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ENTSCHEIDUNGSMECHANISMEN UND ORGANISIERUNG DER FINANZINSTITUTIONEN DER GLOBALEN WELT

DECISION-MAKING AND ORGANISATION OF INTERNATIONAL FINANCIAL INSTITUTIONS IN A GLOBAL WORLD

Dragoş Păun*

Zusammenfassung

Der folgende Beitrag stellt die Organisation und die Entscheidungsverfahren der wichtigsten Finanzorganisationen der globalen Welt - der Internationale Währungsfonds und die Welthandels Organisation - dar. Der Beitrag bezieht sich nicht nur auf einige der Ähnlichkeiten der beiden Organisationen, sondern auch die Unterschiede. Der Artikel betont die Rolle der euro-atlantischen Staaten in den beiden Organisationen - die mehrmals beschuldigt wurden, Interesse der entwickelten Länder und nicht das Interesse der Begünstigten zu folgen.

Schlüsselwörter: Welthandelsorganisation, Internationaler Währungsfonds, Stimmrechte, Einflusszonen, Entscheidungsmechanismen.

Abstract

The following paper presents the organisation and the decision-making procedures of the most important financial organisations of the global world – The International Monetary Fund and the World Trade Organisation. The paper presents some of the similarities of the two organisations but also the differences.

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The paper emphasis the role of the euro-atlantic states in the two organisations that were accused to follow the interest of the developed states and not the interest of the beneficiaries.

Keywords: World Trade Organisation, International Monetary Fund, Voting Rights, influence zones, decision-making.

Einführung

Die Struktur der Entscheidungsmechanismen im Rahmen des Internationalen Währungsfonds (IWF) und der Welthandelsorganisation (WTO) hat mehrere Unterscheidungs- als Ähnlichkeitselemente¹. Am Ursprung dieser Diskrepanz befindet sich in erster Reihe der überwiegende Einfluss der USA bei der Projektierung der inneren Regierungsmechanismen des IWF und, respektive, der vom „Gleichheitsgedanken“ durchdrungene Zusammenhang, in dem nach genau vier Jahrzehnten die Umwandlung des Allgemeinen Zoll- und Handelsabkommen (GATT) in die Welthandelsorganisation (WTO) stattfand.

Entscheidungsträger

Hinsichtlich der Entscheidungsstruktur gibt es nur zwei Ähnlichkeiten zwischen IWF und WTO: die Tatsache, dass die höchsten Entscheidungsorgane (der Gouverneursrat und, respektive, die Ministerialkonferenz) aus der Gesamtheit der autorisierten Vertreter der Mitglieder der beiden Organisationen zusammengesetzt sind und dass diese selten tagen (zweimal im Jahr im Falle des IWF, beziehungsweise wenigstens einmal in zwei Jahren im Falle des WTO, sowie die Vorliebe des Treffens von Entscheidungen durch Konsens, trotz des Vorhandenseins ausgearbeiteter Abstimmungsregeln, die auf die Wichtigkeit dieser Entscheidungen abgestimmt sind. Auf dem gleich folgenden niedrigeren Niveau, also unter den höchsten Entscheidungsorganen, funktioniert ein Exekutivdirektorium (*Executive Board*) des IWF und ein Generalrat des WTO. Hier hören die Ähnlichkeiten auf.

Das Exekutivdirektorium des IWF handelt wie ein Verwaltungsrat eines Unternehmens, indem es die Tätigkeit der exekutiven Leitung anweist

¹ Colin I Jr. Bradford, *The future of the IMF*, The Brookings, April, 2008; Ariel Buira, *The Governance of the IMF in a Global Economy*, Group of 24, Washington DC, 2003.

und überwacht und indem es deren Initiativen genehmigt². Es ist dies aber ein Verwaltungsrat mit besonderen Eigenschaften, die auf Wunsch der USA, festgelegt worden sind, obwohl es auch andere Vorschläge gegeben hatte. So zum Beispiel hatte die von James Maynard Keynes geleitete Delegation vorgeschlagen, dass der IWF (ähnlich wie die Weltbank übrigens) in einer apolitischen, auf technischen Erwägungen gründenden Art und Weise von einer Exekutivleitung mit einem hohen Grad von Autonomie verwaltet und von einem Organismus, der in nicht sehr nahen Abständen periodisch tagen kann, unaufdringlich überwacht werden soll. Die USA hingegen bestanden und setzten ihren Vorschlag durch, dass der Sitz des IWF und der Weltbank in Washington eingerichtet und die Tätigkeit der Exekutivleitungen konstant von einem Exekutivdirektorium kontrolliert wird, dessen Mitglieder sich ausschließlich dieser Tätigkeit widmen und der einen ständigen Charakter hat und wenigstens dreimal pro Woche zusammenkommt³. Obwohl das Exekutivdirektorium in dem Maße des Anwachsens der vom Fond verwalteten Fragen sich aus der Ausübung von quasi-exekutiven Funktionen zurückzog, wie zum Beispiel das unmittelbare Verhandeln mit den Behörden der Mitgliedstaaten und die unmittelbare Teilnahme an den in diesen Ländern stattfindenden Missionen, ist das dermaßen festgelegte Muster von korporativer Governance viel plumper als im Falle eines „klassischen“ Unternehmens.

Die Vertretung der IWF-Mitglieder im Exekutivdirektorium ist eine andere heikle Frage. Obwohl ursprünglich 12 Plätze vorgesehen waren, umfasst das Board des Fonds zurzeit eine doppelte Anzahl, was schon an sich Schwierigkeiten für die Effizienz des Entscheidungsprozesses aufwirft. Die Satzung des IWF sieht vor, dass den ersten fünf Ländern, was den Beitrag zum Kapital des Fonds betrifft (USA, Japan, Deutschland, Frankreich und Großbritannien), von Amts wegen je ein Platz zukommt. Durch nachträgliche Verhandlungen wurde dieses Privilegium auch auf andere drei Länder ausgedehnt (China, Russland, und Saudi-Arabien), mit der Folge, dass 177 Mitglieder des IWF im Board von nur 16 Exekutivdirektoren vertreten sind, sodass diese gezwungen sind, sich in sogenannte „Zusammenschlüsse“ zu gruppieren, die durch je einen Exekutivdirektor vertreten sind, der gewöhnlich aus dem Land mit der höchsten Teilnahmequote an der Bildung der Ressourcen

² Carlo Cottarelli, *Efficiency and Legitimacy: Trade-Offs in IMF Governance*, IMF Working Paper, WP/05/107, June 2005

³ *Ibidem*, pp. 6-7.

des Fonds stammt. Das System der „Zusammenschlüsse“ hat große Unzulänglichkeiten. In erster Reihe wird den meisten IWF-Mitgliedern vorenthalten, sich mit der eigenen „Stimme“ auszudrücken, sodass sie ihre Meinung hinsichtlich der Tätigkeit der Organisation nur durch einen Vermittler und nur dann ausdrücken können, wenn das Land, das den „Zusammenschluss“ leitet, einverstanden ist, diesen Dienst zu leisten, was auch die Tatsache voraussetzt, dass die betreffende Meinung nicht mit der eigenen in Konflikt gerät. Zweitens ist unter den Bedingungen, dass das Exekutivdirektorium in die Routinetätigkeit des Fonds sehr eingespannt ist, der Arbeitsaufwand der Exekutivdirektoren, die zahlenmäßig große „Zusammenschlüsse“ vertreten, übermäßig groß und kann nicht unter ausreichend guten Bedingungen ausgeführt werden⁴. Und schließlich, obwohl die Stimmkraft jedes Mitglieds von seiner „Quote“ am Fondskapital bestimmt wird, entfaltet sich die tatsächliche Ausdrückung der Stimme im Rahmen des Exekutivdirektoriums (anders als im Gouverneursrat) „je nach Zusammenschlüssen“ seitens der Exekutivdirektoren, die nicht die Möglichkeit haben, die Stimmen der Mitglieder, die sie vertreten aufzuteilen, was bedeutet, dass die Stimmen einiger Mitglieder zugunsten von Entscheidungen verzeichnet werden, mit denen diese gar nicht einverstanden sind⁵!

Diese Eigenschaft und die Art und Weise der Verteilung der Stelle eines Exekutivdirektors im Rahmen der 16 multinationalen „Zusammenschlüsse“ bilden den Ursprung großer Unzufriedenheiten in den Reihen der IWF-Mitglieder. So zum Beispiel werden 3 der 16 multinationalen „Zusammenschlüsse“ ständig von EU-Mitgliedstaaten (Belgien, Holland und Italien) vertreten, während andere 2 eine kreiselmäßig abwechselnde Präsidentschaft haben, die oft von anderen EU-Ländern (nordische Staaten, bzw. Spanien) ausgeübt wird, was dazu führt, dass die EU bis zu 8 der 24 Plätze des Boards innehaben kann, wohingegen 117 IWF-Mitgliedsländer von nur 11 Exekutivdirektoren vertreten werden⁶.

Die Fragen der „Stimme“ der inneren Governance der WTO sind unterschiedlicher Natur und haben ihren Ursprung gerade im Fehlen

⁴ Eric Helleiner & Bessma Momani, *Slipping into Obscurity? Crisis and Reform at the IMF*, The Center for International Governance Innovation, Working Paper No. 16, February 2007, p. 15.

⁵ Peter B. Kenen, *Reform of the International Monetary Fund*, CSR No. 29, Council of Foreign Relations, May 2007.

⁶ David Rapkin & Jonathan Strand, „Reforming the IMF’s Weighted Voting System“, *The World Economy*, 29:3, 1996, p. 309.

jeglicher formeller Differenzierung unter den Mitgliedern der Organisation, was dazu führt, dass die Blickpunkte der wichtigsten Akteure des internationalen Handels im Prinzip dieselben Chancen haben, ausgedrückt zu werden, wie die Meinungen der Mitgliedsländer mit einer unbedeutenden Teilnahme am Welthandel. Aber auch diese Lage, die sich am Gegenpol der vorher hinsichtlich des IWF beschriebenen befindet, ist nicht wünschenswert, denn sie kann dazu führen, dass die Effizienz des Funktionierens der Organisation auf dem Altar der Legitimität geopfert wird. Deshalb kristallisierten sich im Rahmen des GATT und nachträglich des WTO eine Reihe von informellen Mechanismen zur Lenkung (*steering*) der Verhandlungen, die aber meistens von den Entwicklungsländern mit dem Vorwurf aufgenommen wurden, dass sie ihre Marginalisierung hervorrufen. Unter diesen muss die lange Zeit gespielte hervorragende Rolle der Viererstaaten (*Quad*) hervorgehoben werden, ein Forum, das aus dem 1981 in Okinawa stattgefundenen Gipfeltreffen der Gruppe der Sieben (G7) hervorgegangen war und die Handelsminister der USA, Kanadas, Japans und der EU (das Mitglied der Europäischen Kommission, das für das betreffende Ressort verantwortlich war) umfasste. Die Entschlussfassung mittels dieses Mechanismus befolgte das Muster konzentrischer Kreise, der Ausstrahlung vom in der Mitte befindlichen Quad aus zu den sogenannten „*Friends of the Chair*“ (andere entwickelte Länder und einige Entwicklungsländer wie Chile, Südafrika oder Singapore) auf dem nächsten Niveau und dann zu den wichtigen Entwicklungsländern, die überzeugt werden mussten (Indien, Brasilien, Malaysia). Obwohl das Quad einen großen Einfluss bei der Formulierung der Regeln und der Vorbereitung der Pakete für die ausgehandelten Lösungen im Rahmen der Uruguay-Runde spielte, verlor es an Bedeutung nach der Aufnahme Chinas in die WTO und nachdem große Schwellenländer (in erster Reihe Brasilien und Indien) sich auf entschlossenerere eigene Positionen stellten. Demzufolge kam die Praxis der Quad-Treffen in den letzten Jahren außer Gebrauch, so wie der ehemalige EU-Kommissar für Außenhandel (und derzeitiger Generaldirektor der WTO) Pascal Lamy hervorhob.

Eine andere konsekrierte Praxis im Rahmen des GATT, die auch in der WTO fortgesetzt wurde, ist jene der informellen Treffen vom Typ „*Green Room*“. Der Begriff bezeichnet die Treffen mit einer kleinen Anzahl von Teilnehmern, die bestrebt sind, ihre Gesichtspunkte aufeinander abzustimmen, wobei die ausfindig gemachten gegenseitig akzeptierbaren Lösungen später

dem Plenum zwecks Genehmigung vorgelegt werden. Wenn ursprünglich die vom Generaldirektor ad hoc eingeladenen Mitglieder teilnahmen (8 während der Tokio-Runde) kristallisierte sich im Laufe der Zeit eine selbsterwählte Gruppe von 20-30 Ländern (einschließlich Entwicklungsländer), deren Zusammensetzung aber je nach der zur Diskussion stehenden Frage variiert. Die Auswahl der Teilnehmer hat keine objektive Basis (gewöhnlich nehmen die im Verhandlungsprozess aktivsten Länder teil), wobei die Teilnahme aller Interessenten nicht erleichtert, sondern im Gegenteil oft entmutigt wird. Die sensibelsten und gleichzeitig auch relevantesten Treffen vom Typ „Green Room“ sind jene in den letzten 5 Jahren organisierten Zusammenkünfte, die auf Ministerebene in verschiedenen initiierten Mitgliedsländern stattfinden (und die in Analogie mit dem Titel des höchsten Organs der WTO „Ministerminikonferenzen“ heißen). Die Länder, die an diesen Zusammenkünften nicht teilnehmen können, verurteilen die Tatsache, dass ein ad hoc gebildeter Mechanismus anstelle der formellen Regeln eingesetzt wird, wobei der stark informelle Charakter der Debatten dazu führt, dass sie nicht aufgezeichnet werden, wodurch es Probleme beim Verstehen seitens der Nichtteilnehmer hinsichtlich des bei den Verhandlungen erreichten Stadiums gibt. Aus der Perspektive der *Außenseiter* verstärkt die Praxis vom Typ „Green Room“ die Asymmetrie zwischen den starken und den schwachen Mitgliedern, sowohl weil die Teilnahme nicht ausgeglichen ist, als auch weil sie die formelle Bildung von Koalitionen zwischen den Entwicklungsländern entmutigt (ein aber scheinbar überwundenes Hindernis seit der Bildung der „G 20“ im Rahmen der Doha-Runde).

Aus dieser kurzen Darstellung der Mechanismen, durch die die Stimme der Mitglieder der beiden Organisationen vernommen werden kann, muss festgehalten werden, dass das transatlantische Binom in ihrem Rahmen sehr gut vertreten ist, wobei es sogar Vorwürfe der „Übervertretung“ gibt, während die große Masse der gewöhnlichen Mitglieder kritische Positionen einnehmen, vor allem aus der Perspektive der Überlegungen hinsichtlich der Legitimität. Das Vorhandensein einer latenten Spannung zwischen der Effizienz und der Legitimität eines Entscheidungsprozesses, vor allem wenn er souveräne Staaten betrifft, ist gut festgelegt. Was aber in den sehr unterschiedlichen Fällen des IWF und der WTO Verwunderung auslöst, ist die Tatsache, dass das Muss der Legitimität in beiden Fällen vorrangig ist, obwohl die konkreten Situationen sehr unterschiedlich sind, im Sinne dass der

IWF ein Defizit an Legitimität wegen internen, die Effizienz privilegierenden Entscheidungsmechanismen verzeichnet, während die WTO eben am Fehlen solcher formellen Mechanismen leidet, die von improvisierten und ad hoc gebildeten Mechanismen ersetzt werden. Die Schlussfolgerung dieser paradoxen Lage ist die, dass im Sinne der Effizienzerhöhung die Reformversuche des GATT im Keime erstickt wurden, während die der WTO *ab initio* entmutigt werden. Es handelt sich um die Einführung eines Direktorenkomitees, ein aus 20-30 Mitgliedern zusammengesetztes repräsentatives Organ, dem die WTO-Mitglieder einen Teil ihrer derzeitigen Vorrechte abtreten würden. Die Repräsentativität dieses Gremiums wäre infolge der Auswahl seiner Mitglieder aufgrund einer Kombination von Kriterien (geografisch und je nach der Bedeutsamkeit der Handelsaustausche) gesichert, wobei manche Mitglieder ständig anwesend wären und andere wiederum turnusmäßig teilnehmen würden. Die Hauptaufgabe des Direktorenkomitees wäre es, den Boden für das Treffen von Entscheidungen seitens der Gesamtheit der Mitglieder vorzubereiten (Beratungen, Erstellung von Projekten gewisser Dokumente usw.). Gegenüber den oben untersuchten informellen Methoden hätte eine solche Konstruktion den großen Vorteil, die Teilnahme der WTO-Mitglieder an der Vorbereitung der Entschlüsse voraussehbar und auf objektiven Kriterien gründend zu machen. Der Haupteinwand käme aus der Tatsache, dass ein solches Gremium den Einfluss der wichtigsten Handelspartner infolge der in diesem Komitee erhaltenen ständigen Sitze noch mehr stärken würde.

Im Kontrast zu der oben beschriebenen Lage steht die Herausforderung, mit der sich der IWF in Zusammenhang mit dem Bieten von besseren Chancen zum Ausdrücken der Gesichtspunkte seiner Mitglieder auseinandersetzt. Dieses Problem fordert die Umordnung der Art und Weise der Vertretung im Exekutivdirektorium und betrifft folglich nicht unmittelbar die USA, die einen einzigen Sitz in diesem Leitungsgremium innehaben. Es betrifft vielmehr die Europäische Union, deren Mitglieder, wie wir oben erwähnten, auf dieser Ebene übermäßig vertreten sind. Das Problem der Rationalisierung der Vertretung der EU-Mitglieder im Rahmen des Exekutivdirektoriums ist nicht nur aus politischer, sondern auch aus wirtschaftlicher Hinsicht überaus überzeugend. Aus politischer Hinsicht ist es offensichtlich, dass die Forderung nach mehr „Stimme“ für die Entwicklungsländer weder von den USA noch von Japan erfüllt werden kann, denn dann wären sie vor die Alternative

gestellt, auf den einzigen Platz, den sie im Board besetzen, zu verzichten. Demnach sind die europäischen Länder die einzige potenzielle Quelle, aus der man Zugeständnisse machen könnte. Aus wirtschaftlicher Hinsicht erhebt die Bildung der Europäischen Wirtschafts- und Währungsunion, zu der alle 6 EU-Mitgliedstaaten gehören, die einen ständigen Platz im Exekutivdirektorium innehaben (Deutschland, Frankreich, Großbritannien, Italien, Holland und Belgien), ernste Fragen auf hinsichtlich der Rationalität der separaten Vertretung dieser Länder in einer Organisation, deren Tätigkeitsgegenstand in großem Maße auf der Ebene der Europäischen Union von einem gemeinsamen Organ, der Europäischen Zentralbank (EZB) repliziert ist⁷. Die Mitgliedstaaten der Europäischen Union sind demnach die natürlichen Kandidaten für einen Prozess der Umstrukturierung und Festigung der heutigen „Zusammenschlüsse“ im Rahmen der IWF, an dessen Ende die Entwicklungsländer zusätzliche Plätze im Board erhalten könnten. Die Vereinigung der Vertretung der europäischen Länder, die die gemeinsame Währung angenommen haben, wird nicht nur von den Theoretikern als eine Lösung angesehen⁸, sondern sogar auch von den Insidern, wie der ehemalige Vizepräsident der EZB, Lorenzo Bini-Smaghi⁹. Die Reform des Governance-Systems des IWF, die anlässlich der Zusammenkunft des Gouverneursrats von Singapore (September 2006) angekündigt wurde, endete ohne jegliche Änderung der Zusammensetzung und des Ausmaßes des Exekutivdirektoriums, was als „offensichtlichster Misserfolg des vorgeschlagenen Reformpakets“ angesehen wird¹⁰. Das Vorhandensein einer amerikanischen Initiative zur Reduzierung der Anzahl der Mitglieder des Exekutivdirektoriums des Fonds auf 22 im Jahre 2010 und auf 20 im Jahre 2012 kündigt die Tatsache an, dass die von den Mitgliedsländern der Europäischen Union innegehaltenen Positionen bald wieder zur Diskussion gebracht werden.

⁷ Richard N. Cooper & Edwin M. Truman, *The IMF Quota Formula: Linchpin of Fund Reform*, Peter G. Peterson Institute for International Economics, February 2007, pp. 8-9.

⁸ Peter B. Kenen *Reform of the International Monetary Fund*, Council on Foreign Relations, May 2007.

⁹ Carsten Hefeker, „Inadequate IMF Reform“, *Intereconomics*, September/October 2006, p.238

¹⁰ Ralph C. Bryant, *Reform of the IMF Quotas and Voting Shares: A Missed Opportunity*, Brookings Institution, April 2008.

Die Beschlussfassung im Rahmen des IWF und des GATT ist aber streng genommen nicht abhängig von der Möglichkeit, die den Mitgliedern der beiden Organisationen gegeben wird, ihre Blickpunkte auszudrücken. Relevant in dieser Hinsicht sind die Wahlregeln (und -gewohnheiten). Zwischen dem IWF und der WTO gibt es zwei wichtige Ähnlichkeiten: das Vorhandensein von ausgeklügelten Vorschriften hinsichtlich des notwendigen Mehrheitstyps für die Annahme von Beschlüssen und die Vorliebe für die Vermeidung der Abstimmung und Annahme der Beschlüsse durch Konsens.

Im Rahmen des IWF haben die qualifizierten Mehrheiten zwei Definitionen – 70% und/bzw. 85% – und beziehen sich auf Aspekte wie die Größe der Quoten, die die Fondsmitglieder besitzen, die Zinsen, die den Krediten zugerechnet werden, die an die Mitgliedstaaten vergeben wurden, die Verwendung der Gold- und Währungsressourcen des IWF, die Suspendierung von im Laufe befindlicher Operationen des Fonds usw¹¹. Die USA sind das einzige Mitglied, das dank seiner „Quote“ von etwa 17% der Fondsressourcen ein Vetorecht hinsichtlich der sensibelsten Entscheidungen hat.

Im Rahmen der WTO verlangen die Regeln zum Treffen von Entscheidungen, dass im Falle der Annahme von Abänderungsvorschlägen hinsichtlich der wesentlichen Prinzipien (wie zum Beispiel der Meistbegünstigungsklausel) die Einstimmigkeit erzielt wird, dass eine Dreiviertelmehrheit für die Verleihung einer Derogation oder für die Annahme von verbindlichen Interpretationen der Vorschriften der unter seiner Schirmherrschaft abgeschlossenen Verträge nötig ist und dass es im Falle der Entschlüsse hinsichtlich des Budgets und anderer finanzieller Fragen, bei der Aufnahme neuer Mitglieder, sowie bei der Annahme von Amendements hinsichtlich anderer Vorschriften als der wesentlichen eine Zweidrittelmehrheit geben muss.

Im Rahmen beider Organisationen funktioniert aber eine Kultur des Konsenses, was dazu führt, dass es sehr selten zur Abstimmung kommt. Ein ehemaliger Exekutivdirektor seitens der USA vermerkte im Rahmen einer vom Kongress im Jahre 1998 organisierten Vernehmung, dass bei 2000 Entschlüssen, an denen er teilgenommen habe, die formelle Prozedur der Abstimmung nur in 12 Fällen angewandt worden sei. Im Prinzip ist das

¹¹ Ariel Buira, *The Governance of the IMF in a Global Economy*, Group of 24, Washington DC, 2003.

Pflegen des Konsenses eine Form des Wohlwollens gegenüber den Interessen und Positionen der in der Minderheit befindlichen Mitglieder, aber seine Instrumente sind wegen der Art und Weise der Aufteilung der Stimmkraft in den zwei untersuchten Organisationen unterschiedlich.

Stimmenverteilung und Wahlrecht

Die WTO funktioniert auf dem Prinzip „ein Mitglied – eine Stimme“, was bedeutet, dass die Entwicklungsländer trotz der Opposition der entwickelten Länder (darunter die USA und die EU-Mitgliedsländer) ziemlich leicht Entscheidungen treffen könnten. Ein solches Vorgehen würde die Organisation aber zur Irrelevanz verurteilen, da schwerlich anzunehmen wäre, dass die entwickelten Länder – die zusammengenommen etwa 60% des Welthandels erstellen, hingegen aber nur ein Fünftel der Stimmkraft ausmachen – einverstanden wären, sich Regeln zu unterwerfen, die ohne ihre Teilnahme oder sogar trotz ihrer Opposition angenommen worden wären. Die WTO würde riskieren, die Erfahrung der UNCTAD zu wiederholen, wo zahlreiche Beschlüsse vor allem in den Jahren 1960-1990 dank der Stimmen der „Gruppe der 77“ angenommen wurden, aber totes Schreiben blieben, weil sie von den wichtigsten Akteuren des Welthandels nicht angewandt wurden. Folglich können viele notwendigen Beschlüsse, wie vor allem jene hinsichtlich der Interpretierung von ungenügend klaren Bestimmungen der vorhandenen Abkommen, wegen des Fehlens des Konsenses nicht angenommen werden, was zur Überbeanspruchung des Organs zur Regelung der Meinungsverschiedenheiten führt, ein juristischer Zweig *sui generis* der WTO mit „quasi legislativen“ Pflichten, weil die Mitglieder der Organisation sich an ihn wenden, wenn sie hinsichtlich des konkreten Sinnes gewisser Bestimmungen in den Abkommen nicht einverstanden sind.

Im Rahmen des IWF funktioniert aber ein Stimmengewichtungssystem je nach dem Anteil der Mitglieder an den Fondsressourcen, was den entwickelten Ländern eine Mehrheit von 63% verleiht (die USA verfügen über 17%, während die EU-Mitgliedsländer zusammen 32% haben). Diese Lage führt dazu, dass die Bemühungen zum Finden des Konsenses nicht immer nachhaltig sind, da die Entwicklungsländer sich der Tatsache bewusst sind, dass sie sich in der Minderheit befinden, so dass sie mit Beschlüssen einverstanden sind, die nicht sehr vorteilhaft für sie sind. Der IWF hat gegenüber der WTO auch die Eigentümlichkeit, dass die große Mehrzahl

der Beschlüsse in einem engeren Gremium, dem Exekutivdirektorium, gefasst werden, dessen Verhandlungen vertraulich sind und in dem mehrere Mitglieder nicht unmittelbar vertreten sind, eine Tatsache, die zum Fehlen von Transparenz hinsichtlich der erforschten Optionen vor der Konsensfassung oder sogar der Realität dieses Konsenses selbst führt, und die Charakterisierung des Vorgangs als „unterirdischer Zentralbestandteil der Entschlussfassungsmaschine im Rahmen des IWF“ hervorruft¹².

