monitoring and control of the community public services in counties, towns and communes;
- Law no. **544/2001** concerning the free access to public interest information, regulates one of the fundamental principles of the relations between persons and public authorities;
- Law **188/1999** with it's future changes, concerning the Guiding Rules for Public Servants, which in all their activities (art. 3) must comply to: c) ***Efficiency and effectiveness***;

Further on due to the financial and economic crisis restraints the Romanian government issued a few measures in order to establish the budgetary equilibrium and continue the decentralization process, through efficiency and effectiveness, as for example:

- Law **118/2010** regarding some temporary measures needed for reestablishing the budgetary equilibrium, which concerned the majority of the public servants in the aspect of their wages;
- Law **155/2010** regarding the establishment of Local Police;
- Government Emergency Ordinance **48/2010** in order to modify and amend some normative acts in the health sector, which practically brought to the local public administration the management of the hospitals in their area;
- Government Ordinance **63/2010** in order to modify and amend Law no.273/2006 regarding local public finances and also to establish some financial measures. Important changes of the local public executive apparatus occurred after the passing of this ordinance;
- Law **1/2011** on the national education system. Important changes occurred on all types of education and on the organizing structure of the educational institutes;
- Government Decisions **345 and 346/2011** on closing and reconverting some hospitals. With huge implications both for citizens and local public administrations etc.

In order to be able to have a comparative view over the effectiveness of government and the principles characterizing the Romanian public administration, contrasting neighboring and/or former communist countries, I have selected the following graphs:

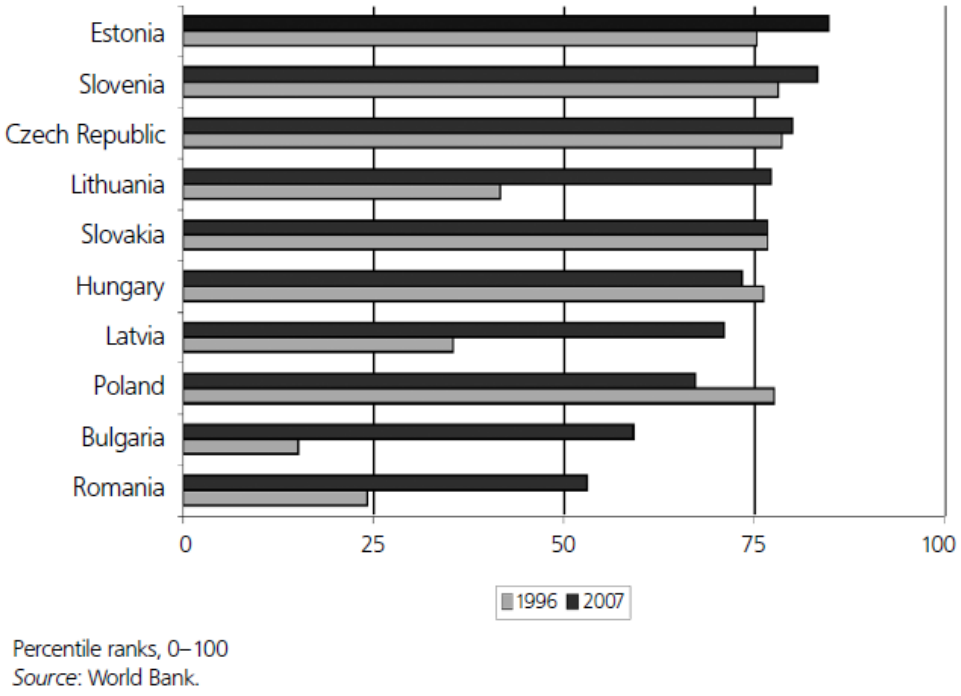

Figure 4. Government effectiveness in East Central Europe, source MEYER-Sahling, Jan-Hinrik 2009: 515

No.	State	Principles of civil service	Principles of European administrative space
1	Romania	a) legality, impartiality and objectivity; b) transparency; c) efficiency and effectiveness; d) responsibility, in accordance with the laws; e) citizen oriented; f) stability in the exercise of civil service position; g) hierarchical subordination	- rule of law; - openness and transparency; - responsibility; - efficiency and effectiveness in public administration
2	Republic of Moldova	a) legality b) impartiality c) independence; d) professionalism;	
3	Bulgaria	a) lawfulness, b) loyalty, c) responsibility, d) stability, e) political neutrality f) hierarchic subordination.	
4	Republic of Macedonia	a) legality, b) equality, c) transparency, d) predictability e) fairness.	

Figure 5. Principles of national civil service according to Matei and Matei, 2010: 13-14.

Conclusion

After a brief incursion into the conceptual field of concepts like governance, good governance and European Administrative Space I have tried to stress the strong link and interconnection between the values and principles they stand for. Later on, in the attempt of tackling the disputed notions of effectiveness and efficiency, I have focused on unveiling their meanings and on a quest for a right, easy way to comprehend their definition.

Establishing this framework helped me to smoothly shift to the public sector and look for the way it perceives and comprises these elements imported from private sector. All along I have used references and quotations from scholars which have conducted similar, more profound, studies on the field, in order not to loose academic rigorousness. In the same time a few tables and visual models resuming the very basis that put together the concepts described were used in order for us to have an even more lucid overview.

I have used some examples from Romanian legislation related to public administration in order to find if it encompasses the principles earlier mentioned. In the end I have put forward two sets of comparative data related to effectiveness and efficiency of governments within the former Central and Eastern European communist countries. From this one might observe that countries with similar political past and administrative systems handled differently reforms and democratic change. Further more in the prospect of the admission to the European Union it seems that the rule of law, transparency of the system, responsibility, professionalism and nevertheless *effectiveness* and *efficiency* were distinctly integrated in their legislation.

This was not an exhaustive article, both because of its technical limits and because of the limits of the research conducted by the author. The complexity of the subject of my study arises from the interdisciplinary approach of the topic. We must every time bear in mind that there are technical dimensions, economical dimensions, political dimensions and some very important social dimensions that are to be taken into consideration when we dealing with such sensitive matters like the public sector's issues.

Surely there is a lot to be still debated on the matter. For example the fact that in the reform process of the public administration there are a lot of barriers and dead ends that toughen the route to a clear method for measurement of performance. But all this can become theme for another research or for an improved extended version of the current one.

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V.4. ETHICS BETWEEN GENERAL GUIDELINES AND NATIONAL VALUES. A COMPARATIVE STUDY

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Abstract

It is a known fact that ethical conduct and ethical behavior of public servants at all hierarchical levels is a must for a modern and performance oriented public administration. It is also a known fact that ethical guidelines are the same all over the European Union. This guidelines are being set up to ensure the cohesion of the public administration in all EU member states. However the in-depth perception of the guidelines may vary from one EU member state to another and even within different regions of one and the same member state according to the historical background and national values of a nation. If ethics is to be regarded as one of the main pillars of the cooperation of the public administrations of the EU member states in order to form one European public administration this differences in perception and implementation of ethical guidelines must be understood and accepted. The European Union has understood that it is imperative to preserve the national characteristics of its member states and has let them find specific, regional solutions to communitarian issues. This paper tries to draws some interesting conclusions based on ethics and its perceptions in different EU member states by analyzing national values and opposing them to general ethical guidelines. This comparative study sets of from published sociological studies carried out in several European countries and aims to determine the coordinates a harmonic collaboration between public administrations.

Keywords: ethics, cooperation, public administration, national values, audit of ethics.

1. Introduction

Ethics and ethical behavior have always been a key player in setting up procedural standards in any field of activity. The first codes of ethics were introduced in ancient days within the military and medicine. The Hippocratic Oath can be considered the first attempt to establish a set of rules and guidelines for behavior in a field of activity.

The main issue in implementing ethics in different EU member states revolves around the question of how the general guidelines are understood and accepted by nations and are influenced by national values. It must be said, that ethics and values are not one and the same: values are personal in nature while ethics is a generalized value system (e.g. avoiding discrimination in recruitment and adopting fair business practices) (Fernando, 2010: 11-16). Business ethics can provide the general guidelines within which management can operate. Values, however, offer alternatives to chose from (for example, philanthropy as a business policy is optional). An entrepreneur may or may not possess this value and still remain within the limits of business of ethics. On the other hand, for the public sector, social responsibility is considered more a value than an ethical requirement. The same is true for the

private sector. However, a renowned company who does not show concerns for corporate social responsibility cannot ensure long term development. From this example we can draw two conclusions:

- General accepted values have a tendency to evolve into ethical requirements;
- Public sector and private sector do not share neither the same set values nor the same ethical guidelines.

Ethical behavior within organizations goes in the field of interest of human resource management. Since behavior is a highly personal matter which not only influences the relationship between the person and the organization, but the performance of the organization itself it is only natural to include its ethical aspects in the preoccupation of human resource management. There are two approaches to ethical conduct:

- Ethical conduct may act as a limit on civil servants' actions: ethical values – and standards inspired by them – would determine which actions are out of bounds, as they would be a transgression of the standards recognized as currently valid, a transgression which in the most serious cases might even be seen as clear-cut illegal acts, therefore liable to be seen as an error or offence in administrative terms. The lack of ethical references for conduct would therefore manifest itself by what is known as corruption (Council of Europe, 1993).
- Public ethics may act as a factor in stimulating public servants' action, there by motivating them to work better.

Personal values are susceptible to the environment and conditions of their subjects while ethics raises above this conditions. Thus the state of poverty or wealth or a person's entourage have a great influence on how that personal perceives ethical guidelines. Also, national sets of values, traditions, religion and beliefs play a key role in the personal ethical background.

2. Cultural aspects of ethical behavior

Starting from a study by OECDS' Timo Moilanen (Moilanen, 2007) and cross referencing with the theories of Geert Hofstede and Edward T. Hall, a new study has a emerged regarding the implementation of ethical codes in the public administration.

Geert Hofstede was Human Resources Manager with IBM. His theory describes nations according to five cultural dimensions:

- *Power distance index (PDI)* - Measuring the rigidity of structures in organizations. This represents inequality (more versus less), but defined from below, not from above. It suggests that a society's level of inequality is endorsed by the followers as much as by the leaders. Power and inequality, of course, are extremely fundamental facts of any society and anybody with some international experience will be aware that 'all societies are unequal, but some are more unequal than others'.
- *Masculinity (MAS)* - Measuring the distribution of roles between man and women in society. Masculinity versus its opposite, femininity, refers to the distribution of roles between the genders which is another fundamental issue for any society to which a range of solutions are found.
- *Individualism (IDV)* - Measuring the degree to which the person prevails over the collective. On the individualist side we find societies in which the ties between individuals are loose: everyone is expected to look after him/herself and his/her immediate family. On the collectivist side, we find societies in which people from birth onwards are integrated into strong, cohesive in-groups, often extended families which continue protecting them in exchange for unquestioning loyalty.
- *Uncertainty avoidance index (UAI)* - Measuring the degree of denial of uncertain events. It indicates to what extent a culture programs its members to feel either uncomfortable or comfortable in unstructured situations. Unstructured situations are novel, unknown, surprising, different from usual. Uncertainty avoiding cultures try to minimize the possibility of such situations by strict laws and rules, safety and security measures, and on the philosophical and religious level by a belief in absolute Truth.
- *Long term orientation (LTO)* versus short-term orientation – Measuring the temporal horizon of one's actions. Values associated with Long Term Orientation are thrift and perseverance; values associated with Short Term Orientation are respect for tradition, fulfilling social obligations, and protecting one's 'face'.

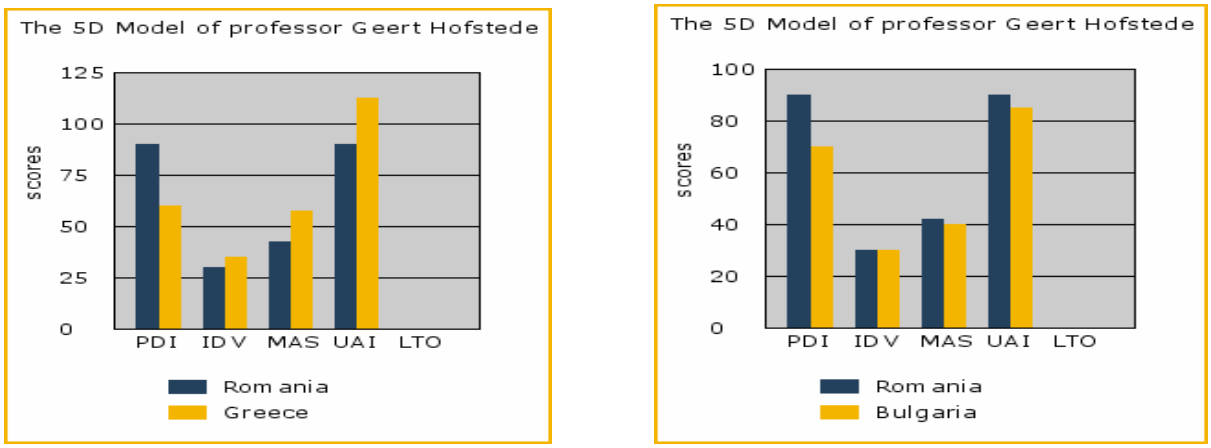

Figure 1. Hofstede's dimensions for Romania, Greece and Bulgaria
Source: http://www.geert-hofstede.com

As we can see from this two diagrams, Romania, Bulgaria and Greece register close values. A conclusion from Hofstede's theory with be that countries showing close values for the five dimension will tend to have similar economic and social developments.

Eduard T. Hall, American anthropologist has studied cultures according to the degree of background knowledge necessary in order to understand them. He distinguishes between low context cultures like the USA, where everything is up front and people "say what they mean and mean what they say" and high context cultures like China or Japan where many things are left unsaid, letting the culture explain. In a high-context culture, there are many contextual elements that help people to understand the rules. As a result, much is taken for granted. This can be very confusing for person who does not understand the 'unwritten rules' of the culture. High context cultures also tend to be less territorial. People with lower territoriality have less ownership of space and boundaries are less important to them. They will share territory and ownership with little thought. In a low-context culture, very little is taken for granted. Whilst this means that more explanation is needed, it also means there is less chance of misunderstanding particularly when visitors are present. Low context cultures also tend to be territorial. Some people are more territorial than others with greater concern for ownership. They seek to mark out the areas which are theirs and perhaps having boundary wars with neighbors. At national level, many wars have been fought over boundaries. Territoriality also extends to anything that is 'mine' and ownership concerns extend to material things. Security thus becomes a subject of great concern for people with a high need for ownership.

Concluding from these two theories we may say that similar countries will have similar approaches to ethics.

In literature (Moilanen, 2007: 3-7) ethical behavior is defined by eight general core values as recognized by official EU documents which are the main features of an Ethics Framework for the public sector:

- principle of the rule of law;
- impartiality / objectivity;
- reliability / transparency;
- duty of care;
- courtesy;
- willingness to help in a respectful manner;
- professionalism / accountability.

Molainen has also studied the corrective means to ensure the enforcement of ethical behavior within all EU member states. From his study, a similarity of means emerges, what the three countries mentioned above (Romania, Bulgaria and Greece) are concerned. These means range from disciplinary measures to Confidential Integrity Counseling. For all three countries, emphasis is put on punitive measures. However, it must be said, that punitive measures are emphasized in all EU member states. The similarity mentioned above, refers to the weak usage of non-punitive measures in these countries.

A separate study has identified the main problems in implementing ethical guidelines. The following aspects have been identified to be most affecting the implementation process:

- Ethical conduct acts as a limit on civil servants' actions rather than as a factor in stimulating public servants' action;
- Codes of ethics come to complete legal regulations, infringements to these not necessarily putting the offender on the "wrong side" of the law, therefore it is OK to break them;
- Accepting material stimuli;
- Strong hierarchical structures, with little involvement on the execution levels.

Also, discrimination has been identified to infringe on the implementation process. This however is a phenomenon much more restrained, than the others.

3. Audit – between ethics and performance of public sector

As remedy for the phenomenon mentioned above and its causes we can take the internal audit into consideration, which can generate reports about infringements of the public servant at all hierarchical levels to the ethical and deontological norms of conduit.

Ethics are directly and indirectly responsible for public sector performance. Friedberg, 2002 takes example in the verdict of the Israeli Supreme Court which establishes a direct link between integrity and performance. In this regard, the High Court of Justice of The State of Israel had ruled: *„The political appointment is a breach of trust of the executive branch against the public. It can influence the public's confidence in the public service; it influences the equality of rights; it influences the professional standards of public officials, who are not demanded to prove, by tender, that they are the best. It can bring about a phenomenon characterized by preferring connections to qualifications; and politics in its narrow meaning turns out to be the major factor in the appointment. It can lead to the false organizing of a system, enabling the absorption of close political 'relatives' to speed up their advancement and to create unneeded jobs. It can corrupt the public moral integrity, unbalancing the stability and decreasing professionalism. It can harm the public servant's morale, influence the quality of the public service and hurt its image. In conclusion, the political appointment harms the basic principles of our judiciary system, our concept of values, our understanding of the essence of public service and of the social covenant, which is without a doubt the basis of our existence as human society." (*High Court of Justice 145/98*).*

Also, starting from Molainen we can determine an indirect relationship between ethics and public sector performance. The eight dimensions mentioned above are also part of a criteria system for the quality of public service. Public service is fundamentally meant to serve society, ethics being an essential part of the public quality system. What the relationship between quality and performance in the public sector is concerned numerous studies having carried out, for example Pollitt and Bouckaert, (2004: 106), search for the institutional definition of this relationship in different EU countries.

Since internal public audit is required to measure and ensure public sector performance it is only obvious that it should also approach ethics. Having concluded that the enforcement of ethical conduct at European standards is sometimes impaired by national and regional cultural values and traditions, the necessity of a stricter enforcement of the public servants ethical behavior arises.

There are seven criteria which define the moral conduit of a public servant and a manager as well (Profiroiu and Parlagi, 1999: 18-20):

- Probity, meaning the correctness of the public servant/manager in fulfilling his duties;
- Dignity: under a material aspect, the public servant/manager is being paid to fulfill his function, and under a moral aspect, the servant has necessary authority, and is denied the right to degrade himself or his function;
- Interdiction of cumulus: the public servant may not have contrary interests to the administration he serves;
- Impartiality: for some public servants, like magistrates, policemen or military it is not permitted to be members of political parties;
- Subordination: public servants have the obligation to obey orders and instructions received from hierarchical superiors;
- Fidelity: the public servant must fulfill his duties to and for the interest of the Institution that employs him;
- Respect towards the function: the public servant must not surpass his function.

Even though the problem of the moral conduit it regulated by the Code of Ethics and The Statute of The Public Servant, we are confronted almost on a daily basis with infringements to these codes. The guarantor of ethics should be the management of the public institution itself, but it is exactly here where we find a conflict of interests: the manager is subject to the same infringements as the public servants. The need for an „independent external control" of the moral aspects of the public service is under these circumstances obvious, and enters the field of the internal public audit.

The main issues which appear in the case of the Public Internal Audit are the following three:

- What kind of audit should we consider for the issues of ethics?
- How can we guarantee the authority of the internal audit in front of the manager of the public institution?
- What are the limitations of the internal public audit?

At a first glance, the answer to the first question is obvious: the best suited audit to evaluate ethics within public institutions is the performance audit (Ghita and Popescu, 2006: 101). Still, we have to ask, what are the role of the other two types of audit (regularity and system audit) in fighting infringements? In this regard we will raise the following question: how does nepotism affect the image of public institutions and their efficiency, efficacy and economic aspects?

Answers like the one of the High Court of Justice of the State of Israel are to be given in each case of infringement of the moral and professional rules of conduit. That is why, every type of audit can give information about infringements or can foresee situations where the public servant/manager can be tempted to break these rules. The audit as a whole has a regulating role within any entity and having to ensure the adaptability of the institution to every situation and the weight of each of the three audit types in solving morality issues depends on the problem itself, yet has to obey the same Three "E" Principle.

What the authority of the public auditor in front of the management of the public institution is concerned, the problem is a bit more complicated. Nobody can deny the necessity of exerting authority over the object of audit. We are talking about the object of audit and not the subject of audit, because the audit is by nature an objective and not a subjective activity (*Law 672/2002;* regarding the internal public audit). That is why a audit repost makes reference only to institutions and not to persons. It often so happens that the manager mistakes the object of audit with the subject, giving birth to unnecessary conflicts sprung out of personal vanities or fears of any nature. Thus the problem has two different aspects:

- A psychological one, referring to the auditors personality;
- An institutional one, referring to the subordination relationship of the auditor to the manager.

The main issue in determining the field of interest of the auditor concerning the manager's behavioral study is determining those actions of facts that represent or will lead in the future to infringements to conduit rules of the public administration. Here we must take out of differentiate socially immoral or amoral behaviors from legally unethical behaviors, because it is not the duty of an auditor to examine morality aspects of the character of public servants/managers but the conformity of actions, decisions procedures and systems to ensure the objectivity of undertaken analysis and of the reported conclusions. On the other hand, when we spoke earlier about the moral behavior of the auditor as guarantor of his authority we meant the professional and the moral behavior as well. These issues play an important role in the quality of the audit.

Jaques Renard (Renard, 2002: 42-45) clearly distinguishes between the audit of management and management audit, meaning that the audit must not question the decisions of the public management nor mus he intervene in either way in the decision making process, but he must analyze the decisions, procedures and methods and evaluate risks ant consequences and to point them out to the management. The role au audit what ethics are concerned relies thus in determining infringements to deontological norms, where such infringements have already taken place, and determining facts and decisions that could in the future lead to such infringements, and in bringing them and their consequences to the attention of the public management.

4. Conclusions

Ethic behavior is a matter of general guidelines and personal perception as well. While general guidelines are established at a level so high that they cross cultural boundaries personal perception is influenced be a number of very different factors and in this regard uncontrollable. The enforcement of ethical guidelines must there for take into account cultural aspects. Also, it must find ways to overcome traditions that stand in opposition to general accepted ethical rules.

Internal public audit has the means to discover infringements to ethical conduct and to make propositions to the management of public institutions on how such infringements can be eliminated in the future. In order to do this, public institutions depend on the experience, knowhow and moral integrity of the internal public auditor. It is in this authors opinion that the auditor must know very well the mechanisms that work within the public institution, and furthermore to ensure that the management understands itself these mechanisms and that his actions are compliant to these mechanisms but also with the ethical norms that rule his activity.

There is no general recipe for enforcing ethical conduct among public servant. Enforcement of ethical guidelines is sometimes a matter of a personal approach and solutions to this problem are most often institutional related and sometimes even personal.

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www.geert-hofstede.com

V.5. THE PRINCIPLE OF EFFICIENCY AND PUBLIC ADMINISTRATION REFORM. CASE STUDY: ORGANIZATIONAL CHANGE

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Abstract

The evolution and development of institutions mean several changes with different intensities; either they adapt to the changes in the environment, either they exploit certain opportunities. In order to survive to the accelerated pace of change specific for the modern society, the public institutions should find new forms of organization, more flexible, aiming to respond to the new priorities or to improve their activity. Romania is facing a process of change, where all the economic, social, political, civic elements have recorded a new dynamics, attempting to adapt to the current conditions. The process of change in public administration gained new dimensions in the last years. Romania and Bulgaria joined the EU on January 1, 2007. During the accession process and also after integration, public institutions in Romanian and Bulgaria suffered a series of changes.The paper aims to analyze, the efficiency and effectiveness of organizational change of public institutions in the context of public administration reform, in general, and in particular the changes determined by Romania and Bulgaria integration in the European Union. Analyze of efficiency of this change is important because the measures taken by public institutions in Romania and Bulgaria are similar to those taken in the process of Europeanization of ministries across the EU.

***Keywords**:* efficiency, reform, organizational change, public institution

1. Introduction

1.1 Context

Romania's diplomatic relations with the European Union go back to the 90s, when in 1991, after going back to democracy, an agreement of Trade and Cooperation was signed. Diplomatic relations between the EU and Bulgaria were first established in 1988. A Trade and Cooperation Agreement were signed in May 1990.

Bulgaria and Romania have asked to become members of the European Community in 1995 and both states began the adherence negotiations in February 2000. The negotiations ended successfully in December 2004, and the Adherence Treaty was signed in April 2005. Romania and Bulgaria joined the EU on January 1, 2007.

During the negotiation period, Romania and Bulgaria had to establish the public institutions and proper administrative procedures that would allow it to fulfil the population's needs, and also the responsibilities for the implementation of the acquis communautaire, because we were asking and still are asking these questions: Does the European integration need organizational changes of the public institutions or can EU be simply integrated into the existing structures? How should the public institutions be adapted? Is there a need for profound organizational changes?

Due to a lack of clarity with regard to the best way to respond to EU's challenges, the majority of the Europeanization activities in the national public institutions has been characterised by an experimental approach (Schout, 2004:5).

1.2 The study's objectives and the research question

The paper aims to analyze, the efficiency and effectiveness of organizational change of public institutions in the context of public administration reform, in general, and in particular the changes determined by Romania and Bulgaria integration in the European Union.

The paper aims to answer of the following questions:

- Which have been the measures of organizational change in the context of Romania and Bulgaria integration into the EU?
- How efficient were these measures in the context of their imposing from outside of the institution?

1.3 Research methodology:

- bibliographic research sources;
- qualitative research:
- direct observation and analysis of legislation, documents and official reports of the public institution analyzed
- analysis of socio-political context

2. The principle of efficiency and public administration reform

The modern type administration, to which Romania and Bulgaria aspire, is governed by certain clear principles which have to be part of the public institutions, administrative procedures at all levels and which must be incorporated in all normative acts which state the domain of public administration.

The principles of administration, common to all of the states in the European Community are the following: trust and predictability, disclosure and transparency, responsibility, efficiency and effectiveness.

The public administration reform in Romania and Bulgaria intends to fully apply these principles in public administration.

An important goal of this reform for both states was and still is to have an efficient public administration.

Efficiency is characterized as a value which consists in maintaining a proper balance between the resources that are used and the results that are obtained (SIGMA PAPERS: No. 27:13).

The administrative activities must follow well-stated goals and results and they must reduce costs in order to correspond to the results. The rationalization of administrative procedures, the generalisation of using the single-booth system, the streamlining of the relation between the central and local public administrations, the creation of an integrated informational system of public administration are a few of the measures needed to fulfil this goal.

In other words, the efficiency of the public administration's activity (Costea, 2000:57) is determined by: the quality of the administrative action, the competences, work capacities and proper execution of tasks, the authorities' capacity to complete tasks in due time.

Also, the law of public administration refers frequently to economy, efficiency, effectiveness (these being known as the three "E"-s) and respecting the law, as if they were the principles that must rule public administration, the decisions and activities of public employees.

Many specialists (Druker, 2001:147) consider that we cannot talk of efficiency without effectiveness because "there is much more important to proper accomplish what you want- effectiveness - than to proper accomplish something else - efficiency."

In public organizations, efficiency started to be measured by the degree in which the citizens are served, by considering the citizen the client that must correct all the actions of the organization.

In this regard, we will analyse the institutional reform in Romania and Bulgaria that was performed in the accession process to the European Union. Furthermore, in the case study we will study the organisational change and its efficiency in the Labour Ministry in both countries.

2.1 Public administration reform in Romania

Generically speaking, since the decade of 1990s, public administration has represented the object of profound processes of reform and redefinition, determining structural, procedural, administrative and sometimes cultural changes. With a relative stable structure, a centralized system, quantity-oriented and less interested by quality, in the beginning of 1990s, Romanian and Bulgarian public administration has started to show its weaknesses, the reform becoming a genuine need (Matei, 2007).

The new dimension of public administration, citizen-reoriented, responsive to its needs, is subject to reforms and continuous adaptation, in order to be efficient, effective and transparent (Matei, 2007). Those values should be found in administrative institutions and processes at all levels.

If in the year 2001, a major priority for Romania's Government was to establish a real reform through which public administration could position itself at a level of European standards and have as main characteristics transparency, predictability, responsibility, adaptability and effectiveness, using as a means of finalizing the Strategy concerning the Acceleration of the Public Administration Reform, in the year 2004, it became clear that the results that had been obtained until then were not satisfactory. The European Committee established three domains in which significant progress had to be made: public service, decentralization and de-bunching of public services and the process of formulating public policies.

According to the Government's strategy for accelerating public administration reform, 2001 – 2004 the objectives of the administrative reform was: the in depth restructuring of central and local public administration; essential change in the rapport between administration and citizens; decentralization of public services and the consolidation of local administrative and financial autonomy; depoliticizing public administrative structures and eliminating political clientelism; increasing the coherence of the administrative act; harmonization of the legislative framework with European Union regulations. The public function reform aimed at creating a professional body of civil servants, stable and neutral from a political point of view, by implementing a unitary and coherent legislative framework through the involvement of ministries and other governmental organisms.

The improvement of the formulation process for the public policies was done through the creation of systems of coordination and through the improvement of the managerial capacity of governmental structures.

Before Romania's European Union integration, an important role was attributed to realizing an adequate legislative framework for implementing the legislation which would sustain the reform process. Thus, the following Laws were implemented: the Law on Status of civil servants no.188/1999; the Law regarding ministerial responsibility no.115/1999**;** the Law for decisional transparency in public administration no. 52/2003**;** the Law no. 161/2003 regarding certain measures for ensuring transparency in the exercise of public titles, functions and, in the business environment, the prevention and sanctioning of corruption; the Local public administration Law no. 215/2001; the Framework Law of decentralization, nr. 195/2006, etc.

After Romania's EU integration, in December 2008, the Government of Romania adopted the Governing Programme for 2009-2012, stipulating in Chapter 22 - *Public administration reform* - the following objectives: profound restructuring of central and local government, aiming to achieve an efficient organisational model for the administrative structures, reducing the public expenditure; reducing bureaucracy and making the public services efficient; developing and implementing a system of recruitment, evaluation and promotion, based on merit and competence in the civil service, aimed to increase the civil servants' efficiency in providing public services; etc.

2.2 Public administration reform in Bulgaria

The public administration reform aims to establish a modern legal framework of administrative activities and public services. There are two basic documents that define the Government's intention to restructure the public administration apparatus in Bulgaria. In its Program of the Government of the Republic of Bulgaria, 1997-2001 (Section II. Institutional Building of Democratic Bulgaria), the Government defines the administrative and institutional reform as an important priority and acknowledges that "the road to the democratization of the society goes through democratization of the institutions and enhancing of their effectiveness". The program presents the Government's strong commitment to a complete reform in state administration in line with constitutional regulations and contemporary EU requirements.

In March 1998, Bulgaria developed a National Program for the Adoption of the Acquis in reaction to the complex process of accession.

In pursuance of the Strategy for Building a Modern Administrative System of the Republic of Bulgaria as adopted with Decision No. 36/1998 of the Council of Ministers, most of its objectives have already been attained, i.e. there have been adopted the Law on the Public Administration, the Law on the Civil Service, the Law on Public Procurement, the Law on Administrative Services to Individuals and Legal Entities, the Law on the Access to Public Information and the relevant secondary legislation regulating the status of civil servants and the overall structure of the public administration. The Code of Conduct of Civil Servants has been adopted with the definition of the ethical rules for the conduct of civil servants. Also, an Administrative Procedure Code was adopted in 2006 and a Law on e-Government was adopted at the end of May 2007.

In Bulgaria, the reforms in public administration focus on the application of contemporary models and techniques for governing that potential of the employees, on creating anti-corruption environment with clear control rules, encouragement and motivation of the employees for disclosure and prevention of conflict of interests. Key element of the effective and modern policy in the area of the human resources in the administration is the improvement of the system for permanent development of employees' competencies, professional skills and qualification (Shivergueva, 2009:47).

The administration cannot function effectively without a clear vision on the institutional building of the administrative structures. At this stage the main priority of the reform in the administration is its optimisation at central, regional and municipal levels through modernisation and organisational development. The creation of new administrations, the restructuring of existing ones, the closing down of ineffective structures and units, their optimisation, as well as their organisational development are not aimed at achieving a larger, but a better organized, more effective and politically neutral administration (Shivergueva, 2009:10).

Reorganisations of the Government were made in both states in view of simplifying and increasing the efficiency of the decisional process. The reorganizations were concerned with: increasing the efficiency of the governmental act, changing the area of activity of certain Ministries and reducing the number of governmental departments, passing some of the governmental departments under the subordination of Ministries, creating new Ministries to respond to the priorities of economical revival and preparations for the accession to the European Union, the incorporation of some of the governmental departments proved as inefficient in Ministries, creating offices inside the organisational structure of the Ministries, ran by state secretaries, and oriented to European integration and foreign relations and an important decrease in the number of persons with leading positions in the public central administration. Furthermore, steps have been made to the creation, organisation/reorganisation and functioning of Ministries, special departments of the central public administration. The process of reorganization continued and took place inside some of the Ministries in order to increase the effectiveness of activity.

Table 1: below presents the values for the aggregate governance indicators for Romania and Bulgaria.

Table 1

Governance indicators over the period 1996 -2009

	Accountability (%)	Political stability (%)	Government effectiveness (%)	Regulatory quality (%)	Rule of law (%)	Control of corruption (%)
Romania	61.5	50.0	53.6	62.0	50.5	53.4
Bulgaria	65.4	57.2	60.2	66.3	50.0	57.3

Source: The Worldwide Governance Indicators, http://info.worldbank.org/governance/wgi/index.asp

As Table 1 shows, there are sharp improvements in governance in Romania and Bulgaria, but the overall quality of governance has not been improved much over the past decade.

3. The impact of joining the European Union on the organizational structures of public institutions. Romania and Bulgaria's case

The public institutions analyzed in the research are the Ministry of Labour, Family and Social Protection from Romania and the Ministry of Labour and Public Policy from Bulgaria. These two ministries are specialized bodies of central public administration, with juridical personality, in the suborder of the Government. The structure of the ministries in question has changed a lot in time, and its analysis entails presenting it in an evolution framework. In the analysis that was carried out I will observe and compare the evolution of organizational structures for the two institutions between 1990 – 2010.

3.1 The evolution of the ministries' missions and general objectives

When analysing both the mission and the general objectives of the ministries for the 1990 – 2010 period we notice that they have not substantially changed, as it can be seen from Table 2 for the Ministry of Labour, Family and Social Protection from Romania and Table 3 for the Ministry of Labour and Public Policy from Bulgaria:

Table 2

The evolution of the mission and general objectives of the Ministry of Labour, Family and Social Protection between 1990 and 2010 from Romania

No.	Year	Name	Mission	General objectives
1.	1990 - 1991	Ministry of Labour and Social Protection	Applies the strategy and program of the Romanian Government in the labour and social protection domain.	Ensures the unitary application of work legislation and social protection coordinates the activities of the Government and supports the NGO's oriented towards enhancing the quality of living. For the population.
2.	1992 - 1993	Ministry of Labour and Social Protection	Applies the development strategy and the economic policy of the Romanian Government in the labour and social protection domain.	Studies the way in which the labour legislation answers the demands of a transition period towards a market economy, makes proposals for perfecting methods for the Government, ensures the unitary application of labour legislation and social protection, coordinates activities regarding labour and social protection from governmental institutions and NGO's
3.	1994 - 2000	Ministry of Labour and Social Protection	Ensures and coordinates the application of the Government's strategy in the labour and social protection domain	Controls the unitary application of legal dispositions in its domain of activity and coordinates activities regarding labour and social protection of governmental institutions and NGO's
4.	2001 - 2003	Ministry of Labour and Social Solidarity	Ensures and coordinates the application of the strategies and policies of the Romanian Government in the labour and social protection and solidarity domain.	Controls the unitary application of legal dispositions in its domain of activity and coordinates activities regarding labour and social protection of governmental institutions and NGO's.
5.	2004 - 2006	Ministry of Labour, Social Solidarity and Family	Ensures and coordinates the application of the strategies and policies of the Government in the labour, social solidarity, social protection and family domain.	Ensures the elaboration of a normative and institutional framework necessary its domain, coordinates the activities regarding labour and social protection of governmental institutions and NGO's.
6.	2007 - 2008	Ministry of Labour, Family and Equal Opportunities	Ensures and coordinates the application of strategies and policies of the Government in the labour, family, chance equality and social protection domain.	Elaborates programs in the labour, social protection and security domain, coordinates activities regarding labour and social protection and controls the unitary application and the correct following if the legal regulations in its domain.
7.	2009 - 2010	Ministry of Labour, Family and Social Protection	Ensures and coordinates the application of strategies and policies of the Government in the labour, family and social protection domain.	Elaborates programs in the labour, social protection and security domain, coordinates activities regarding labour and social protection and controls the unitary application and the correct following if the legal regulations in its domain.

Table 3
The evolution of the mission and general objectives of the Ministry of Labour and Public Policy from Bulgaria

No.	Year	Name	Mission	General objectives
1.	1990 - 1991	Ministry of Employment and Social Welfare	Applies the strategy and program of the Bulgarian Government in the employment and social welfare domain.	Ensures the unitary application of employment and social welfare
2.	1992 - 1997	Ministry of Labour and Social Welfare	Applies the development strategy and the economic policy of the Bulgarian Government in the labour and social welfare domain.	Ensures the elaboration of a normative and institutional framework necessary its domain, coordinates the activities regarding labour and social welfare domain of governmental institutions and NGO's.
3.	1998 - 2011	Ministry of Labour and Social Policy	Ensures and coordinates the application of the Government's strategy in the labour and social policy domain.	Elaborates programs in the labour, social policy domain, coordinates activities regarding labour and social policy and controls the unitary application and the correct following if the legal regulations in its domain.

The modifications of the general objectives consisted of diversifying in terms of fields when the ministries were reorganising and were implicitly changing its name, which happened very often in Romania (five times), and not so often in Bulgaria (three times).

3.2 The organizational structure of the Ministry of Labour, Family and Social Protection from Romania and Ministry of Labour and Public Policy from Bulgaria before EU accession

Following the qualitative and quantitative analysis of the organizational chart of the ministries, with the organizational structures of these ministries before EU accession, we can observe that their organizational structure comprises departments, general directorates, directorates, services, offices and units.

By analyzing the evolution of the organizational structures of the ministries, one can notice major changes in their shape regarding the number of hierarchic levels as well as the number of civil servants, because there have been constant increases and decreases in their numbers.

Trying to identify the factors that determined the structural changes, I discovered internal factors like staff fluctuations, strikes, decision-making processes, interpersonal relations, leadership and management style, as well as external change factors. As external factors, besides the political factor and the economic crisis, another important factor of change in the organization of the ministries was integration in the EU, with a consequence of adapting the labour and social protection system on the other hand to the European standards.

It is from this perspective that I have analyzed the organizational structure of the ministries in Romania and Bulgaria in the pre-integration and post-integration EU phase.

3.2.1 Ministry of Labour, Family and Social Protection from Romania

As part of the organizational structure of the Ministry of Labour, Family, Social Protection, immediately after the transition from the communist regime, in 1991 there was a service that dealt with international relations in the domain of labour and social protection and it was called Service for International Relations and Documentation. This service was transformed in 1994 in the Directorate for International relations and until the year 1999 it functioned as a sole subdivision that dealt with international relations of the ministry in the domain of labour and social protection. From the year 1999, in parallel with this Directorate, the General Directorate for European Integration was founded, its role being that of ensuring the implementation and monitoring of the European integration objectives, and the Directorate for Programs for occupying the Labour Force Abroad. Besides these, the Directorate for Management of Projects with External Financing is established. Starting with the year 2001, these subdivisions are reorganized and the Directorate for Legislative Harmonization with

the European Legislation, having as main objective the ensuring of harmonization with EU regulations of the legislative framework from the domain of labour and social protection. In the month of June, 2003, this is dissolved and the Directorate for European Integration is re-established, the Directorate for Coordinating Non-refundable Financial Assistance from the European Union and the International Relations Directorate, and in the month of December, the same year, these are reorganized and the Directorate for Negotiations of Integration and Adopting the Acquis Communitaire. The Unit for Coordinating the Pre-integration Assistance and the Directorate for External Relations and International Organizations. Moreover, the Directorate Sector Operational Program for Human Resources Development is founded, together with the Agency for Implementing PHARE and the Control Unit for Community Funds. In 2005 the function of State secretary for European Business and Foreign Affairs is founded as well as the one of Chief Mission of the Social European Fund, in 2006.

3.2.2 Ministry of Labour and Public Policy from Bulgaria

If in the year 1991 the organizational chart of the Ministry of Labour and Public Policy from Bulgaria had new subdivisions in its organization to confirm its international relations, implicitly those with the EU, in the 1992 the International Relations Directorate is founded and in the year 1996 the Integration and International Relations Directorate appears. Besides these, new Organizational Structures for the Realization of European Cooperation Programs and in 1997 the Pre-accession Funds and International Programmes and Projects Directorate appear. These subdivisions have changed their names throughout the years and have diversified. Starting with the year 2001, Legislative Harmonization Directorate with the European Legislation appear, having as main objective the ensuring of harmonization with EU regulations of the legislative framework from the domain of labour and social protection. In 2003, Integration and International Relations Directorate is dissolved and the Negotiations of European Integration Unit and the International Relations Unit appear.

One can observe the fact that before the 1st of January, 2007, there have been structures present in the organizational charts of the Ministry of Labour, their purpose being that of preparing the alignment of the labour and social protection domain to the requests of Romania and Bulgaria's integration in the EU. The lack of stability of these subdivisions was a weakness of the ministries in this preparation process, and it came as a result of the political factor that made them change often, never letting them finish their mission, which was later taken over by other subdivisions.

Conclusions

After analysis the changes, in his first phases, change was chaotic because of the frail democratic system, the legislative lack of legislative acts, the authority crisis of public institutions, the disorder of economic life and the voluntarism of executive decisions represented threats to the transition to the European Union.

After analyzing the structures of the ministries above, I have identified the fact that change as a political process is dominant (the entire political class had Romania and Bulgaria's Integration in the EU as an objective, and as a result, all the other changes derive from the political will), tightly linked with change as a process of searching for efficiency.

After the political class (no matter which Government was governing) defined the primordial objective as being Romania and Bulgaria's integration in the EU, we could identify in the studied ministries the following phases of change: 1. Creation of the Departments for Reforms and for European Integration which had as main objective maintaining the close ties with EU institutions. Ensuring the harmonization with EU regulations of the legislative framework in their domain of activity etc., followed by the implementation of changes regarding the integration and monitoring the results of the changes to identify potential improvements and 2. After reaching the initial objective, these departments were dissolved either by merging them with others or by reorganizing (changing the initial objectives and missions).

Organisational change of the Ministries is, first of all, a consequence of the consideration on efficiency and it regards the disparity of intents among the different departments, decreasing the costs by reorganising the departments, increasing the efficiency of activities and the quality of the administrative act, the perfectioning of the personnel, the fulfilling of the established goal, to line up with the European Union's standards, to amend the process of establishing the public policies.

I consider that it would be much more efficient for the Ministries to conceive a plan to approach the activities of Europeanization, that is, if the change imposes itself from the interior.

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V.6. APPROPRIATENESS OF THE TRANSFER OF CSR PRACTICES IN THE BALKAN AREA

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Abstract

The Europe two speeds is a reality that makes its presence felt, especially in the newly acceded countries. Although four years have passed since the last wave of accessions, we still speak about new EU countries, without taking into account the actual age but present discrepancies between member countries member for decades, and new wave countries. The financial crisis had its clear contribution to the slowdown the development, moreover, has pushed the system into reform, because of the new financial requirements. Having theses in mind, we can say that there is a need for "completion" of what the public sector can not do. In support of measures and policies of the state, the importation of practices from the private sector is emerging as a better course of action. CSR policies have recognized the potential to reinforce the symbiotic relationship between business and society, already showing tangible results in areas such as sustainable development, education and social cohesion. The role that CSR practices may play in the development of the Balkan area may include support for a better dialogue between the State, public authorities, social partners and civil society, better jobs, safer work environments and more open to employees, innovation and technology transfer to local communities, etc.

Finally, the research objective will be the identification of levers and potential niche markets in the Balkans that the public sector may use and take advantage of using CSR practices.

Keywords: Corporate Social Responsibility, Balkan Area, Actors

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1. Introduction

Considerably more and more, CSR is regarded as a key factor of competitiveness in business and sustainable economical growth. The European Commission has admitted for a while the potential of positive contribution that can be obtained by implication in CSR like activities. Starting with the Green Paper concerning "Promoting a European framework for social responsibility of enterprises", in 2011, EU has issued a paper admitting the importance of CSR commitment in sustainable developing of European economies and promotes intensely engagement of CSR in all layers of European business. EU member states have also been active in exploring CSR at an international level. In 2007 and 2008, G8 has highlighted their support of CSR, especially the expectations they have for the business community at global level to assume the international standards. In the context of sustainable development, government has concluded at the UN 2002 regarding sustainable development that there is a need "to increase the social and environmental responsibility". Governs noted that this would include actions at all level to "encourage industry to enhance social and environmental performance through voluntary initiatives, including environment management systems, ethic codes, certification

and reporting on social and environmental issues" (World summit on sustainable development, 2002:18).