Wenn im Falle der WTO die „westfälische“ Aufteilung der Stimmkraft dazu führt, dass es nicht nötig ist, sie je nach der Entwicklung der Machtverhältnisse in der Weltwirtschaft anzupassen, ist die Lage im Falle des IWF ganz anders. Das Niveau der Quoten, die die Stimmkraft bestimmen, wird nach einer Reihe von wirtschaftlichen Indikatoren berechnet, die in eine Formel geschrieben werden, deren Ursprung eine interessante Episode anekdotischer Geschichte ist. Der amerikanische Experte, der sie aufstellte, gestand, dass er Anweisungen vom amerikanischen Department der Schatzkammer hinsichtlich des aus deren politischer Hinsicht erwünschten Ergebnisses erhalten hatte, so dass die Gewichtung der verschiedenen Indikatoren eine Form von *reverse engineering* war, um zu dem betreffenden Ergebnis zu gelangen (das den USA ursprünglich eine Quote von 30% zukommen ließ). Im Laufe der Existenz des Fonds gab es mehrere Anpassungen der ursprünglichen Quoten, sowohl wegen des Beitritts neuer Mitglieder, als auch um die Anforderungen gewisser Mitglieder zu erfüllen, die sich zu einem gewissen Zeitpunkt im wirtschaftlichen Kontext ungenügend vertreten fühlten (zum Beispiel die OPEC-Mitgliedstaaten in den 70er oder Japan in den 80er Jahren). Unter diesen Umständen erarbeitete man noch 5 unterschiedliche Formeln, deren offensichtlich divergente Ergebnisse durch Verhandlungen auf politischer Ebene versöhnt wurden. Der derzeitige Kontext der Weltwirtschaft, der vom kräftigen Wachsen der Wichtigkeit gewisser „Schwellenländer“, die hinsichtlich der IWF-Quoten weit unterrepräsentiert sind, geprägt ist, hat eine anscheinend radikale Initiative generiert, die sich der Gouverneursrat auf seiner jährlichen, im Jahre 2006 in Singapur abgehaltenen Sitzung zu eigen machte: die Annahme einer neuen, einheitlichen Formel zur Bestimmung der Quoten und deren Anwendung beginnend mit dem Jahr 2008.

¹² David Rapkin & Johnathan Strand, *op. cit.*, p. 309.

Im Laufe der später stattgefundenen Verhandlungen erwies die Tatsache, dass es bedeutende Divergenzen zwischen den Mitgliedern hinsichtlich dieser Formel gab. Ohne in technische Details einzugehen, muss vermerkt werden, dass die wichtigsten strittigen Aspekte von den größten Schwellenländern (China und Brasilien) sowie von den Ländern der Europäischen Union erhoben wurden. Die USA konnten die Rolle des Schiedsrichters spielen, denn ihre eigene Vertretung hatte nach jeder rationell erarbeiteten Formel nicht zu leiden und sie erlaubten sich sogar den Luxus, sich bereit zu erklären, auf jegliche Quotenerhöhung zu verzichten, die eine neue Formel ergeben hätte, und forderte auch andere entwickelte Länder auf, dasselbe zu tun, falls sie in diese Lage geraten sollten. Die großen Schwellenländer bestanden darauf, dass im Rahmen der Formel ihr Bruttoinlandsprodukt (BIP) je nach kaufkraftparitätischem Wechselkurs und nicht nach dem auf dem globalen Devisenmarkt herrschenden Wechselkurs berechnet wird. Um die Bedeutung dieses Wunsches zu verstehen, muss gezeigt werden, dass die zusammengerechnete Gewichtung des BIP von China, Brasilien, Indien und Südkorea nur 11% ist, wenn man mit dem üblichen Wechselkurs berechnet, und 26% beträgt, wenn man den kaufkraftparitätischen Wechselkurs einsetzt¹³. Die Länder der Europäischen Union wiederum bestanden konstant auf dem Prinzip der Einberechnung des Indikators "Wirtschaftsöffnung" mit einer bedeutenden Gewichtung, was sie dank des hohen Niveaus des innergemeinschaftlichen Handels begünstigen könnte. Beide Positionen litten an einer gewissen logischen Inkonsequenz: Die Berechnung des BIP anhand des kaufkraftparitätischen Wechselkurses ist nicht nur schwer machbar, da es nicht für alle Fondsmitglieder Daten dafür gibt, sondern wurde sogar von China und anderen wichtigen Entwicklungsländern zurückgewiesen, als der amerikanische UNO-Botschafter John Bolton vorschlug, diesen Indikator für die Berechnung des Beitrags der Mitgliedsländer zur Finanzierung der Organisation zu benutzen¹⁴. Die Europäische Union hingegen besteht darauf, dass der gesamte Außenhandel seiner Mitglieder, also auch der innergemeinschaftliche Handel in Betracht gezogen wird, obwohl es formell einen „einigen“ europäischen Markt gibt und 15 Mitgliedstaaten dieselbe Währung – den Euro – benutzen und somit keineswegs einer Zahlungsbilanzkrise hinsichtlich der gegenseitigen

¹³ Ralph C. Bryant, *Key Features for Governance Reform of the IMF*, Brookings Institutions, 2007.

¹⁴ Overseas Development Institute, Briefing Paper, 2006, p. 3.

Handelsaustausche ausgesetzt sind. Tatsächlich würde ein Ausschließen des innergemeinschaftlichen Handels aus der Berechnung eine Reduzierung um 9 Prozentpunkte (also über ein Drittel) der zusammengerechneten Quoten der EU-Mitgliedstaaten im Rahmen des IWF zur Folge haben¹⁵.

Das Vorhandensein sehr divergenter Interessen führte dazu, dass der in Singapore gegebene Auftrag zur Erarbeitung einer einfachen und durchsichtigen Berechnungsformel, um die Quoten neu zu gestalten, nicht zur Vollendung gebracht werden konnte. Den IWF-Mitgliedern gelang es im Frühjahr des Jahres 2008, sich hinsichtlich einer neuen Formel zu einigen und beschlossen folglich, die Quoten umzugestalten, aber die Ergebnisse erfüllten die Hoffnungen nicht. Das Ausmaß der Neugestaltung ist sehr bescheiden: die großen Schwellenländer, die beträchtliche Zuwächse erwarteten (China, Indien, Brasilien und Mexiko) erhielten ein zusammengerechnetes Wachstum von nur 1,9 Prozentpunkten, wodurch sie eine Stimmkraft von nur 8,3% im Rahmen des Fonds erreichten, während die zusammengenommene Gewichtung der europäischen Staaten nur um 2 Prozentpunkte kleiner wurde und sie weiterhin 30% der Stimmkraft besaßen. Die amerikanische Quote blieb bei etwa 17% praktisch unverändert, was den USA ein Vetorecht bezüglich der wichtigsten Entscheidungen (einschließlich der Umverteilung der Quotengröße) gibt. Auch hinsichtlich der Einfachheit und Durchsichtigkeit war die erhaltene Lösung nicht zufriedenstellend, da die Formel nachträglich mit zahlreichen Kunstgriffen so angepasst wurde, dass sie selektiv nur gewisse Mitglieder befriedigt, mit dem Ergebnis, dass jetzt die Art und Weise der Bestimmung der Quoten vielleicht noch unverständlicher als früher geworden ist¹⁶. In den akademischen Kreisen zeichnet sich immer deutlicher der Gedanke ab, dass diese letzte Umordnung der Quoten im Rahmen des IWF eine missglückte Gelegenheit war, dieser wichtigen Institution der Governance der globalen Weltwirtschaft mehr Legitimität einzuhauchen. Weil die Verantwortung für diese Lage jeweils den Mitgliedern entsprechend ihrer Macht, die Entscheidung zu beeinflussen, zukommt, bedeutet das, dass die entwickelten Länder sich mehr vorzuwerfen haben und infolge der von der Europäischen Union eingenommenen Haltung im Rahmen der Verhandlungen sind die EU-Länder den meisten Kritiken

¹⁵ Ariel Buiara, *op. cit.*, p. 15.

¹⁶ Ralph C. Bryant, *Reform of IMF Quota Shares and Voting Shares: A Missed Opportunity*, Brookings Institutions, 2008.

unterworfen. Die Haltung der EU-Mitgliedsländer kann in zweifacher Hinsicht als unbefriedigend angesehen werden: aus globaler Hinsicht, weil sie den notwendigen Reformprozess einer internationalen Organisation mit weltweiter Verbreitung gebremst und verspätet hat, und aus regionaler Hinsicht, weil sich das Obstruktionsverhalten der Europäer auch durch ihre Unfähigkeit erklären lässt, zu einer Vereinbarung hinsichtlich der Art und Weise ihrer äußeren Vertretung in Währungsfragen zu gelangen, obwohl über die Hälfte derselben eine Währungsunion bilden. Auf der Ebene der WTO wurden viele dieser Probleme überwunden, da die Europäische Union, die auch eine Zollunion ist, in der Beziehung mit den Partnern mit einer einzigen „Stimme“ (die der Europäischen Kommission) auf den meisten Verhandlungsgebieten auftrat. Die Ausdehnung des WTO-Mandats auch auf neue Bereiche, wie zum Beispiel intellektueller Besitz, Außeninvestitionen und Dienstleistungen, haben wieder gewisse „Misstöne“ in die auswärtige Ausdrückung der Union gebracht, aber die Einsätze auf diesem Gebiet sind vorläufig gering und das Fehlen der inneren Koordination der Europäischen Union kann keine dramatischen Folgen haben.

Schlussfolgerungen

Obwohl es viele Ähnlichkeiten zwischen den zwei Institutionen gibt haben diese viele spezifische Eigenschaften weil sie im International System verschiedene Rollen spielen. Beide Institutionen haben eine veraltete Struktur die in den letzten Jahren kritisiert wurde. Der International Währungsfond wurde viele Male kritisiert, denn es hatte die Interessen der USA und der Entwickelten Ländern bevorzugt. Auf der anderen Seite, wird klagen viele Experten dass die WTO eine zu diskrete Rolle auf internationalen Ebene spielt. WTO hatte sich mit der Doha-Round einen großen Ziel ausgedenkt aber die Bespräche brachen in 2008 zusammen. Leider gibt es in der WTO zwei große Interessenblöcke – Entwickelte Länder (Vereinigte Staaten von Amerika und die Europäische Union) und Entwicklungsländern (Russland, Brasilien, China, Südafrika) und eine Losung ist unwahrscheinlich. Die Finanz- und Wirtschaftskrise des Jahres hat vieles geändert. Die Wirtschaftliche Lage vieler Länder ist fragwürdig und deshalb sind die Staaten nicht mehr Kompromiss fähig.

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A COMPARATIVE ANALYSIS OF ECONOMIC DEVELOPMENTS IN UKRAINE AND REPUBLIC OF MOLDAVIA IN THE CONTEXT OF THE EUROPEAN NEIGHBOURHOOD POLICY*

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Abstract

The European Neighborhood Policy (ENP) was shaped on the institutional and procedural experience of the European Union's (EU) widening and it comes as an alternative, a partnership based on common values, for the relations that EU establishes with its neighboring countries. The official bilateral documents set the framework of EU-neighboring countries cooperation and are approach leverages to European Union that could set a similar evolution for two countries neighboring the UE. Further on, the paper will present a comparative economic analysis between two Eastern countries neighboring the EU, Ukraine and Republic of Moldova, to identify how much they approach to the economic standards required by the EU, and how much differ their economic evolution.

Keywords: *European Neighborhood Policy, Eastern countries, Economic evolution, Progress reports, Association agendas*

Introduction

The European Neighbourhood Policy (ENP) has gained its importance once the number of EU members grew from 15 to 25. Moreover, the EU enlargement was considered a success story, especially because it proved to

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be able both to demonstrate its capability to adapt to the Cold War ending and to adapt to the vocation of Central Eastern Europe (CEE), which over the time has been integrated into European economic and political structures¹.

Through the European Neighbourhood Policy, the European Union represents a union that treats its neighbors with some special relationships. However, we note that these relationships are based on mutual commitment and on a set of common values (human rights, principles of market economy, sustainable development). But ENP implies at the same time, a deeper economic integration, political association, increased mobility and even more, managing to go beyond all existing relationships².

In what concerns the European Neighbourhood Policy to the EU's eastern borders, the latter mentioned has based its relations with Ukraine and Moldova, the two countries that we will submit to an economic analysis in this article, on the Partnership Agreements and Cooperation. Moreover, in 1999, was foreseen a "common strategy" of the European Union for Ukraine and Russia. This was intended as a rhetorical device that supported the commitment of the EU, in terms of good relationship, with these two countries³. However, due to vague formulations of the objectives, the document has not been successful in strengthening the EU's relations with the two countries. Only when Javier Solana, the EU High Representative for the Common Foreign and Security Policy, came as a critical instrument, common strategies that targeted Ukraine and Russia began to be created⁴. While Russia's position toward the European Neighborhood Policy has been a prudent one, Ukraine and Moldova have shown a favorable attitude toward it. Thus, in 2003, the Commission started to negotiate the Action Plans with Moldova and Ukraine⁵.

¹ Jean Zielonka, „Policies without strategy: the EU's record in eastern Europe”, in Jean Zielonka (ed.), *Paradoxes of European Foreign Policy*, London: Kluwer Law International, 1998, pp. 131-145.

² European Commission, *How does it work?*, [http://eeas.europa.eu/enp/how-it-works/index_en.htm], December 2013.

³ Anders Aslund, *Europe after enlargement*, Cambridge: Cambridge University Press, 2006, p. 42.

⁴ Gwendolyn Sasse, *The EU common strategy on Ukraine: a response to Ukraine's pro-European choice?, The EU & Ukraine. Neighbours, Friends, Partners?*, London: Lewis A, 2002, p. 86.

⁵ Michael Emerson, *Readings in European Neighbourhood Policy*, 2005, [[http://docs.google.com/viewer?a=v&q=cache:6lFF6JOjUC8\]:eurocollege.ru/files/Emerson_Eur-neighb-olity.doc+russia+and+the+enp&hl=ro&gl=ro&pid=bl&srcid=ADGEESH-jFP3DqO0-0olf2wOsD5M35SHas6bzXDfRZe2fzK3cdme-0FbKAUTPOx8A7clxyXEvH7FWiFPycnerCvNBFNo-K4ioiNuGa7Fz83alEaZRO_nIVgqm3EyzYPYDoCI4q6atdLL&sig=AHIEtbQdYHZiDzD9zwDHjqia-N0icEus5Yg](http://docs.google.com/viewer?a=v&q=cache:6lFF6JOjUC8]:eurocollege.ru/files/Emerson_Eur-neighb-olity.doc+russia+and+the+enp&hl=ro&gl=ro&pid=bl&srcid=ADGEESH-jFP3DqO0-0olf2wOsD5M35SHas6bzXDfRZe2fzK3cdme-0FbKAUTPOx8A7clxyXEvH7FWiFPycnerCvNBFNo-K4ioiNuGa7Fz83alEaZRO_nIVgqm3EyzYPYDoCI4q6atdLL&sig=AHIEtbQdYHZiDzD9zwDHjqia-N0icEus5Yg)], 15 November 2012.

As mentioned above, the article aims to bring into analyze Ukraine and Moldova, as members of the European Neighbourhood Policy. It has two limitations as follows:

- A thematic limitation, were we have researched issues related to the economical field. We believe that such a study may present in a more pragmatic way than a political analysis, for example, the evolution of the two countries. However, this does not exclude the importance of the issues related to the political, security, social field, which may influence the research as well.

- A geographical limitation, which brought for consideration two countries, Ukraine and Moldova, located to the eastern border of the European Union.

Since the European Neighbourhood Policy has established its relationships with the ENP Member States on bilateral agreements, which take into account the specificities of each country, we wanted to have a comparative analyze of the economic evolution of Ukraine and Moldova. We believe that we could see a similar pattern, which could subsequently lead to the removal of bilateral agreements and the introduction of a joint regional agreement, for example. However, in our opinion, the bilateral agreements ensure a much closer relationship of the EU with the sates in question than could provide a regional agreement. Therefore, the data obtained in this research could become a best practices model for other states. So, what had a positive character for Ukraine and a negative one for Moldova, may be proposed to be taken into account when negotiating future Association Agreements with Moldova and vice versa. This exchange of best practices we consider to be useful only between countries in the same geographic region.

Our research is mainly based on secondary research, on the analysis of the two countries progress reports, starting with the year of 2006, the first year after the adoption of the European Neighbourhood Policy, until 2013, the last year when we can find data based on the countries' progress reports. The annual evolution of the states will be presented in the chapters of the study. The study is restricted to the level of a chapter because the progress reports have not been published or have been removed from the public access for the year of 2011. It compresses data for the year of 2011 with those for 2012, based on the information contained in other official

documents. The research took into consideration certain representative works, as well. This will be exposed both informal due to the accumulated knowledge based on reading them and formal, in the Bibliography.

Economic data for 2006

In the first year after the adoption of the European Neighborhood Policy, Ukraine continued to be vulnerable to external shocks. If in 2004 it has grown from 10.5% of GDP, compared to the previous year, due to exports of steel, the latter experienced a deficit in 2006 due to the rising of the energy prices, while the steel market has diminished. This situation, combined with low investment demand, due to an unsafe environment for economic activity, led to a decline of 2.6% of GDP in 2005, which in 2006 underwent a 6 % compared with the previous year.

Since over the year of 2006, the price stability could not be ensured, issue that generated a turnover of inflation, there was a need for strategic discussions between the Ukrainian National Bank and the Government, setting objectives, roles and responsibilities, with a view to keep inflation under control.

The fiscal conservatism had returned in 2006, which kept the general government deficit to 3% of GDP. This was achieved by the rapid growth of income tax, which increased from 24% in 2004 to 36% in 2006. Due to the elections, public investment has been neglected while attention was directed toward increased social spending. The new Government had still to establish a fiscal framework that is consistent with the macroeconomic stability. However, a new tax code has been considered important. Another problematic system has been shown to be the pension system, which threaten the fiscal stability. It is estimated that by the year 2055 there will be one active person in the labor market for 1.42 pensioners⁶.

On the other hand, if we take a look to the progress report of Moldova, we see that the economy of this state has enjoyed since 2000, a steady growth, despite a difficult situation regarding public finances and the foreign direct investment. In 2005, GDP has grown by 7.1% compared with the previous year's performance. However, the financial situation of Moldova remained fragile.

⁶ European Commission, *ENP Progress Report Ukraine 2006*, 2006
[http://eeas.europa.eu/enp/pdf/pdf/sec06_1505-2_en.pdf] 15 March 2013.

Moreover, Moldova adopted a strategy for economic growth and poverty reduction and a medium-term framework for expenditures and showed commitment to reforms and stability in the economic policy. In February, the country has also negotiated with the IMF, a program to ensure economic growth and poverty reduction. Moldova's positive evolution have enabled the EU to start preparing a new financial assistance, which would also help to redress the balance of payments shock caused by the increase in gas prices and the closure of the Russian market to Moldovan wines⁷.

We see therefore that the economic situation of the two states, reported for 2006 differ. While the economy is fluctuating in Ukraine, Moldova enjoys a higher stability, despite regional economic context. While Ukraine has to resort to internal stabilization strategies, Moldova sets out a strategy for growth and prepares to receive the financial support from the EU to achieve its strategies. The fact that the European Union considered to negotiate a financial support with Moldova during this year, leads us to say on the one hand, not only that Moldova felt closer to the EU than Ukraine, but also that the EU considered the Moldovan economy more stable compared to Ukraine's.

On the other hand, in our opinion, Moldova's interest in external financial support shows only the Moldovan dependence on the external environment and its difficulty in self-sustaining its economy. Regardless of the fact that Moldova was or was not more economically stable than Ukraine, we believe that negotiating a financial support, on behalf of the European Union, was based, on a strategic interest to closer even more Moldova to EU and to its economic standards.

Economic data for 2007

In 2007, in Ukraine was estimated a stagnating economic growth at 7.3%, supported by strong domestic demand. Inflation accelerated in 2007 reaching 16.6% in December. Under these conditions, the National Bank has proposed short-term strategy to adopt a monetary policy and exchange rate flexibility.

⁷ European Commission, *ENP Progress Report Moldova 2006*, 2006
[http://eeas.europa.eu/enp/pdf/pdf/sec06_1506-2_en.pdf], 21 March 2013.

The Ukrainian government has allocated additional revenue toward two programs that have kept the fiscal deficit below 2% of GDP. Public debts secured and reached a threshold of 15% of GDP, which resulted in mistrust of Ukraine's credits. Moreover, the international studies in the ease of doing business showed that in 2007, we still could not discuss about tangible improvements in Ukraine. Inspections and increased fees were a real barrier in this regard⁸.

In the same year, Moldova's GDP grew by 8% in the first half. In the second half, there was a decline in agricultural production, which led to the end of the year, to a GDP growth of only 3%, lower than the previous year (4.8%). We believe that this growth, although weak, was due mainly to the service sector.

Moldova's economy remains dependent on the external environment and the main external funding. The current account deficit approached 10% of GDP, but it was largely sustainable due to the foreign direct investment and short-term loans. The budget deficit was lower than expected in the previous year, which reflected a better performance and fiscal constraints. Inflation has remained strong, despite the attempts to redress it, initiated by the National Bank and through the fiscal policies.

The progress in structural reforms, supported by increasing budget allocations for development of market institutions has improved the business environment in Moldova⁹.

For 2007, we observe that Ukraine has experienced a better economic growth than Moldova. From this point of view, Moldova's decline, which is given by its nature of an agricultural country - a sector that has experienced difficulties this year - is not known by Ukraine, a country diversified in terms of sectors. Again, the Moldovan economy is dependent on the external environment, while Ukraine sets internal reforms. Thus, we see that Ukraine seeks to recover by its own. This, on one hand, can have positive aspects - not accumulate external debt, but on the other hand it can also generate distrust among foreign investors because it is not externally opened.

⁸ European Commission, *ENP Progress Report Ukraine 2007*, 2007

[http://eeas.europa.eu/enp/pdf/pdf/progress2008/sec08_402_en.pdf], 30 March 2013.

⁹ European Commission, *ENP Progress Report Moldova 2007*, 2007

[http://eeas.europa.eu/enp/pdf/pdf/progress2008/sec08_399_en.pdf], 28 March 2013.

Economic data for 2008

In 2008, Ukraine has experienced a bad economic turn. GDP fell by 11.7%, which resulted in a decreased economic growth to 2.5% for the whole year. In this regard, Ukraine has established an Investment Monetary Fund loan of 16.4 billion Dollars, which would be invested in a program of economic stabilization.

Inflation rose to 25.2% in 2008, compared with 12.8% in 2007, mainly due to high prices worldwide. This prompted the need to adjust prices for utilities and energy.

Towards the end of 2008, fiscal balance experienced a deficit of 1% of GDP, despite tax revenue collected before the economic crisis. Public pensions have grown rapidly to 16% of GDP. Public guaranteed debt experienced a sustainable level in 2008 and reached 11% of GDP.

The legal framework to resolve the banks difficulties was based on anti-crisis legislation, which granted banks in lending, thereby generating healthy growth.

Ukraine also approved and strengthening the independence of the National Bank on the basis of the Action Plan. But in 2008 no concrete measure has been taken in this regard¹⁰.

On the other hand, in 2008, Moldova's economic performance was significantly affected by the drought of 2007 and GDP was lower than the regional average. Economic activity has recovered significantly in 2008, with a growth of around 7.2% of production, but the last months of the year, the latter was affected by the global financial situation and began to decline. The main growth during this year, in terms of Moldova's performance was mainly due to agricultural production, which increased by one third compared with the previous year and with the service sector, mainly trade and transport. Domestic investment demand also decreased.

Even if the commercial sector production increased in 2008, the Moldovan economy remains extremely fragile. Exports accounted for more than half of imports and trade deficit exceeded 50% of GDP, the latter being dependent on the external environment, particularly external finance. In 2008, the high trade deficit has been financed through foreign direct

¹⁰ European Commission, *ENP Progress Report Ukraine 2008, 2009* [http://eeas.europa.eu/enp/pdf/pdf/progress2009/sec09_515_en.pdf], 5 April 2013.

investment and bank loans by Moldovans who worked abroad. Taking into account that the market for Moldova in Russia, Ukraine and the EU has been severely affected by the economic crisis, the economic growth in Moldova has become uncertain. This also led to predictions according to which the domestic demand will not increase and thus imports will decrease.

The dramatic decrease in domestic demand by the end of 2008, helped the National Bank to substantially reduce inflation, which reached the point of 17% in May 2008 to just over 7% at the end of the year. This allowed the National Bank to cut interest rates several times and thus stimulate domestic economic activity. Fiscal policy remained tight and the structural reform agenda was included in the National Development Strategy, which largely reflects the priorities of the EU-Moldova Action Plan¹¹.

Therefore, we see that 2008 had a major impact on both analyzed countries, mainly due to the evolution of the economic crisis, which affected their markets. Only in this context, Ukraine decided to appeal to foreign loan to stabilize its economy, while Moldova resort to more structural reforms and fiscal restrictions. Although both countries have experienced a bad year, their evolution continued to be very different.

Economic data for 2009

Ukraine's economic situation continued to deteriorate with the installation of the economic crisis. If in 2008 the real growth of GDP had fallen to 2.1% in the first three quarters of 2009, real GDP contracted by 17.8% (year on year reporting). An increase in consumer price inflation has eroded the wages. However, private consumption declined by 13 percent. Real GDP fell by 15.1%. The decrease in GDP was due to a decrease in external and national demand. The decrease in international demand was based on the global economic crisis. We believe that domestic demand has diminished due to reduced possibility of accessing credit, in turn generated by the incapacity of the financial system to access external loans. At the same time, imports become more expensive because Russia has gradually reduced gas reserves.

¹¹ European Commission, *ENP Progress Report Moldova 2008, 2009* [http://eeas.europa.eu/enp/pdf/pdf/progress2009/sec09_514_en.pdf], 2 April 2013.

Both private and state banks had to recapitalize at a significant cost for the taxpayer, which had influences in the financial sector of Ukraine. Banks have seen a loss in loan portfolios due to the depositary decreased confidence.

As regards fiscal policy, the budget deficit increased from 3.2% of GDP in 2008 to 8.6% of GDP in 2009. Public debt increased in 2009 from 23% of GDP.

Ukrainian authorities negotiated a 24 months arrangement with the IMF for \$ 16.4 billion. It was approved in 2008. By July 2009, 10.6 billion were paid. Arrangement stagnated in November 2009 due to the disagreements between the Ukrainian authorities and the IMF.

The European Commission provided also a financial support for Ukraine of 610 million euros, which would require a larger number of structural policy conditions.

As a result of the crisis adjustments, Ukraine current account deficit has been improved and reported a deficit of 1.5% of GDP¹².

In 2009, Moldova was one of the countries worse affected by the economic and financial crisis. GDP decreased by 6.5% compared to 7.2% increase in 2008, thanks to external shocks, limited foreign direct investment and declining trade with major partners (Russia, Ukraine, Belarus and the EU). In 2009, industrial production fell by about 22% compared to the previous year. Since imports fell more than exports, the current account deficit decreased from approximately 16% of GDP in 2009 to 9% of GDP in 2009.

In that year a decline in revenue, which was mainly due to the massive drop in prices was registered. The budget deficit reached 6.9% of GDP compared to 1% in 2008. The Moldovan leu depreciated and the Central Bank was able to partially counteract this pressure by using national reserves, which were reduced with approximately 40% between September 2008 and April 2009. Subsequently, the exchange rate stabilized, and the reserves were replenished. Due to the crisis, the monetary policy was facilitated, and the National Bank lowered the refinancing rate between September 2008 and September 2009 from 18.5% to 5%. Reserve requirements were also dramatically reduced.