As in other transition countries of the region, the history of CSR in the Balkans is relative recent. All the Balkan countries aim at entering the EU, thus governs have been willing to align their public politics to the European standards. The first initiatives connected to CSR – in the sense given by the EU – have been launched in the Balkan countries in this decade by developing partners and some multinational corporations. Despite these, most often, the programs focused on specific aspect of CSR or on segments of the society/business sector and were not capable to create debate on the agenda of CSR or to generate large scale changes.

In the socialist period, some aspects of CSR, especially in the area of social protection and benefits for employees, have existed trough projects lead by the state. Being social responsible for their employees, giving money to the local community, according to laws and rules, all these have been a part of state culture. Yet, in present times, the modern notion of corporative engagement and CSR, accepted at international level is still a new concept in the region. All the nations have had some initiatives to lead to integration in the EU so their wish to adopt the values and standards of Europe that rule over business sector and public sector. One of the recent policies of the EU is ferm on promoting the ongoing of responsible business and the engagement in social and environmental projects. The adoption of CSR standers and practices is, thus, seen as an important part of the preparing for integration. In this context, international organizations, governs and multinational corporations have been the first ones to introduce CSR in the region.

In this demarche, we will analyze the way though which CSR can be implemented not only by companies but by the public sector in the Balkan area. For this, the main actors of the public sector that can have contribution in this matter were identified and furthermore, concrete ways of realizing CSR engagement have been found for each one.

2. Definition of CSR

In the last decades, the debate on a proper relation between society and business has focused on the concept of Corporate Social Responsibility.

According to The Oxford Handbook of CSR de Crane et al (2008) only a few managament issues have stured so much controversy and contestations as CSR. Starting from the question David asked „Can bussines afford to ignore their social responsibility", in the 60's and getting to the present when Grant askes „What are the obligations of a companie to the society as a hole?", we find the constant issues of debate over this concept.

Asking and combining the results to these two questions we get to the general usses of CSR „to considerate and evaluate the effects of bussines on sosicety, beyond the traditional role to go after profit" (Crane et al, 2008:569).

Mentions of CSR, as we understand it today, can be identified going back to the beggining of the 50's, talking about bussines man responsibility. In this matter CSR had a great recognision. Over the 60's, the concept developed, leading to the 70's when it proliferated. In this period, literature offers highlights and tinting of the concept, like „corporate social response" or „corporate social performance". A segnificant number of reasearch have been conducted in the 80's and the 90's bring a segnificant transitions on alternative subject like stakeholder theory or bussines ethics.

After the year 2000, CSR has acquired a special importance and there could be seen more ways in which responsibility has thought of (Caroll, 1999). A considerable improvement of theoretical contributios have been noticed through focusing empirical research on CSR componenets like sustainability, bussines ethics and coporate citizenship.

Without doubht, CSR represent a rich field of research, complex aproaches, sometimes not so clear, but constantly controversial (Garigga, Mele, 2004). To review and coherently understand the theories considered to be major for CSR (Garigga, Mele, 2004) we will mention their main aspects in the next table.

Table 1

Major theoryies of CSR

Type of theory	Type of theory	Core idea	Selected key authors
Shareholder value theory	Instrumental theories	The only social responsibility of business is to make profits and to increase the economic value of the firm for its shareholders.	Friedman (1970)
Corporate citizenship	Political theories	The company is perceived as a citizen with certain involvements in the community.	Crane/Matten (2005)
Stakeholder theory	Ethical theories	The purpose of the firm is to coordinate its various stakeholders'5 interests.	Freeman (1984)
Corporate social performance	Integrative theories	Business has also certain responsibilities for social problems created by business or other causes, beyond its legal and economic responsibilities.	Carroll (1979, 1991) Schwartz and Carroll

3. CSR Benefits

When it comes about CSR benefits for a company, very often scholars refer to businesses case. This can be defined as 'a step a project or an initiative investments, that promises a significant return to justify the expenses' (Kurucz et al., 2008:84) and regarding the CSR 'a company can do good by making good: by means, it can be more performant in financial domain, by participating not only to the basic financial activities, but also to its responsibilities to create a better society' (Kurucz et al., 2008:84).

Kurucz identifies 4 main general types of cases in which the business environment applies CSR. In the following, there will be presented the fourths one identified by the author and we will try to extra-pollate the in the public sector:

- the costs and risks reduction: the public sector can reduce its costs and risks related to the loose of specialized personal, the attraction of investors
- competitive advantage: the public sector can obtain advantages similar to the ones in private sector, with a competitive edge worldwide economies strongly emphasized
- reputation and legitimacy: even if we can not mention the lack of legitimacy, the need of reputation increase is significantly, by taking into account the negative image of the public sector in the area
- Creating value synergetic – it can diminish on medium term to long term the influence of stakeholders, especially the ones outside the civil society sphere.

4. Why do we need CSR in the Balkans?

Every country is focused on obtaining competitive advantages in the world economy and on obtaining sustainable development. As globalization progresses, the social, cultural, economical borders between the countries fade, and the national economies and enterprises become competitive on the international market. With many opportunities, the globalization can bring challenges. When economies from less developed countries compete at global level, they risk being less competitive in front of more technical and more financial equipped and expertise businesses. From this point of view, CSR – meaning the integration of social and environmental concerns into businesses operations – can be a critic instrument for obtaining competitive advantages in businesses and in sustainable development.

By contrast, a lack of CSR expertise through enterprises can separate a country's economy from the global supply chain and reduce its viability. Consumers on the world market seek more and more the goods and services belonging to the companies that 'do the right thing' regarding the human rights

and environment. The investors seek for companies that understand and manage the risks and pursue innovative risks to identify the business opportunities. The employees prefer to work for companies that share their values and that can contribute to the society. For Balkan countries that adhere to the CSR principles among local business community it means a necessary step to an increased competitiveness and to a better integration in European context.

5. Non corporate actors of CSR promotion in the Balkans

The involvement in CSR activities by the public sector can be done through non-corporate actors, some of them already involved in such activities. To explore the options of public sector regarding the implementation of such CSR activities, it is necessary to identify the non-corporate actors with potential. The analysis of these actors will exceed the theoretical boundaries and will integrate practical aspects that empirical research in the area has shown. Analiza acetor actori va depăşi graniţele aspectelor teoretice, urmând a integra aspecte practice, pe care cercetarea empirică în zonă le-a relevat

Governs

The role of governments in promoting CSR practices in the region varies. However, there are three important aspects characterizing overall government involvement in CSR-related activities.

a. High expectations from business and civil society.

In the socialist era, governments controlled business activities and provided all social services. The belief persists among the general public and business community that governments should take a leadership role in ensuring social welfare, such as caring about communities, ensuring wellbeing of the poor etc. Consequently, for many businesses, minimum compliance with laws and regulations and providing wages for employees is the only social responsibilities they believe they have.

b. Weak capacity of governments to promote CSR.

Governments do not have solid experience either in promoting good CSR practices and creating a CSR culture or in providing incentives for companies to engage in CSR activities. There is no clear CSR strategy or program implemented by governments in any country that was studied.

c. Different priorities currently perceived and pursued by governments.

Governments of the region are grappling with various issues that they need to prioritize. Completing the privatization process, fighting unemployment and rural poverty as well as ensuring the competitiveness of key sectors of the economy are higher on their agendas than CSR.

As CSR literature demonstrates, government's role in promoting CSR can be classified in four stages.

(I) *Mandating* – governments set up minimum standards and regulations in certain sectors for businesses

To follow;

(II) *Facilitating* – governments create incentives for companies to engage in CSR activities;

(III) *Partnering* – governments implement partnership projects, agendas, and policies with businesses; and

(IV) *Endorsing* – governments profile or support certain successful CSR activities and initiatives to

The wider business community.

The experience of many developed countries suggests that in order to engage businesses in socially responsible practices, government should first start setting rules and standards (mandating) in different fields and industries to ensure that businesses meet certain basic requirements in their operations. At the same time, governments should extend their engagement with business, including by partnering and facilitation, encouraging them to go beyond mandatory requirements.

By facilitating and partnering with business to become socially and environmentally responsible, governments enable the businesses to invest more resources and efforts in local communities, which promote sustainable human development. In doing so, the burden of government responsibility for the welfare of different layers of society can be reduced.

As revealed by the countries in case, government representatives tend to view CSR more as 'meeting international standards' than as 'solving local problems', transparency and/or philanthropy. There is no national program, law or regulation in any of the study countries directly aimed at promoting CSR principles.

However, overall, governments in the region have done most work on the 'Mandating' stage of CSR promotion.

Academia

As the experience of other countries demonstrates, the academic community has the potential to play an

Instrumental role in promoting CSR across different disciplines. Academic institutions are the cradle of

capacity building, windows to the wider world of CSR and culture-specific research. Mainstreaming corporate responsibility into academic and vocational studies curricula is of central importance, as they are contributors to the formation of future entrepreneurs, business leaders, managers and employees.

Academia's role in promoting CSR can vary:

• Higher education institutions can promote CSR, preparing CSR qualified graduates by offering CSR-related courses;

• It can get involved in partnership programs and projects with public, private and civil sectors aiming to promote the CSR agenda through country/culture specific research initiatives, CSR publications, policy formulations etc.; and

• Academia may also offer a number of professional CSR-related courses for business and public authority representatives.

There are a number of educational institutions which provide curricula related to CSR across the Balkans. In some countries academia is actively engaged in CSR development.

Civil society and NGOs

CSOs are traditionally important in bringing new ideas and innovations into society. The experience of other countries has demonstrated that CSOs play a key role in raising awareness, promoting CSR practices, and helping hold government and business accountable for their activities.

CSOs in the region have developed rapidly since the 1990s. There are many NGOs and business associations that run programs and campaigns dealing with CSR areas such as human rights, protecting the environment, etc. However civil society's interest in CSR is relatively new in the region. A comparatively small number of non-profit organizations currently implement specific programs and projects focused on CSR promotion and development. In most cases those projects are funded by international donors and the governments of EU countries. Business involvement in funding such projects in the region is limited.

Civil society is involved in CSR in mainly four different ways:

I. Watch-dog function – Some organizations act as watch dogs by organizing public campaigns to prevent/stop company malpractices covering human rights, environmental protection, consumer rights protection etc.. The potential of CSOs in the region to pursue more assertive tactics to fight against company malpractice is yet to be realized. Limited financial self-sufficiency, dependency on donor money, bad public image reflected by limited ability to influence public opinion creates obstacles for civil society organizations, especially watchdogs to ensure responsiveness and accountability of the private sector. Nevertheless, there are some cases in the region where NGOs created coalitions to prevent environmental pollution or publicly criticized companies and successfully prevented company malpractice.

II. Bringing CSR knowledge into the business community and building business and government capacity in CSR. These activities include promoting CSR among businesses, raising awareness of best practices, organizing conferences and workshops, delivering awards for good CSR attainment, etc.

III. CSOs are also involved in teaching and promoting different practices that may not be described as CSR but fall under its scope. Activities such as protecting human rights, fighting against discrimination towards vulnerable groups, working towards equal income distribution, etc, may not be clearly communicated as actions related to companies' social responsibilities, but nonetheless contribute to making businesses more socially aware and active.

IV. Seeking common ground and building partnerships with businesses. Companies and CSOs can learn from, and work with each other on implementation of joint social responsibility projects. Through

establishing closer cooperation and partnerships, CSOs can exert significant influence on CSR behavior of companies and make them more sensitive towards the needs of communities.

Media

The media has significant potential to shape public opinion, educate people on different issues and have an influence on policy decisions. In many countries, the media has demonstrated that it can be a powerful tool for advancing social responsibility, such as by exposing examples of good/bad practice, and airing different viewpoints.

In general, the media in the region is involved in CSR promotion in three different ways.

(I) Control of company performance. Media is keen to highlight scandals and company malpractice – in most cases, media covers issues that have possible negative consequences to the public such as corporate scandals, criminal cases, and/or polluting activities committed by businesses.

(II) Companies use media exposure to promote their best CSR practice to enhance their reputation and public image. This usually happens through paid (or other mutually beneficial arrangements) advertising, media outlets, TV programs, newspaper articles, etc.

(III) Few media institutions have a specific objective of promoting CSR and educating the public and business community on socially responsible practices. Media that purposefully promote CSR are usually electronic or paper newspapers and magazines specialized in business and economic development.

6. Conclusions

There are a number of non-corporate promoters of CSR in the region. Among them, development partners, NGOs and business associations are considered most active. However, the non-profit organizations' approach to engaging the business community in CSR has not yet reached its potential.

Overall, governments have not fulfilled the expectations of businesses and other actors to provide support

For CSR engagement. Although governments have created the basic regulatory foundations on which CSR can be built, they often lack the capacity to promote and enforce their legislation. CSR activities are usually not coordinated between ministries and/or government institutions. The majority of actors do not see governments as the current key driver of CSR promotion in the region.

As the research shows, governments are not seen as the main drivers of CSR in the region. Companies do not feel that governments are encouraging them to accept and adhere to socially responsible business practices. So the need to seek a better support from the government is crucial.

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V.7. THE FUNDAMENTS OF APPLYING THE CONCEPT OF PUBLIC SERVICE MOTIVATION IN THE SOUTH-EASTERN EUROPEAN STATES

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Abstract

Public Service Motivation (PSM) is a relatively recent concept, defined for the first time in the 1990s in the United States by Perry and Wise as being the general predisposition of an individual to respond to motives, values which are to be encountered only in public institutions. These values, which represent the basis for the construction of PSM are not institutionalized in the same degree and in the same manner everywhere, which creates differences according to the specificity of the region, the state or the organizational environment. European studies regarding PSM have mainly focused on Western Europe: France, The Netherlands, Belgium. For this reason, in this article we aim to analyze the concept of PSM and set the basis for a thorough research in order to make it operational in the countries of South-Eastern Europe: Romania and Bulgaria. Thus, we wish to bring our own contribution to the development of a theoretical and methodological framework for PSM in Romania and in South-Eastern European countries. The objectives of the article focus on: formulating an exhaustive definition of the concept, analysing Perry's measurement scale based on 24 items and the relevance of these items in the above-mentioned countries, adapting/adjusting the measurement scale according to the national/regional specificities of the public service values.

Keywords: PSM, public values, regional differences.

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Introduction

The research in the field of motivation dates as back as 100 years old and is among the widest in the field of social sciences. The most frequent critique brought to the works in the field of motivation is that they generally focus on industrial or business organizations. Others (Shamir, 1991) have criticized the theory of motivation for its individualist basis and its lack of attention towards moral obligation or towards values as embodiments of a desired situation. Individuals are seen as acting in order to maximize their personal, rational interest, which follows the line of the neoclassical paradigm dominating economy and psychology.

Because the models of rational choice can explain and successfully anticipate certain behaviors, but they cannot explain many behaviors we encounter in the public service (Dilulio, 1994), public administration specialists have developed the concept of *public service motivation (PSM)* to explain attitudes such as the spirit of sacrifice, the belief in common good, altruism and, basically, the disinterested behavior of civil servants.

1. The conceptual basis of PSM

The premise for engaging in studying this type of motivation is that the context of motivation in the public organizations is unique (Perry and Porter, 1982 in Rainey, 2003).

- the absence of economic markets for the output of public organizations and the pertaining abundance of incentives and performance indicatives in the public sector;
- multiple, contradictory and most of the times abstract values, which public organizations must follow;
- complex and dynamic processes of public policies, through which the public organizations function, which involve many actors, interests and changing agendas;
- external supervising organisms and processes which impose structures, rules and procedures on public organizations, including the norms of the civil service which regulate remuneration, promotion and discipline and the rules which influence the training and evolution of the personnel.

In public administration, the concept of PSM has various definitions, which are nevertheless consistent with one-another. Wise defines it as: 'an individual's predisposition to answer to several motives/values which they encounter firstly and only in the field of public institutions and organizations.' Rayney and Steinbauer have a more general definition, linking PSM to altruism: 'a general, altruistic motivation to serve the interests of a community, state, nation or of humanity.' This definition is similar to that of Brewer and Selden, who defined the concept as "the motivational force that induces individuals to perform meaningful … public, community, and social service" (1998: 417), emphasizing its behavioral implications and applicability beyond the public sector.

For Europe, a more thorough definition, based on the theory of motivation, appears more relevant: 'public service motivation consists of belief, values and attitudes which surpass the personal interest or that of a singular organization, in order to take into account the interests of a wider political entity and which induce, in a political interaction, the motivation for maintaining a defined conduct.' (Hondeghem and Vandenabeele, 2005).

The first studies in the field have conceptualized PSM in a simple manner, as relating to altruistic values or work-related reward preferences, as the wish to help others, the benefit of the society or the importance of the public service. Thus, the initial research focused mainly on establishing the existence of PSM, showing that people working in the public sector appreciate intrinsic rewards more and extrinsic or financial ones less than their colleagues in the private sector.

Later, Perry and Wise (1990) or Brewer and Selden (2000) elaborated a much more comprehensive conceptualization of PSM with a solid basis in the theory of motivation. The predominant approach in the study of PSM is that of Perry and Wise, who suggest that PSM can be deducted from three types of motives which are to be found primarily and solely in public institutions: emotional motives, normative motives and rational motives.

From a rational point of view, individuals are drawn by public organizations due to their own interest, such as advocating for public policies which promote a specific private interest. From a normative perspective, the reasons are ethical, such as maintaining social equity. From an emotional point of view, we speak about emotional attachments, such as belief on the importance of a program or a service.

Why do we study this concept? Because with its help we can speak about the difference between the rational human nature and that which is directed towards others, about the difference between the individual and the collective rewards systems in organizations etc. Moreover, countless studies have proven that PSM is connected to important professional attitudes and behaviors, such as: work satisfaction, commitment towards the organization, leadership, organizational performance, as well as to extra-organizational attitudes and behaviors, such as: altruism, belief in the state, the idea of being in the service of the citizens or the country, civic and political participation (Taylor, 2008; Vandenabeele et al. 2004).

Steijn (2008) found that the PSM effect on the work satisfaction of the civil servant and over their intent to stay in that position is more powerful when they feel that their work is useful for the society.

2. Measuring PSM

Trying to elaborate a PSM theory, in 1996, Perry developed the only measurement scale known to empirically evaluate the level of commitment the individuals have towards working in the public service (see Table 1).

This measurement scale is composed of four sub-scales: attraction to public policy making, commitment to civic duty and the public interest, compassion and self-sacrifice.

Table 1

Measurement scale of Perry

Dimension	Item
Attraction to policy making	1. Politics is a dirty word.
	2. The give and take of public policy making doesn't appeal to me.
	3. I don't care much for politicians. *
Commitment to public interest	4. It is hard for me to get intensely interested in what is going on in my community.
	5. I unselfishly contribute to my community.
	6. I consider public service my civic duty.
	7. Meaningful public service is very important to me.
	8. I would prefer seeing public officials do what is best for the whole community even if it harmed my interests.
Compassion	9. It is difficult for me to contain my feelings when I see people in distress.
	10. Most social programs are too vital to do without.
	11. I am often reminded by daily events how dependent we are on one another.
	12. I am rarely moved by the plight of the underprivileged.
	13. To me, patriotism includes seeing to the welfare of others.
	14. I have little compassion for people in need who are unwilling to take the first step to help themselves.
	15. There are few public programs that I whole heartedly support.
	16. I seldom think about the welfare of people I don't know personally.
Self-sacrifice	17. Doing well financially is definitely more important to me than doing good deeds.
	18. Much of what I do is for a cause bigger than me.
	19. Serving other citizens would give me a good feeling even if no one paid me for it.
	20. Making a difference in society means more to me than personal achievements.
	21. I think people should give back to society more than they get from it.
	22. I am prepared to make enormous sacrifices for the good of society.
	23. I am one of those rare people who would risk personal loss to help someone else.
	24. I believe in putting duty before self.

Source*:* Adapted from Perry, 1996, p.10

Although Perry's scale can be applied as such in the United States, the European authors discovered that public values, which constituted the basis of PSM are not the same all over the world and they highlighted some specificities in the application of the Perry's 24 items scale (Vandenabeele, 2008):

- *Factors variation:* The existent comparative literature on four West-European countries: France, the Netherlands, Germany and Great Britain shows us that other dimensions besides those of Perry can be involved in Europe. For example, comparing France with the Netherlands, the following administrative values with motivational potential were outlined: the interest for policies and politics, public interest, compassion, self-sacrifice, religion, the orientation towards the client, technical skills, equality and bureaucratic values. (Hondeghem and Vandenabeele, 2005).

- *Translation aspects*: Certain words can have different connotations despite accurate translations: e.g. self-sacrifice has a more heroic connotation in Europe than in the United States. Moreover, certain words can refer to social contexts present in the USA, but which are by far less applicable in smaller or bigger European states (e.g. community – whereas the American model is centered on community, the European states are focused more on national level). „*When studying public service motivation, we study values that may have different meanings, and public sectors that may look very different across countries, such that similar words reflect very different social realities" (*Rutgers, 2004 in Vandenabeele and Van de Walle, 2007).
- In Perry's model there are four dimensions, but the *public interest* and the *self-sacrifice* dimension are deeply correlated. For this reason, one of them could be redundant. Certain researchers have noticed this and some have used an alternative instrument with only three dimensions (Vandenabeele and Hondeghem, 2004; Vandenabeele and Van de Walle, 2007). Perry's argument for keeping the two dimensions apart is that *self-sacrifice* could be explained through religious involvement and political identification, whereas *public interest* cannot be explained through these tow antecedents.
- Certain researchers opine the scale is too elaborate and long, which makes it difficult to integrate in wide studies. This is why some only use one or a few dimensions or a limited set of items.

3. In search of the universality of PSM

The concept, which originated in the United States, has proven its relevancy in Belgium (Vandenabeele and Hondeghem, 2004), France and the Netherlands (Hondeghem and Vandenabeele, 2005), Germany (Vandenabeele et al., 2006) and Italy (Cerase and Farinella, 2006) as well. As it focuses on values, one can argue that public service motivation is not a universal concept, taking into account the specifications of the areas, states, organizational environment, because values are not institutionalized in the same manner and in the same degree everywhere. Thus, according to specialized literature, the motivations of public service and behavior differ among societies, cultures and nations. The local social norms and unique cultural traditions can have a strong effect on the influences of PSM, on the character and the purpose of the actions determined by PSM and on the commitment of the members of each distinct society towards the behaviors motivated by the public service. Collective or individualistic values have different levels of cultural influence from one society to another. Initial research on how this type of differences can influence PSM was undertaken by Vandenabeele et al. (2006). They discovered that the view on PSM in Great Britain and Germany differs according to nation or region. A study made in 2007 by Vandenabeele and Van de Walle, using data from the International Survey Program, showed that PSM is more or less a universal concept, but its dimensions are not necessarily universal.

Thus, the Canadian concept of 'ethique du bien commun' (Chanlat, 2003 in Vandenabeele and Van de Walle, 2007) or the British 'public service ethos' (Brereton and Temple, 1999 in Vandenabeele and Van de Walle, 2007) can be considered as specific examples of a general public service motivation concept.

In a study on the values and motivations in the French and Dutch public service, the researchers (Hondeghem and Vandenabeele, 2005) have emphasized that the different historical conditions and the political and religious movements within the states have determined a different position of the civil service and different values of public service in the society. In the rich history of France, marked by changes and revolutions, 'the civil service has been the only constant factor to compensate the instability of other factors; even today, it is a continuity factor and has a very powerful position within the society' (Rouban, 2001), as the French civil servants enjoy a privileged status in the society. By comparison, in the Netherlands, where the political regime was more stable, the expansion of the administration determined a fragmentation of the public interest and the civil service. The same study indicates that the French civil servants have a high place within the political institutions, as their role in politics is a source of motivation for them.

3.1. South-Eastern Europe. Regional/national specificities

The 1980s and the beginning of the 1990s were marked by never before seen changes in the political and economical systems of the South-Eastern European states. The transition states faced the need to establish the fundaments for a democratic society: particularly by adopting new constitutions, transferring the power to elected representatives, creating a system of many parties,

setting a favorable and competitive framework for the operators of the free market, encouraging the development of civil society organizations and promoting the independence of the mass media.

As for Bulgaria and Romania, with the adoption of the new Constitution in 1991, began the process of building the new state. Officially—in legislative and juridical terms—Bulgaria and Romania adopted the model of pluralistic democracy and market economy. At the same time these two countries had to face the true challenge of the implementing in practice the new model of state constitution and the transformation of the public relationships.

Despite an increasing interest towards the study of PSM, serious research takes place only in developed countries and, given the differences between cultures, it should be of importance to study the concept in countries with a specific historical background, in the countries of South-Eastern Europe, such as Romania or Bulgaria, which have little experience with a democratic regime, with democratic values that have not fully been integrated in the social culture and life.

The study conducted by Vandenabeele and Van de Walle (2007) which makes a comparative analysis of PSM between the main areas of the globe (38 states out of which 24 European states), taking into account the limitations given by the different perspectives on the concept, by the international variation of the values of public administration and the difficulty of measurement, offers some interesting results. Out of the 10 states which have the lowest general score regarding PSM, 9 are European states, 5 of them being members of the European Union in Central and Eastern Europe: the Czech Republic, Hungary, Bulgaria, Latvia and the Slovak Republic (see Figure 1). The results are similar regarding the dimension of compassion, attraction towards politics and self-sacrifice. The low PSM score of the East-European states can be explained taking into consideration the fact that they have been exposed to a democratic regime for a shorter period of time, following 50 years of communism. Moreover, these states have fully embraced capitalistic values, without compensating elsewhere.

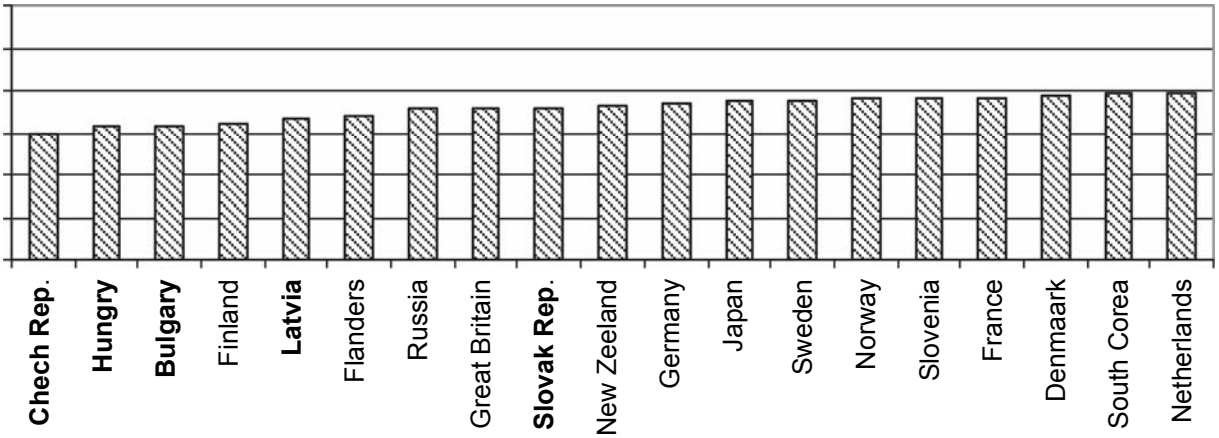

Figure 1. International Differences in Public Service Motivation

Source*:* Adapted from Vandenabeele and Van de Walle, 2007, p.230

For European countries, including for those of South-Eastern Europe, we noticed the existence of other determinants of PSM, such as: religion, equality, technical skills, effectively bureaucratic values or specific values for every country (Hondeghem and Vandenabeele, 2005). Religion has a major impact on the administrative values of a state: in the United States, Gawtrop (Perry, 2007) establishes a connection between the bible and administrative values, and Perry (1990) confirms it indirectly when he states that religious socialization is one of the early forms of PSM.

Romania is an orthodox country, deeply rooted in the traditions and rituals of this religion, which leads us to conclude that, even in the work relations, the ethics focuses on values such as liberation, compliance and compassion. The Orthodox Church of Romania has taken an active participation in building the Romanian nation and, as such, has acquired a privileged place in the state and in the society (Merdjanova and Brodeur, 2009).

86.8% Romanians (according to the 2002 census) and over 82.6% Bulgarians (according to International Religious Freedom Reports 2008) belong to the Orthodox Church and inevitably, the majority position of the Church in the society defines its opinion towards important issues, such as the

relation state-church, religious education in schools, etc. Regardless of the degree of religiousness of its members, the church currently remains the institution with the highest degree of trust from its citizens - according to World Value Survey, in 2006, over 88% Romanians and 60% Bulgarians had great confidence in the Church.

Bureaucratic values: continuity, equality, neutrality, adaptability, centralization, politics seniority. In Romania, these values are the most important principles of the public service. Centralization and politics seniority were added taking into account the characteristics of Weber's bureaucracy, which applies excellently in Romania.

In the same context it is necessary to mention the principles of the civil service (Matei et al. 2010) established both by constitutional aspects and aspects of administrative law (see Table 2), principles that can induce specific values to its representatives.

Table 2

Principles of national civil service

Country	Principles of civil service
Romania	a) legality, impartiality and objectivity; b) transparency; c) efficiency and effectiveness; d) responsibility, in accordance with the laws; e) citizen oriented; f) stability in the exercise of civil service position; g) hierarchical subordination i) effectiveness in public administration
Bulgaria	a) lawfulness, b) loyalty, c) responsibility, d) stability, e) political neutrality f) hierarchical subordination.

Source: Adapted from Matei et al., 2011, p.37

Specific administrative values: disinterest towards money and profit. The financial interest is certainly not a motivation to be attracted to the public service in Romania (Institut for Public Policies, 2004; Matei, 2006). We could also explain it through the secularization of the orthodox ethics.

Conclusion

As we have already noticed, each regime of public services has its unique public values which reflect the beliefs and fundamental ideals of politicians, civil servants and citizens regarding that regime. Given the lack of studies on PSM in South-East European region and the results of the international comparative study presented in this paper, conducted by Vandenabeele and Van de Walle (2007) according to which states from this region would have a low level of PSM, further studies are needed for testing these results.

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Chapter VI
Modernisation of public administration in the context of European integration

VI.1. DIGITAL GOVERNANCE (IN ROMANIAN MUNICIPALITIES). A LONGITUDINAL ASSESSMENT OF MUNICIPAL WEB SITES IN ROMANIA

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Abstract

The present analysis aims to radiograph the status of the official Web sites for all the municipalities in Romania and, together with the data collected from the educational system (I refer here especially to the education in the field of IT&C) to verify if there is a connection between these and the development of eGovernment in Romania. It is understood that the existence of Web platforms very well maintained doesn't imply that they're also used by the citizens or the business society. The new methods of administration don't need only innovative solutions but also "intelligent citizens" (Stoica 2009). It is not only the personnel of public administration that need to benefit from IT&C education, but also those to whom these platforms address (the citizens). For a correct development of a system, whatever that might be, it's actual status must be examined closely first. This is the reason why the test of analyzing it, in its dynamics, starts from a horizontal analysis done with the maximum accuracy possible. The data obtained in this manner can be used to create models optimum for development. In the future, the analysis will transform into a longitudinal one, the interest being in repeating it regularly at equal time intervals (2 years) and to observe the changes that appear and the causes that led to them.

Keywords: Municipalities, education, electronic, governance.

1. Introduction

The computers and the Internet have changed significantly the way in which the citizens can have access to public services. The informational society is more and more present in all the activities of the public sector, including through complex applications of electronic governance.

For the municipalities in Romania electronic governance is a relatively new practice (the first national project on this theme was initiated in the year 2003 - www.e-guvernare.ro) and it includes digital governance (the offering of public services through electronic means) as well as digital democracy (citizen participation at the governance activity); (Holzer & Kim, 2005).

Today, for interacting with the public administration a computer connected to the Internet is usualy enough. Connecting from a browser to the Web page of the institution you look for is enough (generally) for obtaining and sending information to/from the public administration. Scientific literature presents 5 pillars of interaction of the PA with its environment (Pardon 2000; Baltac 2008; Vrabie 2009).

Pillar 1. Displaying information on the Web pages – one-way communication. This is the easiest form of interaction, the posting of information on the official Web page of the institution with the purpose of informing the citizens.

Pillar 2. Two-way communication. Through this method the public administration can collect data from the environment to which it addresses, be it through e-mail or more evolved systems of data transferring using intranets or extranets.

Pillar 3. Financial systems and Web transactions. The Web site available to the public offers the possibility of effectuating the complete public service through, or including, the decision of using the service and the actual supplying of it. For the applicant there is no need for another official procedure through which he must use documents written on paper. This type of government is partially possible through offering access for the citizens and the business environment to on-line databases.

Pillar 4. Vertical integration (inter-department) and horizontal (intra-department) of the public services available on-line. This level of interaction is dependent on the speed with which the synchronization of information is realised for the on-line IT systems to provide in time the data needed by the users.

Pillar 5. Citizen participation to the government activity. In this phase it is promoted the participation through electronic systems like: discussion forums, blogs, electronically voting systems (not necessarily electoral), electronic questioner, or any other method of direct and immediate interaction.

The conceptual frame marked by these 5 pillars is necessary only for the understanding of the evolution of eGovernment. In Romania, in this moment there are 41 districts and 103 municipalities, from which only 96 (93.20%) are present on the Internet in the moment of this study (December 2009 – January 2010). From these, only few of them (we will find in the following pages more detailed information) have a Web site sufficiently developed to allow communication as it is described in the pillars 3, 4 and 5. Practice has showed that there is no lineal evolution and this is a good reason to expect that at the next analysis the number of municipalities that use well developed Web platforms to be greater.

To the point, the elements taken into account in the analysis were: *the presence of transparency elements*, *the management of electronic documents*, *useful content*, *methods of bidirectional communication* and *some general elements regarding the Web site taken into discussion (graphic interface, the easiness in navigating, the richness of information connected to the municipality etc.).*

2. Research Methodology

Although there are numerous Romanian initiatives of connecting to the Internet even smaller communities, like small towns or even communes (one example would be the project www.ecomunitate.ro, that has the ambition of connecting to the Internet 255 communes and medium to small size towns from Romania), I have chosen the municipalities due to the positive relation between the number of inhabitants and the capacity to eGovernment of the local public administration (Moon 2002; Moon and Leon 2001; Musso et al. 2000).

Most of the elements used in this research are taken from previous studies, adapted afterwards to take in relevant values (table 2.1). We can observe, as an example, the study "Digital Governance in Municipalities Worldwide (2007)" realised by Mark Holzer and Seang-Tae Kim in 2007, where Bucharest, the only Romanian municipality, is present on the 37th spot, much higher compared to 2005, when it was situated on the 64th spot.

The obtaining of the data was made through individually accessing of each official Web site of the municipalities, just after these were found on the Internet with the help of the well known search engine Google (this intermediary step was necessary due to the lack of a standard model of Web address; for example the mayor office in the capital city has the address www.pmb.ro and the mayor office in the city of Iasi uses www.primaria-iasi.ro). The whole research was made in the December 2009 – January 2010 period.

Once accessed the Web site, the elements presented in the table 2.1, were followed and values from a scale of 1 to 5 were attributed (according to the table 1 – C5 section) to those elements that

present a potential risk of subjectivity from the observer, like: *easiness of browsing, attractive design* etc. In all the rest (for sections C1 to C4 – see the exceptions described below, box 1.1.) the attributing of values was made with 0 or 1 (0 = it doesn't exist; 1= it exists) for every element submitted to the research, for example: "Can you submit petitions on-line?" or: "Is there an electronic map of the municipality?"

Box 1.1. Exceptions

We can find two exceptions to these rules, and these are:

1. In the case of the chapter "Transparence", especially at the presence on the Web site of the CVs of the employees. In case the CVs of all the employees are present, the value that must be introduced is 2 (C14 = 2), if only the CVs from the leaders of the institution are present, then the value 1 must be introduced (C14 = 1), and if none of the CVs can be found, 0 (C14 = 0); (amazingly but in this last situation we can find 37 municipalities from Romania, among which we can count the mayor offices from Baia Mare, Ramnicu Valcea, Sibiu, Targoviste, etc.);
2. In the case of the chapter "E-DOC", if on the Web site can be found documents for on-line fill-in (C211 = 1), as well as in standard electronic format .doc and/or .pdf (C212 = 1), then C21 will take as an exceptional case the value 3, or else C21 will be equal to the sum of C211 and C212, which obviously will be equal with 0 or 1.

Table 2.1

Elements submitted to the research

The research element	The values that can be registered	Codification
TRANSPARENCY		**C1**
Declaration of fortune	0 or 1	C11
Organisational chart	0 or 1	C12
Minutes/meetings published on the Web site	0 or 1	C13
CVs of the employees	0, 1 or 2	C14*
Legislation	0 or 1	C15
E-DOC		**C2**
Authorizations/certificates/electronic forms		C21**
.pdf, doc, .rtf format	0 or 1	C211
On-line fill in of forms	0 or 1	C212
On-line following of submitted request, electronic or not (after registering no.)	0 or 1	C22
On-line petitions	0 or 1	C23
Public announcements for: acquisition projects, concession, renting	0 or 1	C24
COMMUNICATION		**C3**
The possibility to send an e-mail directly to the mayor (or his cabinet)	0 or 1	C31
The possibility to send suggestions (other then regarding the Web site)	0 or 1	C32
Discussion forum between/with the citizens	0 or 1	C33
USEFUL CONTENT		**C4**
Electronic map of the city	0 or 1	C41
Map of public transportation	0 or 1	C42
Possibility to search within the Web site	0 or 1	C43

The research element	The values that can be registered	Codification
Mayors' office news	0 or 1	C44
Mayor Office news	0 or 1	C45
Web cam	0 or 1	C46
GENERAL		**C5*** **
Attractive design	Between 1 and 5	C51
Easy browsing	Between 1 and 5	C52
It presents information with general character (taxi phone no., hotel, shows etc.)	Between 1 and 5	C53

Explanations:

0 - not found on the Web site;

1 - found on the Web site

* Exception 1 (described on page 5)

** Exception 2 (described on page 5)

*** see table 3.8 (page 17)

The study used 24 instruments for the radiography of the Web site, grouped on 5 distinct classes (C1, C2, C3, C4 and C5 as they're presented in the same table), each with a different number of subclasses according to the relevance it had in the analysis. The 5 classes have the same weight in the final classification. The grade on each class is given by the sum of the point's weight obtained at each subclass, so that the subclass will have a value between 1 and 5. In the appendix 1, a model of calculus is presented on the example of the mayor office in Bucharest.

Below is presented the calculus formulas for each class at a time and for the final result:

$$C1\ (\text{TRANSPARENCE}) = \frac{Nmax}{Pmax} * \sum_{i=1}^{8} C1i$$

$$C2(\text{E} - \text{DOC}) = \frac{Nmax}{Pmax} * \sum_{i=1}^{4} C2i$$

$$C3(\text{COMMUNICATION}) = \frac{Nmax}{Pmax} * \sum_{i=1}^{3} C3i$$

$$C4(\text{USEFUL CONTENT}) = \frac{Nmax}{Pmax} * \sum_{i=1}^{6} C4i$$

$$C5(\text{GENERAL INFO}) = \frac{\sum_{i=1}^{5} C3i}{Nelem}$$

$$Pfinal = \frac{\sum_{i=1}^{5} Ci}{Ncls}$$

Where:

C1, C2, C3, C4, C5 – analysis classes (for C1 and C2 we must keep in sight the exceptions described before);

C1i, C2i, C3i, C4i, C5i – subclasses (elements) of analysis, the values obtained after receiving the answers;

N_{max} – maximum grade that can be obtained, (5 in this case);

P_{max} – maximum points that can be obtained through summing up the maximum values that can be given to each element;

N_{elem} – number of elements submitted to the analysis;

N_{cls} – number of classes, (5 in this case);

P_{final} – the points obtained on the Web site under analysis (on a scale of 1 to 5).

3. Obtained Results

Table 3.1

The stage of eGov development in Romania

Grade	Municipalities	%
Very good	3	2,91
Good	28	27,18
Satisfactory	46	44,66
Low	16	15,53
Very low	10	9,71

All of the 103 Romanian municipalities have been analysed and the results obtained can be presented on each class, but also by the final results. As it was expected, the municipality of Bucharest is in the top if we judge according to the final result, but we can find drawbacks at the chapters of "Transparency" and "Generalities" (details in appendix 1).

From those 103 municipalities only 96 (93,20%) had at the end of the year 2009 (beginning of 2010) an active page on the Internet (The 7 municipalities which are missing are: Falticeni, Toplita, Calafat, Gheorghieni, Targu Secuiesc, Sebes and Moinesti), from which – after the final results – 3 have obtained the grade *very good* (final points situated between 4,01 and 5,00), 28 *good* (points between 3,01 and 4,00), 46 *satisfactory* (points between 2,01 and 3,00), 16 *low* (points between 1,01 and 2,00) and 3, to which I added the 7 that didn't have an on-line page in the moment of research was realised, *very low* (points under 1,01).

We can see this way that almost half of the Romanian municipalities of the country have a *satisfactory* Web page (information about which we can't say that it is satisfactory from the point of view of the citizen or the business environment) and a third is *good* or *very good.*

Table 3.2

The level of eGov development divided by counties

Grade	Counties	%
Very good	2	4,88%
Good	7	17,07%
Satisfactory	27	65,85%
Low	5	12,20%
Very low	0	0,00%

Further, I made averages for each county and created a chromatic map (Image 3.1) displaying the level of implementation of Web technologies from the municipalities of the analysed county.

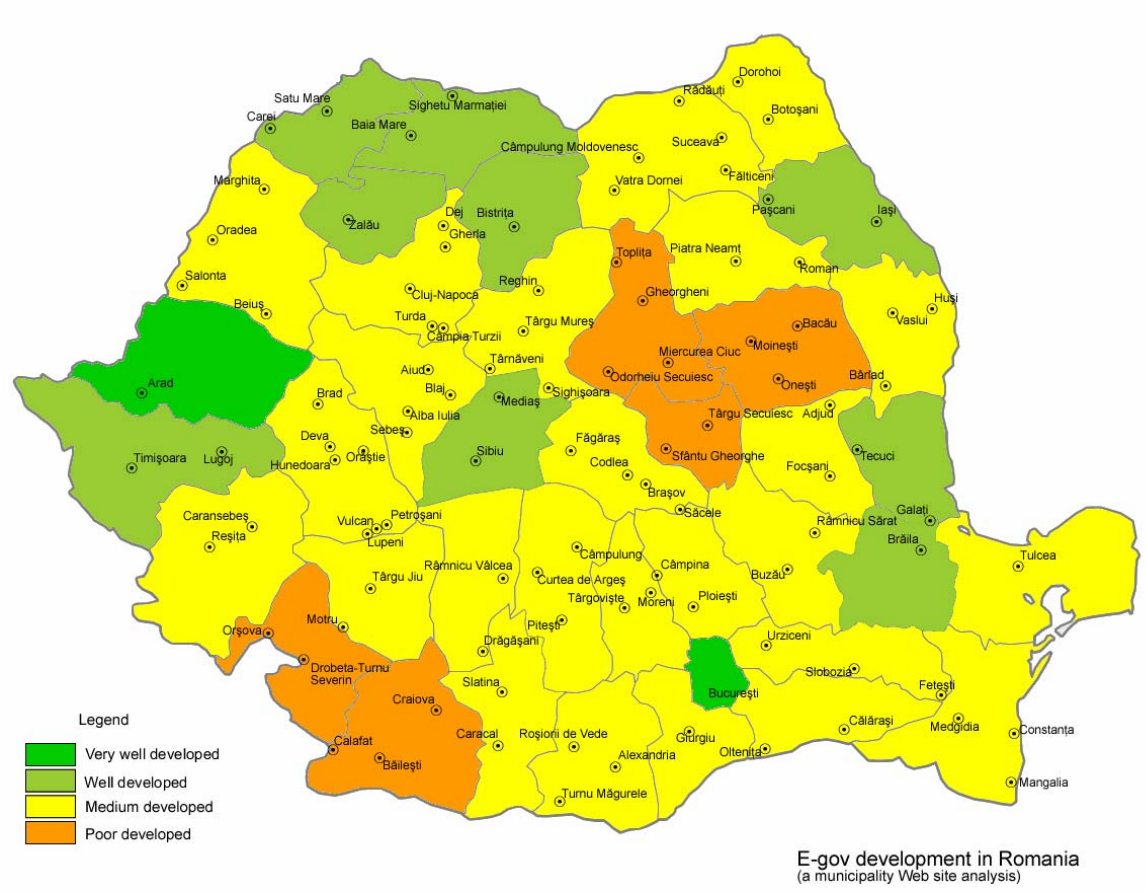


Image 3.1. EGov development in Romania

We can see after the analysis of the counties (table 3.2) that the level of eGovernment development in Romania is mostly *satisfactory* – two thirds of Romania's divisions have received this grade (points between 2.01 and 3.00), while only 2 obtained *very good:* Bucharest (together with Ilfov county) and Arad. We must notice that none of the counties received the grade *very low.*

3.1. Transparency Elements

Law no. 52 from 21 January 2003 regarding decisional transparency in the public administration governs the way in which the local public administration authorities must relate to the communities in the legislative process, especially to involve the interested parts, be it members of the communities, associations or other interested parts (stakeholders). The normative act determines as objective the honour of 3 principles: previously informing, ex officio, the people over the issues of public interest that will be debated, consulting of citizen and legal constituted associations in the process of elaborating normative act projects, as well as the active participation of citizens in the administrative decision making and in the process of elaborating them. (Septimius Parvu)

In the procedures of elaborating normative acts, the authorities are obliged to make a public announcement, with minimum 30 days before submitting it for analysis, notification and adoption by the authorities, which must publish it on *its own Internet Web page*, to post it on its notice board (in a space accessible for the public) and to send it to the mass media. The announcement must include a foundation note, an exhibit of reasons or a paper of approval regarding the necessity of adopting the proposed normative act, the full text of the project as well as a deadline, the place and the way through which the citizens can advance written proposals or recommendations. Normative act projects are transmitter to all the people that have submitted a request for receiving the information in discussion.