¹² European Commission, *ENP Progress Report Ukraine 2009, 2010* [http://eeas.europa.eu/enp/pdf/pdf/progress2010/sec10_524_en.pdf], 12 April 2013.

After this economic situation in recent years, it had been predicted that the Moldovan economy would recover only slowly in the years to come. Macroeconomic stability was an immediate concern and the international community funding would be important in obtaining it¹³.

The year 2009 brought both for Moldova and Ukraine a much more difficult situation than the one presented in 2008. Thus, we see that during the European crisis, both countries have experienced a massive destabilization. It was, however, a destabilization that could have been foreseen, mainly because the factors affecting the states' economy before the Economic crisis, were in turn influenced and thus a chain reaction that was encountered in several economies and not only in Ukraine and Moldova, was created. We believe, however, that both for 2008 and 2009, the economic evolution is the most difficult to assess. In a utopian situation, of global economic stability, the data for Ukraine and Moldova would have been the most representative. However, in reality it differs. Thus, we believe that these moments of crisis are merely indicative of the ability of a state to cope with the impact of the factors that influence its economy, based on the strategies and reforms from which it applies. On the other hand, in our opinion, a crisis and the decline of an economy can propel one state toward a better growth, compared to a constant economic situation.

Economic data for 2010

Ukraine was among the countries that have been hardest hit by the global financial and economic crisis. However, in 2010 Ukraine's economic situation has improved. This was primarily due to exports and consumer demand throughout the year.

The year 2010 was a successful year for Ukraine in terms of foreign economic stabilization. It has established a new \$ 15 billion arrangement with the IMF and negotiations with the EU for a loan of 610 million euros were released, but have not been concluded.

The Ukrainian National Bank was able to control consumer price inflation in 2010, which fell to 9.8%. The taxes of the used prices were increased, as agreed with the IMF reform program. General government deficit was 5% of GDP, even lower than originally planned with the IMF.

¹³ European Commission, *ENP Progress Report Moldova 2009, 2010* [http://eeas.europa.eu/enp/pdf/pdf/progress2010/sec10_523_en.pdf], 10 April 2013.

In 2010, Ukraine adopted a new Budget Code, on which the authorities have set a budget based on the requirements of the IMF. In December, the IMF released the second tranche of \$ 1.5 billion¹⁴.

According to the progress report, due to the difficult economic situation caused by the economic crisis, the economic situation of Moldova was dramatic in 2009. Because of this, in January 2010, the IMF approved a financial support for Moldova of about 420 million, over a three years period. It helped restore fiscal and external stability and required a series of structural reforms and adjustment measures.

In 2010, the Moldovan economy started to recover. GDP grew by 6.9%. Private consumption and investment began to rise. The increase was mainly due to improvements in agricultural production, industry and services. Exports were restored, although they continued to be below the level of imports, which led to a deficit of 2% of GDP in the Balance of trade. Account deficit fell to 8.5% of GDP in 2009 and to 8.3% of GDP in 2010. Foreign direct investment increased to 3.5% of GDP, compared with 2.3% of GDP in the previous year. Long-term liabilities increased again with the national reserves, both due to the multilateral and bilateral financial assistance.

Inflation rose in 2010, while in previous years it took a downward spiral. This was mainly due to price increase in food and energy prices.

The Authorities were based on monetary and fiscal policies to ensure macroeconomic stability and fiscal consolidation. The government has reduced the deficit in 2010 to 2.5% of GDP from 6.9% of GDP in 2009. The deficit reduction was related to economic recovery, goods performance, cuts in public services, reduced costs to service and so on.

When determining the slope of the economic reforms, the Moldovan government adopted a program of structural reform for a medium term. It was in connection with the EU-Moldova Action Plan and was very well received by international donors¹⁵.

¹⁴ European Commission, *ENP Progress Report Ukraine 2010, 2011* [http://eeas.europa.eu/enp/pdf/pdf/progress2011/sec_11_646_en.pdf], 20 April 2013.

¹⁵ European Commission, *ENP Progress Report Moldova 2010, 2011* [http://eeas.europa.eu/enp/pdf/pdf/progress2011/sec_11_643_en.pdf], 15 April 2013.

In what concerns the economic evolution of Ukraine and Moldova in 2010, relative to 2009, we see that the situation is similar, one of improvement, growth and recovery after the economic crisis. However, we draw attention to the fact that for both states the capital injections and loans received from external assistance had significant impact. In those circumstances, one can only ask himself what would have been the real situation of these states in the lack of external financial assistance and if both would have known, in 2010, an economic growth similar to the reality. On the other hand, we do not dispute that the acceptance of external financial support, also brings a series of reforms that might be beneficial to the economy of a state. However, it also forces the state to settle in the terms established by foreign entities and not in the natural terms of the economy.

Economic data for 2011 and 2012

Ukraine's economy has been dramatically affected by global climate negative in 2012. If in 2011 the GDP growth reached 5.2% threshold in 2012 it increased only by 0.2%, as a decline in industrial production, heavy conditions of Credit and low production in the primary sector¹⁶.

Low food prices keep inflation under control, which reached a record of -0.2% at the end of the year, after 9.1% and 4.1% in December 2010 and 2011. The fiscal deficit, however, exceeded the target approved by the IMF, which was expected to increase by 5.3% of GDP from 4.2% in 2011, mainly due to the refusal of the Ukrainian authorities to raise the price of gas and utilities. After a growth in 2008-2009 due to the crisis, public debt has stabilized at 36-40% in 2011-2012.

The current account deficit rose to 8.3% of GDP, compared with 6.2% in 2011. Ukraine has not received any payment from the IMF in 2012 due to disagreements on gas price and budget.

There were small structural reforms and FDI remained low by regional comparison¹⁷.

¹⁶ Central Intelligence Agency, *The world Factbook*, [https://www.cia.gov/library/publications/the-world-factbook/geos/up.html], 25 June 2014.

¹⁷ European Commission, *ENP Progress Report Ukraine 2012*, 2013 [http://eeas.europa.eu/enp/pdf/docs/2013_enp_pack/2013_progress_report_ukraine_en.pdf], 10 October 2013.

On the other hand, in 2012 the real GDP of Moldova decreased by 0.1% compared to the previous year, due to falling investment and domestic and external demand. A weak domestic demand, combined with low food prices in the global market has contributed to moderation. Inflation fell to 3.7% in June 2012. Low inflation in the first quarter of 2012 and reduced internal activity, led the National Bank to cut its policy key rate at 4.5%. However, this did not help to restore the economy.

The current account deficit continued to be high, which shows a low base of exports. However, it was predicted to stabilize by the end of the year, mainly due to lower import demand and declining exports. At the same time, external financing fell due to reduced foreign investment, but the Central Bank has managed to control the situation by resorting to foreign exchange reserves and to the good progress of the IMF program¹⁸.

Therefore, we observe that the economies of Ukraine and Moldova continued to be unstable. Although the economic crisis difficulties were overcome and although both have experienced growth in the years 2010-2011, 2012 seems to bring back their regression. Despite the fact that both states invested in reforms, apparently more Moldova than Ukraine, unexpected factors that affect their economies must not be taken out of the question (the gas price - increased by the supplier, etc.) because they have a major impact on both countries. In this regard, we believe that in the future both states should consider these potential risk factors and to establish measures to prevent and combat them in the event of occurrence. So, the unexpected situations may be reduced.

Economic data for 2013

In 2013, GDP growth has stagnated compared to 2012, when it grew by only 0.2%, due to the decline in industrial production. Inflation dropped significantly, to 0.3%, which allowed the Ukrainian National Bank to cut the discount rate twice in an attempt to encourage the economic activity.

The financial deficit reached 6.5% of GDP, more than the previous year when it was 6.3%. Ukraine has experienced this year the opportunity

¹⁸ European Commission, *ENP Progress Report Moldova 2012, 2013*
[http://eeas.europa.eu/enp/pdf/docs/2013_enp_pack/2013_progress_report_moldova_en.pdf,
8 October 2013.

to repay credits, especially to the IMF. It was also financially aided by Russia, with \$ 3 billion.

Regarding the structural reform, it has experienced a positive plan through the public financial management strategy accompanied by an action plan and a constitutional amendment. However, the authorities have failed to achieve any progress in gas price adjustment, but decided to note the promise to repay its VAT.

Although Ukraine has managed to improve its economic indicators, the business climate continued to meet a poor regulatory environment and corruption¹⁹.

In Moldova, in 2013 economic growth was registered. GDP increased by 5.5% compared to 0.8% in 2012, thanks to strong growth in production, in agriculture and industry.

Inflation reached 4.8% threshold is relatively stable compared to 2012. This allowed the National Bank to continue facilitating the monetary policy that kept interest rates at 3.5%, despite a weak demand.

In 2013, the progress in structural reforms was mixed. The financial sector has suffered on the account of challenges. Moreover, the National Bank authority was challenged by the Constitutional Court in October 2013. On the other hand, an EU Association Agreement was initiated, which included a Free Trade Area. It was expected that this would improve Moldova's trade with the EU, will attract foreign investment and improve competition, business and standards of quality and safety in general²⁰.

The year of 2013 brought again to Moldova a better evolution compared to Ukraine. We believe that this is due to Ukraine's geographical location, between the EU and Russia. Ukraine is still dependent on Russia (gas, etc.). On the other hand, the past history rather puts Ukraine closer to Russia and to EU. However, we note that Ukraine is attracted by the European Union as well and by what it can offer. Thus, we observe Ukraine's oscillation between these two economic powers. Although it made progresses in concern of the standards set by the EU, this state accepted in 2013 a financial support from Russia. All of these are stopping Ukraine

¹⁹ European Commission, *ENP Progress Report Ukraine 2013, 2014*

[http://eeas.europa.eu/enp/pdf/2014/country-reports/ukraine_en.pdf], 10 June 2014.

²⁰ European Commission, *ENP Progress Report Moldova 2013, 2014*

[http://eeas.europa.eu/enp/pdf/2014/country-reports/moldova_en.pdf], 7 June 2014.

from having a natural, as possible, economic evolution. We cannot say the same about Moldova, which although has markets in Russia, is consistently in aligning with the European Union, and this also produces effects and the level of economic evolution, which compared to Ukraine, is more stable.

Conclusions

The purpose of this article was to observe the economic evolution of Ukraine and Moldova in the context of the European Neighbourhood Policy.

This European Policy requires the signing of bilateral agreements between the above-mentioned states and the European Union. The agreements propose plans for actions in different chapters of common interest to both parties, such as social, economic, political, etc. In addition, due to financial assistance of the European Union granted to Ukraine and Moldova to help stabilize their economy, we conclude that the European Union's interest to bring the neighboring states standards closer to the standards that it promotes is far higher than the interest of Ukraine and Moldova in aligning to these standards. In this regard, we recall Ukraine's oscillation between EU and Russia. While Russia was skeptical about the European Neighbourhood Policy and refused to accept it, Ukraine through its actions, seem to seek to approach the European Union, but without going too far away from Russia. This oscillation influenced the economic evolution of Ukraine as well. To these factors that influenced the Ukrainian economy during the analyzed period of the research (2006-2013) were added some others like the economic crisis, small domestic and foreign demand, deficits, etc. that have destabilized the economy of Ukraine.

On the other hand, if we bring into question Moldova, we see greater stability of this state's economy compared to that of Ukraine, bigger openness towards the European Union and a better capacity to implement reforms or to achieve the set economic targets. Thus, we propose that in the future, the economic evolution of Moldova to set an example of good practice for Ukraine, in order to achieve better economic stability. Of course this will consider Ukraine's resources and needs as well.

Finally, based on this research, we would like to analyze in future to what extent these two countries have reached the plans of action proposed in the association agreements with the European Union. Thus, we can

identify the indicators that have not been achieved and we might propose reforms to obtain them. Moreover, because this year (2014), Ukraine and Moldova have signed the Association Agendas with the European Union, we intend to research the changes they have brought to the economic direction and to what extent these changes were influenced by the previous economic evolution of the analyzed states.

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COHESION POLICY IN ROMANIA – TOWARDS MULTI-LEVEL GOVERNANCE?*

Romana Sălăgeanu**

Abstract

The paper offers a conceptual review of the concept of multi-level governance (MLG) and its emphasis on the partnership principle, both from the perspective of European cohesion policy. The second part looks into developments in Romania concerning the implementation of the cohesion policy and whether these can create the proper environment for MLG emergence in Romania.

Keywords: cohesion policy, multi-level governance, partnership, regionalization

Introduction

The growing political salience of regions was induced and encouraged by European integration, especially within the framework of cohesion policy and for the implementation of the partnership principle among national, regional and local governments.¹ The EU had a diffuse and ambiguous impact on regionalization processes in the Member States, especially due to the lack of treaty basis for such an EU intervention. The Commission abstained from direct and public advice, but expressed its

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¹ Martin Brusis, “Between EU Requirements, Comparative Politics, and National Traditions: Re-creating Regions in the Accession Countries of Central and Eastern Europe”, in *Governance: An International Journal of Policy, Administration and Institutions*, Vol. 15, nr. 4, October 2002, p. 534.

preference for democratically elected regional self-governments with substantial financial and legal autonomy.²

Cohesion policy and the use of European funds was the main reason for creating regions³ in Romania before becoming an EU member. In 2013, the government pushed forward another regionalization process that was at the time regarded as the “biggest project” in Romania since 1989. However, the regionalization was not implemented. Suciuc describes the administrative reforms performed in Romania as combining elements from the pre-communist period with ones from the communist period to which European principles have been added, revealing an administrative system that is clientelistic and still vulnerable to corruption.⁴ Hence, the low confidence in Romanian authorities and the difficulty of partnership building challenged the implementation of cohesion policy in Romania.⁵

From formal participation in policy-making processes to actual cooperation of territorial and administrative levels towards development goals, the involved actors require proper instruments. In this spirit of partnership and multi-level governance, the regionalization reform proposed in 2013 by the Romanian government was supposed to equip regional actors and institutions with a suitable framework for the implementation of cohesion policy for 2014-2020.

² *Ibidem*, pp. 551-552.

³ Romania created in 1998, 8 development regions which are not administrative-territorial units. According to the Green Paper on Regional Policy in Romania, these were created by using the model of England, establishing simple forms of inter-institutional cooperation among the counties. Therefore, the created regions have a regional development agency and a regional development council, which is made out of the representatives of cities and councils comprised within the region. See Mirela Minica, Vasile Mircea Zaberca, “European Regional Policy and Background of the Romanian Regionalization” in *Annals. Economic Science Series*, Vol. XIX/2013, pp. 484-488, [http://fse.tibiscus.ro/anale/Lucrari2013/Lucrari_vol_XIX_2013_079.pdf], 29.07.2014.

⁴ Marius Suciuc, “Decentralization and regional development in Romania. An unfinished reform in search of a ‘European’ model”, in Francesco Palermo, Sara Parolari (eds.): *Regional dynamics in Central and Eastern Europe: new approaches to decentralization*, Leiden: Martinus Nijhoff Publishers, 2013, pp. 139, 144-147.

⁵ European Parliament, DG for Internal Policies of the Union, Policy Department B: Structural and Cohesion Policy, *Governance and Partnership in Regional Policy*, ad-hoc note, 2008, p. 42.

The paper offers a conceptual review of the concept of multi-level governance (MLG) and its emphasis on partnership. The second part looks into developments in Romania concerning the implementation of the cohesion policy and whether these can create the proper environment for MLG emergence in Romania.

Cohesion Policy, multi-level governance and the partnership principle

The 1988 reform of the European Cohesion Policy brought significant changes to the procedures and practices of planning and implementing this policy. The Commission became an active participant in framing and monitoring regional development programs. Partnership was also codified as a regulatory requirement, calling for the involvement of regional and local authorities in the processes of programme formulation and implementation for the first time.⁶ Ever since, the literature has brought forward the emerging concept and way of perceiving the functioning of the EU embodied by multi-level governance. Marks argues that the structural policy involves both a decentralization of decision making towards the subnational level and a centralization of new powers at European level. Hence, the governments located at different territorial levels are “enmeshed in territorially overarching policy networks” which frame the MLG.⁷ The Maastricht treaty and its Protocol on Economic and Social Cohesion enlarged the scope for autonomous decision making of the Commission, increasing its scope for structural intervention and rates of Community assistance, putting greater emphasis on Community initiative programs, and simplifying the planning process.⁸ According to Jessop governance is a compilation of mechanisms and strategies of coordination which were adopted in conditions of “complex reciprocal interdependence among operationally autonomous actors, organizations, and functional

⁶ European Parliament, DG for Internal Policies, Policy Department B: Structural and Cohesion Policies, *An Assessment of Multilevel Governance in Cohesion Policy 2007-2013*, 2014, p. 10.

⁷ Gary Marks, “Structural Policy and Multilevel Governance in the EC”, in Alan Cafruny and Glenda Rosenthal (eds.), *The State and the European Community*, New York: Lynne Rinner, 1993, p. 401.

⁸ *Ibidem*, pp. 395-396.

systems.”⁹ So MLG involves state actors that cooperate and negotiate as partners in a “complex network, pooling their sovereign authority and other distinctive capacities to help realize collectively agreed aims and objectives on behalf of the network as a whole.”¹⁰ The supranational understanding of the European multi-level governance describes it as “the coordinated actions of the EU, MS, regional and local authorities in order to implement EU policies.”¹¹ Officially, the partnership principle “aimed to maximize the effectiveness of EC regional policy interventions by giving subnational actors a formal role in the implementation process for the first time.”¹² From a bottom-up perspective of MLG, partnership means the participation of subnational governmental representatives together with the national and European authorities in all the processes of cohesion policy, namely the programming, the implementation and the monitoring of development programs.¹³

Hooghe argues that the “politics of European cohesion policy reflects most closely what could be expected in a multi-level polity. There, policies are made through a mixture of uneven, unequal unstable relationships and a compound of co-operative and unilateral strategies.”¹⁴ How MLG indeed works depends on the governance and government culture of each of the institutions, their actors and the whole political constellation involved. If goodness of fit between MLG and domestic institutions and preferences gave a push to MLG and misfit between them had little impact, than also the partnership principle had little impact on territorial relations. As Bache points out, policy processes may involve multi-level participation, but this does not necessary means it will turn into multi-level governance.

⁹ Bob Jessop, “Multi-level Governance and Multi-level Metagovernance”, in Ian Bache and Matthew Flinders (eds.), *Multi-level Governance*, Oxford: Oxford University Press, 2004, p. 52.

¹⁰ Bob Jessop, *op. cit.*, p. 57.

¹¹ European Parliament, *op. cit.*, 2008, p. 8.

¹² Ian Bache, “Multi-level Governance and the European Union Regional Policy”, in Ian Bache and Matthew Flinders (eds.), *Multi-level Governance*, Oxford University Press, Oxford, 2004, p. 166.

¹³ Gary Marks, *op. cit.*, p. 396.

¹⁴ Liesbet Hooghe, “Building a Europe with the Regions: The Changing role of the European Commission”, in Liesbet Hooghe (ed.), *Cohesion policy and European integration: Building multi-level governance*, Oxford University Press, New York, 1996, pp. 121-122.

The characteristics of multi-level governance within the implementation of cohesion policy have triggered the research of the effects and benefits of cohesion policy. A recent review of these projects points out, that the benefits of cohesion policy are direct and indirect. The direct performance is derived from the enterprises and companies that win EU-funded projects. The indirect effects are the increase in export outcomes, goods or services. On the other hand, the MLG model of implementing cohesion policy is “one of the policy’s main areas of added value and is credited with having a significant impact on regional policy practice in Member states and regions.”¹⁵ But the actual assessment of regional development as a direct result of the European policy is difficult to quantify. According to this study, MLG has contributed to an increased efficiency, legitimacy and transparency of decision-making processes but it has also brought administrative workload and extra bureaucracy, especially for the programme managers.

The EP has been also looking into the functioning of multi-level governance within the MS, reflecting its awareness of MLG as a present way of European governance and the importance for the implementation of the partnership principle, which is guiding the cohesion policy. The EP notes, that “Governance and partnership are sometimes treated as formal requirements that are respected by the Member States primarily during programme planning (via consultations), but are seen as major administrative burdens during programme implementation.”¹⁶ These burdens are due the lack of resources and administrative capacity. But a successful approach to governance and partnership requires a social and political culture of the state, previous experience with structural funds and especially openness towards participatory processes, so the EP.

On the other hand, the integrated approach defined by the Community Strategic Guidelines 2007-2013 “calls for the integration of growth strategies at European, regional and local levels, taking account of regional specificities and based on reinforced multi-level governance.”¹⁷ The Territorial Agenda

¹⁵ L. Polverari and J. Bachtler, with S. Davies, S. Kah, C. Mendez, R. Michie, H. Vironen, *Balance of Competences Cohesion Review: Literature Review on EU Cohesion Policy*, Final Report to the Department for Business, Innovation and Skills, 2014, p. 8.

¹⁶ European Parliament, *op. cit.*, 2008, p. ix.

¹⁷ *Ibidem*, p. 9.

of the European Union 2020, which was agreed upon at the Informal Ministerial Meeting of Ministers responsible for Spatial Planning and Territorial Development in 2011, in Hungary also emphasizes that development opportunities are best tailored according to the specifics of the region and through a place-based approach to policy-making. The implementation of subsidiarity through a multi-level governance approach unleashes the “territorial potential through development strategies based on local and regional knowledge of needs, and building on the specific assets and factors which contribute to the competitiveness of places.”¹⁸ Hence, the administrative burden of partnership building and multi-level governance strive for the better use of cohesion policy for the regional specific needs.

The reform and changes brought to the Cohesion Policy for 2014-2020 aim to maximize the impact of investments, to deliver the Europe 2020 Strategy goals by investing in growth and people. Among the changes there are: a different categorization of eligible regions¹⁹, a refocused allocation of funds according to the 11 thematic objectives, a regular monitoring on the state of objective achievement, the use of the smart specialization strategy, simplifying procedures.²⁰

More important for the current process of planning for 2014-2020 is the partnership principle. All member states – must adopt together with the European Commission a Partnership Agreement for the financing period 2014-2020. This agreement should “*set out arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth as well as with the Fund-specific missions pursuant to their Treaty-based objectives, arrangements to ensure effective and efficient implementation of the ESI Funds and arrangements for the partnership principle and an integrated approach to*

¹⁸ Informal Ministerial Meeting of Ministers responsible for Spatial Planning and Territorial Development, *Territorial Agenda of the European Union 2020 – Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions*, 19th May 2011 Gödöllő, Hungary, 2011, pp. 3-4.

¹⁹ Less Developed regions (GDP < 75% of EU-27 average); Transition regions (GDP 75% to 90% of EU-27 average); More Developed regions (GDP > 90% of EU-27 average).

²⁰ European Commission, *Refocusing EU Cohesion Policy for Maximum Impact on Growth and Jobs: The Reform in 10 points*, 2013, [http://europa.eu/rapid/press-release_MEMO-13-1011_en.htm], 28 July 2014.

territorial development."²¹ The purpose of this new exercise for the member states is to ensure that the principles of multi-level governance, subsidiarity and proportionality are respected, that experience and relevant know-how are used for planned interventions according to the specific challenges of member-states.²²

The EP analysed the 2014-2020 cohesion policy requirements as well. Regarding partnership-building as a key principle for programming and implementation of Cohesion Policy, it notes that the impact is so far limited and that it is also often seen as time-consuming, requiring extensive effort without achievement of its added value. Regarding the involvement of local and regional authorities, there are elements which influence their participation, such as the centralization or decentralization of the political-administrative system, the functioning of the fiscal equalization systems and the financial significance of EU funds for each state.²³ The EP further emphasizes that in the context of EU cohesion policy, MLG particularly relies on the implementation of the partnership principle and that "the formal regulatory requirements on the partnership principle have evolved from Multi-level Government to Multi-level Governance."²⁴ On the other hand, the uneven practice of this principle implementation indicates significant improvement scope. The challenges remain as identified in previous research: lack of tradition and resources, the shifts in allocation, priorities and the EU-MS relations, the high administrative costs of MLG and a democratic deficit.²⁵

²¹ Official Journal of the European Union, Art. 20 REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

²²*Ibidem*, Art. 11.

²³ European Parliament, DG for Internal Policies, Policy Department B: Structural and Cohesion Policies, *The Partnership Contracts – how to implement multilevel governance and to guarantee the flexibility of Cohesion Policy*, 2012, p. 9.

²⁴ European Parliament, *op. cit.*, 2014, p. 10.

²⁵ *Ibidem*, p. 11.

Next to the common provisions regulation for the use of European funds, the Commission adopted a European code of conduct on partnership in the form of a delegated regulation. This code specifies conditions to be taken into consideration regarding partners' involvement in the preparation and implementation of 2014-2020 partnership agreements and programmes. Accordingly, member states must ensure: transparency of partners selection, provision of adequate information services, and effective involvement of partners in all phases and improvement of competences of the partners.²⁶ Exactly this practice of governance, interdependence and coordination among different levels and actors has been challenging the Romanian government in its task to elaborate the PA, so that the Commission will agree upon it.

Cohesion policy in Romania – work in progress towards multi-level governance

Ghiolțan argues that Romanian territorial units have not yet been able to develop appropriate mechanisms for efficient implementation of 21st century policies, such as the cohesion policy. The definition of regions could have served this purpose, but a bottom-up mobilization was needed for an enforcement of a stronger regional level. Regional policy requires administrative implementation, adaptation of financial instruments to economic challenges, identification of new partnerships between the public and private environment.²⁷

In Romania, the decision-making process regarding the regional development happens within the government, which coordinates the agencies for regional development.²⁸ The national wide available OPs impede the adaptation of OPs to suit the real needs of the regions. Romania still has to overcome its communist legacy embodied in the centralized sole decision-maker, the way political actors with criminal records are still allowed to manage public goods. The EP study from 2008 analysed the case of Romania among other countries, identifying following challenges for

²⁶ European Commission, *Adoption of the code of conduct on partnership for 2014-2020 programmes*, 2014, [http://ec.europa.eu/regional_policy/newsroom/detail.cfm?LAN=en&id=1217&lang=en], 28 July 2014.

²⁷ Călin Ghiolțan, *Politici regionale în România*, Cluj-Napoca: Accent, 2009, p. 11-12.

²⁸ *Ibidem*, p. 9.

Romania: limited training and experience for national officials; low levels of training, experience and resources for local officials; little support for NGOs; low public confidence in authorities. Overcoming these challenges can still be considered a hindrance since the Eurostat regional yearbook 2014 shows that all 7 Romanian NUTS 2 regions, beside the capital region, have the lowest score of competitiveness. Moreover, Romania has three of the least 10 competitive regions.²⁹ The Eurostat data does not confirm that the way Romanian authorities envisage the implementation of cohesion policy can achieve its goals, namely to reduce disparities.