A part of the transparency elements can also be found in the C4 analysis (*Useful content*) subclass C45 (*Mayor Office news*).

The weight of this information category (C1 class) is 20% in the calculation of the final result and in its structure we can find 5 elements: *declaration of fortune, organization chart, minutes that are accessible through the institution Web site, Employees CVs* or *legislation available for informing the citizens* interested in the activity of the local elected leaders.

Table 3.3

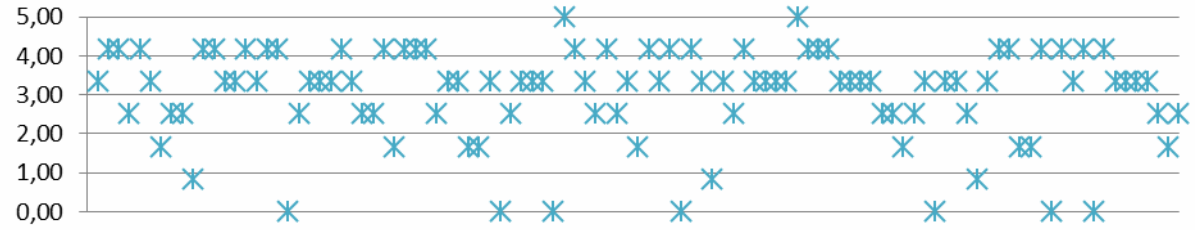
The municipalities' status at the Transparency chapter

Grade	Municipalities	%
Very good	30	29,13
Good	37	35,92
Satisfactory	17	16,50
Low	9	8,74
Very low	10	9.71

At the top of the chart for the most transparent mayor offices we identify Piatra Neamt and Giurgiu, which have obtained the maximum, followed by 28 municipalities with 4.17 points. Sadly there were 3 municipalities (Sighisoara, Odorheiul Secuiesc and Beius) to which, if we count the 7 that didn't have a Web site on the Internet, we gather 10 municipalities that counted, in this class, fewer than 1 point.

From all the 103 municipalities, only 4: Piatra Neamt, Giurgiu, Slobozia and Miercurea Ciuc, had on their Web site CVs for the entire personnel. The rest either didn't have any CVs on the Web site or they had only the CVs for the leading personnel.

The average score obtained at this chapter is the highest – 3.01, but probably this high number of points is obtained due to legislative obligations rather than the interest of the officials. We will see that at the E-DOC chapter, where the legislation isn't so compelling, the average is much lower.



Graph 3.1. Dispersion graph at the Transparency chapter

The graphic displayed above shows us that the score of most of the municipalities (65, meaning 63.10% of their total) is situated in the interval 3.33 – 4.17, which is over the average. This may show that in the future also the ones under the average will go up.

3.2. Electronic Document Management

The E-DOC section includes the documents to which the citizens can have access through the digital environment, whether they're destined to downloading for a future fill in, or for filling in directly on the Web page. On the same section it was included the checking for announcements on acquisitions, franchising or renting; that the mayor's office publishes on its Web site.

Electronic authorizations / certificates / forms. This category can include documents in .pdf, .doc, .rtf format that can be downloaded for diverse purposes from the mayor office Web site. Most often these represent forms destined to be handed in at the public institution after a previous filling in. From the 103 Web sites analysed, 80 (77,67%) presented documents meant for downloading, as the ones presented above, 34 municipalities (33,01%) benefit from an on-line filling in system for forms – from which only 14 (13,59%) allow the on-line following of the form's track (an easy to implement system from a programming view). For example, the mayor's office in Bucharest has implemented in its Web site an on-line system for tracking the paying of taxes and contributions, as well as tracking of citizen's petitions (in this case a user account must be created by every citizen that wishes to use this service).

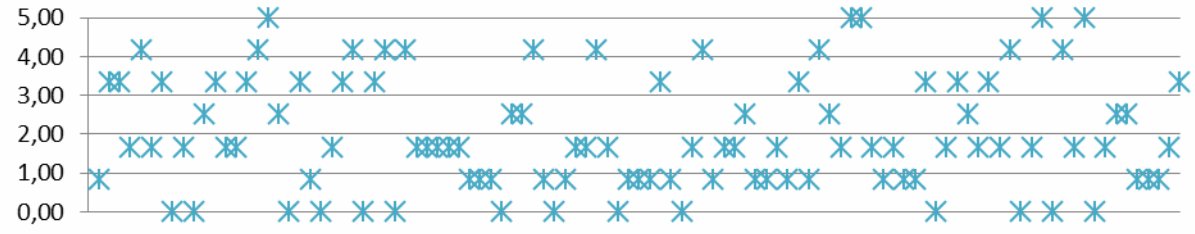
Table 3.4

The municipalities' status on the E-DOC chapter

Grade	Municipalities	%
Very good	16	15,53
Good	14	13,59
Satisfactory	9	8,74
Low	28	27,18
Very low	36	34,95

The most developed Web sites from this point of view are those from Bucharest, Timisoara, Targu-Mures, Reghin and Ramnicu Valcea, each of them obtaining a full score. It is also worth mentioning that 23 municipalities (22,33%) have obtained a score lower than 1 point, a finding not so encouraging considering the fact that through these on-line services the mayor's office can get closer to the citizens.

At this chapter we find the lowest average on the entire study (1.99), a fact that shows how many issues the municipalities' Web sites have on the delivering of on-line public services.



Graph 3.2. Dispersion graph at the E-DOC chapter

In the graph above we can observe that most of the municipalities (63 – 61.16%) are positioned under the average. For avoiding a further decrease of it the authorities should "force" the mayors' offices - through an adequate legislative frame - on posting on their Web sites electronic forms/materials for the citizens' access.

3.3. Electronic Methods for Bidirectional Communication

Table 3.5

The municipality's status on the *Contact* chapter

Grade	Municipalities	%
Very good	14	13,59
Good	46	44,66
Satisfactory	0	0,00
Low	26	25,24
Very low	17	16,50

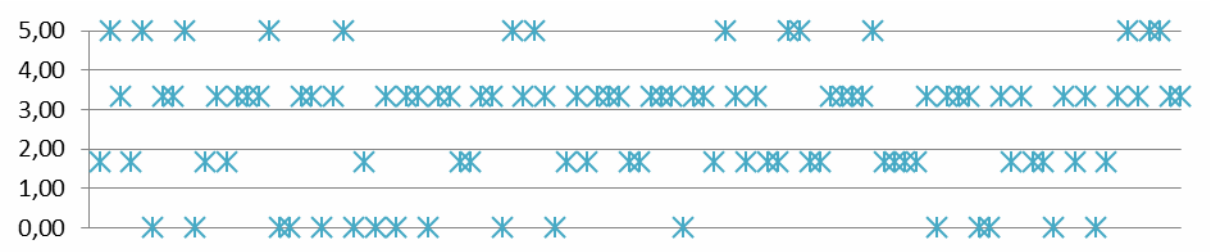
Citizen participation on the act of governance continues to be the most recent area of study for eGovernment. Very few public agencies offer on-line opportunities for their citizens on active participating to the governance process. This can be done through the presence of electronic voting forms when a public decision must be made (a procedure so rarely found that is has not been introduced in the study for the purpose of not diluting the researches' results), or through discussion forums with and between citizens. In this way the present part of the analysis stops at the research of the mechanisms through which the users can send on-line comments or can generate feedback for the institution or its officials. A mayor's office can display on its Web site a considerable amount of documents and information of public interest, but the lack of possibility for the citizen to contact the public institution (for questions as well as for suggestions) damages the citizen – administration communication.

The indicators used for measuring the Web site's capacity of allowing its users to interact easier with the administration were: *the possibility to send an e-mail directly to the mayor (or his cabinet), the*

possibility to send suggestions (other than referring to the Web site) and *the presence of a discussion forum between/with the citizens.*

If the possibility to send an e-mail directly to the mayor or his cabinet was encountered in 61 cases (59.22%) and the possibility to send different suggestions to the authorities in 74 cases (71.84%). We can observe that only 25 (24.27%) have implemented a discussion forum. In some rare cases I have encountered institutions that facilitate the communication with the citizens through applications of instant messaging (Yahoo Messenger) or situations where the on-line discussions are structured according to a certain topic (e.g. public politics), more or less a successful ideas, depending on the total number of participants (directly proportional to the population of the community) .

The average score obtained at this chapter was 2.59. The maximum number of points was gained by 14 municipalities (13.59%) – here in this chapter, I have encountered the biggest number of municipalities which obtained maximum points. Sadly, this number is balanced by 10+7 municipalities (16.50%) which obtained 0 (zero) points on this subject, a fact that considerably decreased the average score under the expectations, at a value of 2.59.



Graph 3.3. Dispersion graph at the C*ontact* chapter

We can gather from this graph that the scale is slightly out of balance in favour of those with a score over the average results: 60 municipalities (58.25%) are above and 43 (41.75%) below, pointing a possible growth of it.

3.4. Useful Content of the Web Sites Studied

Table 3.6

The municipalities' status on the *Useful content* chapter

Grade	Municipalities	%
Very good	13	12,62
Good	15	14,56
Satisfactory	22	21,36
Low	19	18,45
Very low	34	33,01

The content is an essential component for a Web site. It is irrelevant how advanced the technologies used are, if the content is not up to date, if it is difficult to navigate on the Web site or if the information is hard to find or inaccurate. In this scenario the Web site doesn't fulfil its purpose.

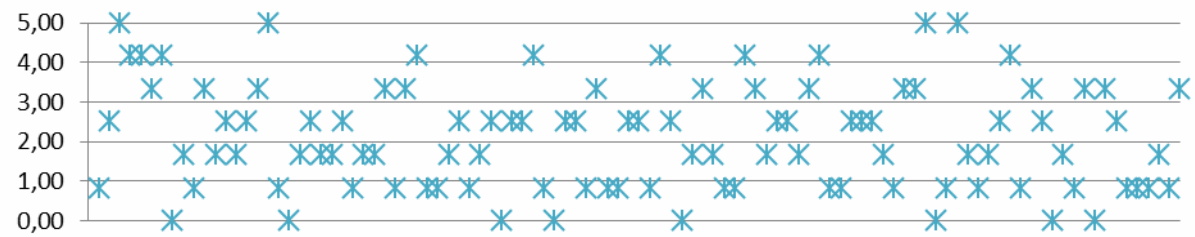
Useful content can be considered the information presented on the Web site like news, or other useful information about the city for its citizens (through an on-line city map, a map of transportation means or the Web cams installed in key points of the city). This type of content is not related only to the external elements of the mayors' office, but also to the easiness with which you can access the information on the Web site, the possibility to choose between languages or the option to search within the site.

The results on this chapter show that Bucharest, Alba Iulia, Sibiu and Satu Mare are the top cities on the chart, with a maximum score equal to 5. Unfortunate 27+7 municipalities (33%) have reached a score below 1 (about the same situation as in the chapter E-DOC – were it was 29+7), which can be interpreted as a situation where the mayors' offices Web sites are not oriented to satisfy the citizen's needs, but due to legislative regulations in the field.

The obtained average is 2.10, which shows that there is an unbalanced situation between the number of municipalities that don't offer information on the Web site about the city and those that

present this information. Only 35 Web sites (33.33%) allow citizens to choose between several used languages, and 19 (18.44%) have the option of viewing live images through Web cams. The map for transportation means is available only on 14 Web sites (13.59%) and the map for the entire municipality (a very important element) is presented in 53 Web sites (51.46% - a little more than a half).

A category with higher performance form the Web sites is the *News about the mayor's office*; 81 of them (78.63%) have a section especially designed for this purpose. A note must be made to the fact that this section belongs also to the chapter for *Transparency*, signifying that there are legislative norms which oblige the mayor's offices to make information of this sort available on their Web sites.



Graph 3.4. Dispersion graph at the *Useful content* chapter

Graph 3.4. reveals a concentration of municipalities in its lower part rather than in its upper part (as it would be desired). A number of 53 municipalities (51.46%) are situated below average. It is possible that a legislative intervention, or a higher interest from the local authorities, will increase the values obtained at this category.

3.5. General information about the Web sites in view

This research examines also the level of accessibility of the Web site. In other words, I wanted to see how user friendly the Web sites are. For measuring this, I used mostly, the same techniques applied on to the Web sites analyses made in the private sector, studying how attractive is the design, how easy it is to work inside the Web site, the quality and quantity of information about the municipality.

This is the chapter where none of the municipalities (excepting those 7) didn't obtain a score lower than 1 point, a fact that rise the average to 2.94, very close to the maximum obtained in this analysis (3.01 at the *transparency* chapter, only that in this case the result isn't due to legislative constrains). These results indicate that there is nevertheless an interest from the municipalities for being visible on to the Internet, and this visibility to lead to a pleasant visit (e.g. for tourism the Web site of a city is like its business card).

The results are balanced between those three subclasses analyzed (table 3.7.). We can observe that maximum points were obtained by: 11 municipalities (10.68%) for *design,* 15 for *easy browsing* (14.56%) and 10 for *general information* (9.71%). Despite this, only 5 municipalities can be found in each subclass (Sibiu, Arad, Bistrita, Botosani, Craiova).

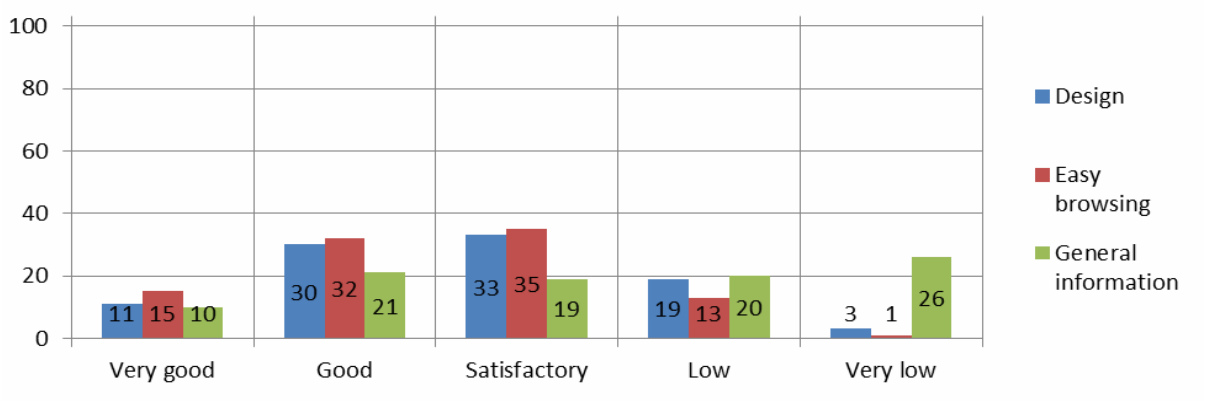
Minimum rating (*Very low* – 1 point) was obtained by:

- 3 municipalities at *design* (Rosiorii de Vede, Roman, Motru);
- 1 municipality at *easy browsing* (Sighisoara);
- 26 municipalities at *general information*;

Table 3.7

Results balance for the chapter *General information*

Grade	Attractive design		Easy browsing		General information	
Very good	11	10,68%	15	14,56%	10	9,71%
Good	30	29,13%	32	31,07%	21	20,39%
Satisfactory	33	32,04%	35	33,98%	19	18,45%
Low	19	18,45%	13	12,62%	20	19,42%
Very low	3	2,91%	1	0,97%	26	25,24%



Graph 3.5. The balanced results of the chapter *General information*

The scale, according to the table presented bellow, registered values starting with 1 – very bad, to 5 – very good:

Table 3.8

Description of the evaluation scale in the 5th class – *General information*

Value	Description
1	the design of the Web site is very unprofessional, unattractive, probably the municipality realised it with its own resources/ difficult inside browsing, the Web site is developed in .html and did not present dynamism, the maximum number of needed clicks to reach the last page in a branch is greater than 4/ doesn't present information of general interest for those who are visiting the municipality (phone no. for taxi, hotel etc.)
2	the design of the Web site is unattractive, probably the municipality realised it with its own resources / difficult inside browsing, the Web site is developed in .html did not present dynamism / presents too little information of general interest for those who visit the municipality;
3	design with a satisfactory aspect; the page is still too crowded/ difficult inside browsing, overweighed menus, hard to identify the place where a certain info is located/ general information about the city are displayed in the manner "let's put that here";
4	attractive contrasts, structured pages/ easy browsing, but with overweighed menus even if these are programmed in advanced programming languages like ASP, PHP, etc. / information about the municipality is rich and easy to be accessed;
5	the Web site is designed in a professional manner, with structured pages/ dynamic and intuitive navigation/ Information about the municipality is rich and easy to find/

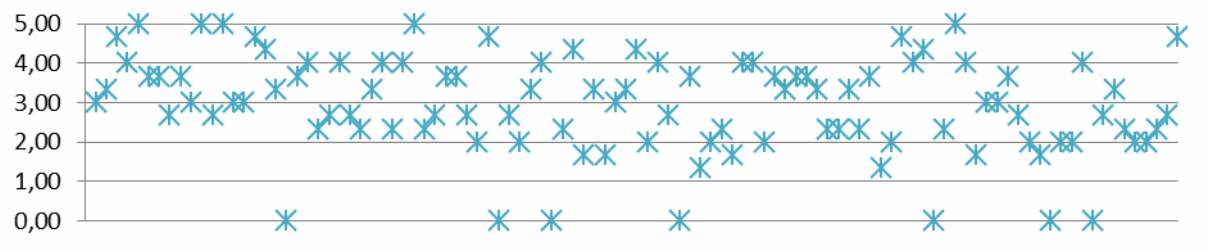
As an example, I have analysed how visible are the links, if the presence of chromatic elements isn't clumsy, if the number of clicks that must be made to reach the last page of the Web site isn't to great etc.

Table 3.9

The municipalities' status on the *General information* chapter

Grade	Municipalities	%
Very good	14	13,59
Good	34	33,01
Satisfactory	30	29,13
Low	18	17,48
Very low	7	6,80

The general information section includes two information categories. One refers to the Web site itself, to the degree of difficulty found in using it and accessing the information presented on it - finalised in appreciating the Web site's design and the easiness of browsing in it. A second category refers to the information of general interest presented on the Web site: telephone no. for taxi, hotels, shows/events).



Graph 3.6. Dispersion graph at the *General information* chapter

From the graphic above we can conclude that most of the municipalities (55 in absolute measure, 53.40% in relative measure) have obtained a rating superior, or very close, to the average (11 cities, meaning 10.67% out of the total, have obtained the rating 2.67). The "concentration", contrary to the previous chapter, is found in the upper region of the graphic, with an obvious inclination towards an attractive design rather than utility.

4. Best Practice – Models Worth Following

SEOUL – SOUTH COREEA

The Internet is a means of assuring transparency and reducing the corruption. Chile, Colombia, Mexico and – from the European area – Austria, have published the acquisition procedures on-line. These allow public access to information related to public acquisitions. The system was also applied in the case of big cities like Seoul (which occupies the first place in the study conducted by Mark Holzer and Seang-Tae Kim in 2007). Although it is not a European city, the Korean case is worth mentioning for stressing the utility of such systems. In the case of the Seoul municipality the system is called On-line Procedures Enhancement for Civil Applications (OPEN), an application which benefited from a great success, offering the possibility for citizens to monitor the requests for approval and offering them the right to raise questions if illegalities are observed. For example, if a citizen submits a building request he can follow all the stages of approval or rejection of the request from any computer connected to the Internet – an initiative that can be found at 14 municipalities from Romania (according to the section C22). The Seoul Web page has over 2000 visitors daily.

TAMPERE – FINLAND

Another model that worth following is the eTampere Programme, implemented in the city of Tampere in Finland. The eGovernment system includes an on-line discussion platform on various themes, a citizen consultation system regarding the development priorities, an especially design section where citizens have the possibility of commenting the administration's plans and their financing, e-cabins on the system of question and answer that assure the obtaining of an answer in the interval of several days.

BLAGOEVGRAD – BULGARIA

An e-service project was launched in 2006 in Bulgaria, which materialized in a system for exchanging documents between the administration and the institutions. The 14 municipalities from the region of Blagoevgrad are the partners, a regional administration and six central institutions represented at regional level (e.g. the regional inspectorate for prevention and control in public health). The project aimed at unifying the separate administrative services from the municipalities, the reduction of the time needed for exchanging the documents, the cutting of expenses in postal taxes, the decrease in the number of contacts between the citizens and multiple authorities. As a conclusion, the decrease in the possibilities of corruption acts.

Another aspect in regard to spreading information through electronic means is the presence of information cabins. These can be present inside institutions as well as in public places, and have the purpose of offering the possibility for citizens to get information about the practices in the public administration, without interacting with civil servants. This kind of method is intensely applied in Greece and Portugal.