The Romanian government has been *struggling* to reform its territorial administrative system and to transform the existing development regions into subnational territorial and administrative units, especially from the perspective of the preparation for the funding period 2014-2020. For this purpose, the government received support and recommendations from the Romanian Institute for public policies. The institute encouraged the 2013 regionalization reform and has drawn the attention to the acute lack of vision for development and low quality of projects. This was happening before the first official partnership agreement draft was made public at the beginning of October 2013. According to this situation, the IPP proposed to the government 5 measures:

1. Establishing a political mandate for an integrative institution that could comprise in a sole National Development Strategy all sectorial strategies, adapting them to the Europe 2020 strategy and reducing the number of different documents produced by all ministries.
2. Achieving political consensus over a functional institutional framework for the management of European funds, especially consolidating the existing structure.
3. Developing a portfolio with the major projects which should cover at least 50% of the financial allocation for Romania.
4. Support for beneficiaries through technical assistance and audit, accompanied by the unification of control activities for European funds.

²⁹ Eurostat, “Focus on regional competitiveness”, in Eurostat, *Eurostat Regional Yearbook 2014*, 2014, pp. 308-309, [http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-HA-14-001-15/EN/KS-HA-14-001-15-EN.PDF], 20.11.2014.

5. A single budget for the investments within the National Development Strategy.³⁰

IPP pointed out that at least half of the European funds budget for Romania should be reserved just for regional development³¹ and that the government should renounce the strategy of setting same goals and projects for all regions and start adapting the projects according to the real needs of the regions, therefore thinking beyond the county boundaries.³² IPP assessed that the revised OP that have been released for public debate, at the end of July 2014 during vacation time, during which there will be limited feedback, will not be thematically very different from the ones for 2007-2013. Nevertheless, the new approach for the use of European funds has managed to better clarify the areas of priorities for investing. The assessment of IPP is that the different experts within the ministries still cannot coordinate properly their priorities, the focus of the political will is still insufficient, as it has been reflected in the reorganization of the OP portfolio.³³

In the case of the REGIO OP (ROP), the management authority remains (at national level) the Ministry for regional development and public administration. The ministry took into consideration the provisions of the code of conduct and the implementation of the partnership principle. For this purpose, the elaboration of the partnership process has taken place both at national and regional level. The consultative process began in 2012 and will end when the Commission will approve the OPs.³⁴ According to the ROP, the involved authorities and actors for its elaboration are: the General Service for European Programms within the Ministry for regional

³⁰ Ioana Morovan, *Institutul pentru politici publice: 5 pasi pentru a recupera decalajele in pregatirile documentelor 2014-2020*, 2013, [<http://uelive.euractiv.ro/2013/08/institutul-pentru-politici-publice-5-pasi-pentru-a-recupera-decalajele-in-pregatirile-documentelor-2014-2020/>], 28 July 2014.

³¹ The financial allocation for this operational program covers approximately 30% of the funds available.

³² Ioana Morovan, *op. cit.*

³³ *Ibidem.*

³⁴ Currently the PA was adopted and 4 OPs were summated. European Commission, *Partnership Agreements and Operational Programmes / State of Play*, [http://ec.europa.eu/regional_policy/newsroom/detail.cfm?LAN=EN&id=1506&lang=en], 2014, 30.11.2014.

development and public administration, at national level, and the Consultative Committee for regional development, at regional level. The Ministry for Regional Development and Public administration has also organized a selection process for the participation at the work of the Consultative Committee for regional development, which has been coordinated by Ministry for Regional Development and Public administration in partnership with the Ministry for European Funds. At regional level, the partnership has been ensured by the Regional Committees for the elaboration of the Regional Development Plans. These committees gather actors and institutions such as the agency for regional development, prefectures, county councils, de-concentrated services, research institutions, social and economic partners. The regional partnership is coordinated by the RDA.³⁵

MLG and partnership present both advantages and disadvantages for the process of OP preparation. The main advantages identified by the EP were: the facilitation of buy-in, consensus and collective ownership as well as the additional expertise contributing to improving the quality of the OP. The main disadvantages were: the varied and vested nature of partners' interests; the unrealistic expectations of some partners; diverse territorial challenges; the insufficient strategic dialogue and the lack of flexibility for accommodating partners' opinions; the lack of interest from the public to participate in the programming; administrative capacity and coordination constraints interlinked with the lack of financial and human resources as well as knowledge about EU funds.³⁶

The regions have to develop their own development plans as well, which are still in work. These development plans were elaborated according to the methodology and the partnership framework³⁷ elaborated by the

³⁵ Programul Operational Regional (Regional OP), *Draft of July 2014*, [<http://www.inforegio.ro/ro/programare-2014-2020/documente-de-programare.html>], 2014, 30.07.2014, p. 186-187.

³⁶ European Parliament, *op. cit.*, 2014, p. 12.

³⁷ Which specifies the conditions for the processes of consultancy, elaboration and approval for this development plans. Moreover, the region has set its own rules for establishing partnerships structures for the elaboration of this document which represents the main planning and programming document elaborated at regional level. See Agentia pentru Dezvoltarea Regionala Centru (Regional Development Agency Centre), *Elaborarea Planul de Dezvoltare a Regiunii Centru pentru perioada 2014-2020*, 2014, [<http://www.adrcentru.ro/Lista.aspx?t=AElaborare%20PDR%202014-2020>], 30.07.2014.

Ministry for Regional Development and Public administration. Even though the preparation for the actual implementation of cohesion policy 2014-2020 is still in work, the Commission adopted the Partnership Agreement with Romania in August 2014. The PA brings forward challenges that Romania is faced with, especially since corruption affects the private economy and the state administration still needs to be reformed.³⁸

The activities required by the partnership principle might be a more difficult task than expected. One of the fundamental problems currently, refers to the administrative-territorial excessive fragmentation, incurring high operating costs of the local public sector, unjustified in relation to the efficiency of the provided services. Another negative effect of this problem is represented by the difficulty of correlating strategies and policies at local level with those at central level.³⁹ Even though the Partnership Agreement with Romania was adopted in August 2014, the Romanian government stalled public investment, in areas such as construction and infrastructure, where European funding is available. Due to these delays in investment, the Romanian economy faced a technical recession at the end of the first two semesters of 2014. However, the most visible effects of this economic recession are yet to come, if we consider the drop down in the employees' number.⁴⁰

On the other hand, the lack of legal personality of the development regions was countered by the creation of associations for intercommunity development. These associations bring together county councils of the development region and provide a project framework with legal personality and with a budget made up from the budget of the local authorities that are part of the association.⁴¹ The eight ones have different purposes, either for

³⁸ Ministerul Fondurilor Europene, *Comisia Europeană a adoptat Acord de Parteneriat 2014 – 2020 cu România*, 2014, [<http://www.fonduri-ue.ro/comunicare/stiri/2656-comisia-europeana-adoptat-acordul-de-parteneriat-2014-2020-cu-romania>], 23 August 2014.

³⁹ Ministerul Fondurilor Europene, *Partnership Agreement*, [http://www.fonduri-ue.ro/res/filepicker_users/cd25a597fd-62/2014-2020/acord-parteneriat/Partnership_Agreement_2014RO16M8PA001_1_2_ro.pdf] August 2014, p. 132, 15.10.2014.

⁴⁰ Biziday, *Recesiunea – Planul vinovat al unei eminente maronii*, [<http://www.biziday.ro/2014/09/15/recesiune-planul-premeditat-al-unei-eminente-maronii/>], 2014, 16.09.2014.

⁴¹ Márton Balogh; Daniel Pop, "Cooperarea intercomunitară ca exercițiu pentru implementarea guvernăntei regionale", in Miklós Bakk; Benedek József (eds.), *Politicile regionale în România*, București: Polirom, 2010, p. 49.

better management of emergency situations or for regional development, or procurement procedures, etc.⁴² Therefore, Romanian legislation allows bottom-up regionalization through the association right of local authorities. The incentive for these associations is the use of European funds.⁴³ This type of bottom-up innovation, would bypass the region, since such an association is funded by local budgets, which are mainly made up by governmental transfers.

Conclusion

A “plethora of economic, social and cultural factors”⁴⁴ and the “exogenously induced distortion in allocating resources” combined with the strong will to absorb funds countered the regionalization reforms in Romania. The “lightly tuned” administrative grid from 1968 and the forceful association of administrative bodies of the counties⁴⁵ led to the emergence of the regional development regions, which are still strongly influenced by pre 1989 territorial schemes and especially by administrative mentalities.⁴⁶

Given that the regionalization reform proposed and presented at local and regional and European level by the Romanian government was not implemented in 2013, the preparations for the funding period 2014-2020 were conducted based on the development regions as they were created in 1998. But the preparation of the Partnership Agreement mobilized sub-national and local actors who contributed to the elaboration of the development strategies.

The new financial exercise for 2014-2020 should contribute to the emergence of stronger partnerships among authorities and other actors involved. A good cooperation between the hierarchical levels and the private actors within the projects might be a good start for developing multi-level governance in Romania. However, a closer analysis and a more

⁴² *Ibidem*, p. 57.

⁴³ *Ibidem*, p. 60.

⁴⁴ Mircea Teodor Maniu, Monica Ioana Burca-Voica, “The University as a Regional Integrator. The case of UBB within the Framework of Northwestern Development Region of Romania”, in *Studia Europaea*, no. 2, 2014, p. 6.

⁴⁵ *Ibidem*, p. 9.

⁴⁶ *Ibidem*, p. 17.

extensive research on the functioning of the Cohesion Policy in Romania according to the PA would be recommended, especially with the help of network analysis. The current political system discourages synergies at subnational level, Romania's major difficulty for reform being considered "that the project of the Romanian political class, the enrichment as rapid as possible and by all means, goes against the normal project of a country."⁴⁷

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**THE ROLE OF CULTURE IN THE EUROPEAN INTEGRATION
PROCESS IN THE CONTEXT OF GLOBALISATION.
A ROMANIAN CASE***

Laurențiu Petrila**

Abstract

This paper is focused on the premise that the society we live in is a result of globalization phenomenon, which has generated multiple transformations in all social aspects and which has determined a new manifestation of the cultural and identity phenomenon, nationally, regionally and globally. Europe had serious challenges regarding the European integration concerning each new state. One of the greatest European values is culture, especially a local, well exploited culture. In the first part of our study, we will show the importance of the local culture in the process of integration within the context of globalization and Europeanisation. We will show that the culture value has a dramatic role in constituting the development policies, but also an important role in the same process of European integration. Then, we will refer especially to the program Sibiu, European cultural Capital, and especially to the impact this project had locally and nationally, to the way this area developed and lined up to the European standards by the medium of a cultural project. In the end, I will appeal to the project balance and to the economic indicators in order to support my theory that, in the process of integration, the culture has a greater role than we can imagine.

Keywords: Globalization, European Values, Culture, European integration

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Introduction

The starting point of this study is focused on the premise that the society we live in is a result of the globalization phenomenon,¹ which has generated multiple transformations in all social aspects and which has brought a new kind of manifestation of the cultural and identity phenomenon, regionally, nationally, but also globally. The reality of globalization determines a certain culturally-value resurgence and transformations regarding the relations between the world states, influencing strategies and political decisions in the internal as well as external politics. The appeal I make on the globalization phenomenon from the beginning of this study is due to the fact that, in this context (globalization, Europeanisation) there is a great desire for local affirmation. In the Romanian mob mentality, there is a certain discourse against the tendency of the cultural and social leveling, raising the question of a cultural and historical claim.

Even if we used the past tense when talking about the difficulties of transition in Romania or about the more recent European crisis, we have to admit that the drawbacks or the economic and social problems remain capital, and a problematisation on culture, both the local and European one may seem a caprice. This tendency of disregarding the cultural segment is not specific only to Romania, but over the last period of time, we are dealing with important growth regarding culture by diverse trends of politics and strategies.² It is questionable whether, by any chance, the very cultural activities could be the way through which the economy and social aspect can develop holistically. We can take notice that the globalization phenomenon involves or enforces a resurgent feeling regarding the *inconcrete issues* of the society as culture, religion, identity etc. The impact of globalization is considered a complex and broad one which is not reduced only to the so-called visible aspects. James V. Spickard, in his work *Religion, Globalization and Culture* writes down that globalization involves much more than the possibility to call your friends who live on the other side of the globe. This implies more than a complex network of commercial connections. It implies even more than the interconnected financial markets, that allow us to use our credit cards anywhere. Although all these global connections are important,

¹ Andrew Jones, *Globalizarea. Teoreticieni fundamentali*, Cluj-Napoca: Ed. CA Publishing, 2011.

² Florica Vasiliu, *Politici culturale și programul Capitela culturale europene*, in Florica Vasiliu (ed.), *Politici Culturale și Integrare Europeană*, Iași: Institutul European, 2009, p. 11.

they are just a part of the global image. These connections support, but are also dependent in the same time on a more and more globalized culture, one that sees the world much more differently than it was to be viewed in the previous times.³ The really dramatic differences are considered those connected to the cultural aspects, not only those regarding the technological and financial modifications. The aspect that makes a difference between the global era and all the others is spreading certain cultural hypotheses/assumptions in the whole world.⁴

Within the European area, where we can talk about so much multimillenary tradition and culture, the integrating process becomes even more difficult in this globalizing and Europeanising context at the same time. The migrations, the multiculturalism and all kinds of diversity seem somehow to be in an unconceivable harmony with the identity and cultural particularities. The phenomenon is a complex one and of great importance especially because these very areas build values which, in their turn, enforce a certain kind of political and economic behaviour, and the globalization seems to be accelerating the transience and variability of the values. In this context, we consider necessary to have an approach or an analysis on the cultural politics in order to see how cultural identity of a nation is consolidated by belonging to an international structure. Such an analysis is important because the European area slogan is *unity in diversity*, but, in order to be part of this project, one must meet certain articulate and rigorous criteria or, in other words, one must present their readiness for a structural and cultural homogenization.

If, as it concerns globalization, the reasons are strictly economic; as for the European integration process, things are more complex because we deal with a lining up of an area which firstly confirmed the fact that it is a component part of the project by its culture and a spirit that was already a part of it, but in the meantime not yet a part. The integration process is important precisely because its role is to dissipate the *not yet* on diverse aspects, but could we say that, by this process, the local identity is constituted or transformed by mixing with other identities, diluting itself?

³ James V. Spinckard, in Peter Beyer & Beaman, Lori, *Religion, Globalization and Culture*, Boston: Brill Leiden, 2007, p. 233.

⁴ *Idem.*

The Romanian philosopher Constantin Noica says that Europe is a zone of action for freedom, which is recognised for its ability to produce, to create. Europe is a zone or an area where unity is defined by integration, but we deal with a certain kind of unity that works only by diversification.⁵ We all agree to the idea that the more provincial you are, the more European you are. The local unity seems a condition to pertain to the European culture. Over time, culture was used as a catalyzer in the programs of revitalization and regeneration social-economic. For that purpose, we have all the creative industries (architecture, design, fashion, mass-media, arts) playing an extremely important role in the development process.⁶ The cultural dimension is an active variable and also present within the social-political life appearance. Culture is an instrument of diplomacy within the European area, being considered a powerful means of integration. Given the diversity on the European continent, culture has often been considered almost equivalent to European diplomacy, an extremely important aspect if we take into account the great need for reconciliation and cohesion we have.⁷

*Culture is a horizontal power affecting all areas of life,*⁸ said Gottfried Wagner, offering a very good illustration for the power the culture has. Culture is in fact the social ingredient having as simultaneous characteristics both the influence and the interdependence. For the same purpose, Viviana Chetraru talks about the interdependence of the economy, culture and politics as well as about the impact of these relations on the society. The proper question and, at the same time, the source of the current research is: how can culture, with the help of cultural politics and, more precisely, the cultural participation promote the social cohesion and economic development.⁹ We

⁵ Constantin Noica, *De dignitate Europae*, București: Kriterion, 1988, p. 44.

⁶ J.A. Coca-Stefaniak., *Rolul și implicarea autorităților locale, a societății civile și a comunităților în crearea de locuri de muncă prin antreprenoriat local și cultură*, s.n., S.l., 2011, p. 72.

⁷ Grete Tartle, *Identitate europeană*, București: Cartea Românească, 2006, p. 218.

⁸ Gottfried Wagner, *The Art of Difference, From Europe as a cultural project to EU policies for culture*, London: Alliance Publishing Trust, 2011, p. 139.

<http://www.alliancepublishing.org/wp-content/uploads/THE-ART-OF-DIFFERENCE-full-PDF.pdf>, accessed October 2014.

⁹ Viviana Chetaru, *Evolutions of the Cultural Policy*, Romania from 1989 to 2006, p. 10, http://www.culturaldiplomacy.org/acd/content/articles/2011loam/participant-papers/Evolutions_of_the_Cultural_Policy_Romania_from_1989_-_2006.pdf, accessed October 2014.

will see in the following that cultural projects of wide scope have much more benefits that do not fall into culture only and, in time, they can be considered the drive or the start of the development of a certain region.

European integration through culture?

According to Jinga, the European Integration is *a process through which the European Union member states understand to transfer progressively, nationally to internationally, a series of competences belonging to the domain of national sovereignty, accepting to exercise them in common and cooperating in those activity domains with a view to reaching certain objectives of political, economic, social and cultural nature, pointing to the progress and development of these states.*¹⁰ In this concise definition of the European integration process, we can notice the complexity of this phenomenon. But we emphasised the words *“with a view to”* in order to highlight even more the stake and purpose of this process, as it is seen beyond the theories of approach.

We have to admit that Romania has joined European Union slightly unequipped. *In Europe, they knew that Bulgaria and Romania were not prepared to adhere to the European Union in 2007. Now, we have to deal with the consequences. But we must not forget the fact that other states, like Spain, Greece or Portugal were also unequipped at the moment they adhered, over 20 years ago.*¹¹ A similar statement was made by the European Commissioner for Development, Olli Rehn.¹² In the context of this situation, after all the effort to meet the indicators for adhesion in the eleventh hour, Romania had to catch up and face the integration remainders for that moment. Beside the justice and education issues, the economic and poverty issues are the most urgent ones that Romania deals with. Romania needs infrastructure, industry and so many more, that the list may still go on. Despite all these needs, we can notice improvements, but the most successful activities are due to the local projects or certain pressure put by Bruxelles.

¹⁰ Ion Jinga, Andrei Popescu, *Integrarea Europeană, Dicționar de termeni comunitari*, București: Lumina Lex, 2000, p. 51.

¹¹ Dirk van Harten in Sofia News Agency/ Evenimentul Zilei, <http://www.evz.ro/romania-nepregatita-pentru-ue-884368.html>, accessed October 2014.

¹² <http://2011.europa.md/stiri/show/6148/romania-si-bulgaria-au-intrat-in-ue-nepregatite-considera-un-oficial-european>.

Culture is perhaps the key point to the development in the current society: *If we strive to be successful in our efforts to create understanding for our society and for our policies, we must first understand the motive, culture, history and psychology of the people with whom we wish to communicate.*¹³ As for the European area, Denis de Rougemont said, ontologically emphasising the power of the culture in the sense that *Europe is either a culture, or it does not exist.*¹⁴

As a result after the treaty in Maastricht in 1990, a few cultural European programmes had been launched: Kaleidoscope – having in view the cultural cooperation, *Raphael* – for promoting the patrimony. Then, starting with 2000, a new programme called *Cultura* (The Culture) (envisaged for the interval 2000-2004) was launched in order to reorganize the cultural programmes together with European Capitals of Culture, which had already existed since 1985. This new programme was then extended up to 2006 and was later transformed into *Programul Cultura* (The Culture Programme) 2007-2013. The target of this programme was to protect the *common patrimony*, but also to promote better awareness and knowledge of the culture for the European citizens.¹⁵ The higher interest for the cultural projects and the aspects belonging to the European identity are given by the experience that, by culture, the European integration has a greater degree of efficiency. Naturally for that matter, communication and understanding improve when we have the chance to decipher other people's cultural codes.

The cultural programme Sibiu – European Cultural Capital

European Capitals of Culture is a cultural programme created in order to promote the diversity of cultures in Europe, to celebrate the contribution of the cities to the development of culture and to consolidate the connections among the member states. The programme started in 1985 had the opportunity to comprise over 50 European cultural capitals, offering thus the possibility to restore the cities, to create an international image, to increase the tourism, but also to improve the self-esteem of the

¹³ Gifford D. Malone, in Dragoș Dragoman & Dan-Alexandru Popescu (eds.), *Gestiunea politicilor publice teritoriale și integrare europeană*, Sibiu: Ed. Univ. Lucian Blaga, 2010, p. 164.

¹⁴ Florica Vaslilii (ed.) *Politici culturale...*, Iași, 2009, p. 187.

¹⁵ Ileana Nicoleta Sălcudean, *Politici culturale și construcții identitare în contextul European - teză de doctorat*, Cluj Napoca, 2012, p. 116.

inhabitants, who become thus much more involved in the citadel business.¹⁶

According to the web page especially designated for this event, two aspects are mentioned about which we think are necessary in this endeavour: the mission and strategy of this programme (that represents in fact the targets and objectives clearly defined). So, as regards the mission *The Programme Sibiu - European Cultural Capital 2007 has the duty to encourage, beside officially acknowledging the excellent cultural life and patrimony that Sibiu has, the community to develop and conceive innovative ways of development through cultural action. Then, the Programme is viewed in such a way, that it could promote the cultural cooperation and to celebrate the European destiny of Sibiu city. At the same time, this programme is conceived in such a way that it can offer opportunities for inclusion issues and social cohesion, educational, tourism, patrimony and urban restoration issues at all levels. The programme sets culture in the heart of the city life and seeks inspiration in it in order to lead the community to the future.*¹⁷

As for the approach strategy, a few aims and objectives clearly defined have been settled: *improving the international visibility of Sibiu, cultural developing of the city for a long term, attracting visitors nationally and internationally, improving the local pride feeling and trust, increasing the audience for the cultural events, improving the social cohesion and community development, improving the cultural and non-cultural infrastructure, promoting the cooperation in Europe, promoting the creativity and innovation.*¹⁸

This cultural programme undoubtedly represented the most important cultural programme that had ever been organised and carried out in Romania. The effort and unity of the decisive local and national factors represented a lesson of leadership and organisation like no other in Romania. Sibiu had already had a certain background by its multi-ethnic population, a dignified household community of Transilvanian Saxons, but also by the International Theatre Festival which highlighted the city internationally before 2007. In the context of this cultural and multicultural *tradition*, it has been created an institutional pattern on which this great project has been built. Before getting to mention the concrete investments

¹⁶ http://ec.europa.eu/culture/tools/actions/capitals-culture_en.htm, accessed October 2014.

¹⁷ <http://www.sibiu2007.ro/ro3/misiune.htm>, accessed October 2014.

¹⁸ <http://www.sibiu2007.ro/ro3/strategia.htm>, accessed October 2014.

and the (almost) unexplainable institutional cooperation I would like to specify a few events having taken place in parallel and developed this project. I mention The UNITER Prizes Gala (the annual prizes of the Theatre Union of Romania on different categories), the Transilvania International Movie Festival (the first and greatest festival of feature film in Romania, taking place in Cluj, but which started in Sibiu in 2007), but also the Ecumenical Assembly of European Churches.¹⁹ All these events came to confirm the multicultural and European dimension of this city and, even more, the collateral events to the programme, mentioned above, earned a greater importance in such a context. Sibiu became an enviable context because it benefitted – through diverse collaborations with mass-media – from an extremely positive visibility; starting with national and private television channels, serious international magazines, to promoting banners in the important cities of Europe like Budapest, Vienna, Berlin, Frankfurt etc.

All these strategic partnerships and connections oriented to cultural marketing have made Sibiu to be placed by the people from The Guardian on the seventh place as a touristic destination in the world in 2007.²⁰ The same people from The Guardian have included Sibiu among the first cities of the year of 2007 in a hierarchy of the most fabulous places on earth.²¹ More than that, the very well-known magazine Forbes included Sibiu in 2008 among the first of the most idyllic places to live in Europe.²² These promotion services done by periodicals not needing any other introduction have an impact that is difficult to measure on the long term, just as, on the short term, the impact was undreamed of. And, despite all these, out of a seemingly simple reason, it is a multicultural and multi-ethnic city that knew how to sell itself by means of cultural European politics in the most dignified possible way.

¹⁹ Bogdan Gheorghiu, „Programul Sibiu-Capitală culturală europeană-strategii de comunicare și promovare”, in Florica Vasiliu, (ed.), *Politici culturale..*, Iași, 2009, pp. 177-178.

²⁰ *Ibidem*, p. 179.

²¹ <http://www.theguardian.com/travel/2007/jan/07/escape2?page=2>, accessed October 2014.

²² http://www.forbes.com/2008/11/18/europe-homes-dollar-forbeslife_x_po_1118realestate_slide_4.html, accessed October 2014.

The social-economic impact of the Program: Sibiu – European cultural capital

When we speak of the impact of a project or of a social-cultural programme, we have to refer to at least two coordinates. Firstly, we have to see and quantify all the cultural events leading to and making this project, those that were the actual determiners of the concrete or measurable impact. Secondly, we have to refer to the economic figures, that is to the economic indicators that confirm or contradict the expected impact of the project. These coordinates are important because they show us a complex relation between culture and economy and, of course, information about the dimension of an efficient integration resulting from here. Surely, we cannot highlight real and concrete dimensions of this report,²³ but they can be a very good start and an example of analysis in order to take into account more and more seriously this integration dimension through culture. Professor Keating considers that we have to be careful so that culture would not be perceived in a reductionist or essentialist way, but rather as a product in a continuous transformation, that can be a complex intermediary in the process of integration.²⁴

Cultural indicators of the Programme: Sibiu-CCE 2007²⁵

According to the data provided by the Association *Sibiu-CCE 2007*, in 2007, within the cultural programme we refer to, 337 projects were presented, coming to a total of 2062 of events (from drama and painting, music, movie, dance, literature – to architecture, contemporary art and, of course, gastronomy). These events were organized by 301 cultural operators: public institutions of culture and religion, public institutions of shows and concerts, educational public institutions, cultural centres, cultural institutes of foreign embassies in Romania, national and international NGOs (cultural ones, for youth etc.), publishing houses, natural persons, honorific Romanian

²³ Florica Vaslilii (ed.), *Politici culturale...*, Iași, 2009, p. 184.

²⁴ Michael Keating, *Noul regionalism în Europa Occidentală: restructurare teritorială și schimbare politică*, Iași: Institutul European, 2008, p. 168.

²⁵ We will refer only to the figures related to the cultural events highlighting their impact. We will not analyse structures, classifications, origins or other similar issues because they are not the focus of our research.

consulates abroad and private companies.²⁶ As regards financing the projects that are strictly cultural starting with 2007, the investment figure was approximately 13.4 million euros, the majority coming from Sibiu Township (8.2 mil), The Ministry of Culture (3.4 mil), European Commission (1.4 mil – special funds for the closing events based on the financing offered), etc.²⁷

Economic indicators

The cultural programme we refer to represented the chance to revive the tourism industry in Sibiu Municipality and in Sibiu county. The tourists have doubled (700,000) compared to the ones in the previous year. The studies showing the tendency of growth in the number of tourists for the years to come had determined the Ministry of Culture to assume further on financing. The increase in the number of tourists has stimulated the local tourist industry by building new hotels and, though it was built much in the hotelier field, all the operators in tourism have reported significant rises in financial collections. But, even more than that, we must notice the investments made in the urban infrastructure, especially because the investments figures rise to over 50 million euros, investments never dreamed of by Sibiu inhabitants if it were not for the *cultural constraint*. The investments in the urban infrastructure are indirect investments for the Programme Sibiu CCE 2007 and there are the following: building a new terminal within the Sibiu airport (28.5 million euros), restoring the historical centre (6), restoring the railway station (5), rebuilding the water supply system (9), improvement in the urban traffic (0.25) and for the restoration of a few churches (1.3). These figures could mean very little if we do not relate them to the anterior budgets of Sibiu Municipality Budget, where we could notice that starting with 2003 until the grace year of 2007, the Sibiu Municipality Budget has actually tripled.²⁸ As for the direct investments of costs of this project (for the 337 cultural projects), there are 13.4 million euros, representing: The new building for the county library and the restoration of Gong theatre – 3.4 million euros, the restoration of

²⁶ <http://www.sibiu2007.ro/ro3/bilant.htm>, accessed October 2014.

²⁷ Florica Vasiliu (ed.), *Politici culturale..*, Iași, 2009, p. 197.

²⁸ *Ibidem*, pp. 198-201.

Brukenthal Art Museum – 5 mil., The multipurpose pavilion – 0.79, Steinway piano – 0.1, two concert stages – 0.8, The Third Ecumenical Reunion of the European Churches – 0.5 and promotion – 5.²⁹

As it may be seen in the pieces of information listed above, the investments for the restyling and restoration of the city were considerable. Beside the excellent quality of the cultural programme, Sibiu has to demonstrate those who offered it this great opportunity that we talk about a European city as regards the culture and the infrastructure as well. Thus, starting with 2004, when Sibiu received the title, the actual rebirth of the city began straight with the heart of Romania. The works were developed in such a way that there will not be any temporary investment, but to have a launching platform on the long term for the whole city, which partly has been achieved. We will not mention here the impact the programme had among the economic agents who benefitted from this period or the development of the private companies in addition to the increase of the employees number (over 50% companies report the increase if the employees number with 3.3/company on the average).³⁰ Beside the cultural peaks we had in the year of 2007, we have to admit that the power of this project is greatly due to the investment or the promise that, by all these economic efforts, the Sibiu community will live much better, thing that has been proven when the project we headed for promises a long term development.

Conclusions

In many aspects, we live hard times, as we have mentioned in the very start of this study. The global social processes overlap with the regional ones, determining the global element to be more and more complex and us to be more and more aware of it with the help of technology and the easiness of multiple migrations. The power of cultural globalization is given by the appearance of *lingua Franca*-English, but also of the development of electronic mass-media that makes all things go round so easily.³¹ Thus, we are subject to an inevitable identity-cultural uniformity internationally and

²⁹ *Ibidem*.

³⁰ <http://www.sibiu2007.ro/ro3/bilant.htm>, accessed October 2014.

³¹ Radu Săgeată, *Globalizare Culturală și Cultură Globală-global și local în geografia culturală*, București: Editura Universitară, 2009, p. 76.

regionally. The local cultures become a certain kind of exception being offered finance only provided they bring proof that they can consistently contribute to the globalizing phenomenon; thus, local cultures matter too little in the global cultural economy. Great project of the European Union to integrate all local cultures and the multitude of identities in a community of wide scope, without diluting their identity, it has become a true effort on all society structures which deserves every sacrifice, especially taking into account the subsequent benefits.

In the beginning of the research *Globalization and Culture*, the British politician Tomlinson notes: *In the heart of the modern culture, we have globalization, but in the heart of globalization, we have the cultural practices;*³² a supplementary highlight on the interdependent relation between the globalization and culture, which should be viewed with all the attention when we engage ourselves in projects of social construction. Despite the complexity of the cultural interactions among societies over the last few years, the more and more intense change of the images and symbols and the great variety of the thinking and communication patterns constitute unique and unprecedented measures in the end of the last century and the beginning of the millennium we live in right now.³³ In other words, this amalgam of particularities has to be managed by local strengthening of the identity; this is the only way in which the subsidiarity ideal will have the necessary scope for functionality in the European area; in other words, the scope of the European integration.

In the present research, I have tried to show that, beyond the social globalizing challenges, but especially the Europeanizing ones for the case involved here, there still are options and solutions to promote local values and identities without deconstructing or affecting the intimacy charm of a world that was quite far from the Eastern world. The projects started by the European institutions have merit but also the privilege to carry the garland of a full integration. As regards the countries in the Eastern bloc, the transition had many challenges of mentality, but also the stringent challenge to recover economically and socially. Romania is part of this group of countries and it seems not to have been healed yet of the former

³² John Tomlinson, *Globalizare și Cultură*, Timișoara: Amarcord, 2002, p. 9.

³³ David Held, *Globalizare, cultură și destinul națiunilor în Transformări Globale-politică, economie și cultură*, Iași: Polirom, 2004, p. 372.

regime marks. Now it willingly got involved in a project of hope, of almost imminent development. We have seen that integration is not a facile thing and that, beside the directives and exigency of the European public policies, we need gateways in order to reach the social-economic aims and ideals. The cultural programme *Sibiu – European cultural capital* is just a sample or a short lesson of the fact that great things are possible and that, identifying the gateways through which people can persuade others they deserve to be taken into account for diverse programmes, we can thus become a regional candidate with quite sure perspectives as regards the development on the short and long term as well. Culture can thus become a sure ingredient of success in the European integration process. By its multicultural and multi-ethnic component and its geographical structure, Romania can represent a go of integration on the long term. The more provincial you are, the more European you are – and this political architecture, the civic involvement earns vitality because, by these cultural programmes, the state becomes homogenous politically by the very thing that your identity remains intact. The geographical position of Sibiu has made things happen and, thus, more institutions call up in order to create opportunities of infrastructure and ways of social-cultural development because, by the successful example of Sibiu, culture is not negligible even for the simple and conservative human being. We can say that, by these projects, we become like them – developed, dynamic and competitive – but we become those things by what we already are.

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FOREIGN INVESTMENTS IN THE ROMANIAN POLITICAL DEBATE OF THE INTERWAR PERIOD

Elena Rusu*

Abstract

This paper focuses on the analysis of the main legislative acts adopted by the Government of Romania during the interwar period in the area of the national industry and economy, with particular attention to the reactions to foreign capital of the main political groups then in power in Parliament. First of all, we have conducted an analysis of the situation of the Romanian interwar economy, dominated by the idea – common to all governments in that period - of transforming the Agrarian State into an industrial one. On the other hand, the period was marked by a continuous exchange of ideas between the main political groups over how industrialization would be made - with or without the support of foreign capital. This situation prompted the promulgation of a series of laws, the analysis of which represents the core of the present work.

Keywords: economic recovery, doctrine, law, foreign capital, investments.

The First World War left the states with a legacy of peace, but also with the need for reconstruction. With regard to the economic reconstruction of Central and Eastern European states, the inherited problems seem to be deeper than in the West. This is due to the fact that the economies of Eastern states were mainly based on agriculture, being at the same time poorer, having problems with unstable governments, illiteracy, minorities,

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but also because they were less attractive to Western investors. All things considered, those states faced major difficulties in outlining some policies that would have led to their industrialization, a process that, once underway, implies foreign capital investment.

Our study is focused on the legislative actions undertaken by the Romanian state during the interwar period, in the context of foreign capital accumulation. We are using qualitative research methods as a principal research technique, in order to explain the significance of the legislative texts. Content analysis entails a systematic reading of a body of texts, images or symbolic matters. We have selected official documents as primary sources for analyzing the text of the laws taken into account. On the other hand, we are using comparative research methods to reveal the common aspects and differences between laws or their area of action, focusing on the comparison of similar laws adopted by different governments. To be more precise, the comparative method will be used as “a method of agreement” – the study of similar cases in order to find their causes and also as “a method of difference” – the study of contrasting cases in order to find their causes.

After 1918, Romania’s objectives are focused on integration and the formulation of a unitary mechanism for its national economy. Thus, the new project had to take into account the complexity of the new state, in order to achieve a coherent and functional plan. With regard to the character of the national economy, the conclusion drawn by state representatives is that Romania should neither become an industrial state, nor remain an agricultural one, as it had been before the outbreak of the First World War. The important thing to remember is that political groups sought to develop an agricultural-industrial state. “Economically, the Union meant unifying the internal market, welding the complex country-wide economy; it fostered a new stage of social-economic development through faster development of production factors. The transformations that occur led to an intensification of the industrialization process, despite losses caused by the destruction and disruption of the economy during the war”¹.

In the aftermath of the First World War and amid the formation of Romania as a National Unitary State, industrial recovery and development were strongly influenced by foreign capital investments. Perhaps, it is

¹ Mircea Baron, *Cărbune și societate în Valea Jiului – perioada interbelică*, Petroșani: Universitas Publishing, 1988, p. 102.

somewhat exaggerated to consider this process of industrialization dependent on foreign investment, but it certainly had a role in defining the new directions of the state's economic developments. Another important aspect is the change in foreign capital, from a predominantly German and Austro-Hungarian one to the French, English and Italian, although on the eve of the Second World War, the German capital share was once again on the increase. If according to the Liberal conception, development must be achieved through its own efforts, on the contrary, the other dominant conception of the interwar period, the National-Peasant one, agrees that the Romanian economy should adopt an open-door policy for foreign capital.

The new legislation related to industrialization, enacted after the First World War, "had to respond to and judicially enforce the process of economic integration of the new provinces, a process that was done at a faster pace than the overall action of legislative unification; it had to respond to the multiple issues raised by the process of economic recovery; to clarify creditor/debtor status in relationship with war damages"². Most laws adopted in the early stages of the interwar period, respectively between 1918 and 1921, met the objectives related to the development of the national economy. However, the enactment of a new law would often trigger disputes between parties' interests.

Regarding industrial recovery, in Interwar Romania, it had a slow pace and an uneven distribution across the new national territory. The main industrial progresses registered can be observed due to the increasing number of enterprises and workers, the modernization of technologies and the dynamic capital investments. "Nationalization, undertaken by industrial enterprises with foreign capital, mainly those which had prior connections with financial groups in Central Europe, resulted in the penetration by large Romanian banks of hundreds of enterprises, especially in the new provinces, thereby hindering to some extent the trend of certain foreign capitals, English, French, Italian etc. to take over these businesses"³.

² Nicolae Păun, Marcel Știrban, *Politica economică a României între primul și al doilea război mondial*, in Vasile Pușcaș, Vasile Vesa, *Dezvoltare și modernizare în România interbelică: 1919-1939*, Bucharest: Policy Publishing, 1988, pp. 95-96.

³ Mircea Baron, *op. cit.*, p. 21.

Following the studies of some prestigious economists of the interwar period on the relation between industry and agriculture in Romania, there was common agreement that the State should follow the path of industrialization, although agriculture remained its main production branch. "Therefore, accordingly to the thesis that Romania was not meant to become an industrial state, or to remain an agricultural one, it was pointed out that the national economy was supposed to be complex, with a well-defined character for each department"⁴.

The conception of modernization at a European level after the First World War envisaged investments in industry, but it was harder to be achieved in countries such as Romania, which was a few steps behind Western states. This is why modernization could not be conceived in the absence of investment in their national economies, by strengthening their industries, but also by accepting cooperation with external financing. Thereupon, plans were formulated to establish the State's role in the national economy and attitude towards foreign capital. Unfortunately, many of these plans were not materialized because they lacked practical measures, which favoured the action of foreign capital in the absence of a coherent Romanian economic system. "Foreign capital had been present in the Romanian economy since the second half of the nineteenth century, especially in the petroleum industry, where due to the risk of long-term investment, expensive imported technologies, the lack of qualified personnel etc. – domestic capital was financially modest – representing only 6% of the capital invested in the industry before the First World War"⁵.

The provisions of the 1912 Law on encouraging national industry were presented during this period and were complemented by a number of other laws, such as the Customs Tariff Law in 1921, the Law on organization and administration on a commercial basis of enterprises and public wealth of 1929, the Law on State bonds for obligations issued by industrial companies of 1931⁶. Besides these, a number of decrees-laws were enacted:

⁴ Ioan Saizu, *Politica economică a României între 1922 și 1928*, Bucharest: The Academy's Publishing House of the Socialist Republic of Romania, 1981, p. 37.

⁵ *Anuarul Institutului de Istorie și Arheologie Cluj-Napoca*, nr. XXVIII, Cluj-Napoca University, 1987-1988, p. 380.

⁶ Dumitru Firoiu, *Istoria statului și dreptului românesc*, Bucharest: Didactic and Pedagogical Publishing, 1976, p. 267.

a Decree-Law establishing an economic general directorate⁷, a Journal of the Council of Ministers, regarding the exercise of the right to supervision of all factories attributed to the Ministry of Trade and Industry⁸, the Decree-Law establishing the Credit House foundation for restoring small-scale industries⁹, the Decree-Law establishing the Credit Oil House¹⁰, the Decree-Law establishing certain services in addition to the Ministry of Industry and Trade¹¹. The N.L.P. Government's concern for promoting economic legislation resulted in an increase in the Romanian economy, which is very easily measurable by analysing some of the economic data of the time: the number of enterprises increased in 1928 compared to 1923 from 35% to 146%, the output value with 146%, employee occupancy by 26%¹².

The third decade of the twentieth century was dominated by the solutions proposed by Virgil Madgearu for the economic development of Romania. "Madgearu's formulas, focusing on rapid industrialization with foreign capital, went against the liberal philosophy, so called "prin noi înșine" (through our own efforts), as well against the peasants' view on economic progress"¹³. Reality prevented the fulfilment of Madgearu's economic plans, being influenced by the advent of the Great Depression; the country remained economically underdeveloped and with a peasantry discontented with the agricultural situation in Romania. "Madgearu denied the need for continuing the land reform, as he was convinced that agrarian overpopulation problems and inefficiencies could only be solved by creating a viable, modern industrial basis"¹⁴. Since the measures adopted by the National-Peasant Government proved to be ineffective, and the economic crisis was spreading rapidly, the political class looked for stability by restoring the traditional alliance between the Monarchy and the National-Conservative Government.

⁷ Official Gazette, no. 55, June 3, 1918.

⁸ *Ibidem*, no. 66, June 15, 1918.

⁹ *Ibidem*, no. 232, January 10, 1919.

¹⁰ *Ibidem*.

¹¹ *Ibidem*.

¹² Florin M. Manoliu, *Politica prețurilor în economia românească*, Bucharest, 1939, pp. 31-32.

¹³ Stephen Fischer - Galați, *România în secolul al XX-lea*, Iași: European Institute, 1998, p. 60.

¹⁴ *Ibidem*.

The Constitution of March 23, 1923, claimed that land nationalization was clearly expressed in Article 19, according to which mining deposits and any other underground sources of wealth were property of the State, respecting only the rights acquired by mining concessions of exploitation before the enactment of the Constitution. The Constitution of 1923 is chiefly recognized for its provisions related to ownership, as it was the first to introduce the principle of mine deposits and subsoil nationalization. This measure triggered negative reactions, but the legislative came up with an explanation advocating the existence of special measures in Western European States such as Austria, Belgium, France, Spain or Italy. "In Austria, according to a law adopted in May 1854, mines were no longer the property of the owner, but of the State, which could lease them to anyone it pleased, while the surface owner only had the right to rent them. In Belgium, mines had been State ownership since 1810"¹⁵.

The main theorist of the liberal policy called "prin noi înșine" was Vintilă Brătianu, Finance Minister in the Government from 1922 to 1926, at which time he adopted the programme of economic nationalism. The main point of this programme was the fact that Romania had to develop an "independent economy"¹⁶, and the principal way to attain this objective was the exploitation of natural resources, "the living forces of the nation"¹⁷. Although Brătianu was convinced that this policy would contribute to the country's economic recovery after the First World War, his political opponents and foreign capitalists classified it as "aggressive economic nationalism"¹⁸.

On July 4, 1924 the Mining Law was drafted, an expression of the economic policy of the National Liberal Party, the State being declared the sole owner of the subsoil, with the right to regulate the use of mining property. "The Mining Law confirmed the state Ownership of all mineral resources of the country and granted it the right to exploit them directly or indirectly through concessions to private companies"¹⁹. In addition, it also established a 40% threshold for the participation of foreign capital in the

¹⁵ *Dezbaterile Adunării Naționale Constituante*, 1923, p. 1 052, *apud* Vasile Pușcaș, Vasile Vesa, *op. cit.*, p. 16.

¹⁶ Gheorghe Buzatu, *O altă istorie a petrolului românesc*, Encyclopedic Publishing, 1988, p. 94.

¹⁷ Vintilă Brătianu, *Economia națională a României Mari*, Democracy, nr. 4-5/1919, p. 195.

¹⁸ Gheorghe Buzatu, *op. cit.*, p. 94.

¹⁹ Keith Hitchins, *România: 1866 – 1947*, Bucharest: Humanitas Publishing, 1994, p. 391.

exploitation of the subsoil, the rest being Romanian capital. This provision emphasizes the desire to maintain state independence and sovereignty under the liberal doctrine, which wanted to share no more than a little of its power with foreigners²⁰. In furtherance of the 1924 Law, on June 26, 1925, the Law related to industrial enterprises in connection with national defence was published in the Official Gazette No. 138²¹. Based on these new provisions, a number of companies were established such as: the Romanian aeronautical Industry and the *Copşa-Mică* and *Cugir* factories.

Also in 1924, the Law on trade and control of State economic enterprises was adopted, among which seagoing service and electricity companies. By analysing its structure, we are entitled to state that the law makes no concessions to foreign capital, but rather represents a means to regain control over key economic sectors through nationalization. The enactment of this law was justified by the liberal government as a need for a more efficient administration of the state.

The local industry was promoted during the Liberal government by establishing protective tariffs between 1924 and 1927. These measures were retained by the National-Peasant Government which came to power after the liberal administrations, determining consequences with an inconsistent impact on the Romanian economy: they either enabled the creation of a monopoly of several large industrial enterprises, thus causing high prices, or increased the production-specific phenomenon of protectionism.

With the coming to power of the National Peasant Party in 1928, the mining system was to be coordinated by a new law - the Law on mining activities. The main provision of the new law is the removal of restrictions on foreign capital: "The concessions may be granted to companies of any kind, Romanian or foreign, fulfilling forms required by Romanian law and legal entities of any kind"²². This law brings an end to the liberal direction,

²⁰ Article 199 of the Law on mines of 1924 stipulated: *the exploration and exploitation of gas which forms deposits is to be performed only directly by the State, or in association with private capital, in conformity with the law on the commercial administration of public enterprises and wealth.*

²¹ *The Law related to industrial enterprises in connection with national defense*, p. 769.

²² Excerpt from article 30 of *the Law on mining activities* of 29 March 1929.

allowing unrestricted access of foreign investors²³. According to this policy, the free market is seen as a natural way of overcoming difficulties. However, one has to take into consideration the risk impact that may occur in order for the economy not to be exposed and affected in a negative way.

The Law on organization and management of enterprises and public wealth on a commercial basis, from 1929²⁴, stated at Article 15 that enterprises, institutions, larger settlements, exploitation, property and rights belonging to the State, counties, municipalities, and any institution under their control, would be subject to concessions for a limited period of time in the general terms of the present law and to the technical requirement provided by special laws. These concessions could be made only on the basis of public auction. Thus, the law stipulates at Article 1 that the items listed above could be organized and administered in various forms, such as lease or rent, concession, commercial public administration, joint directing, cooperative directing, a combination of two or more of these systems. Regarding the assessment of contributions and capital formation, "social capital consists of cash and kind contributions of public collectivities and individuals"²⁵. Following a similar pattern, state wealth exploitation was done by lease, concession, public administration or overhead mixed. "For State economic enterprises, organized on the basis of cooperation between the State and private individuals, the law reflects a national economic policy, bringing innovations to the practical organization of enterprises"²⁶. State involvement in the management of these companies was limited, but it was paying attention to avoiding the concentration of capital in the hands of a few investors, by imposing upon them the obligation of capital formation through public subscription²⁷.

National-Peasants encouraged foreign investment, but they also introduced numerous measures for improving agriculture, less attractive during the liberal governance. Nevertheless, the plans of the new Government were strongly influenced by the impact of the Great Depression, and Romania

²³ Article 30 stipulated: *the lease can be granted to companies of any kind, Romanian and foreign, which meet the criteria set up by the Romanian law, as well as legal persons of any kind.*

²⁴ Official Gazette, no. 23, April 25, 1929, p. 715.

²⁵ *Ibidem*, Art. 82, p. 735.

²⁶ *Ibidem*, p. 783.

²⁷ See also Valeriu Bulgaru, *Fenomenul agrar*, Timișoara: Editura de Vest, 2004, p. 24.

faced the situation with major difficulties, being a predominantly agricultural country. The crisis quickly spread to the entire Romanian economy, leading to actions such as: contracting large foreign loans, lowering the prices of raw materials, putting pressure on foreign capital and decreasing consumption²⁸. This led to the bankruptcy of certain companies and banks, as well to a drastic reduction of investments. Even so, in the case of the Romanian economy, only one area remained unaffected by the Great Depression: the oil industry. "The measures taken to overcome the economic crisis were: tariffs, export premiums, diversification of production and State interference, through its orders for providing equipment to the army"²⁹.

This moment brought about a massive change in the visions of the two major political party leaders, showing interest in deeper industrialization. "The economic recovery of the country was achieved gradually between 1934 and 1937, reaching in 1938 the highest level of capitalist production"³⁰. The Liberals returned to power between 1934 and 1937, and focused on heavy industry, while their programmes showed an intense pattern of State control of the economy. In addition to the measures taken, another element to be shown is the fact that the State proposed incentives to companies in order for them to produce certain goods which were not yet manufactured within the country. Furthermore, to ensure the survival of some industries, the Government legalized cartels in 1937 and granted monopoly on certain goods. In other words, the Liberals continued their plans from the period of the previous Government, focusing on protectionism. The changes brought about by the Great Depression led to the drafting of a new mining law, enacted in 1937 - the law sought to encourage mining by abolishing the exclusive access system. The text of the new law provided for the facilitation of increased exploitation of the subsoil in favour of monopolies, resulting in a process of concentration of production. Given that the economic field in that period was already dominated by these monopolies, this law came as an acceptance of the situation created.

²⁸ Marcu Nicolae Lupu, *Istoria economiei naționale a României*, Didactic and Pedagogical Publishing, 1974, p. 407.

²⁹ Gheorghe Ivănuș, *Istoria petrolului în România*, Bucharest: AGIR Publishing, 2004, p. 254.

³⁰ Marcu Nicolae Lupu, *op. cit.*, p. 407.

The years between 1938 and 1940 were marked by the Royal dictatorship of Carol II, who continued the economic policies of the Liberals, but with a more pronounced State intervention in the economy.

In conclusion, the Romanian economy in the interwar period is characterized by dynamism, but with a very low growth rate. Although during this period of time large industrial enterprises were established, such as I.A.R Braşov, Malaxa or Reşiţa, small enterprises prevailed, with an uneven territorial distribution of industry³¹.

Due to foreign capital investments, the enterprises were forced to develop, and thereby became able to contribute to the decrease of the economic gap with the countries from Western Europe. To become truly competitive, companies invested in new production lines, which resulted in high quality products. Achieving quality products, competitive alongside those of Western Europe, was a significant step in the process of modernization during the Interwar period. What is common to these stages of economic progress in Interwar Romania, is the determination of main directions, among which it is worth mentioning State modernization through its active involvement in the economy, a protectionist policy, aiming to develop national industry, without excluding the possibility of beneficial collaboration which would seek to obtain foreign capital, only if it was very tightly controlled by the state. However, how could these goals be achieved? The main means used were joint ventures, loans and imports of machines and tools.

The present study will be deepened in a subsequent article where we will carry out a comparative analysis of branch industries in terms of both the foreign capital invested, and the legislative measures adopted.

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³¹ See also Gheorghe Calcan, *Industria petrolieră din România în perioada interbelică*, București: Editura Tehnică, 1997, p.193.

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THE TWO EUROPES. INDUSTRIAL EUROPE AND AGRARIAN EUROPE IN THE INTERWAR PERIOD

Delia-Cristina Lung*

Abstract

The existing gaps between countries of Central and south-eastern Europe and the developed countries of the West are a certainty of the contemporary world. Their existence and accumulation are no longer denied, but accepted as a quasi-tangible reality. However, the problem of these gaps between "the two Europes" is now more acute than ever, since many of the states belonging to one or other of the two Europes tend towards an economic and political unity: the European Union.

These gaps make, however, the integration of agrarian countries (or agro-industrials) a real problem, because the "backwardness" towards Western countries, highly industrialized, is a challenge. Throughout history, the gaps have increased, which means in practice that some states or regions have continued to become more wealthy, while others have become poorer. Thus, today was reached the two-speed Europe formula, which is originated in the gaps between the two old Europes: the agrarian and the industrial ones. Throughout this paper we will attempt to illustrate which are the gaps between the two Europes and how they have accumulated. Starting from the premise that gaps have accumulated throughout European history, we will pursue the development efforts of the Western, Central and south-eastern European countries along the Industrial Revolution, World War I and interwar period, focusing on agricultural and industrial sectors.

Keywords: *gaps, industrial Europe, agrarian Europe, industrialization, agricultural productivity*

Early twentieth century offers us the perspective of a Europe divided between nation states and empires, between developed countries and less developed countries, between strong states and weak states.

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Existing disparities at the beginning of this century are more than obvious. However, they were not a novelty, their appearance and emphasis being realized centuries before. According to Bogdan Murgescu, these disparities (or at least the economic ones) can be tracked down to early sixteenth century¹.

The year 1918 was a turning point in the evolution of European countries and of Europe in general. We discuss in this case not only the end of World War I, which led to ideas of unification at European level (particularly due to the disappearance of the great empires), but also the opportunity it offered. Thus, "after 1918 there was not achieved simply «a territorial reorganization» of Central-South-Eastern Europe, but there continued an ampler action of connecting nations to the general pace of modernization of the whole of Europe"². However, we must clarify the positions occupied by the two Europes at the moment of 1918.

Western Europe experienced a period of economic growth in the eighteenth and nineteenth centuries, marked by the industrial revolution. This phase of development enabled Western states to develop their economy on the path of industrialization, but also to progress in agriculture, through the shift from manual labour to the one based on machines. Central and south-eastern Europe did not experience this progress until much later, from the mid nineteenth century onwards. The explanation of this fact lies in the proximity of this part of Europe to the Orient and not to the West. For example, Romania has not made contact with Western civilization and began to take over the Western model until the mid-nineteenth century, after the proclamation of its independence. These differences can be better seen if we refer to the agricultural productivity and industrial development of Romania in comparison to Western Europe. Before that, we need to mention the fact that Western Europe had already gone through two phases of the agricultural revolution: the first, which began in the eighteenth century, was based on the passage to a form of intensive agriculture, with wider crops based on improved seeds and the integration of livestock with plant

¹ Bogdan Murgescu, *România și Europa. Acumularea decalajelor economice (1500-2010)*, Iași: Polirom, 2010.