TIMISOARA – ROMANIA

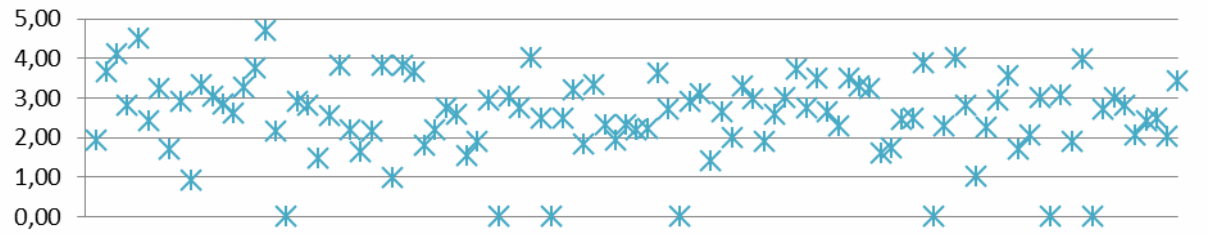
The project "Together for transparency", implemented by the mayor's office in Timisoara, offers a system through which the meetings of the Local Council are broadcasted through radio. West City Radio transmits the extraordinary and ordinary meetings, as well as events. The citizens can submit suggestions to the forum@westcity.ro e-mail address or can transmit messages that are recorded by a telephonic robot. In addition, the members of the Local Council are invited weekly for a direct dialogue with the citizens, hosted by the "Castana de foc" (The fire chestnut) show, broadcasted each Thursday, between 13 and 14 o'clock.

***

Best practice instruments can be considered consulting the citizens through dedicated e-mail addresses, where citizens can send opinions or complains regarding a specific field; the existence of information sources like newsgroups, as well as through chat instruments. In the new-media era the means through which the local authorities can make themselves visible are extremely diverse, varying from posting information on social networks like MySpace, Twitter or Facebook, to the Web page and blog creation and sending information through newsletters and other forms of electronic subscription. An instrument already used by several public administration authorities from Romania is the on-line broadcasting of their meetings.

5. Study Conclusions

In this study it is revealed the present situation in the level of implementing eGovernment through the mayor's offices Web sites of all Romanian municipalities. As we can observe from the map displayed earlier (img. 3.1.) or from the table 3.1., and table 3.2, the situation is *medium* which signifies that there are still multiple steps to be made in order for us to be able to speak about electronic governance in Romania, as we encounter it in other European countries (and not only).



Graph 5.1. Dispersion chart obtained by using the final results of the study

This can also be seen in the graph 5.1, by the fact that the "concentration" can be found around the average value (2.52), with 56 municipalities (54.37%) obtaining a rating over the average and 47 underneath it (45.63%).

Fearing a dilution effect which probably would have appeared in the final results, I haven't introduced in this study elements that can be found in similar studies conducted in other countries, like: the possibility to perform on-line pays (a situation rarely found in Romania) or the participation of citizens to the governance activity through electronic vote or electronic referendum (rarely found as well), on-line questioner meant to collect citizen opinions in regard to a possible actions by the mayors' office. This is the reason why the comparison of the best result obtained (that of the mayors' office in Bucharest) with the best results worldwide, or from Europe, wouldn't be quite accurate. But for diversity these information are presented shortly in the box 5.1.

The mayors' office in Bucharest was situated in 2007 on the 37th spot in the world on eGovernance (nevertheless better than in 2005, when it was in the 64th position), outmatching cities like Brussels (38th place), Athens (52nd place), Kuala Lumpur (64th place), Budapest (67th place) or Chisinau (69th place). In the same study, this time at the continent comparison, Bucharest occupies the 19th position in Europe, after Helsinki (1st place), Madrid, London, Vienna; but also in front of the Danish capital of Copenhagen (22th place) or other cities like: Oslo (27th place), Lisbon (28th place), Warsaw (34th place) etc.

SOURCE: Digital Governance in Municipalities Worldwide (2007) - A Longitudinal Assessment of Municipal websites Throughout the World, 2007 - Marc HOLZER, Seang-Tae KIM

Box 5.1. Bucharest vs. Cities of the world

In comparison with most of the cities (even when these were outmatched by Bucharest) we can say that the biggest limitation found in this study, in relation to the Romanian municipalities, is civic participation. It is here that the deficiencies in the relation between the authorities and the citizens are highlighted. The reasons can be diverse, from the lack of informing over the electronic means of communication, the lack of ways of communication, to the lack of interest from the authorities or the civic qualities of the citizens.

As I declared from the beginning, I will repeat this study every 2 years in order to observe the adjustments appeared and for a possible comparison with other cities of the world. I expect a substantial improvement of the ratings obtained.

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VI.2. HUMAN RESOURCE MOTIVATION IN ROMANIAN PUBLIC ADMINISTRATION – THE EUROPEAN UNION ENLARGEMENT CONTEXT

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Abstract

Intrinsic motivation is widely considered by public administration scholars as fundamental for the Public Service Motivation (PSM). In apparently contradiction with the theory of PSM, the extrinsic motivation techniques, such as financial incentives, function better in Romanian public organizations, the reason being in general connected with the payment level for the public servants and their expectations for the work performed. In the context of new legal obligations arisen in the period of joining the European Union, Romanian public authorities recruited more employees. After 2008, influenced by lower budgets and political changes, this dynamic of human resources was inverted, in some places with very significant personnel fluctuations, leading to major misbalances of public service. Public servants cannot be motivated if they do not have the intrinsic motivation specific for the work in public service as defined by PSM theory. Thus, we consider that the actual recruiting system of public servants in Romania need to be reformed to introduce in public sector well equipped individuals. Although intrinsic, PSM is not immutable and can be lost. Public servants can loose PSM because of different extrinsic motivational factors (low salary, lack of promotion, permanent structural changes of the organization, manager's disregard for procedures / law).

Keywords: public service motivation, human resources, reform, public administration.

1. Introduction

The concern of the organisations related to employee motivation is determined by the idea that the organisational performance is directly linked to the individual performance which cannot be attained if the individual is not satisfied with the job, the position and the activities undertaken. Unfortunately, Romanian public organisations did not emphasized modern motivation techniques. They still use the traditional top-down, superior-subordinated approach that has a low degree of participation in the objectives setting and as a result, a low commitment of the employee.

The participative models involve the employees in the process of "thinking" the future of the organisation creating certain trustfulness between the individual and the organisation and the making the organisation's long term objectives part of the employees' long term objectives. Thus, a responsive and cost-effective government should acknowledge that "failure to properly understand the motivations of public employees may lead in the short term to poor job performance and in the long term to permanent displacement of public service ethic" (Crewson, 1997: 500).

The literature on Public Service Motivation (PSM) is quite recent having as a starting point the analysis of the differences in using different incentives for employees in public sector and private one, as well as the analysis of the ethics of public service realised by Rainey (1976) and continued by Perry and Wise (1990) to develop the concept of PSM.

This paper analysis how aspects from the private sector could be introduced in the motivation of the public servants and the problem of the displacement of public service ethos it brings with it. The paper

also analyses the Romanian public servants motivation and challenges the immutable character of PSM and the relation between its intrinsic character and a variety of extrinsic influences that may occur.

2. Public Service Motivation

In the 1980-90s, the public service introduced fundamental changes oriented to the managerial models from the private sector. Those models are seen as a key for employee motivation: responsibility, flexibility, efficiency, effectiveness, productivity, communication, and initiative, all of these according to the orientation of the New Public Management.

Being one of the central themes of the new wave, the theories of rational choice are well embraced by the contemporary public administration. Hondeghem and Vandenabeele (2005: 464) underline that, although are well described by the literature, behaviours like: abnegation, the public interest, the altruism are very difficult to be explained in terms of rational choice.

The public-private debate about the motivation of the employees tried to see if one work for financial rewards *(in a company for profit)*, and the other takes into consideration other rewards that are associated with goals than are not for profit *(employees in the public organisation)*, debate that lead to the creation of the concept of Public Service Motivation.

The definition of the Public Service Motivation of Perry and Wise (1990: 368) takes into consideration the *"individual's predisposition to respond to motives grounded primarily or uniquely in public institutions"* or the wish to have an impact in the well being of society, a intrinsic motivation in opposition with the extrinsic one, based on salary, promotion, job security etc.

Crewson (1997: 501) insisted on the duality of motivation, *intrinsic* (personal orientation of the individual) and *extrinsic* (economic orientation of the individual) as being fundamental for the analysis of the motivation of human resources in public sector while Brewer, Selden and Facet (2000: 260) have identified four different conceptions of motivation: samaritans, communitarians, patriots and humanitarians, with an emphasis on the intrinsic dimension. Their difference looks at the concentration towards individuals, community, nation or human being. Thus, Crewson (1997: 499) considers the opportunity of four questions: the incidence of financial motivation, its consistency in time, the impact in organizational performance and the ramifications of the ethics of public sector. He then shows that the financial incentives generally in the form of merit *pay promotion* and *cash awards* have the rationale that, instilling market-based incentives and values in the public sector will inspire market-like efficiency and effectiveness. The assumption behind those practices is that the public labour force is substantively the same as the private one.

Using data from surveys from employees in private and public organisations, Rainey (1982) concluded that public employees have a greater interest in altruistic or ideological goals such as helping others or doing something worthwhile for society and less interest in monetary rewards than do their private counterparts.

It is important to draw a clear understanding of the intrinsic and extrinsic motivation role in the design of motivation systems in public organizations. Thus, providing extrinsic rewards for tasks that have high intrinsic value alters individual perceptions of the locus of causality (Crewson, 1997, p. 501).

Offering monetary rewards for exceptional performance that was intrinsically motivated could have the adverse effect of reducing the possibility that intrinsic rewards will motivate further behaviour. The effect is that an inner sense of accomplishment has been excluded as a motivator. On the same time Frey and Osterloh (2005: 105) show that exacerbating the extrinsic rewards may signal switching value from normative values to an expectation that doing one's duty without extra pay is not enough.

Prentice, Burgess and Propper (2007: 6) shows that it is possible that external financial incentive could overwhelm public service motivation, since it suggests the employees that their employer recognises no association between output and effort other than a pure, market relationship. Thus, the introduction of a contractual relationship may affect the original connection between the worker and the activities.

In the same way, Etzioni (1988: 501-502) shows that the exacerbating of *the economic man* and the domination of extrinsic incentives means an exaggerated simplification of the human motivation and such approach fails to recognise the "moral dimension" or extra-rational motivation that guides in the decision-making process.

3. The motivation of ”public agents” - influences

3.1. The preference of Romanian ”public agents” for financial incentives

The empiric analyses show that employees in the private sector have a good appreciation of a higher payment and job promotion, while the ones in the public sector have also a good appreciation of the help and utility for the society.

Giauque and Barbey (2006: 1) show that the public servants benefit a job security that may create a certain limitation of self-development. The risk averse, the lack of initiative and the concentration on formal rules are some characteristics that are easy to be given to public servants, labels that are present in the popular discourse and scientific literature of liberal economists. Thus, the remedy is simple, encouraging the public servants to prove “entrepreneurial spirit”, the performance pay, all introducing more internal and external competition, including the abolition of some “privileges” given to the state agents. Giauque and Barbey (2006: 1) underline that this vision has the merit to be that simple, but in the same way it is fundamental wrong about the diagnostic of the drivers of motivation and job satisfaction of a public servant.

Also, as Pery and Wise (1990: 371) showed that trying to treat the public service as private company could force a decline in developing the social and democratic goals and it will fail to underline the specific motives of public sector employment.

In apparently contradiction with the theory of Public Service Motivation, the extrinsic motivation techniques, such as financial incentives, function better in Romanian organizations, the reason being in general connected with the level of payment for the public servants, their expectations for the work performed and the salaries of the employees in the public sector in other European Union member states.

It should be mentioned that the joining of Romania to the EU and the consistent contact of the public servants in Romania with their colleagues form other member states has created a high level of expectations related to the salary, level that was only partially accomplished in the today’s economic development of the country. In this respect we appreciate that the interest of the public servants in Romania for financial incentive is normal and it does not come to invalidate the theory of Public Service Motivation.

3.2. Administrative reorganisation and its impact on the motivation of ”public agents”

The continuous reorganisations of the structure of Romanian public organisations have influenced the job satisfaction of the employees in public sector. The analysis of public service motivation in Romania, undertaken for this study between September – October 2010, showed relevant aspects regarding the motivation process of the employees in public organisations.

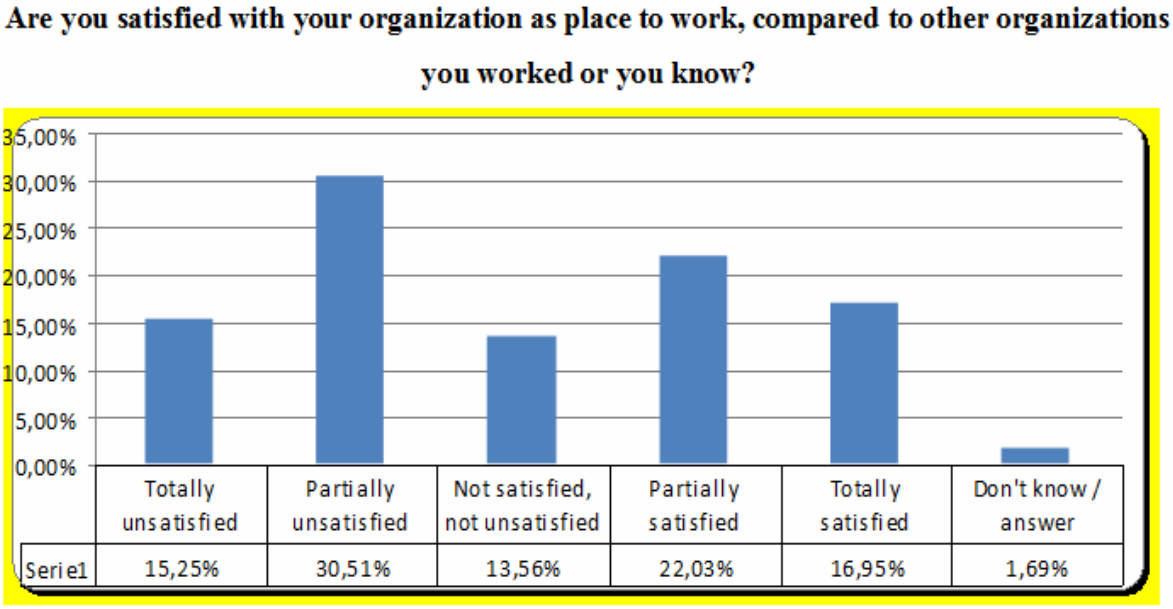

Figure 1. **Job satisfaction of employees in public administration in Romania**

Thus, the job satisfaction of employees in public administration in Romania is very low *(totally unsatisfied 15,25%, partially unsatisfied 30,51%)* which signals that the work in public administration is not organised on clear ground, so that to determine the needed pride and satisfaction of the employees regarding the value of their work for the organisation and public.

If the most dynamic part of the organisation, the employees, is not satisfied of the work done, those who benefit this work, the public, the customers will not have the positive attitude towards that organisation.

Asked about the motives of choosing to work in the public service, the employees identify *the stability (21,43%)* followed by *the prestige* of the work in public service *(20,71%)* and the potential of a *success career (18,57%)* as determinant elements of PSM.

Traditionally, the activity in the public service has been characterized by higher degree of stability than the private organisations, even though in the last years the realities of the public service proved that public organisations can also enter reorganization programs and the stability of the jobs has been diminished. The public servants benefit a special statute that imply specific rules regarding recruiting and promotion, rules that aim to prevent the instability of the public service. The employees consider that the activity in the public sector is prestigious, it implies a certain form of public respect and it creates the opportunity of a success professional career. Those represent the main reasons to choose the public service.

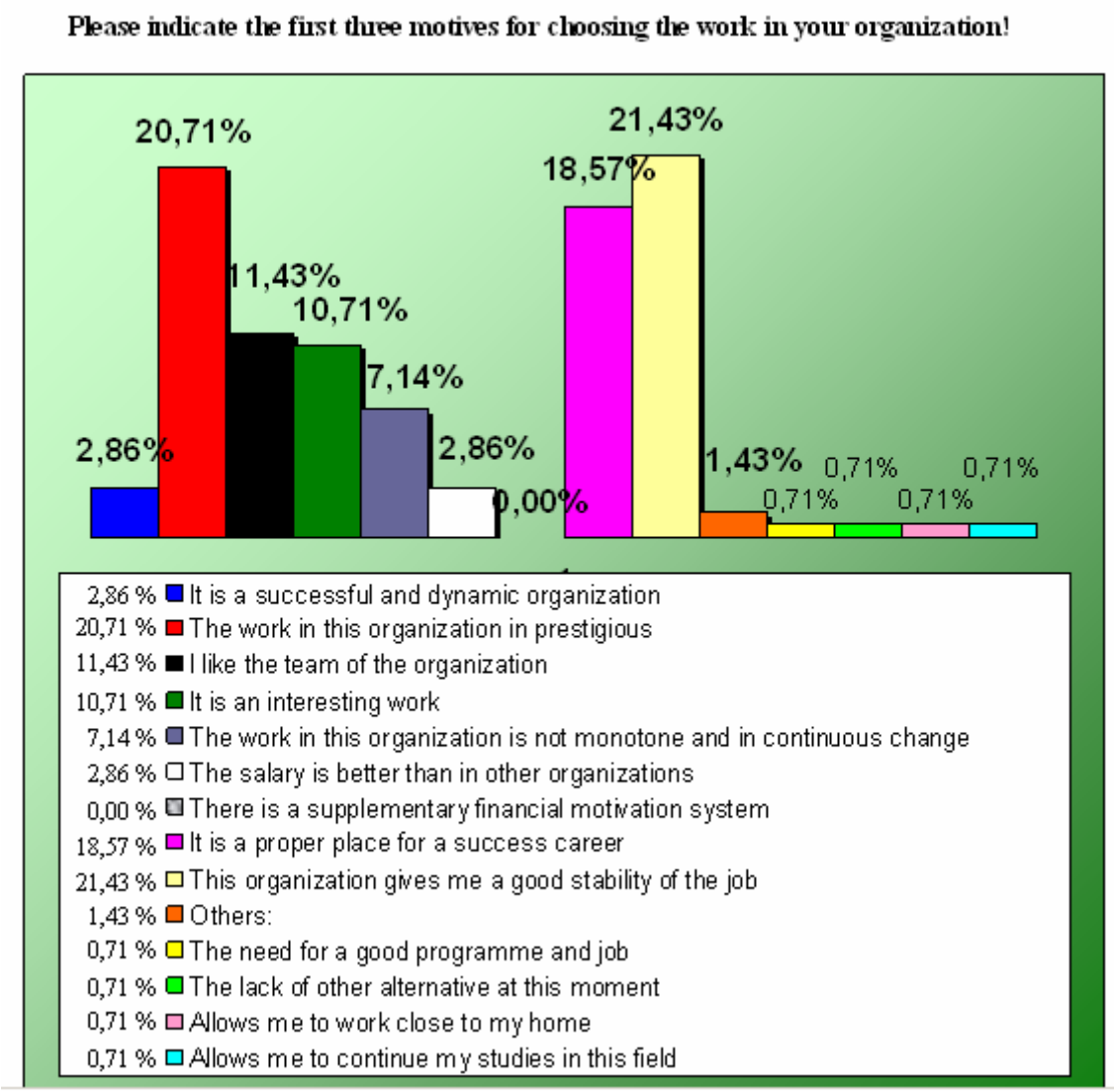

Figure 2. **The motives of choosing the work in public sector in Romania**

Asked about the aspects that would change in the institution they work, the employees in the public service mentioned the salary as the main problem that need to be solved (35,82%), followed by the replacement of the chief (20,15%) and the working methods (17,91%) aspects that lead us to the conclusion that the management and coordination of public organisations is in the red and the human resource in public administration do not identify the management as helpful for modern and efficient public service delivery.

The study on the motivation human resource on public organisations in Romania also showed that civil servants consider as "very important" the financial motivation and the need to have a transparent financial incentive system. It should be underlined that different people have different needs and wishes and some will be more money oriented than others in their motivation. Armstrong (2008, p. 43) considered that we cannot assume that money motivates everybody and in the same way. It would be a naive approach to think that introducing performance related pay schemes would transform the employees miraculously in motivated and performing individuals.

Asked about the relation with the direct manager, the public servants consider that he/she is not a good manager/leader *(more than 68%)* and is not a specialist in the field of the department he/she manages *(more than 72%)*.

Under many political influences, the first lines of managers *(which in law are apolitical public servant managers)* are replaced very often, especially in central administration, together with the top management of the institution and thus, many competences and experience gained in that position are lost. This cycle is resumed each time the political management is replaced. In this way, the new "apolitical" public servant managers are most of the time non specialists in the fields they will manage, with no experience and the low competences. After those new "apolitical" managers accommodate themselves with the new position, get some of the needed competence and experience, they will also be replaced together with the political top management of the institution. For ministers, the term they serve in the office is only 1.5-2 years, because of different political alliances and low stability. Together with those, the "apolitical" public servant managers are replaced and all the competences accumulated inside different departments are lost.

This continuous process of deprofessionalization of public service creates a displacement of the motivation of public servants. They fill the competence is not appreciated, the mission of the public service is not seriously considered by the political managers and thus the level of PSM decreases. As a result, the accomplishment of the mission of the public service is low

4. The persistence of Public Service Motivation. Is it immutable or temporary?

The Public Service Motivation as profiled by Rainey (1976), Perry and Wise (1990) etc needs a continuation of the theoretical debate to identify those concepts to better define it and offer the needed tools to use it successfully and have a positive impact on the performance of the public servant.

Armstrong (2007: 252) considers the motivation is influenced by the factors that influence people to behave in certain ways. The motivation has three components:

- direction – what a person is trying to do;
- effort – how hard a person is trying;
- persistence – how long a person keeps on trying.

Thus, from the perspective of the *persistence* of the Public Service Motivation on the behaviour of the public servant, Perry's approach do not seem to take into consideration the continuity in the effort of a public servant or the time period that he/she is intrinsically motivated to accomplish the public service.

In the scheme below, starting from intrinsic meaning of PSM as defined by Perry, we will show on the one hand, that the period of time PSM has in impact on the public servant is different from one employee to another, the evolution of PSM being also different, and on the other hand, the PSM although intrinsic can be influenced by extrinsic factors.