² Vasile Pușcaș, Marcel Știrban, "Perfecționare și atitudini critice în sistemul politic al României", in Vasile Pușcaș, Vasile Vesa (eds.), *Dezvoltare și modernizare în România interbelică 1919-1939*, Bucharest: Policy Publishing House, 1988, p. 11.

crops, and the second, which began in the nineteenth century and continued even in the twentieth century, relied on replacing manual labour with mechanized one.

Compared to these developments, "Nineteenth century Romania only partially covered the first modern agricultural revolution and started the mechanization of agricultural works late and at a small scale"³. However, Romania's agricultural productivity was below the average of developed countries. As evidence we propose the numbers in the table below:

**Table 1. Indices of agricultural productivity
(million calories / capita of a male active in the agricultural sector)**

	1800	1860	1890	1910
Romania	6,0	6,7	10,8	13,9
European average	6,0	8,0	9,1	11,3
European average without Russia ⁴	6,2	9,1	11,3	14,9
Average of developed Western countries	7,1	12,5	18,0	23,4

Source: Bairoch 1999: 136-137, *apud* Bogdan Murgescu, *op. cit.*, p. 134.

Thus, by analyzing this table, it can be seen that Romania was not far from the European average in terms of agricultural productivity, but the distance from Western countries gradually increased over two centuries. What is noticeable is that in 1910, Romania even succeeded in exceeding the European average, but the European mean includes Central and Eastern European countries, so the comparison is more useful for the present study if we observe the gaps between Romania, the States of Central Europe and Western states that had already gone through the stages of the industrial revolution.

The most obvious gaps can be observed, however, at the level of industrial development, where Romania was near the zero rate in the early nineteenth century. By contrast, Western states already had a booming industry, since industrialization had begun in the eighteenth century. One

³ Bogdan Murgescu, *op. cit.*, p. 135.

⁴ The European average is reduced by the large share of Russia, i.e. by its poor agricultural development.

of the reasons for this phenomenon is that in Romania, industrialization was bound over Transylvania, which until 1918 would belong to the Austro-Hungarian Empire. The Old Kingdom did not have sufficient resources to start a process of large-scale industrialization, so it would resume only to consumer goods. However, developments can be recorded, especially since we speak of a very low level of industrialization at the beginning. Thus, any progress can be highlighted. As proof lies also the table on European industrial production:

**Table 2. Industrial output per capita
(indices reported to the United Kingdom in 1900 = 100)**

	1800	1830	1860	1880	1900	1913
European average	8	11	17	23	33	45
Austro-Hungary	7	8	11	15	23	32
Belgium	10	14	28	43	56	88
Bulgaria	5	5	5	6	8	10
Denmark	8	8	10	12	20	33
Switzerland	10	16	26	39	67	87
France	9	12	20	28	39	59
Germany	8	9	15	25	52	85
Greece	5	5	6	7	9	10
Italy	8	8	10	12	17	26
Norway	9	9	11	16	21	31
Netherlands	9	9	11	14	22	28
Portugal	7	7	8	10	12	14
United Kingdom (Great Britain)	16	25	64	87	100	115
Romania	5	5	6	7	9	13
Russia	6	7	8	10	15	20
Serbia	5	5	6	7	9	12
Spain	7	8	11	14	19	22
Sweden	8	9	15	24	41	67

Source: Bairoch 1982: 294, 330-331, *apud* Bogdan Murgescu, *op. cit.*, p. 142.

It can be seen, based on this table, that Romania is below the European average in terms of industrialization, but the same can be said about its neighbours: Serbia, Bulgaria and even Greece, located in the

south-east of Europe. Central and Eastern Europe were therefore at the inception of industrialization, while Western states had already registered real progress in the field. The United Kingdom (where the industrial revolution had started), France and Belgium experienced a spectacular increase in the indices of industrial development.

Another point in where the gaps are visible is the share of employment in industry. According to Victor Axenciuc, "employment in industry, in 1911, was, throughout the country, in France 36.1%, the UK 51.7% and 40.9% in Germany," while "Romania, with only 6.1%, is at a distance of more than 5 times from France, 8 times from Britain and 6.4 times compared to the weight of this indicator in Germany, a gap of at least a century even in the era of industrialization"⁵. This backwardness compared to Western countries was clearly assessed, given the fact that the small number of employed staff in industry shows a weak development of industrialization. In fact, we can see that Romania was at a sufficient distance from countries like France, Britain and Germany, a distance that Victor Axenciuc estimated at approximately a century.

The gaps thesis, although it had been called into question since an earlier period, thus becomes more accurate and more visible. 1918 marks a new beginning for Central and Eastern Europe, which will enable them to recover and enter the circle of industrial states. However, we have seen that they entered the interwar period with a severe enough handicap and a fairly high degree of backwardness compared to Western countries. The interwar period will be a chance to recover and reduce these gaps, but we can see that the thesis of the two Europes spreads beyond this period, reaching present day. What are the reasons for which Central and south-eastern Europe states failed to develop at the level of western states? Did they eventually manage to reduce these gaps? An analysis of the development of the two sectors - industry and agriculture - can provide the answers.

The interwar period finds Europe severely damaged by the First World War. Romania succeeds, following this war, in completing its national territory, but at the same time, it is deeply marked by destruction: the lack of human resources due to loss of human lives, depletion of natural resources caused by the operations of the former occupants and destruction

⁵ Victor Axenciuc, *Formarea sistemului industrial modern în România. Etapa 1859-1914: demarajul industrializării*, Bucharest: Romanian Academy Publishing, 2008, p. 280.

of material capital (railways, businesses and so on). Moreover, the debate between the main political parties on the topic of progress will lead to a delay in industrial development.

At this point, Western States were already at a degree of industrial development that was more advanced than that of the central and south-eastern states. Indeed, the process of developing had been slowed by the First World War and Western countries had also suffered destructions amid the war, but, unlike agrarian states, they had already gone through the industrial stage and thus "resumed" the process of development from this point. Central and south-eastern States were only at the beginning of industrialization, and this process` practically stopped by the war, was much more difficultly resumed.

In 1929, Francis Delaisi, in "Les deux Europes", distinguishes between two Europes, saying that if an aviator were to fly over Europe, "he would have the impression that there are two very different Europes: one where the movement of people and goods is intense and another where they are still rudimentary", and if he should attempt to delineate them, "the border line would go around through Stockholm, Danzig, Krakow, Budapest, Florence, Barcelona, Bilbao and then bypassing France would pass through England and Ireland and then would go through Glasgow to reunite through Bergen and Stockholm"⁶. Thus, the author distinguishes between two Europes: Europe A, an industrial Europe, with centers such as Liverpool, Paris, Lyon, Brussels, Amsterdam, Berlin, Frankfurt, Prague, Vienna, Milan and Barcelona, and Europe B, an agrarian Europe, which is located behind the lines Danzig-Krakow and Budapest-Florence. The geographical delimitation which Francis Delaisi performs corresponds to the contemporary delimitation between Western Europe and Central and South-Eastern Europe. Moreover, Delaisi argues that these two areas, so unequally developed, could be delineated in the following way: one part of Europe that was industrialized "even in its agriculture and the other was agricultural even in its urban civilization. The second remained what the first one was a hundred years ago"⁷. Thus, the French economist clearly illustrates the differences that give rise to such a high cliff between the two areas and claims that this gap would be situated at somewhere around 100 years.

⁶ Francis Delaisi, *Les deux Europes*, Paris: Payot, 1929, p. 21.

⁷ *Ibidem*, p. 28.

The moment when Delaisi discusses this thesis of the two Europes is also significant, namely the year 1929 - the year of onset of the Great Depression. Despite the fact that Delaisi militates for a unification of the two Europes, considering them economically complementary, the Great Depression will not do anything more but to "emphasize the distinction between a industrialized Europe and an agricultural Europe"⁸. As we have seen, Central and south-eastern states were basically agricultural, and of these only one part would take (much later than Western states) the path of industrialization.

What is important to note again in the case the Central and south-eastern Europe states is the fact that in most of them, after the war, came to power peasant parties, which focused on agriculture. Thus, they started a series of agrarian reforms, which were adopted in over 21 countries. Behind these reforms lay the change of state ownership regime, previously a landlord-peasant type, which triggered mutations of the ownership structure. However, these agrarian reforms did not have a positive impact, but a rather negative one, which would be "at least in the Balkan countries, reducing the average productivity per hectare, regress of livestock, dismantling peasant properties due to population growth, agricultural overpopulation and backward character of agricultural production"⁹. Therefore, these reforms in the countries of Central and south-eastern Europe did nothing more than to split the property (indeed, the bourgeois-landlord) and decrease the yields of agricultural productivity.

At the same time, the changes introduced in Eastern Europe following World War I by these new parties that came to power "were largely cosmetic and lacked the anchoring in the social, economic, political and cultural reality, absolutely necessary so that the new institutions would survive and operate effectively"¹⁰. Thus, these parties did little more than to take over doctrines and models without ensuring the necessary background or without adapting them to national contexts.

⁸ Michele Affinito, Guia Migani, Christian Wenkel, *Les deux europes/The two Europes*, Brussels: P.I.E. Peter Lang, 2009, p. 19.

⁹ Andrei Josan, *Evoluții economice pe plan mondial în perioada interbelică*, Bucharest: ASE Publishing, 2004, p. 18.

¹⁰ Nancy Bermeo, Philip Nord, *Civil Society before Democracy: Lessons from Nineteenth-Century Europe*, Boston: Rowman & Littlefield Publishers, Inc., 2000, p. 223.

Existing agriculture in these countries was extensive, marked by manual labour and poor productivity. The level of endowment of agriculture with machines and tools was relatively low, from where it can be inferred the lower stage of development.

Small steps toward the mechanization of agriculture will be made in the interwar period. A good example is Romania, where "until 1938, the process of mechanization in agriculture was covering most of the cereals threshing operations; it expanded reaping and sowing with machines trailed by animals to up to 30-40% of the area; but the main operations as plowing, crop maintenance, transportation, which required the greatest efforts, continued to be made manually and with cattle. An overall low level of mechanization of agriculture is expressed in 2.5 hp driving force in 1938, incumbent on 100 ha arable. Compared to other countries, the predominantly manufacturing character of Romanian agriculture is evident"¹¹, and this is highlighted in the following table:

**Table 3. Arable surface, in hectares, per agricultural machine in Romania and other countries, between 1930-1935.
-ha per unit-**

Country	Tractor	Stationary engine	Seeder	Cutting Bar mower	Thresher
Romania	2960	1543	189	161	762
Bulgaria	2159	...	489	421	1037
Czechoslova	1368	1388	26	37	16
France	849	1041	71	16	112
Germany	849	1316	33	16	20

Source: Tudorel Postolache, *Economia României – secolul XX*, Bucharest: Romanian Academy Publishing, 1991, p. 128.

The arable surface of an agricultural machine reveals the degree of mechanization of agriculture within a country. What can be seen based on this table is the fact that unlike France, an industrialized country, the agricultural surface of Romania was laboured by 3.5 times fewer tractors, 2.6 times fewer seeders, 10 times fewer reapers and approximately 6 times fewer

¹¹ Tudorel Postolache, *Economia României – secolul XX*, Bucharest: Romanian Academy Publishing, 1991, p. 127.

threshings. Romania differs thus as a more manufacturing country. But in this case, the problem is that the process of mechanization, instead of being achieved through the development of a national industry in this area, was to be done more by imports, and this led to a stagnation or underdevelopment of the domestic industry of agricultural tools. As proof lies the pace pertaining to supply tools and machines in the period 1927-1937, as shown in the following table:

Table 4. Domestic production and import of tools and machines (in tonnes)

Years	Production		Import		Consumption	
	Farming utensils	Agricultural machinery	Farming utensils	Agricultural machinery	Farming utensils	Agricultural machinery
1	2	3	4	5	6	7
1927	1565	2708	4936	6269	6501	8977
1928	1990	1967	5198	8500	7188	10467
1929	1637	888	4022	10370	5659	11258
1930	1511	769	3216	3572	4727	4341
1931	1247	280	1206	815	2453	1095
1932	1219	157	799	504	2018	661
1933	1681	307	1484	1182	3165	1489
1934	2386	313	1832	1173	4218	1486
1935	3340	412	1056	1335	4396	1747
1936	4421	572	1621	1791	6042	2363
1937	5106	944	2222	4872	7328	5816

Source: Virgil N. Madgearu, *Evoluția economiei românești după războiul mondial*, [f.l.]: Scientific Publishing, 1995, p. 59.

Based on this table, it becomes evident that Romania started the process of mechanization in agriculture, but domestic production of tools and machines was very small, which required imports. Most were, however, imported agricultural machines, in the case of which domestic production followed a downward curve, reaching at the end of the period a three-fold reduction from baseline. Instead, farm working tools were marked by an upward curve, managing to satisfy about 80% of consumption.

These massive imports obviously affected the industry. According to opinions uttered at the time, the industry had to develop in order to

support agriculture and redirect it towards intensive exploitation, but we can see that the domestic industry was unable to meet the domestic demand.

Moreover, the population continued to be predominantly rural and to handle agriculture. As argued by Virgil Madgearu, this is based on two factors: "the shortage of capital and skilled labour on the one hand and a mass of cheap, unskilled labour force, on the other hand" and "as a corollary, cheap labour, capital and technology require a moderate degree of mechanization of production"¹².

Compared with this data, within Europe the situation was completely different. For a better picture of the degree of industrialization in various European countries, it is useful to note the percentage of the active population in industry and agriculture for 1930.

Table 5. The extent to which the active population in different countries participated in industry and agriculture

Country	Year of census	Exploiting the soil	Industry
		% of total	
Bulgaria	1926	80,0	9,0
Romania	1930	78,2	10,2
Greece	1928	53,7	15,9
Hungary	1930	50,8	23,0
Italy	1931	47,3	29,5
France	1934	35,7	33,7
Germany	1933	28,9	40,4
Switzerland	1930	21,3	45,4
Netherlands	1932	20,6	38,1
England	1931	5,6	42,2

Source: Virgil N. Madgearu, *op. cit.*, p. 104.

What can be seen based on this table is that in Romania the percentage of the population employed in agriculture is overwhelmingly greater than that of the population employed in industry, and this is also the case of Central and south-eastern European states (Bulgaria, Greece and Hungary).

¹² Virgil N. Madgearu, *op. cit.*, p. 155.

This practically forms the circle of agrarian, less developed states. Another new idea is that we can notice some states that could be characterized as rather agro-industrial, like Italy or France (they can more likely be considered industrial states due to sustained investment policies over the 1920s and the development of the sector). Afterwards, we have the Western states, such as Germany, Switzerland, the Netherlands and England, which were already advanced in industrialization and where the percentage of the active population in industry exceeded that of the active population in agriculture. In these states, manual labour was replaced by mechanized labour.

As mentioned, Romania was not the only European country to record a true rebound in the economy. The area of Central and south-eastern Europe was, in fact, full of examples like that of Romania. Hungary had an agrarian-industrial profile, but began to recover (at least in the agricultural sector) by introducing mechanization and by a concentration of capital in industry. Yugoslavia had a predominantly agrarian character, with approximately 80% of the population employed in the sector, and from the industrial point of view, any progress was compromised because of the destruction caused by the war. Bulgaria was also a predominantly agrarian state in which modern industry was virtually absent (progress had only been registered in light and extractive industries), and agriculture was marked by very low yield. Greece experienced a higher level of development, both in agriculture and in the industrial sector, but none of it is emphasized through a spectacular progress¹³. Also, what is important to note in the case the Central and south-eastern Europe states is the fact that the development of their economies or the progress achieved were based on foreign capital, to a large degree. They did not have enough capital to develop their agricultural and industrial sectors, which is why they resorted to external loans.

However, there is a success story in Central Europe: Czechoslovakia. It was "one of the most developed countries in Central Europe, especially from an industrial standpoint"¹⁴, which encouraged the practice of intensive agriculture due to mechanization.

¹³ Andrei Josan, *Evoluții economice pe plan mondial în perioada interbelică*, Bucharest: ASE Publishing, 2004, pp. 96-97.

¹⁴ Maria Mureșan, Andrei Josan, *Istoria economiei europene: de la revoluția industrială la Uniunea Europeană*, Bucharest: ASE Publishing, 2005, p. 97.

Another important indicator in addressing the gap between the two Europes is the gross domestic product per capita of European countries.

However, we have to mention that this indicator appeared later and its equivalent in the interwar period is the National Income. This indicator is important because it shows the development degree of a state's economy, while National Income reported per capita shows how much an economy was able to produce relative to its population. It is also important to note that in literature there are few statistics covering the entire period, and the existing ones are at least questionable or incomplete. However, 1938 is considered to be the peak year of European economies, the year when the highest point of development in the interwar period was reached.

Of course, when we refer to this year we also have to pinpoint that it is located at some distance from the Great Depression and also one year away from the Second World War, which marks new economic downturn. It is therefore useful to compare the National Income per capita in several European countries.

Table 6. National income / capita in Romania and other European countries – 1938 (U.S. \$)

Great Britain	378
Germany	338
Denmark	318
Belgium and Luxembourg	285
Ireland	248
France	237
Czechoslovakia	174
Italy	127
Hungary	111
Poland	104
Greece	80
Romania	76
Bulgaria	68
Yugoslavia	68
The average 20 European countries	222

Source: Gheorghe Dobre, *Economia României în context european – 1938*, Bucharest: Publishing Science Foundation „Memoria Oeconomica”, 1996, p. 138.

Based on this table we can state that Romania was far behind Western European countries, and even following its neighbour country, Hungary. The European average was about three times higher, compared to Romania, Yugoslavia or Bulgaria. However, it becomes apparent that Central and south-eastern Europe was below the average of European countries, and if we speak of a comparison with Western states, including the UK for example, we face parities of about 1:2 (Czechoslovakia) up to 1:5 (Bulgaria or Yugoslavia).

There are opinions which situate Romania in a better place in the hierarchy of states in Eastern Europe and the progress made by it was seen as being much higher. For example, Gheorghe Iacob states that "if we make a comparison between Romania in 1914 and the Romania of Al. I. Cuza, between Romania in 1938 and the Romania of Charles I, in the eve of World War I, we notice the achievement of a spectacular leap. Not coincidentally, [...], foreign observers surnamed Romania at the beginning of the twentieth century, «Belgium of the Orient» or «the European Japan», and in 1938 Romania was placed - from the perspective of several milestones - in the forefront of countries in south-eastern Europe"¹⁵. However, based on the table above we can see that Belgium is at a considerable distance from Romania in terms of national income per capita, which reflects very well its development and economic performance. Moreover, it can also be seen that Romania was not in the forefront of countries of south-eastern Europe, its national income per capita being surpassed even by Greece. Also, the small distance between Romania, Bulgaria and Yugoslavia reveals that they were at about the same level of development. Hence, can be stated that agrarian states continued to be underperforming towards the end of the interwar period, which continued to deepen the gap between western and eastern states. Indeed, progress can be seen, but this is mainly due to the fact that the latter started from a very low level of development in the industrial sector (sometimes nonexistent).

The only way to reduce the gaps between the two Europes was, therefore, industrialization. Although this solution had been identified in many central and south-eastern European states, the industrialization process

¹⁵ Gh. Iacob, "Procesul modernizării/integrării în Europa. Etape și trăsături", in Ion Agrigoroaiei (ed.), *România interbelică în paradigmă europeană*, Iași: Publisher University "Alexandru Ioan Cuza", 2005, pp. 33-34.

was slow. The main causes of this phenomenon were: the lack of capital, lack of skilled labor, lack of coherent policies etc.

However, modest attempts of industrialization appeared in the early twentieth century in most of these countries. Some made important steps in this regard, while others were stuck at the first step. If we take 1938 as a reference again, it is interesting to note the progress these countries had made, compared to other states that were already industrialized.

Table 7. Indicators of industrial development in Romania and other European countries – 1938

Country	Industrial Net Production (USD / capita)	Industrial labor productivity (dollars / person employed)	Steel production (kg / capita)	Production of electricity (kWh / capita)
Great Britain	140	850	221,5	708
Germany	132	810	331,1	809
Belgium	99	750	272,2	591
Denmark	86	900	6,9	302
France	76	580	149,4	500
Czechoslovakia	57	450	121,4	267
Ireland	43	830	?	129
Italy	41	450	53,1	355
Hungary	26	340	70,8	121
Poland	21	400	41,6	115
Greece	?	?	2,8	67
Romania	13	290	14,0	58
Bulgaria	10	300	?	37
Yugoslavia	?	?	14,8	71
Average level (16-22 European countries)	78	710	140,5	467

Source: Bogdan Murgescu, *op. cit.*, p. 263.

The table provides us with valuable data on the industrial production and productivity, but also on the production of steel and electricity, two industries of vital importance to the state and its degree of industrial development in terms of machines. Thus, we see that Central and

south-eastern European states are situated below the European average in all respects, the only state with notable performances being Czechoslovakia.

On the other hand, the positions of Romania, Hungary, Poland, Greece, Bulgaria and Yugoslavia are modest compared to Western states. The progress of these states can be considered mediocre, especially since they are, in terms of the indices studied, at a distance which is at least two times greater from countries such as Britain, Germany, Denmark and France.

A possible explanation for the relatively low level of development achieved by Eastern States at the end of 1938 consists of the policy that most of them had promoted: that of burning stages. Thus, economic and social development cannot be understood only "in the framework of the general phenomenon that caused in all backward countries the precipitation of historical phases of development and reduced them to very short intervals"¹⁶. This, however, led to an incomplete assimilation of the characteristics of developed western societies.

In conclusion, we are entitled to state that in the early twentieth century, Europe was already divided into two parts: an agrarian Europe (formed mainly of Central and south-eastern states) and an industrial Europe (formed of Western countries), which performed not only in the industrial sector, but also in agriculture, by introducing mechanization.

Also, it can be observed that the agrarian states continued to be underperforming towards the end of the interwar period, which continued to widen the discrepancies between western and eastern states. Indeed, progress can be seen, but this is mainly due to the fact that the latter started from a very low level of development in the industrial (sometimes nonexistent) and agricultural sectors. The interwar period contributed to the deepening of gaps, despite the attempts of agrarian states to industrialize. In the best scenario, they managed to become agro-industrial countries, but with a prevalence of the agricultural component. Thus, the thesis of the two Europe became more clearly shaped.

For a better outlined image of the thesis of the two Europes, it would be necessary to study the factors that influenced the performance of Central and south-eastern Europe. The causes of these disparities in the

¹⁶ Andrei Josan, *Economia României interbelice în context european*, Bucharest: ASE Publishing, 2004, p. 139.

interwar period can be traced back to the end of World War I and are related not only to the agricultural and industrial sectors, but we can also speak of a succession of acts and events that eventually led to their gradual accumulation. Thus, the main causes we can mention are: the impact of World War I, the agrarian crisis, oil conjecture, national economic policies, the Great Depression and external dependency. These causes apply to the vast majority of countries from Central and south-eastern Europe, characteristic of the European agrarian bloc. Hence, for a broader picture, we propose that a paper should analyze the manifestation of these causes in the aforementioned states, but with a focus mainly on Romania.

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EUROPEAN UNION: A GLOBAL ACTOR IN CHALLENGING TIMES

Rada Cristina Irimie*

Abstract

The European Union today is one of the most unique political actors in the international system. Since 2009, the European Foreign Policy has evidenced a gradual increase of effectiveness towards every international direction, using a range of foreign policy tools. The Lisbon Treaty has upgraded the EU's role as a global actor. This article considers the political and economic developments of the European Union, as a key player in global affairs since 2009. It also reflects on the roles and responsibilities the organization faces on a challenging global stage. An analysis of the international role and responsibilities of the EU needs to take into account the practice and priorities of the EU foreign policy in current foreign affairs. In terms of practice, the application of soft power as tools of international relations will be considered in detail. Then we will explore EU foreign policy on global economics, as well as the impact of the Eurozone crisis. The main focus of interest is to identify what makes EU a unique actor in current global affairs, but also to observe what the EU can and should do on the international stage in the future. Our study is part of a bigger discussion about the responsibilities and prospects of the EU during the demanding global state of affairs.

Keywords: European Union, global affairs, diplomacy, common foreign policy, economic crisis.

I. Introduction

The enactment into force of the Lisbon treaty in December 2009 gave the European Union, in theoretical terms at least, a stronger stand on which to base a common foreign policy. The region has always had a sturdy influence in international relations, historical ties to other parts of the world

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and, more recently, the normative powers of the EU. What is of fundamental significance to the future role of Europe in global politics is thus how it balances traditional national interests with the need to apply a common foreign policy that places global public wellbeing above national interests.

The Treaty of Lisbon brings important changes to the institutional and subsequently to the international balance. With a strengthened Common Security and Foreign Policy and the beginning of a European External Action Service, the EU is now more concerned with its role at the global stage. In light of the global power shift away from the West and a weakened liberal consensus, Europe and the United States faced new challenges in the bilateral relations. This article intends not only to provide an assessment of the exercise of power between the EU institutions and most importantly among the member-states, but also to evaluate the impact of this empowerment in transatlantic relations. This will allow us, at the end, to arrive at some conclusions regarding the overall implications of these shifts for the further evolution of the EU system.

Even though EU has faced many crises in the past and seemed to always overcome them, the current debt crisis has taken different dimensions. Many EU member-states are still hugely in debt and have been forced to go through very tough austerity packages. This has led to recoil against serving national governments and a rise in support for extremist parties opposed to the European ideas. This is obviously affecting the EU's mission to be a global actor; it is the first casualty is the time available for foreign policy, as EU leaders are devoting most of their time to economic and financial matters with a consequent reduction in time available for foreign policy¹.

The article will analyze the European foreign policy and the role of the EU as an international actor during the last 5 years. Starting with the EU's historical importance in international affairs, the article continues with the examination of the institutional innovations introduced by the Lisbon treaty and their consequences for the European foreign policy. With regards to the external policies, the Common Foreign and Security Policy (CFSP) remain essentially dependent on consensus among the European member-states. While EU policy on trade has increasingly been wounded by the

¹ Fraser Cameron, *The EU as a Global Actor in Times of Crisis*, 2013
[<http://www.kas.de/brasilien/en/publications/34954/>], 21 June 2014.

current financial crisis, a whole range of external policies have evidenced a positive increase of power and impact. Therefore, an analysis of the impact of the Eurozone crisis in EU's activities is important to be included here. And yet, transatlantic relations have taken a new political dimension. As a result, EU foreign policy demonstrates renewed and remarkable characteristics that elevate the organization's role in global affairs. The article aims to conclude with an evaluation of the new global action as evidenced in testing times for the organization's future.

II. Defining EU in Global Affairs: The Road to Lisbon Treaty

Since the 1950s, the EU has been consolidated as one of the widest-ranging political actors in the international system. These capacities have gradually expanded to encompass foreign policy initiatives towards nearly every corner of the globe. The institutional place of the EU in the international system has gradually become an urgent and inevitable strategic challenge that Europe faces in the world². This capacity, however, was neither included in the original Treaty of Rome (1957), nor was it predicted by many knowledgeable observers of European integration. "David Allen once argued that the EC/EU (European Commission/ European Union) cannot have a foreign policy because it is not a nation-state, while Henry Kissinger predicted that Europe's global ambitions would amount to very little, particularly in the Middle East"³. With its precise aim that the EU should 'establish its identity on the international scene' entry into force of the Treaty on European Union in 1993 occurred during a period that was particularly beneficial to an enhanced global role for the EU⁴. As a result, the following decade witnessed a significant increase in EU activity that reached its peak in the mid-2000s.

The discussion over the external action architecture of the EU has its roots in the political side of the structures of the European Communities in 1970. Over the years it became more and more significant due to the further

² Michael Emerson *et al.*, *Upgrading the EU's Role as Global Actor: Institutions, Law and the Restructuring of European Diplomacy*, Brussels: Centre for European Policy Studies, 2011.

³ Roy H. Ginsberg, Michael E. Smith, *Understanding the European Union as a global political actor; Theory Practice and Impact*, 2005, [<http://www.princeton.edu/~smeunier/GinsbergSmith%20Memo.pdf>], 10 March 2014., p. 1.

⁴ *Ibidem*.

deepening of European integration both as an economic and political mission. This has raised sovereignty concerns among a number of member-states, with regard to economic and foreign policies, which are considered fundamental features of the modern state. “A divide exists between member-states that are in favor of an intergovernmental EU external action in these fields, which is complementary to national policies, and those member-states that gravitate towards a more integrated external action of the Union across all EU policies or even a unified foreign policy”⁵. This dissimilarity of views has been at the center of developments in the design of EU External Action. Yet, the aspiration of the most recent constitutional reform of EU external action has been to enhance the role and impact of the EU in global affairs and the need to do so was indicated by a number of international developments since the turn of the century.

The Lisbon Treaty: Strengthening the EU as a Global Actor

In light of these aspirations, the Lisbon Treaty attempted to integrate the different parts and simplify the design of EU external action. The new changes altered the architecture of the Treaties, the principles and objectives, and the institutional machinery of EU external action. Coherence is a necessary precondition for the efficacy of foreign policy not only of the EU but of all international actors⁶. In the past, *coherence* represented a major challenge to European foreign policy. One of the reasons was the structure of the EU and the differences in the institutional involvement and procedures between different issue areas of the EU’s foreign policy. The issue of the *legal personality* of the EU, which is closely connected to the EU’s structure, has been presented as a serious obstacle to the EU’s foreign policy and to the view of the EU as an international actor. On the other hand, there have also been discrepancies between the agreed Common Foreign and Security Policy (CFSP) and, in some cases, varying behaviors of the member-states at national level⁷.

⁵ Jan Wouters, Thomas Ramopoulos, *Revisiting the Lisbon Treaty’s Constitutional Design of EU External Relations*, 2013 [<http://www.fp7-frame.eu/wp-content/materiale/w-papers/WP119-Wouters-Ramopoulos.pdf>], 10 March 2014, p .4.

⁶ Clara Portela, Kolja Raube, *(In-) Coherence in EU Foreign Policy: Exploring Sources and Remedies*, 2009 [[http://aei.pitt.edu/33122/1/portela._clara_\(2\).pdf](http://aei.pitt.edu/33122/1/portela._clara_(2).pdf)], 10 March 2014.

⁷ Kateryna Koehler, “European Foreign Policy after Lisbon: Strengthening the EU as an International Actor” in *Caucasian Review of International Affairs*, No. 1, Vol. 4, 2010, pp. 57-72.

The Treaty of Lisbon introduced a number of innovations that led to a simplification of the EU's structure. Namely, the explicit provision on the EU's legal personality and institutional amendments related to the European foreign policy, such as the new position of the President of the European Council, the revised position of the High Representative and the creation of the European External Action Service, enhanced the effectiveness of the policies. At the same time, the Treaty also presented key innovations specific to the defence field. CSDP (formerly called ESDP) now has its own section within the Lisbon Treaty and is symbolically 'upgraded' from a 'European' to a 'Common' Security and Defence Policy. "If this change indicates a greater willingness by the member-states to develop a 'military arm' of the EU, it does not push it towards a more integrationist approach"⁸.

These institutional innovations affected European external relations, particularly their coherence, in a positive way. At the same time, the Lisbon Treaty does not bridge the duality of European Foreign Policy while the separation between the CFSP and the other issue areas of external relations remains in place⁹. Concerning the CFSP, unanimity is still the main decision-making procedure, which protects national interests at the expense of common European interests. In this area, the implementation of the European foreign policy in special situations continues to depend on the member-states' willingness to cooperate and compromise.

Nonetheless, the Lisbon Treaty considerably strengthens the EU as an international actor, through the precise provision of the EU's legal personality, with its own external instruments to implement the CFSP and its own institutions, and by the re-organization of the EU's diplomatic relations. All these amendments simplify the international status of the EU and constitute an important step towards legal certainty in international relations.

After many setbacks, the Treaty of Lisbon, with its explicit aim of enhancing the Union's capability as a global actor, entered into force in December 2009. As a next step, we will examine CFSP and its aim towards this direction.

⁸ Sophie Dagand, "The impact of the Lisbon Treaty on CFSP and ESDP" in *European Security Review*, No. 37, 2008, p. 4.

⁹ Koehler, *op. cit.*, pp. 57-72.

III. Foreign Policy: A Five Years Review

The Common Foreign and Security Policy (CFSP) was firstly introduced by the Maastricht Treaty and then followed by the European Political Cooperation (EPC), which was launched by the member-states of the European Economic Community (EEC) in the 1970s. The Amsterdam and Nice Treaties have reinforced CFSP, which was harmonized by a European Security and Defence Policy (ESDP), in order to boost the European Union's influence as an international security actor on the international stage¹⁰.

Seeking to play a more active role in global affairs, the EU has developed a Common Foreign and Security Policy (CFSP) and a Common Security and Defense Policy (CSDP). On the one hand, the 27 EU member-states demonstrate a powerful collective influence on many foreign policy and security issues. On the other hand, many times the EU comes across as an economic power only, with its foreign and security policies bearing little global impact. Some of the limitations come from the natural difficulties of reaching a complete consensus among the member-state governments.

EU is one of the world's biggest trading partners and aid contributors, and remains a key provider to international organisations, and significant actor in peace and security operations around the globe. A wide range of external assistance instruments is being used in support of conflict prevention and peace building. The organisation's crisis management tactics includes mediation, a part of EU's preventive culture, which is a "main component of the EU's 'toolbox' in the area of conflict prevention and peace-building countries"¹¹. Actors such as EU Special Representatives, EU Delegations and CSDP missions are frequently engaged in mediation efforts, ranging from high political level to political facilitation and confidence building. The EU is also active with dialogue processes with civil society organisations at grassroots levels, in particular through the *Instrument of Stability* (IfS)¹².

¹⁰ CFSP: Common Foreign and Security Policy, Kingdom of Belgium: Foreign Affairs, Foreign Trade and Development Cooperation, 2010, [http://diplomatie.belgium.be/en/policy/policy_areas/peace_and_security/in_international_organisations/european_union/cfsp/], 15 June 2014.

¹¹ EEAS: European Union External Action (2013), *About Common Security Defence Policy*, [<http://www.eeas.europa.eu/csdp/about-csdp/>], 13 March 2014.

¹² *Ibidem*.

The European Union has so far built a long history and experience as an actor in mediation and dialogue. The recent great example is provided by high-level work regarding Kosovo-Serbia to support grassroots work in the Philippines. Nevertheless, “despite EU experience illustrating a ‘glass half full’, the breadth and depth of this engagement in mediation and dialogue is not entirely recognised”¹³. A recent study of the European Centre for Development Policy Management at the European External Action Service highlighted at the lesson learnt in EU mediation and dialogue procedures. The most important findings include: a better understanding of the context and adapting to it, putting the EU’s own family in order, making the most out of partnerships and moving from ad hoc approaches to international best practice¹⁴.

An internal battle

Unanimous consensus among the member-states is the basis for Common Foreign and Security Policy. CFSP is a mechanism for adopting common principles on political and security issues, assigning to common diplomatic tactics, and undertaking joint actions. In January 2014 EU has 16 ongoing operations under its Common Security and Defense Policy, include 12 civilian and 4 military procedures. To establish a more forceful CSDP, EU member-states have been exploring ways to increase their military capabilities and promote greater defense integration. These efforts have met with limited success so far¹⁵. Civilian missions and capabilities are also central components of CSDP; the majority of CSDP missions have been civilian operations. “External policies in technical areas such as trade, humanitarian aid, development assistance, enlargement, and neighborhood policy are formulated and managed through a ‘community’ process at the

¹³ Andrew Sherriff, Volker Hauck, Camilla Rocca, *Glass half full: Study on EU lessons learnt in mediation and dialogue*, 2013 [<http://ecdpm.org/wp-content/uploads/2013-Glass-Half-Full-Study-EU-Lessons-Learnt-Mediation-Dialogue-Key-Messages-Executive-Summary.pdf>], 10 March 2014.

¹⁴ Andrew Sherriff, Volker Hauck, Camilla Rocca, *Glass half full: Study on EU lessons learnt in mediation and dialogue*, 2013 [<http://ecdpm.org/wp-content/uploads/2013-Glass-Half-Full-Study-EU-Lessons-Learnt-Mediation-Dialogue-Key-Messages-Executive-Summary.pdf>], 10 March 2014.

¹⁵ Derek E. Mix, *The European Union: Foreign and Security Policy*, 2013 [<http://www.fas.org/sgp/crs/row/R41959.pdf>], 19 March 2014.

level of the EU institutions”¹⁶. These count as the EU’s most important external policies.

When the EU is united, it appears stronger. The development of CFSP over the past two decades has allowed the EU to develop beyond a merely economic activity, and its role in international politics and security issues has added an important new perception to its identity. At the same time, the main challenge to CFSP remains achieving consensus among 27 sovereign countries. Considerably, this challenge may simply be an inherent condition of an organisation with 27 national member-states. In CFSP, the 27 national capitals still matter significantly. “While the EU aspires to play a greater global role, its actorness and effectiveness cannot be taken for granted given the nature of the EU as a multi-level and semi-supranational polity, encompassing 28 member-states with diverse foreign policy preferences and positions¹⁷. It is more than often that national parliaments think national rather than European.

“Individual countries are successful in negotiating and pushing through their national agenda in a European context”¹⁸.

In fact, the EU is finds itself in a political crossroad. Firstly, its external policy standing has been boosted by recent institutional innovations and by the Union’s increased involvement in international issues. Secondly, a number of structural procedures delay the EU’s real external policy actorness and effectiveness. And finally, the prolonged sovereign debt crisis arguably consumes the time and energy of policymakers and damages the prestige of the Union. But we will develop the consequences of the debt crisis on a later stage.

One of the most problematic functions of the need for consensus is that creates, many times, the lack of strategic approaches, in key areas. It is, of course, likely that EU members share political objectives, however bilateral relation can be quite complex. “Some EU members weigh trade and commercial concerns differently against concerns such as democracy

¹⁶ *Ibidem*, p. 2.

¹⁷ Charlotte Bretherson, Arne Niemann, “EU external policy at the crossroads: The challenge of actorness and effectiveness”, in *International Relations*, No. 7, Vol. 27, 2013, p. 262.

¹⁸ Catja C. Gaebel, *European Foreign Policy after the Lisbon Treaty*, 2011
[<http://www.kas.de/grossbritannien/en/publications/29928/>], 15 March 2014.

and human rights. Some view engagement as the best way to encourage desired reforms and behaviors, while others prefer different tactics. Viewpoints fall along a continuum from pragmatism to a stricter pursuit of ideals, and a consistent, comprehensive, and meaningful strategy can often be elusive¹⁹. This can frequently lead member-states to a reluctance to form strong national opinions and rather wait for a wider consensus to set.

Any outlook of the foreign policy of the EU should also take into account an unwritten bargain between the bigger countries and the rest of the members. The bigger actors (France, Germany, and Great Britain) that own the larger share of the EU's assets in this area, play an informal managing role of directing EU foreign policy. "On many foreign policy developments, particularly in faraway regions, only the big countries currently have the capacity to assess the situation and to suggest a policy line. It is also generally accepted that with the increasing speed and complexity of foreign policy developments and the greater range of issues the EU is facing today, discussions among the union's 27 member-states are often not a practical way to develop policy"²⁰. However, a gradual strengthening of common institutions, in particular the European External Action Service could increasingly eliminate the leadership role of big states. As a matter of fact, "the entry into force of the Lisbon Treaty has affected the balance between bigger countries' leadership and the need for inclusiveness"²¹. Somehow it has reinforced the role of the Big Three, while it planted the seeds to reduce it over time.

New Instruments put into Practice

A substantial improvement within foreign policy coordination is noted. Amongst these ensuring the EU-Serbia joint UN resolution on Kosovo in 2008, followed by the EU, UN and OSCE joint crisis management in Kyrgyzstan in 2010, proved that a united European approach and good coordination effort was possible. On the backside, the EU response to the Arab Spring and Libya was on the other end. Here different positions and

¹⁹ Derek, *op. cit.*, p. 9.

²⁰ Stefan Lehne, *The Big Three in EU Foreign Policy*, 2012, [<http://carnegieeurope.eu/publications/?fa=48759#>], 10 March 2014.

²¹ *Ibidem*.

different initiatives form an un-unified response, which is also relevant to the EU's stature in world affairs.

The Arab Spring has shocked and surprised Europe. Almost no one had predicted what would happen there and it has highlighted, thus, the need of developing methods that can detect developments in the region. Also, "the fact that the EU could not agree to meet the challenge Libya posed in the spring of 2011 leaves the policy in disarray"²². While European leaders may be preoccupied with the Euro crisis, the institutional deficiencies of CSDP have been apparent for some time and Libya was an example of it. "The lessons learned from a highly diverse region were that monarchies seem to be quite stable compared to other regimes, in for instance Syria and Egypt"²³. Europe should play an active role in the region not only because the countries involved depend on cooperation with Europe, but also because EU's experience with transition and democratisation can be of great help to build democracies and open societies in the region.

Additionally, a number of developments points out the need for clarification of the High Representative's role. A set of clear rules is necessary if we want to achieve a coherent foreign policy. The post of the High Representative has many times received critical opinions, but the predominant issue with respect to that is possibly a personality issue. For instance, "this is as much to do with its (intended) political weakness as it is with Baroness Ashton's interpretation and execution of her mandate"²⁴. Without undermining the importance of the role, it is clear that the European External Action Service (EEAS) is not to add services that member-states don't deliver, thus "if there is consensus there is no need for the High Representative, but if you don't have consensus then you do"²⁵. But despite the "new provisions -*Permanent Structured Cooperation* holds promise for

²² Moritz Reinsch, *EU Foreign Policy after Lisbon: the Common Security and Defence Policy*, 2012 [<http://blogs.lse.ac.uk/internationalrelations/2012/01/17/efpu-roundtable-eu-foreign-policy-after-lisbon-the-common-security-and-defence-policy/>], 18 March 2014.

²³ Catja C. Gaebel, *European Foreign Policy after the Lisbon Treaty*, 2011 [<http://www.kas.de/grossbritannien/en/publications/29928/>], 15 March 2014.

²⁴ Moritz Reinsch, *EU-US Relations after the Lisbon Treaty*, 2012 [<http://blogs.lse.ac.uk/internationalrelations/2012/09/12/efpu-eu-us-relations-after-the-lisbon-treaty/>], 18 March 2014.

²⁵ Catja, *op. cit.*

reinvigorated defence cooperation in military R&D and hardware - these have not fostered greater member-state commitment, which remains the most fundamental concern of CSDP²⁶.

The European Council conclusions on Common Security and Defence Policy, in December 2013, underlined the need to bridging the institutional gaps and strengthening responsiveness in challenges. Even though during the last years, progress has been made in a number of areas related to CSDP, the security of European citizens remains at the center of security policies. However, the geopolitical environment is changing rapidly and the European defence mechanisms need to adapt to the sustainability and competitiveness of the security industry. Moreover, it is important that the member-states show a greater interest in responding to global challenges and contribute to the maintenance of peace and security, though key partners such as the United Nations and NATO.

The European Council made a call to the member-states to deepen cooperation and improve the ability to conduct mission and operations. Based on these conclusions the European Council has acknowledged a number of priorities around three axes: "increasing the effectiveness, visibility and impact of CSDP; enhancing the development of capabilities and strengthening Europe's defence industry"²⁷.

Completing a glimpse on EU's foreign policy priorities, in the next chapter we will examine the exercise of power and strategies that refine these areas, if the EU is to successfully transform structural power into effective international influence.

IV. The Role of Power Exercise: Sources of International Influence

The viability of the Common Foreign and Security Policy and the European Commission External Relations depend significantly on the political unity of the European Union. This is principally true for such an institutionalized and value-based, unique international actor as the EU²⁸.

²⁶ Moritz, *op. cit.*

²⁷ European Council, *19/20 December 2013, Brussels: European Council, 2013* [http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/140214.pdf], 15 June 2014.

²⁸ Giovanni Grevi, *Reflections after the No votes: What makes the EU an international actor?*, 2005, [<http://www.iss.europa.eu/publications/detail/article/reflections-after-the-no-votes-what-makes-the-eu-an-international-actor/>], 17 March 2014.

The EU as a union of sovereign states is extremely important, not only for those European seeking to strengthen their influence in the world, but for the global stage itself. When it demonstrates the ability to develop a unified and effective foreign policy, this power is superior. "An EU of nearly 400 million people and a combined gross domestic product (GDP) of more than \$8 trillion that was able to unite its diplomatic and military potential could easily challenge the United States' current status as 'lone superpower'; exert influence over the Middle East peace process and security in the Persian Gulf; gain increased economic and commercial leverage from its international security policy; begin to play more of a role in Asian diplomacy and security; and, perhaps most important, create a new balance within a NATO alliance that is currently dominated by the United States"²⁹. A Union that continues to be split between side interests and uncoordinated foreign policy, represents a negligible diplomatic actor that cannot even manage its domestic turbulence.

Two important but divergent areas of policy provide good examples for the EU's effort on international impact: the economic and regulatory policy, and security policy. The EU's economic power is broadly regarded as both the main source and expression of its international power. "Its gross domestic product is slightly larger than that of the US, twice as big as Japan or China and ten times bigger than Russia's. With nearly 500 million citizens with high levels of spending power, its internal market is crucial for many countries around the world. The EU is the biggest exporter of both goods and services. The advent of the euro has also increased the EU's standing in the world. It is the second largest reserve currency in the world (with roughly 30 per cent of global reserves compared to the US dollar, about 60 per cent)"³⁰. It is also arguably "the most effective instrument available to it remains the opportunity to access its markets, giving the EU enormous power whether at bilateral, region-to-region or multilateral level"³¹.

²⁹ Philip. H. Gordon, "Europe's Uncommon Foreign Policy", in *International Security*, No. 3, Vol. 22, 1997, p. 75.

³⁰ Fraser Cameron, *The EU as a Global Actor in Times of Crisis*, 2013
[<http://www.kas.de/brasilien/en/publications/34954/>], 21 June 2014, p. 4.

³¹ Nick Wright, "The European Union: What Kind of International Actor?", in *Political Perspectives*, No. 2, Vol. 2, 2011, p. 21.

Undeniably, this is how the organization's power is more evident; with the majority of powerful states around the world holding an institutionalized relationship with it. Furthermore, "the opportunity to access its vast marketplace has not only led these states to seek commercial agreements with it, but also to adapt to its standards"³².

In addition to its obvious economic and regulatory strengths, EU has proven the ability to perform considerable security tasks. "The list of operations launched under the support of the ESDP indicates a considerable normative component to EU interventions. For example, *Operation Artemis* (2003) sought the improvement of humanitarian conditions in Bunia in the DRC, and *Operation Promixa* (2004-5) was designed to consolidate law and order and reform the Interior Ministry in the Former Yugoslav Republic of Macedonia (FYROM)"³³. Respectively, the military operation *Althea* to Bosnia and Herzegovina (BiH) has contributed greatly in the stabilization of the political and security situation in the area³⁴.

The unquestioned ability to act should not be mixed up with a potential lack of success or ambition, though. To a certain extent, the EU's aspirations compared with its actual achievements in the security field reveal the difficulties of building common policy in this area, to which the position of sovereign member-states is central.

The EU, as a normative power, is most effective internationally when deploying its soft power assets, for example through the expansion of governance or regulatory affairs. Therefore, the roles of norms or values are essential to the understanding of its foreign policy³⁵. The concept of 'soft power' (as developed by Joseph Nye³⁶) is the capacity to get what you want through attraction rather than threats or payments and depends on three types of resources: on culture, on political values and on policies. These resources increase their effectiveness, when they appeal as legitimate and authoritative to other actors. "Soft power is understood as a means to

³² *Ibidem*, p. 21.

³³ Nick Wright, "The European Union: What Kind of International Actor?", in *Political Perspectives*, No. 2, Vol. 2, 2011, p. 25.

³⁴ Jannik Knauer, "EUFOR Althea: Appraisal and Future Perspectives of the EU's Former Flagship Operation in Bosnia and Herzegovina", in *EU Diplomacy Paper 07/2011*, College of Europe: Belgium, 2011.

³⁵ Wright, *op. cit.*, pp. 8-32.

³⁶ Joseph Nye, *Soft Power: The Means to Success in World Politics*, New York: Public Affairs.

achieve international policy objectives through co-operation and partnership. While the staple of hard power is coercion, soft power relies on attraction. While some commentators view hard power as more or less synonymous with military force, Nye includes economic power, depending on its manner of deployment. Economic sanctions and the application of commercial power to compel other States into adopting particular policies can therefore also be regarded as the exercise of hard power³⁷.

The EU's decision to employ soft power to achieve its foreign policy objectives is directly linked to the fact that the organization's hard power resources globally are limited, especially when compared to the US. As a matter of its consensus-based nature, the EU is obliged to base every foreign policy decision on negotiation, partnership and contractual agreements. "At the same time, the EU's impetus to pursuing international policy objectives through soft power fits nicely with its declared support for values such as human rights, the rule of law, good governance, 'free' trade and social justice"³⁸. Moreover, the military means of the EU countries are more and more oriented towards crisis-management operations and not towards traditional territorial defence³⁹.

Indeed, the EU utilizes a number of mechanisms to reach its foreign policy objectives. The EU's provision of development and humanitarian aid, that includes the contributions depriving from the member-states and overall EU development allocations, is the major pillar in the area and the EU is considered by far the largest globally provider of aid. However, although the EU has committed to allocating 0.7% of its budget to development assistance by 2015, it is very likely that it will not attain this target⁴⁰. The Common Foreign and Security Policy (CFSP) is the form that allows EU to speak and act, as a unified body on international issues. The use of soft power lies at the core of the CFSP, representing the official commitment to use soft power through diplomacy.

³⁷ Justin Frewen, *The EU and Soft Power: An Iron Fist behind the Velvet Glove*, 2004 [<http://www.stwr.org/imf-world-bank-trade/the-eu-and-soft-power-an-iron-fist-behind-the-velvet-glove.html>], 23 February 2014.

³⁸ Frewen, *op. cit.*

³⁹ Erkki Tuomioja, *The Role of Soft Power in EU Common Foreign Policy*, 2009 [<http://www.tuomioja.org/index.php?mainAction=showPage&id=1610>], 12 March 2014.

⁴⁰ Frewen, *op. cit.*

As a matter of fact, the uniqueness of EU as an international organization comes directly from its capacity to bring to international crisis-management tasks a comprehensive variety of different instruments: its military crisis management capabilities are still superior, but hold the same significance with its wide-ranging civilian crisis management capabilities, including police, rescue teams, judiciary experts, and the resources available for economic aid, trade and so forth⁴¹. These capabilities need to be organized together and be well coordinated, in order to be effective. In summary, what is the EU's most powerful instrument is the feature of *membership*, which includes the perspective of membership for neighboring countries. "The EU is, after all, arguably the most successful peace project in world history, having put to an end the scepter of war between its member states, who have between them started two world wars and countless lesser ones"⁴².

V. Transatlantic Relations: New Challenges

There are many opportunities for the US-EU relationship to help shape the twenty-first century's international system. Despite the absence of the Soviet threat, the two sides of the Atlantic share long-term political and economic interests and face common challenges both in Europe and beyond. These challenges are numerous and complex and neither of the allies can adequately address these regional and global concerns alone, especially under the weight of growing domestic constrictions on the implementation of foreign policy.

The Lisbon Treaty, entering into force in 2010, put the United States and Europe in a new broad international context, with regards to their international role. This chapter discussed key aspects of the EU institutions, foreign policy and transatlantic relations, which includes the renewed EU-NATO relations and the impact of the Lisbon Treaty on transatlantic affairs. In light of the global power change away from the West and a weakened liberal consensus, Europe and the United States face new challenges that call for common action. The transatlantic partners need to put their differences aside and jointly examine the new challenges in a different

⁴¹ Tuomioja, *op. cit.*

⁴² *Ibidem.*

context. In the 2010s, with United States striving for a strong and united Europe, EU seems to be moving slowly towards an effective European unity, which was the main goal of the Lisbon Treaty⁴³. While the pressing issues on the international agenda increase, the strengthening of the EU-US relations remains a top priority.

The transatlantic relationship is in the core of partnerships of international relations. Historically, US and Europe have built a foundation that has influenced today's world order. "As developing countries become more powerful international players, the US and Europe need to reconsider their historical relationship with regard to what it means for global order and their respective positions within it. Both the US and Europe stress the inescapability of their bond in order for them to maintain their predominant position on the international scene"⁴⁴. How has the perception of the EU changed from the US over the past 5 years and - if so - is the EU seen as a coherent and effective foreign policy actor?

The most important change in transatlantic relations lays in the strategic swift over the past few years. Europe has somehow lost much of its strategic relevance for the US. "There are new players on the scene now, and the EU seems to be adjusting to the diffusion of power much less slowly than the US has. The new world order means that other countries can provide what the EU cannot"⁴⁵. The gradual turn of strategic interest for the US was led by the global shift of power towards Asia and the Pacific. While a "stable Europe is essential for America to be able to reorient its attention towards Asia, and a strong Europe as the primary international partner is crucial for tackling many of the US' foreign policy challenges"⁴⁶ this is a pragmatic only reason. Thus, a strong cooperation with EU remains essential to the US foreign policy.

⁴³ Colin Budd, *US-EU Relations after Lisbon: Revising Transatlantic Cooperation*, 2010, [<http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR003/budd.pdf>], 25 June 2014.

⁴⁴ Moritz Reinsch, *EU-US Relations after the Lisbon Treaty*, 2012 [<http://blogs.lse.ac.uk/internationalrelations/2012/09/12/efpu-eu-us-relations-after-the-lisbon-treaty/>], 18 March 2014.

⁴⁵ Karen E. Smith, *European Union Foreign Policy after Lisbon: Five Lessons Learned from a Series of Roundtables*, 2012, [<http://personal.lse.ac.uk/SMITHKE/EU%20Foreign%20Policy%20after%20Lisbon%20roundtables%20lessons%20learned.pdf>], 9 March 2014, p. 4.