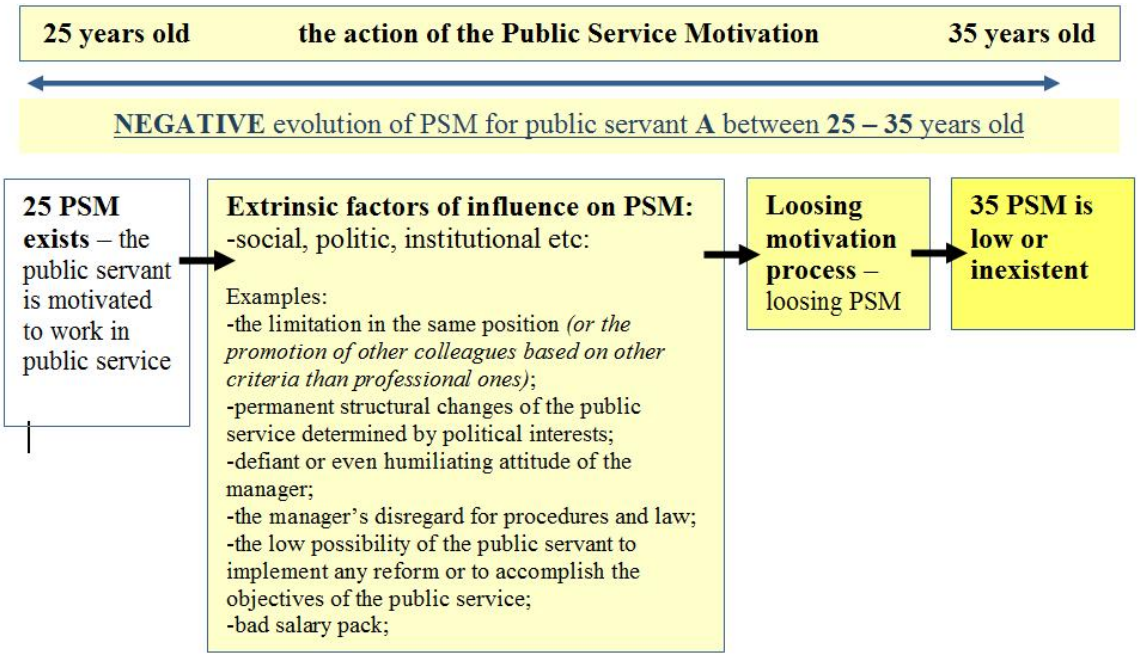

Figure 3. The Negative "evolution" of PSM

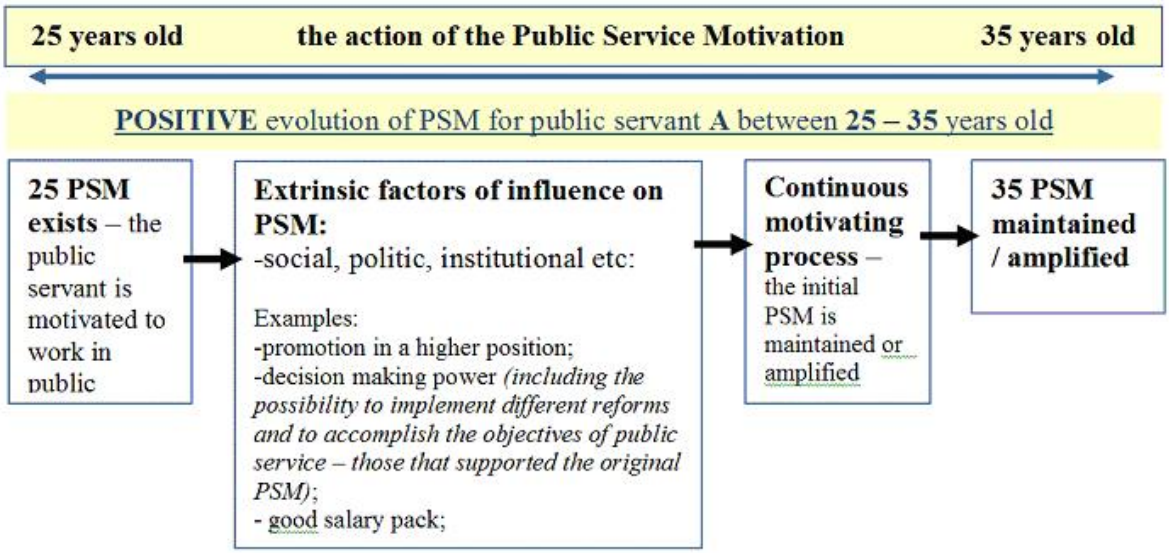

Figure 4. The Positive evolution of PSM

The Public Service Motivation is not immutable! The intrinsic PSM as defined by Perry can be lost. The public servant can loose PSM because of some extrinsic motivational factors, such as the low salary pack (*salary demotivation*), the limitation in the same position, the permanent structural changes of the public service determined by political interests, defiant or even humiliating attitude of the manager, the manager's disregard for procedures and law, the low possibility of the public servant to implement any reform or to accomplish the objectives of the public service (*professional demotivation*).

Thus, the scholars of extrinsic motivation supporting the idea that extrinsic factors of the individual are essential in determination the motivation, although they make the mistake of having totally apposed view than the scholars of PSM (*extrinsic vs. intrinsic motivation*), they can give an essential element in the evolution process of PSM (*positive or negative*). In this regard we should mention that extrinsic factors such as salary are not essential in determining the *initial* PSM *(that holds a strong intrinsic dimension)*, but *during the career* of the public servant they can influence it, to maintain and consolidate it or, on the contrary, to diminish or loose it.

During the work of a public servant, a series of extrinsic factors (social, politic, institutional etc.) action and influence the PSM of that employee. Those extrinsic factors can be in many situations in contradiction with the intrinsic ones and determine their change. They can also be complementary with the intrinsic ones and contribute to their consolidation and, thus to the consolidation of the PSM.

On the same way Romzek (1990, cited by Crewson, 1997: 508) realized a scale of the commitment for the organisation: the zealots, the highly committed, the moderately committed, the marginally committed and the alienated. Thus, we can consider that there can be changes between those categories defined by Romzek during the career of the public servant so that the zealous can become alienated, which means that the PSM was lost.

The commitment of the individuals is very important for the motivation of human resource, especially in public organisations that have limited financial incentives available. Thus, Porter (1974, cited by Crewson, 1997: 508) show that individuals with a high commitment towards the organisation have the predisposition to continue an active participation inside of that organisation even though they are not satisfied by the salary, while Romzek (1990, cited by Crewson, 1997: 508) insisted that for those employees meeting the mission and objectives of the organisation is highly connected with the fulfilling of the personal values.

In most of the cases, the new employees and also those who obtained a promotion have the tendency to use their potential at the maximum. Gradually, because of different reasons, this tendency is lower and is manifested in neglecting the duties and irresponsibility. That is way, in order to motivate the employees, the manager should ensure that the activities undertaken stimulate the intrinsic motivation and the financial incentives the extrinsic motivation.

Thus, PSM actions on the public agent for a period of time that is, in many cases smaller than the professional career of that individual. This period of time, when the PSM influence the activity of the public servant is a period when the public agent is lead by certain „lyricism" of the public service, by the altruistic wish to serve the community, the state, the nation or the human kind, the interior need to identify the personal actions with the public interest.

Loosing PSM means an alienation of the public agent from the mission of the public service, the organisation he / she serves, means a low individual performance or even the desertion of the public service in favour of the private sector in order to accomplish some extrinsic motivation needs that have not been satisfied in the public organisation.

Conclusions

The deprofessionalization of public service is one of the major problems of the demotivation of public servants. Under many political influences, the first lines of managers *(which in law are apolitical public servant managers)* are replaced very often, especially in central administration, together with the top management of the institution and thus, many competences and experience gained in that position are lost and this cycle is resumed each time the political management is replaced.

The debate about using intrinsic or extrinsic motivation has not lead to significant conclusions for the public sector. But what it is important to mention is that since intrinsic motivation has a special importance for the public service employees, the introduction of the extrinsic economic incentives should be adjusted carefully so that to avoid the elimination of the intrinsic motivation as a motivator and thus a diminution of performance. As we saw, in apparently contradiction with the theory of Public Service Motivation, the extrinsic motivation techniques, such as financial incentives, function better in Romanian organizations, the reason being in general connected with the level of payment for the public servants and their expectations for the work performed.

Individuals with a public service ethic have the tendency to appreciate the valorisation of the intrinsic motivation than an extrinsic reward, which is why, the use of extrinsic incentives should be carefully managed and complementary to the intrinsic motivation and not a substitution factor.

In what regards the persistence of the Public Service Motivation on the behaviour of the public servant, we have seen that the period of time PSM has in impact on the public servant is different from one employee to another, the evolution of PSM being also different, and on the other hand, the PSM although intrinsic can be influenced by extrinsic factors. Thus, the Public Service Motivation is not immutable and the intrinsic PSM as defined by Perry can be lost because of some extrinsic motivational factors.

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VI.3. OPEN SOURCE GOVERNMENT: APPLYING NEW CONCEPTS OF RESEARCH & DEVELOPMENT (R&D) IN PUBLIC ADMINISTRATION

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Abstract

This paper is intended as an introduction to the concept of "open source government". It presents the late as it draws from the open source software development. Starting from the identification of the open source (OS) model in a new generation of R&D management, the main objective is to examine the feasibility of introducing innovations based on this new production model in public administration. In this regard, we argue that open source (OS) can become a modus operandi for the continuation of the processes of administrative decentralization and streamlining the exchange of information between suppliers and users of public services.

Keywords: open source government, open source software, open source model, generation of R&D management, administrative decentralization.

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1. Introduction

In general, OS refers to any software whose source code is made available to the general public for use and/or modification from its original design. OS software is usually developed as a public collaboration and made freely available. OS practice promotes software reliability and quality by supporting independent peer review and rapid evolution of the source code.

The analysis of OS software production organization gave rise to considerable discussions on the complex set of human and social behavior involved in the voluntary contributions of users. It also led to the development of an extensive literature that analyzes in detail the principles and aspects of this new model. The success enjoyed by the OS software (number of volunteers involved and quality products) has attracted the interest of many scholars in other fields who have seen in the OS a viable alternative to current models of research and development (R&D) management.

A review of the relevant literature that addresses OS discloses both a lack of academic studies that investigate the possible links of this model with the public sector and a misunderstanding of the OS by some approaches for creating management tools for online collaborative governance (e.g. metagovernance.org). The latter focuses mainly on the political aspect of participation in community decisions (which creates confusion between OS model and the concept of e-democracy).

The identification of the OS model in a new generation of R&D enables the application of his principles in the public sector as a new tool for introducing innovations that occur as a natural evolution of the efforts of decentralization and adaptation to the needs of public services users. The feasibility of applying new methods of R&D in public administration is based on the presence of management practices specific to a certain generation both in private and public organizations (Matei, 2010).

2. Generations of research and development (R&D) management

Research and development (R&D) comprise “creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications” (OECD, 2008).

R&D management seeks to address the adaptation needs of an organization: to support existing businesses, to launch new ones and to strengthen or broaden their technological capabilities. The types of activities are specific to a certain period of time and are characterized by technological uncertainties that depend on the nature of the instruments chosen for a particular task: the maturity of the technologies involved and the degree of their integration into organization (Roussel, Saad and Erickson, 1991: 19).

Generations of R&D management represent models that incorporate concepts, techniques and tools used in certain contexts for innovation of products, processes and services of an organization. Although these generations can be displayed on a temporal scale, the components and the specific ideas of each one are implemented differently depending on the organization type and the strategy pursued.

Most theorists identify five generations of R&D in which different industries and companies have served as benchmarks of the best practices. For the temporal demarcation of these generations were taken into account the types of innovations in which the organizations were engaged: concept generation, product marketing development, innovation process and technology acquisition (Ghoshal and Bartlett 1988 cited in Liyanage, Greenfield and Don, 1999, 373).

After analyzing the expansion process of the five generations’ complexity, Dennis Nobelius (2003) indicated a set of new work methods of the R&D management that tend to result in a new identifiable generation. Searching for more radical innovations leads to a refocus towards other approaches that are based on a broader multi-platform technology and on a more distributive structure of the source technology, such as corporative research labs, intellectual property acquisitions, partnerships, independent research groups or networks, et caetera.

As a result of the frequent appearances of the technological substitutions, the traditional networks based on closed systems become insufficient to keep pace with developments and research efforts worldwide. Thus are laid the foundations of a network-based system involving actors from a wide spectrum, such as universities, individual entrepreneurs, temporary interest groups, competitors and other intermediaries with the role of information providers and researchers to new areas of application. The practical example provided by Nobelius (2003) is the Bluetooth Special Interest Group that developed the well-known data transfer protocol and which functioned not as a business unit within a company but as an arena for collaboration and exchange of ideas among several thousand companies.

This vision is rooted in the corroborated efforts of the independent programmers who helped develop the Linux operating system that has become powerful enough to challenge the position of the de facto standard - Microsoft's Windows system.

3. Open Source Model

The term open source (OS) describes practices in production and development that promote access to the end product's source materials (Wikipedia 2010). Although the principles behind this concept existed long before computers, OS is most often identified with the free software movement. OS label was invented in 1998 at a strategy session held in Palo Alto, California at the decision to broadcast of the source code of the Netscape browser (Open Source Initiative 2011).

The core of this model can be captured in three essential features (Open Source Initiative 2011):

- Source code must be distributed with the software or otherwise made available for no more than the cost of distribution;
- Anyone may redistribute the software for free, without royalties or licensing fees to the author;
- Anyone may modify the software or derive other software from it, with the prerequisite to distribute the modified software *under the same terms*.

The success enjoyed by OS has led many scholars to carefully consider how this model questions the conventional theories about the organization of production and how this new method affects the society. The *voluntary participation type* (which has exceeded all expectations) that underpins the

development of OS software and the imposition of such products in most segments of this market led to the launching of discussions on the complex set of human and social behavior involved.

Steven Weber (2004: 9-13) indicates three key elements regarding the feasibility of an open source project:

a. Individual motivation

The fascination of economists towards voluntary contributions to a public good - individual behavior provide a basis for the micro-foundations of the OS processes - has led them to focus their attention on motivation. Lakhani and Wolf (2005: 1-7) summarize the main theoretical arguments on this subject using the distinction between intrinsic and extrinsic motivations:

Intrinsic motivations are in fact satisfactions that are based on the dedication to complete a task: in this case, fun and challenge. Intrinsic motivation is related to the human need for competence and self-determination, which are directly linked to the emotions of interest and joy.

These motivations have a psychological nature when they take the form of fun and creativity. In this respect the art of programming has the advantage of complex levels of difficulty that require intense and focused concentration to live up to challenge. The developer is in a constant state of tension that directly stimulates creativity while completing a task is accompanied by strong feelings of satisfaction.

Extrinsic motivations refer to the behavior resulting from incentives received from outside: career opportunities, personal use of the developed product and the skills improvement.

Although voluntary component defines OS movement, however, an important extrinsic incentive of a developer is getting a well paid job as a result of value recognition (a programmer will contribute as long as the benefits will outweigh costs).

In a survey conducted in 2003 (Hang et al. 2005: 233), the most selected motivations by developers were “fun” and “personal conviction and idealism”, followed by “technical curiosity”, “success” and “intellectual challenge”; the fewest points were obtained by the reason “esteem and appreciation”.

b. Coordination

OS projects can be considered new forms of organization whose coordination processes consist more of mutual adjustments of the participants focused on the product through the feedback channels (The Internet and instruments of source code configuration management), than a set of separate and centralized decisions. Their structures can be conceived as heterarchies or modular systems with weak links adapted to a high number of developers who are in network interdependency due to asynchronous and separate mode of task execution. The independent efforts of developers, resulting in a multitude of directions, are corroborated by creating relatively small social groups that focus on specific areas of source code and which are based on very strong social bonds backed by common concerns (Iannacci 2005: 27-28).

Unlike proprietary mode of production, the OS development process is less reliant on explicit division of labor in the sense that individuals do not control or coerce others to work on a specific task, as a project manager would do. The auto-allocation of tasks depending on the degree of interest raised leads to a much wider participation compared to a proprietary project and substitutes the need for an express coordination management mechanism for this part of the collaboration. The auto-allocation leads to a higher quality of the code and has the role of supporting the legitimacy of the interventions as a participant's right to be heard and respected, and thus to be a source of influence in the forum's decisions (Crowston et al. 2005: 190).

c. Complexity

The extraordinary complexity of software and the number of developers involved make it very difficult for an OS community to overcome some important challenges such as the Brooks's Law and the standard arguments in organizational theory who asserts that an increase in the complexity of division of labor leads to formal organization structures. Overcoming these difficulties led to the emergence of new organizational structure designed to manage complex and reconfigured production processes. Weber (2004: 171-189) suggests four elements that should be considered for the analysis of the complexity problem:

- *Technical design* - to reduce organizational demands on the social and political structures designed to manage people, an OS project requires “the source code modularization”. A good modular design requires both the limitation of interdependence between modules by minimizing or even eliminating the need to intervene elsewhere after making a change in the own module, and a good communication of the modules via standard interfaces.
- *Sanctioning* - the voluntary nature of an OS project leads to a different approach for the compliance with the rules of the community. The most visible form of sanctioning is “flaming” - that

consists of public condemnation of people or companies that violate these rules. Most of disputes revolve around writing code, and in this case the criticism is addressed to the code, not to the person who wrote it. Intense disputes are carefully monitored and are usually settled by the intervention of the developers who are not directly involved, and there are some limits on what is considered acceptable behavior within communities. A more important form of sanction is “shunning” - that consists of the refusal to cooperate with a person after he/she violated a rule. The seriousness of "shunning" results from the interdependence between participants that extends far beyond the code itself. Excluding a person from the community support is a substantial penalty since individual progress cannot be achieved without the help of others.

- *License as Social Structure* – OS licenses are legal-style documents that spell out terms of use for the software they cover. In the absence of hierarchical authority, licenses are central expressions of the social structure that defines the community of OS developers participating in a project. The most important principle taken into account is meritocracy - the guarantee offered to the developers that they will be treated properly if they join a community by providing equal opportunities to succeed (or fail) based on how good they are as coders.
- *Formal Governance Structures* - In the OS projects exists the need of organizational form that supports (or even better, takes advantage of) asynchronous communication. Also, the notion of hierarchy is different due to the lack of the possibility to impose a specific task to a developer. For most times the decisions are taken by consensus. Generally the term "hierarchy" is avoided because it implies connotations of authority, being replaced by the expression "pyramidal flow" with the sense of legitimacy use through the position among community of the developers in order to propose the integration of new improvements in a program.

The OS model is an ongoing experiment that managed to create and maintain surprisingly complex systems through an imperfect mix of leadership, informal coordination mechanisms, implicit and explicit norms and some formal governance systems that are in a continuous evolution (Weber 2004, 189).

What makes this model unique is the elasticity of the framework provided that determines superior capacities of introducing innovation and adapting to the problems encountered. Seen as an viable or at least complementary alternative to current models, OS makes his way outside the software production niche as a new modus operandi for other areas: medicine, education, media, public administration, et caetera.

4. Open Source Model

Although the term “open source government” has been circulated since the popularization of OS as a viable alternative to traditional models of innovation input, however, the application in public sector of the concept of “participatory and public development approach of integrating micro-contributions from a broader community” (O’Mahony 2007: 143) remained at the stage of theory which is still in an early stage.

Possible reasons might be both the obvious difficulties of a possible implementation in a highly complex public system and the focus more on the political aspect that is more preoccupied by the participation in decisions affecting the community: “While the term open source government certainly carries with it a grandiose image of participatory, shared government in which each member of a community has a voice, it is unclear how open source government is different from a healthy democracy”. (Yeats 2007: 31)

This confusion is a result of a limited understanding of the OS, the essence of this model being found in the word "creation" and not "decision". The most convincing example of this shortcoming is to be found in the projects initiated under the umbrella of metagovernment.org.

This requires a reorientation towards the public administration for an initial application of the OS model, due to its role of “translation of politics into the reality that citizens see every day” (Kettl and Fessler 2009) that involves the initial targeting of potential contributions through this channel which is closest to the final beneficiaries (users).

The connection between OS and public administration starts from the efforts of the current social systems directed towards democracy and decentralization aimed at obtaining the best possible information for making optimal decisions.

The term “internet speed” that has emerged with the information revolution and which is used in the business community to emphasize the need to quickly adapt to new realities, finds even more

relevance in the public administration when the quality of public services is intended to be improved in the context of rapid changes in society.

The implementation of OS model is natural because in the absence of direct involvement of those who can provide necessary information for optimal decision or may even contribute to their content, the effectiveness of solutions provided by the administrative unit may decrease due to increasing complexity of social systems and precipitation of change within.

The OS model makes it possible to move to a new step in the implementation of the principles of decentralization through the implementation of real time bidirectional communication between providers and consumers of information, with a constant feedback through which the solutions to community problems are offered by those directly affected by the decisions taken. This represents the foundations of a development methodology based on community management that allows information consumers to become information providers.

The main form that can be taken by the OS government is collaboration: to announce the problems identified in local communities, to partner with the public to develop alternatives by submitting suggestions or even complex projects, academic contributions to improve information-based instruments (documents of general interest, laws, etc.), to physically participate in community service activities etc.. The possibilities are virtually endless and can cover any instrument by which the public administration contributes the development of society through the services provided.

The most important aspect that confers superiority to this model is his ability to identify and correct deficiencies through a quick and direct feedback which prevents engaging in a long development cycle that can result in a product that no longer reflects the needs of the end users. Also, in the public sector, the OS model can provide the opportunity to transform the administrative apparatus from author of public policy into an editor that is able to choose from a variety of solutions offered for free by volunteers who aim at the progress of their community or of the society as a whole. And, no matter if the proposed innovations are accepted or rejected by decision makers, the fact that these contributions are considered shows that the submitter has been heard.

For the successful implementation of this model in public administration it should be considered the same elements related to the political economy of OS software: individual motivation, cooperation and complexity.

Regarding the *motivation of individuals* to contribute, it is difficult to imagine that any OS implementation of the model would not excite interest among the population, in particular due to the concern of all citizens for the public life and for the services that affect them directly. Current conditions allow a critical analysis of the deficiencies form governance systems and public services, without however being offered a framework for creative activities through which a user to have the tools to provide a viable alternative to the problems identified.

Even if there isn't a remuneration for the work involved, voluntary action can start from the need to transmit something to the world, and thus a developer of the OS government can have the same satisfaction as an OS software developer: joy of creating something which improves the society, fun resulting from activities that make you pleasure, opportunity to continuously learn through interaction with people from the same areas of interest, obtaining a legitimate status in the community based on meritocracy, et caetera.

On the other hand, the acceptance by the administrative apparatus of the recommendations offered by developers would be the result of some obvious advantages: saving time and effort through the analysis and the selection of some free solutions that are based on an improved perspective derived from the upper level of information involved and from the many possibilities taken into account as a result of the large number of contributors. The editor's activity has clear benefits compared to the author's because it is much easier to choose from a variety of solutions available (many of them innovations that are difficult to identify through other means) than to create something yourself or in a restricted group, having limited resources at disposal (of which the most important is the information).

The discussion regarding the issues of *complexity* and *cooperation* within an implementation project of the OS model in public administration highlights the difficulties that may partly explain why no attempt has been made so far to at least theorize such a step.

Cooperation between participants may be more difficult than in an OS software project because of a lower “objectivity” of the “code”: although there are several ways to solve a problem, the accuracy of the code lines must be flawless for a software to function; instead, any contribution for public sector is more susceptible to interpretations and thus more difficult to propose as an exclusive solution. The popular concept "let the best code win" from the OS software projects, whereby any person who has a good idea is taken under consideration, becomes more difficult to implement in the absence of some

proven skills of the contributors in the field covered, and may determine an increased influence of the persons responsible for integrating the contributions (moderators) (like in Wikipedia's case). This problem can be solved by strengthening the principles that make possible cooperation in the OS software: contributions based on truth (authentic expression of the intentions), meritocracy, critique addressed to the solutions and not to the person who proposed them, et caetera.

The next necessary step would be the development and the popularization of new online systems for integration of contributions that must meet the needs of complexity management for the implementation of the OS model in public administration, the usual channels (like e-mail lists) used for an OS software being in this case insufficient. These management online systems would themselves become OS projects that will require constant adjustments for development and update.

5. Conclusions and implications

The implementation of the OS model in the public administration is an opportunity to keep up with the new methods for introducing innovation by R&D management practices and a tool to continue the efforts of decentralization by establishing a framework that allows a bidirectional communication for exchange of information between providers and users of public services.

The novelty and the unusual nature of the OS model involve a gradual adoption and mostly complementary to existing structures; the point of departure must be the implementation of this system in local communities in order to allow him to self-adjust to the complex problems of public administration. The results obtained in domains other than software development, make from this model in-process of a continuous self-development, an ideal candidate to substantiate new policies for central and local development, especially due to the ratio between the negligible costs involved and the obvious benefits for society as a whole.

The next step for further studies must be a detailed analysis of the relationship between the principles underlying the decentralization process and the OS principles in order to provide a set of tools for empirical implementation of this new model of production in public administration. Furthermore, identifying the strengths and the weaknesses of the projects under the umbrella of metagovernment.org can contribute to the creation of an online system that will meet the adaptation needs of a society in which change happens with "Internet speed".

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VI.4. PROJECTIONS OF RATIONAL CHOICE THEORY ON EUROPEAN UNION AND THE BALKAN MEMBER STATES RELATIONSHIP. PRINCIPAL - AGENT APPROACH, SUPPORT FOR ANALYSIS

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Abstract

The European Union has grown both terms of size, scope, impact on Member States and in European Union competencies, in particular since the 1990s with the exponential growth in number of members - from 12 to 15 to 25 now 27 and how many more? - with the completion of the Single Market and the Single Currency. The goal of this paper is to present and analyze the relationship between the EU and the Balkan Member States in the spirit of rational choice, focusing on principal-agent approach. Therefore, the objectives of the paper refer to:

- *a brief overview on the rational choice theory and on the principal-agent model,*
- *an investigation on the motivations that lead principals (Member States) to delegate powers and confer authority to agents (supranational institutions of the European Union),*
- *a research on using this model in order to design an EU policy.*

For achieving the aims of the actual paper we have used the theoretical and analytical framework, described by various scholars, namely, M. Pollack, H. Kassim, A. Menon, and the analysis of rational choice assumptions.

Keywords: European Union – Balkan States, principal-agent model, European policy of humanitarian aid and civil protection

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1. Introduction

The number of researches studying the "delegation of competencies" for setting the public policy agenda and subsequently their autonomy to supranational organizations has increased in the last years.

Delegation theory has been developed out of interest in the relationship between shareholders and managers in businesses (Egan, 1998: 487), and today the principal – agent relationships are extremely pervasive in everyday life. The study of delegation and the agency theory has been introduced in the study of public administration, comparative policies, and international relations and not least in the European Union study. Theoretical and empirical studies of EU – Member States relations have tended to adopt a particular focus; they have either explored the impact of member states upon the EU, or have explored the impact of the EU upon the Member States. However, there is an intermediate variant, namely interactive relationship between the Member States and EU.

2. Rational Choice Theory and Principal – Agent Model: Theoretical Perspectives

The rational choice theory is meant to be one of the greatest theories of modernity (Archer, Tritter, 2000: 57). The research produced over the 60 years of existence is substantial and the principal – agent model finds its applicability in the study of various phenomena.

2.1. The Conceptualization of Principal – Agent Model

The terminology of principals and agents has been derived from the principal - agent theory, originally developed within the literature of new institutional economics, which focused on transaction costs. The principal represents someone who delegates, and the agent represents the actor to whom authority is delegated (Lupia, 2003: 3; Furness, 2011: 6).

The model has been developed within the framework of the "new institutional economics" and therefore it shares the basic characteristics of this framework, for instance, the assumption of rational actors striving to maximise their preferences that are ordered according to their priorities. Stephen Ross, responsible for the economic origins of the theory of agency and Barry Mitnick "guilty" for the institutional origins of agency theory (Mitnick, 2011: 2) were the first theorists who propose explicitly that the theory of agency was created.

In 1973, Ross (1973: 134) described how a principal - agent relationship is created, namely, "a principal – agent relationship arise between two (or more) parties when one, designated as the agent, acts for, on behalf of, or as representative for the other, designated the principal, in a particular domain of decision problems. Therefore, the principal-agent relationship can be defined as a social transaction, or interaction, in which one actor, the agent, carries out actions that are intended to fulfil the interests of another actor, the principal.

Despite certain limitations, principal-agent theory has produced valuable hypotheses purporting to explain "why", "how" and "under what circumstances" actors delegate policymaking and implementation to other actors, and how the 'agents' assume the responsibility for the delegated powers (Bauer 2002, pp. 383-385); its applicability being extended for studying the relationship between European Union and Member States.

Through the lens of specialized literature the European Union can be considered as a complex network of delegation systems (Doleys, 2000: 532; Bédoyan, 2006: 2-5) on the one side, Member States, as principals, delegate competencies to the EU, and on the other side, the EU, as principal, has to rely on Member States for the implementation of its policies. The scholars assert "part of the genius of the principal - agent approach as it is applied to the study of the EU is that the notion of "delegation" accommodates, in a very simple way, much of the underlying institutional complexity of the European construction".

2.2. The features of principal –agent model and the rationality of delegation

Through the 1980s studies on insurance model, the economists had defined the issues, concerns, and canonical results of principal – agent model (Holmstrom 1979: 74-91).

To be defined as a principal-agency model, a model must have the following features:

- agent impact,
- information asymmetry,
- asymmetry in preferences,
- initiative that lies with a unified principal,
- backward induction,
- ultimatum bargaining,

Given these characteristics, numerous specialized studies explore the reasons for which the principals delegate functions and give authority to agents, and the answer is not only one, but rather it points several logic of delegation. The first forms of delegation are outlined in the original Treaties of the European Union, through which the Member States have established and delegated powers to supranational institutions of the European Union.

For understanding the delegation and its extent in the EU context, Tallberg (2002: 24) proposed four stages, for analysis:

- the expected consequences of delegation motivate the decision to delegate;
- the nature of the policy area influences the types of control mechanisms established;
- the institutional design shapes the consequences of delegation by incentivising or discouraging independent action;

- the consequences of previous rounds of delegation affect future decisions to delegate and future control mechanisms.

In general terms of the principal - agent model of delegation have been identified several reasons for which the principals may choose to delegate the authority to an agent, such as the EU's supranational institutions, (Pollack, 1999: 102-104; Kassim, Menon 2003: 123-124):

- supranational agents may monitor the Member States compliance with the treaty obligations;
- to overcome problems of collective action;
- to improve the quality of policy in technical areas by delegating responsibilities to an agent with specialist knowledge;
- to resolve the problem of policy-making instability;
- supranational agents may solve problems of "incomplete contracting";
- supranational institutions may be delegated with the power to adopt regulations that are viewed too complex to be debated in detail by the principals or that require the credibility of an independent regulator;
- principals may have as incentive to delegate the formal power to set the agenda, that is, the ability of one actor to initiate policy proposals for principals.

The delegation of the competence to the European Union may be interpreted as a consequence of the aim pursued by the Member States, viewed as rational actors face with the costly adjustment pressure, emanating from the European process, to reduce the transaction costs (Pollack, 2008: 8-10; Franchino, 2007: 199 – 205) of policy-making. Moreover, the Member States do not always have the capability to anticipate the consequences of their actions (Doleys, 2000: 532).

Majone (2001: 57-78) argues that governments delegate competencies so as to increase the credibility of their policies and its research brings in the light of analysis a new concept through which the author identify "two logics of delegation". The first logic which determines delegation is based on demand for policy-relevant expertise; according to which, the principals delegate executive functions, creating in the same time control and coercion mechanism. The second logic is guided by the logic of credible commitments, where the principals deliberately "insulate" the agents or in Majone's terms "trustees", so that those trustees may implement policies to which the principals themselves could not credibly commit.

Moravcsik (2002: 507-511) explains delegation in interests Member States terms, which in the context of economic interdependence, recognize the delegation benefits and become parties of a long-term cooperation relationship, but also should to solve the collective action issues. The author argues that Member States are influenced by the "potential gains of cooperation", "level of political uncertain for governments, analysed individually". These calculations have attracted the delegation of setting agenda process, implementation and external representation.

3. The Applicability of principal-agent model to European humanitarian aid and civil protection policy

Humanitarian aid and civil protection policy, is one of the area in which the Member States agreed to "relinquish" to a part of their competencies and to follow together a humanitarian aid policy. In this relation, the Member States are hewn as collective principals, which delegate to an agent, the European Commission, the responsibility for caring out some activities to fulfil their interests in humanitarian aid field.

3.1. The European Humanitarian Aid: the legal framework

Although the European Union has been involved in humanitarian aid operations since the late sixties, the legal basis of EU humanitarian policy is relatively recent, being set out in the 1257/96 Regulation, where we find the definition and the principles of humanitarian aid.

In December 2006, the European Commission initiated a policy debate on key elements of the European policy framework for Humanitarian Aid. One year later, in 2007, following consultations with Member States and humanitarian organizations, the EU concluded the European Consensus on Humanitarian Aid, which outlines the values, guiding principles, and policy scope of EU humanitarian aid. The Consensus strengthens Europe's capacity to help those in crisis, and ensures that relief aid, delivered effectively, rapidly, and impartially by civilian professionals.

3.2. Principals and agents within the humanitarian aid and civil protection policy

In the standard application of the principal-agent model to EU policies, scholars have conceptualized the Member States as principals who have delegated certain powers to the supranational institutions and subsequently been confronted with a control problem. In this paper, the principals are identified with the Balkan countries as Member States. We refer to Greece, Slovenia, Romania, and Bulgaria whose statuses are briefly drawn in the table no 1 (Iancu, 2010: 2; Iancu, 2010: 13):

Table 2

Status of Balkan EU Member States

State of Balkan region	request Association Agreements in:	sign formal accession in:	start negotiations in:	[and] become members of the European Union in:
Greece	1959	1962	1976	1981
Slovenia	1996	1996	1998	2004
Romania	1993	1995	2000	2007
Bulgaria	1993	1995	2000	2007

The states analyzed have represented the arena of the reforms in the administrative and judicial systems, these being interested to continue their preoccupations in view to implement the Community legislation into their domestic legislation, as well as to review and adapt to the specific European developments and requirements. Moreover, on the Balkans states, as well as on other countries, the economic and financial crisis exerts pressures influencing the mechanisms of the relationship between the two political and administrative levels, in all cases the reforms started some time before countries' accession to the EU.

In this context, the framework of the EU enlargement policy to Western Balkan states consists in the Stabilization and Association Process in view to get closer the Western Balkan states to the EU, aiming three objectives: stabilization and transition to market economy; promoting the regional cooperation; perspective of accession to the European Union (Matei, Matei, Stoian, Dogaru, 2010: 30-34).

In this perspective, the European humanitarian aid and civil protection policy become very important, through its tools contributing to the improvement of economic and social situation as well as to the progress and consolidation of Balkan States. Changing in the Balkan countries in the field of international aid policy was motivated by their aspiration to be regarded as independent, and no longer part of a fading Balkan region.

The agent is represented by the European Commission. In the early 1990s, the European Union recognised both its political duty to coordinate humanitarian interventions in countries outside the EU, and its moral duty to show solidarity with their civilian populations, who were now the deliberate victims of chronic and ferocious conflicts. It was this double imperative which in 1992 gave birth to ECHO, the EU service in charge of humanitarian aid and which constitute the main facet of the agent for our analysis.

The EU's Treaty of Lisbon, in force since 2009, fortified and expanded ECHO's role by assigning it a dedicated European Commissioner, including civil protection within its responsibilities, and calling for the establishment of a European Voluntary Humanitarian Aid Corps. A Union humanitarian aid operation can be initiated at the request of the Commission, NGOs, international organisations, Member States or beneficiary countries.

3.3. The rationality of delegation for humanitarian aid and civil protection policy

Member States, particularly the Balkan ones are motivated by different considerations for delegating competencies to European Union to develop and intercede in the humanitarian aid and civil protection sphere. Generally, Member States might be of the opinion that their interests are best served by pooling humanitarian resources at the EU level and supporting ECHO as a world leading humanitarian donor. The studies show that this would seem especially true for the Member States of European Union which do not have a strongly developed humanitarian aid policy or do not have large humanitarian aid budgets themselves.

The combination of policy uncertainty and expertise provides a motivation for delegation by principals to an expert agent. Delegation motivated by the need for expertise is especially common in highly technical, fast-changing, or complex issue areas. In the words of Moravcsik (2002: 613-614),

this phenomenon takes the following formulation “insulated institutions reduce decision-making costs by encouraging specialization. They thus permit efficient and consistent decisions to occur in areas […] where scientific, legal or administrative expertise is expensive”.

Therefore, the Member States have decided to entrust the European Commission with the execution of EU policies within specified domains because of its *ability to develop and deploy relevant expertise*. When the Commission formulates implementation measures, the expertise of its specialized Directorate General for Humanitarian Aid is exploited for making decisions with technical character or complex, which make them unsuitable to be debated in detail by the politicians in the Council (Tallberg 2002: 27). However, the member states do not exclusively rely on the Commission capability, as supranational expert, to generate and disseminate knowledge on humanitarian aid, they having their own humanitarian aid departments which can provide information on developments in the humanitarian field.

Given the economic status in developing, the Balkan states prefer to delegate competencies to European Union in order to strengthen their *credibility commitment* for achieving the objectives of the humanitarian aid and civil protection policy.

Delegation can help in ensuring “the swift and efficient adoption of implementing regulations that would otherwise have to be adopted in a time-consuming legislative process by the member governments themselves” (Pollack 2006: 33). Humanitarian aid policy, apart from requiring expertise, demands a *quick response to emergency situations*. Furthermore, because of the limited predictability of humanitarian disasters, relief is not easily regulated through the use of forward-looking legislative instruments. Therefore, the humanitarian aid, through its nature, it seems to be a policy domain which asks for the attribution of large autonomy to an executive body such as ECHO, that by delegating authority over humanitarian aid funding speeds up decision-making.

Moreover, it is necessary to preserve *flexibility* in the face of the sudden outbreak of disasters or conflicts causing humanitarian emergency situations, and in the face of quickly evolving circumstances in such crises (Versluys, 2006: 1 - 7). The Commission asserts that since Member States tend to be influenced by political considerations, ECHO can balance this with a more objective allocation of funds directed to areas of highest need.

3.3.1. Humanitarian aid and civil protection operations in the Balkans

Over time the European humanitarian aid was given to all mankind. The states belonging to Balkan region are among the beneficiaries of humanitarian aid and civil protection, one of them as Member State of European Union, others as candidate or potential candidate countries. The starting point for European interventions in the Balkans is the crisis which has shaken the western Balkans over the last decade, a major challenge for Europe.

EU enlargement policy fuelled applicant countries’ aspirations in this “scramble for Europe”. Negotiations focused on adapting candidate countries to the EU, rather then creating a new foundation or new goals for European integration. International aid was only a minor issue on the accession agenda, although, the actors from relevant ministerial departments in Balkan states maintain that the expectations of the EU were a motivating factor in the creation of an assistance policy (Grimm, Harmer, 2005: 9-11).

ECHO concluded its first stage of classic operations in Western Balkans as following: Bosnia and Herzegovina in 2000, Kosovo in 2001 and Albania in 2002. Phasing out from the Former Yugoslav Republic of Macedonia (FYROM) and Serbia was scheduled for 2003 (see Tabel 2).

Table 2

Summary of ECHO assistance to the Balkans, 1991-2003 (in €m)

Time / Country	1991-1998	1999-2003	Total
FRY	255.2 mil€	-	255.2 mil€
Kosovo	-	156.4 mil€	156.4 mil€
Serbia	-	211.0 mil€	211.0 mil€
Montenegro	-	35.3 mil€	35.3 mil€
FYROM	45.7 mil€	53.5 mil€	99.2 mil€
Albania	34.2 mil€	107.1 mil€	141.3 mil€
Bosnia and Herzegovina	1,026.6 mil€	60.1 mil€	1,086.7 mil€
Croatia	285,8 mil€	6.5 mil€	292.3 mil€
Regional/multycountry	54.7 mil€	41.9 mil€	96.6 mil€

Over the coming years, reductions in EU and Member State humanitarian appropriations for the Balkans will be counterbalanced by progress made with implementing the regional "stability "plan. In this way, all the Balkan countries should, in the medium term, be brought back in to the 'family' of European nations (European Commission, 2001, 2002). According to this objective, in the last period the Balkan States have been often the beneficiaries of the European civil protection mechanism. The Community Civil Protection Mechanism has been established in 2001, by the Council Decision No 2001/792/CE, and was updated in 2007. In 2010, the EU has supported Albania, Bosnia and Herzegovina and Montenegro in combating floods through the Community Civil Protection Mechanism.

Albania activated the EU Civil Protection Mechanism requesting wooden boats, rubber boats, tents, water pumps, helicopters and other assets. Several Participating States have responded to this request for assistance. Several states, such as, Albania, Italy, Greece, Czech Republic, Slovenia, Poland, Hungary, Turkey have responded to this request for assistance. The assistance from 2010 is not the first experience of activation the Community civil protection mechanism by Albania. In 2007, Albania has activated the mechanism for solving forest fires.

In *Bosnia and Herzegovina*, massive floods have affected the entire territory. The ECHO Monitoring and Information Centre received a request for assistance from the civil protection authorities of the country. States such as, Austria, Slovenia and Turkey have responded to this request for assistance, with means similarly with those from Albania and Czech Republic with 145.000 €

A similar situation it can be identified for *Montenegro*, which has also suffered from massive floods on its entire territory. In this context, Montenegro activated the EU Civil Protection Mechanism requesting among others things water pumps, tents power generators, sandbags and blankets. Belgium, Austria, Poland, Slovenia, Greece, Italy, France, Turkey, Czech Republic have responded to Montenegro's call.

A retrospective view on 2010 shows that Balkan states have benefited by humanitarian aid, especially from Member States' part, only Bosnia and Herzegovina has received humanitarian aid from the ECHO. The humanitarian aid (2010) given by Member States to these countries takes the following form: Albania: 659416€, Balkans: 260000€, Croatia: 730000€, Serbia: 235000€ and Bosnia and Herzegovina: 2962160€ from Member States and 100000€ from ECHO.

Romania and Bulgaria, as the most recent Balkan states, members of European Union have been also the beneficiaries of the EU civil protection mechanism.

Romania activated the EU Civil Protection Mechanism in 2010, in the context of sever foods that hit the country. Within few hours after the activation of the system, France has offered 5 pumps, 8 power generators, and 1 water purification unit. Estonia has indicated that the Commission funded BaltFloodCombat High Capacity Pumping module, supported by a team from Baltic countries is ready to be moved to Romania. Also, Austria and Belgium have expressed their support and Romania has accepted the offers.

Bulgaria received the EU civil protection since the accession to the European Union (2007). The extreme temperatures from 2007 caused forest fires in many areas of the country. Bulgaria requested assistance through the Community Civil Protection Mechanism four helicopters with specialised water buckets for three days and two fire-fighting aircraft for three days. The assistance provided was based on a bilateral agreement between the Republic of Bulgaria and the Russian Federation.

It is worth to mention that the community intervention through civil protection mechanism covers almost all world, starting from EU members, candidate, potential candidates, non-EU members and complete with third countries.

4. Conclusions

A first conclusion that emerged emphasizes that the general answer offered by rational choice institutionalism to the question „why member states delegate?" is functionalist in orientation. Delegation is explained in terms of the anticipated effects for the delegating party, and is likely to take place when the expected benefits outweigh the estimated costs.

The EU as a whole, European Commission plus Member States is the world's largest humanitarian aid donor, helping people in need across the globe. It provides 55% of international humanitarian aid, 30% of which comes from ECHO and 25% directly from the Member States.

In 2010, the EU's response to new or protracted crises totalled € 1.115 million and consisted in:

- providing humanitarian assistance to about 151 million people in 80 non-EU countries, of which 39 territories were designated as being in a situation of crisis in DG ECHO's initial planning;
- activating the civil protection mechanism for 28 crises inside and outside the EU to respond to e.g. floods in Pakistan, Albania, Bosnia and Herzegovina, Montenegro, Hungary, Poland, Romania, Benin, Tajikistan and Colombia; earthquake and cholera epidemics in Haiti; an earthquake in Chile; forest fires in France, Portugal and Israel; snowfalls in the UK and the Netherlands; and finally the chemical accident in Hungary (European Commission, 2010).

The analysis of literature and the review of the studies on humanitarian aid policy mechanism allow us to conclude that EU Member States, in particular the Balkan States are motivated to delegate competencies and to act on the principal-agent model assumptions for the following reasons: reducing the transaction costs involved in making-policy; increasing the credibility of policy commitments; the expertise of the EU institutions, the complexity of decisions involved in developing a policy in humanitarian aid and civil protection field; the need for a quick answer; the Member States are not always able to anticipate all the effects of their actions.

Finally, we have seen during the research that much of the humanitarian aid which Member States and the European Union give is moving further to countries belonging to the Balkan region. This is supported on the one side by the social and economic situation of these, and on the other side because they are candidate states (Croatia, FYROM, Turkey), either potential candidate states (Albania, Bosnia and Herzegovina, Kosovo, Serbia, Montenegro).

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