⁴⁶ Moritz Reinsch, *op. cit.*

Many scholars observe a lack of strategic vision on behalf of the EU. "Instead, a rather technocratic approach tends to dominate foreign policy-making at the EU level. There is a noticeable loss of interest in foreign policy in the highest echelons of the national capitals and EU institutions"⁴⁷. The Euro crisis, which we will examine in the next chapter, has been largely responsible for this loss of interest. Therefore, the security agenda receives less attention than the domestic agenda, which affects EU foreign policy in general. This in turn means that the EU is not seen as a major security actor in global security concerns, when Asia increases its significance.

From the European point of view, the election of Barack Obama as the president of the United States could be perceived as a rather positive development in the EU-US relations. "Quicker and cheaper than any public diplomacy program, the election of an internationally minded, highly educated African-American Democrat with a penchant for subtlety and compromise improved the favorable opinions of the U.S. abroad almost overnight, often by more than thirty percentage points in Western Europe. More than a year into his presidency, Obama still benefits from a prolonged honeymoon period in most of Europe, much more so than he does at home"⁴⁸. At the same time, Europe has to accept that is not at the top of the foreign policy priorities of the Obama's administration. Driven by internal budgetary disgruntlement, Europe has 'no longer the solution to the world's problems'. "A series of public snubs and disappointments, such as Obama's absence at the Berlin Wall celebration in November 2009, his skipping the US-EU summit in May 2010, and the failure of the Copenhagen climate conference in December 2009, are reinforcing many European policy-makers in their assessment and worry that Obama is indeed, sadly, a 'post-European'"⁴⁹.

From the American point of view, the transatlantic economic relation is important. "The US and Europe are the two leading services economies in the world. The US is the largest single country trader in services; the EU

⁴⁷ Karen E. Smith, *op. cit.*, p. 5.

⁴⁸ Sophie Meunier, "Do Transatlantic Relations Still Matter", in *Perspectives on Europe*, No. 1, Vol. 40, 2010, p. 15.

⁴⁹ *Ibidem*.

is the largest trader in services among all world regions"⁵⁰. However, it is evident that Europe finds no longer itself as a top priority in the foreign policy agenda. In trade, the US seems to have changed direction from a multilateral agreement to a multitude of bilateral deals, including many parties except Europe. The transatlantic economy provides many numerical evidence of this swift. "For 2012, the US trade deficit with the EU was roughly double the 2009 level. Germany accounted for nearly half the deficit. US exports to the EU in the first eleven months of 2012 fell by roughly 1%, with exports dropping 12.5% to Spain; 4.8% to the Netherlands; and 3.2% to Ireland"⁵¹. At the same time, European financial firms have had to eliminate their presence abroad, because Europe's debt crisis forced banks to raise capital at home.

In foreign policy, the US has intensified its relations with Pakistan, Iran, Russia and China, and the transatlantic relation is somewhat less relevant, especially since Europe is preoccupied with managing a domestic turbulence. Every each of these critical bilateral relations, though, affects greatly the transatlantic relation between the US and EU. Russian domestic politics and the relevance of Russia's 'modernization agenda' for transatlantic relations; European and American engagement with Russia; and the US renewed policy towards Russia are all issues that affect the transatlantic balance.

At the same time, the development of the Iranian politics in responding to security and political aspects adds a new dimension to the foreign policy challenge. "In developing, expanding and maintaining policies towards Iran, responding to developments, and meeting with the authorities over issues related to Iran, the EU articulated its own perceptions of itself as an actor, and built meanings and understandings about its role"⁵². Most importantly, the US-China and EU-China bilateral relations form a triangular nature of interaction, the consequences of which creates a new dynamic to

⁵⁰ Daniel S. Hamilton, Joseph P. Quinlan, "The Transatlantic Economy 2013", in *Annual Survey of Jobs, Trade and Investment between the United States and Europe*, Center for Transatlantic Relations, Washington: The Johns Hopkins University, 2013, p. 7.

⁵¹ *Ibidem*, p. 9.

⁵² Lynne Dryburgh, "The EU as a Global Actor? EU Policy towards Iran", in *European Security*, No. 2-3, Vol. 17, 2009, p. 267.

the transatlantic relation⁵³. The rapid ascent of China, which now “ranks third in the global GDP league” forecasts a decline of the EU and its presence in this global structure⁵⁴.

Furthermore, the end of the decade-long engagement in Afghanistan and the high economic and human costs it caused has had a damaging effect on transatlantic solidarity and NATO’s decision-making. While the Europeans backed military operations in West Asia for as long as it lasted, it is rather unlikely for European states to agree on any similar costs or risks in the future. “Europe’s post-2014 engagement in Afghanistan is already likely to be based on the commitments of only a limited number of states”⁵⁵. Meanwhile, US diplomatic efforts in the Pakistan front are increased since 2012, in order to purge the significant points of contention between the two countries regarding the security situation and the US presence in the region⁵⁶. The EU has consistently failed to develop a strategic response to Pakistan’s issues and has played a rather minor role in the country. However, it is currently making efforts to strengthen involvement in the region. “This must involve developing an agenda for EU support to Pakistan that recognises Europe’s strengths and limitations and that addresses both Pakistan’s urgent challenges and its historical drivers of fragility”⁵⁷.

Consequently, significant changes in the structure of the international system in recent years have impacted negatively upon the EU’s ability to defend the interests of its members⁵⁸. Among those we should include NATO’s transitional phase, influenced by the European domestic and

⁵³ Heinrich Böll Foundation; Bertelsmann Foundation, *Making Transatlantic Relations work in the post-Lisbon Era*, 2010.

[http://www.boell.de/sites/default/files/assets/boell.de/images/download_de/intlpolitics/Workshop_summary_final.pdf], 17 March 2014.

⁵⁴ Charlotte Bretherson, John Vogler, “A global actor past its peak”, in *International Relations*, No. 3, Vol. 27, 2013, p. 379.

⁵⁵ Erik Brattberg, *Europe, Afghanistan and the Transatlantic Relationship after 2014*, Stockholm: Stockholm International Peace Research Institute, 2013, p. 18.

⁵⁶ Frederic Grare, Reece Trevor, *Discussing the future of US-Pakistan Relations*, 2013 [<http://carnegieendowment.org/2013/10/22/discussing-future-of-u.s.-pakistan-relations/gqxj>], 20 March 2014.

⁵⁷ Clare Castillojo, “Pakistan Crisis: What Role for the EU?”, in *Agora-Asia Europe*, No. 1, December Vol., FRIDE Organisation, 2011, p. 1.

⁵⁸ Charlotte Bretherson, John Vogler, *op. cit.*

economic austerity. “Declining defense budgets, and questions over the necessity of the Alliance in the post-Cold War era, have led to a reassessment of Alliance capabilities and priorities. Specifically, NATO has begun the development and implementation of concepts such as Smart Defense, aimed at cultivating a system of defense cooperation based on the pooling and sharing of military resources”⁵⁹. With limited resources available for foreign policy, EU’s pretension to play a global role is seriously damaged.

VI. An Actor in Times of Crisis

We examined earlier the EU’s economic and regulatory mechanisms as a form of international influence. EU as an economic superpower featuring its own currency plays a significant role in international trade negotiations⁶⁰. The current financial crisis does not affect only the member-states of the Union, which are hugely in debt (Spain, Greece, Italy, and Portugal) and in social clash with their governments (France, Ireland, Netherlands, Slovakia) but the EU as a regional and global actor itself. A significant example of this is that the amount of time spent on foreign policy is much less since the Eurozone crisis outburst. The concern in Brussels and EU member-state capitals with negotiating the bailout funds and new austerity rules consumes a lot of attention and resources that would normally be devoted to preparing common European foreign policies and diplomatic strategies. Consequently, there are less initiatives and opportunities on the EU’s diplomatic front. “Upon assumption of office, Herman van Rompuy, Permanent President of the European Council and Catherin Ashton, High Representative of the Common Security and Defence Policy, both wanted to strengthen the EU’s strategic partnerships with other major powers and forge macro foreign policy frameworks and priorities in changed circumstances. But being pressed by the ongoing debt crisis, EU leaders had less time and opportunities to address this issue”⁶¹.

⁵⁹ Courtenay Mitchell, *Top Ten Issues on the Transatlantic Agenda*, 2013 [<http://www.atlantic-community.org/-/top-ten-issues-on-the-transatlantic-agen-1>], 19 March 2014.

⁶⁰ Fraser Cameron, *op. cit.*

⁶¹ Xu Longdin, Sun Youjin, *The EU’s Foreign Policy under Debt Crisis*, 2013 [http://www.ciis.org.cn/english/2013-03/05/content_5774751.htm], 12 March 2014.

A second, but equally important factor is the financial resources regarding foreign policy.

At a time where member-states are struggling to cut down external spending, it is rather unlikely for the any external affairs to receive attention, and thus budget increase.

The EU's global power is based on two elements: its economic strength and its model-role as a well-governed area. This economic strength has contributed to its growing assertiveness as a major player in international economic and financial matters. "For decades, the EU was seen as a success story of how Europe has managed to integrate economically and make itself once again a leading economic superpower on par with the United States. As Wang argued in 2008⁶², in terms of population, GDP, trade flows and financial size, the EU is a global economic power matching the United States"⁶³. However, on the wake of the debt crisis, it is non-arguable whether the EU has succeeded to live up to the standards of a well-governed entity and it remains to be seen how the current crisis will affect Europe's economic performance in the long-term.

At the moment, most BRICS countries⁶⁴ and part of the developing world believe that the EU now is a problem and not part of the solution anymore, due to the risks the EU debt crisis causes to the global economic growth. For China, for instance, "the EU is the biggest trading partner and if the Euro collapses, the negative effect on the EU economy will not be positive for China to sustain and grow trade and economic relations"⁶⁵. Maplecroft has analyzed data from 169 countries worldwide for the creation of the Eurozone Exposure Index⁶⁶. The rankings included in the

⁶² He Wang, "On the Economic Power of the EU", in *Chinese Journal of European Studies*, No. 4, Vol. 4, 2008, pp. 1-14.

⁶³ Chen Zhimin, "Europe as a Global Player: A View from China", in *Perspectives*, No. 2, Vol. 20, 2012, p. 13.

⁶⁴ BRICS is the acronym for an association of five major emerging national economies: Brazil, Russia, India, China and South Africa. *SouthAfrica.info*, 11 April 2011.

⁶⁵ Xu Mingqi, *Firm Resolution Needed from EU to Overcome Euro Debt Crisis and earn BRICKS Support*, 2011, [<http://www.chinausfocus.com/finance-economy/firm-resolution-needed-from-eu-to-overcome-euro-debt-crisis-and-earn-brics-support/>], 20 March 2014.

⁶⁶ Maplecroft, *Maplecroft's Eurozone Exposure Index 2012*, 2012 [<http://maplecroft.com/about/news/eurozone-exposure-index.html>], 20 March 2014.

Exposure Index are based on trade and foreign direct investments (FDI) in the countries of the Eurozone, state budget balance, national debt levels, inflation rate etc. As evidenced in the study, four BRICS countries are ranked as in “extreme risk”: South Africa (49), Russia (50), Brazil (62) and India (85)⁶⁷. Therefore, an ongoing financial crisis is not damaging only for the EU member-states, but it causes serious damages to the international economic ties that have established the EU as a respectful global actor.

The need for an effective management to the Euro crisis is crucial to the future development of the EU’s foreign policy. “If the Eurozone breaks up, the EU’s foreign policy would simply be part of the collateral damage. If the Monetary Union can be consolidated, either a gradual recovery of the EU’s foreign policy based on the current structures or a far-reaching reform based on a federalized Eurozone could be the result”⁶⁸. On this question, the part of the big powers is critical: Germany has to decide whether it will remain a political leader in the area, France whether to open up to a more ‘integrated approach to foreign policy’, and whether the UK wants to remain involved. “France, Germany, and the UK will play a decisive role in handling the foreign policy implications of the euro crisis”⁶⁹.

VII. EU and Romania: Prospects for Development

Romania has submitted application for EU membership in June 1995, six years after the remarkable toppling of the former communist regime and the gradual transition to democracy having begun⁷⁰. Four years afterwards, the European Commission recommended starting accession negotiations on the basis of improved institutional and economic changes⁷¹.

⁶⁷ Yulia Kalachikhina, *BRICs may be vulnerable to Eurozone debt crisis*, 2012, [http://rbth.co.uk/articles/2012/07/31/brics_may_be_vulnerable_to_eurozone_debt_crisis_16897.html], 25 February 2014.

⁶⁸ Lehne, *op. cit.*

⁶⁹ *Ibidem.*

⁷⁰ Ludolfo Paramio, “Romania: an excessively long transition”, in *Democratic Transition in Romania: Proceeding of the Seminar on Democratic Transition and Consolidation 2001-2002*, Madrid: FRIDE, 2002, pp. 7-17.

⁷¹ Andrea Bonfiglio, “The Impact of Romania’s Accession to the EU. An Analysis of the Effects of Regional Development Policy through a Multi-regional I-O Model”, in *Agricultural Economics Review*, No. 2, Volume 7, 2006, pp. 40-54.

Following the negotiations kick-off in 2000, Romania signed the Treaty concerning its accession to the EU, in 2005 and finally entered the European Union on January 1st, 2007. During the first years of membership, Romania was struggling to balance the impact of structural changes with budget deficit, when the Eurozone crisis began. "In the first years after accession, some negative effects were felt, consisting of trade balance deterioration, lower competitiveness of firms, higher prices for agricultural products, increase the budget deficit (due to co-financing regional development projects and contribution to EU budget). Whereas, after only two years to acquire membership of the European Union, an economic crisis began, and is still being felt worldwide, economic effects of accession are difficult to separate from those of crisis"⁷². The positive effects of the accession are still to prove on a rather long-term basis.

Romania, despite the young membership at the time, has been one of the first member-states to endorse the Lisbon Treaty on February 2008. In fact, the Romanian president Traian Băsescu made a statement after the European Summer Council in Brussels, urging all member-states not to delay the ratification process, regardless of the negative vote of the Irish nation⁷³. Even though the country was unlikely to be "among the favourites for the key office within the Commission"⁷⁴, Romania has demonstrated an active role in the political dialogue for the EU Common Security and Defence Policy. Several key structures within CDSP, such as the Satellite Centre of the EU (EUSC) and the Security Studies Institute of the EU (ISS), as well as the Brussels-based European Defence Agency (EDA) are examples of Romania's involvement in CDSP. Furthermore, Romania has participated in many CSDP missions, taken place in Europe, Africa and the Middle East: EUPM in Bosnia and Herzegovina, EUFOR Althea, EUJUST LEX Iraq, EULEX Kosovo, EUPOL Afghanistan, EUMM Georgia, EUNAVFOR ATALANTA in the Gulf of Aden, EUBAM Rafah and EUPOL COPPS, in the Palestinian

⁷² Cristian Încălțărău, Sorin Ștefan Maha, "Romania's EU Accession Impact on the Development of Romanian Economy", in *CES Working Papers*, No 1, Volume II, 2010, p. 82.

⁷³ Adrian-Gabriel Corpădean, "The Lisbon Treaty from the perspective of the 27 Member-States", *The Proceedings of the European Integration-Between Tradition and Modernity Congress*, Petru Maior University of Târgu-Mureș, Vol. 3, 2009, pp. 1168-1179.

⁷⁴ Jean-Luc Sauron cited in Corpădean, 2009, p. 1176.

territories⁷⁵. Ultimately, Romania has contributed in two EU Battlegroups (EUBG): the HELBROG BG, formed by Greece, Bulgaria, Romania and Cyprus and the ITROT, including Italy and Turkey. On the civilian front, Romania has been recently “among the main contributors to the EU civilian crisis management operations”⁷⁶.

As with many EU member-states, the economic crisis had an impact on many aspects of the Romanian economy. The crisis hit both the population incomes and the number of jobs available, leading to a large number of unemployed people. “Within the private sector, layoffs and pay cuts, and in the public sector, pay cuts and job freezing took place. Companies, as well as population, have become vulnerable to the emerging changes, many of them being subject to insolvency proceedings”⁷⁷. On the whole, the economic crisis led to negative changes in the socio-economic situation of the country and thus to a lower standard of living and quality of life for Romanian people⁷⁸. As mentioned in earlier chapters, EU’s capacity to address the Eurozone crisis will not only help its members to overcome their domestic difficulties, but will also lead to a greater degree of integration.

However, the Romanian authorities underline the country’s potential as an emerging economy for the European Union, if institutional changes continue. “There are several aspects of law that could be improved or revised. Rule of law as such, efficient commercial courts, a more practical insolvency law, an accurate and transparent land registry, efficient tax administration and transparent public procurement are among the issues foreign investors and entrepreneurs find most impeding when doing business in Romania...Also it is crucial that Romania makes better use of

⁷⁵ MAE - Ministry of Foreign Affairs, *Romania and the EU Common Security and Defence Policy (CSDP)*, 2010, [<http://www.mae.ro/en/node/2064>], 19 March 2014.

⁷⁶ *Ibidem*.

⁷⁷ Liviu Mărcuță, Alina Mărcuță, Carmen Angelescu, “Effects of the Economic Crisis on the Standard of Living in Romania”, in *Procedia Economics and Finance*, Vol. 6, 2013, p. 94.

⁷⁸ Alina Fleșer, Radu Cătălin Criveanu, “Some Consequences of the Economic Crisis in Romania”, in *Annals of the University of Petroșani, Economics*, No. 2, Volume 12, 2012, pp. 135-142.

EU funding”⁷⁹. On the same wavelength, the Director of the International Monetary Fund, Christine Lagarde, recognized the global opportunity that calls Romania ‘to make a leap forward’. Bearing a ‘vast economic potential’, located on the Black Sea that provides view beyond Europe, it has a geopolitical importance for Europe. Moreover, demonstrating the ability to gradually stabilise its economy during the last three years, combined with the steps it has taken to transform its institutions, Romania can be considered as a success story⁸⁰. This national effort could take the economy into the next level.

The EU membership finds itself in the center of this potentiality. The EU accession has contributed to a great extent in the development prospective of Romania. Taking into consideration the current ability of Romanian people emigrate, in order to access opportunities, the EU membership has facilitated this process greatly. “The plain fact that there are between two and three million Romanians working and studying abroad is a positive sign. Many see migration as a bad thing, but a high degree of mobility is a good thing. On the one hand, a high degree of mobility indicates that people in Romania have the education and skills that allow them to find jobs in developed economies. On the other hand, the experience and skills acquired by Romanians abroad will be important for the future development prospects of the country”⁸¹. At the same time, after joining the EU, Romania joins an international community of domestic social policies that directly benefits the society. “There are international agreements regarding certain fields such as the child protection, the refugees rights and others that are based on the Human Rights Statement and that often completes the measures of national social protection, thus becoming a source of protection and a

⁷⁹ Arnulf Gressel, *Romania’s potential as an emerging economy in the EU is enormous*, 2013 [<http://www.nineoclock.ro/romania%E2%80%99s-potential-as-an-emerging-economy-in-the-eu-is-enormous/>], 20 March 2014.

⁸⁰ Christine Lagarde, *Eastern Europe and Romania-The Path to Prosperity*, 2013 [<https://www.imf.org/external/np/speeches/2013/071613.htm>], 2 March 2014.

⁸¹ Indermit Gill, *Romania has a great advantage on developing countries: it is part of the most important economic club in the world, the EU*, 2013, [<http://www.worldbank.org/en/news/opinion/2013/06/24/romania-has-a-great-advantage-on-developing-countries-it-is-part-of-the-most-important-economic-club-in-the-world-the-eu>], 14 March 2014.

provider of welfare for certain social groups from countries in difficulty”⁸². As a result, the country’s inherent potential in combination to the membership of a large economic bloc like the EU can foretell good prospects for the country.

The first years of EU experience indicated that, despite the problems raised consequently, the country has good prospects for development, lying in the ability to address a number of structural and cohesion issues. “In order to fully benefit from the advantages of membership, one must increase the absorption degree of structural and cohesion funds, as well as the country’s attractiveness for foreign direct investments. Being member of the European Union implies both costs and benefits. But it depends only on each member-state whether it can turn into its advantage this membership or whether it remains a secondary European Union country”⁸³.

VIII. Conclusions

When considering the EU’s role as an international actor since 2009, one should take into account the Lisbon Treaty’s major impact on the EU foreign policy. The numerous innovations of the Lisbon Treaty aimed to enhance the coherence of the EU’s external actions and to expand its financial resource base, therefore to increase the effectiveness of the European foreign policy and the international role of the EU⁸⁴. In the implementation of Common Foreign Security Policy, much depends on the member-states’ willingness to cooperate and compromise. However, a number of considerable amendments simplify the international status of the EU and comprise an important step towards her legal entity in international relations.

As the EU walks through new international paths, facing global diplomatic challenges it becomes more and more critical to achieve an adequate level of internal unity and coherence among its member-states. The

⁸² Angelica Băcescu-Cărbunaru, Monica Condruz-Băcescu, “The Benefits and Costs of Romania Post-Accession to the European Union”, in *Association of Economic Universities of South and Eastern Europe and the Black Sea Region*, Proceedings of June, 9th, 2010, p. 39.

⁸³ Ioana Vădăsan, *Romania’s First Five Years in the European Union. A Short Assessment*, 2012 [<http://anale.steconomieuoradea.ro/volume/2012/n2/019.pdf>], 10 March 2014.

⁸⁴ Kateryna Koehler, “European Foreign Policy after Lisbon: Strengthening the EU as an International Actor” in *Caucasian Review of International Affairs*, No. 1, Vol. 4, 2010, pp. 57-72.

Eurozone crisis exposed the underlying imbalances between the members and weakened EU's cohesion. The debt crisis has proved itself extremely unhelpful for the EU's Common Foreign Policy; not only in undermining the EU's international pretensions in terms of time and availability, but also in "cutting the EU's defence budget, expenses for external affairs and official development assistance (ODA), every member country acted its own way without consultation with others"⁸⁵. Thus, the picture of EU foreign policy remains controversial. It remains to be seen whether an effective management of the Euro crisis will allow the EU officials to focus on EU foreign policy, on enhancing the EU's strategic vision, and encouraging a most influential policy in international affairs⁸⁶.

Therefore, EU currently needs to deal with the expectations, not only of the member-states facing the consequences, but of other international actors. "Thus, on the one hand, even against the practicalities of tightened belts on the part of most EU Members, there remains a political determination to retain a prerogative of autonomous action in the field of foreign and security policy. But, on the other hand, the pressures that led to the creation of the EEAS and the enhanced role of the HR continue, possibly heightened by the need to offset the perceived weaknesses created by the Eurocrisis. European leaders continue to reiterate their belief that acting collectively holds out the better prospect of resolving a crisis, bringing both individual as well as collective benefits"⁸⁷.

In conclusion, the main finding of the article is that the foreign policy of the EU was strengthened by the Treaty of Lisbon, which caused a positive step towards a higher degree of coherence in external relations. The concept of coherence remains a critical factor to the formulation and implementation of foreign policy, as well as for the management of domestic turbulence. Arguably, the position of the EU as a global actor may not have been dramatically distorted, but the financial crisis has exposed some basic defects in the EU's organisation. The way the global community perceives this exposure, can pose a challenge to the future of the EU.

⁸⁵ Xu Longdin, Sun Youjin, *op. cit.*

⁸⁶ Karen E. Smith, *op. cit.*, p. 5.

⁸⁷ Geoffrey Edwards, "The EU's Foreign Policy and the Search for Effect", in *International Relations*, No. 3, Vol. 27, 2013, p. 287.

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LET THE COURT DECIDE! THE JUDICIAL REVIEW AND POLITICAL CRISIS: IS THERE A LINK BETWEEN THE TWO? THE CASE OF THE ALBANIAN CONSTITUTIONAL COURT (1991-2010)

Teuta Vodo*

Abstract

When are constitutional judges most likely to be invoked to decide on political issues? Why do political actors opt for the intervention of the Constitutional Court, rather than using other means? The case of the Albanian Constitutional Court, the principal organ invoked to decide over political issues, is used to show that political crisis facilitates the intervention of Constitutional Court through judicial review. Judicial review in Albania has traditionally had a marginal role in political life, still during political crisis, the Court was more active in promoting judicial review by deciding on political and public issues.

Using the tools from delegation theory to non-majoritarian institutions, this study takes into account two key elements of institutional design, the institutional form selected and the decision to delegate, assuming that access to judicial review will be greater firstly, where political forces are diffused and secondly, when the function of the court is regulated by constitutional provisions rather than by legal provisions. This paper aims at identifying political crisis as a required indicator for the increase of judicial review. The aim is to connect the case of the Albanian Constitutional Court with more general governance challenges and systemic deficiencies.

Keywords: judicial review, constitutional court, political crisis, delegation theory to non-majoritarian institution.

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Introduction

Only a few years ago, Albania was ranked among countries such as Belarus and Kazakhstan where the Constitutional Courts have been dissolved, effectively neutered, abolished or packed with government supporters who merely rubber-stamped the actions of the government.¹ In fact, in the early '90s, the Constitutional Court in Albania was one of the most powerless bodies in judicial branch and the least contemplated when it came to make public and political decisions.

When are constitutional judges most likely to gain power in the Albanian context? The paper explains the reason why from political crisis and diffusion derives greater judicial review. Why do political parties opt for the intervention of the court, rather than using other means?

The main argument is based on the delegation theory to non-majoritarian institution according to which explicit access to judicial review will be greater where political forces are diffused than where a single dominant party exists.²

The test of the hypothesis is structured in two key elements of institutional design: 1. the institutional form selected; 2. the interests of decision-makers to delegate.³

The Albanian case is chosen as a typical case of emergent democracies in Eastern Europe. Additionally, its setting makes this study important to understand the role of judicial power during the democratization process of a post-communist country. Albania has been making efforts by going through a difficult democratization process of the whole political system in general and of the judiciary in particular. Among other post-communist countries, Albania has testified to have major difficulties to put up with democracy. Despite the fact that it has not suffered from ethnic, religious and other minority issues such as the rest of the Balkan countries, it has encountered a very hard process of democratization.

¹ Herman Schwartz, *The struggle for constitutional justice in post-communist Europe*, London: University of Chicago Press, 2000, p. 221.

² Tom Ginsburg, *Judicial review in New Democracies, Constitutional Courts in Asian cases*, United Kingdom: Cambridge University Press, 2003, p. 25.

³ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, p. 11.

In order to proceed with the analysis, the core of the evidence is mainly based on the actors most likely to be interested in judicial power, the analysis of judgments, the outcomes of judicial decisions and, the tendency of the court to go against or in favor of the government preferences.

The paper illustrates some of the findings in the literature surrounding the influence of courts and judicial review by including under what circumstances actors will go to court. Throughout the analysis of this paper, I discuss that during political crisis, the political leaders tend to bring more relevant issues in the political agenda to the Constitutional Court, making this latter act as a decision-maker for cases of public interest. Thus, the political crisis between political actors (the government and the opposition) facilitates judicial review.

The tools provided to assess the set of causal and institutional mechanisms that would underlie the patterns that political crisis may lead to increased levels of judicial review are based on the analysis of the cases reviewed by the court.

Thus, several representative and implicative decisions of the Court are selected in a time period from 1992 to 2011. The criteria used to select the cases are based on the arguments made by the opposition parties and the most representative cases involving national, international, judicial and political matters brought to the court. Thus, the data is based on key cases of political and public interest. Additionally, the analysis permits to show the extent to which the judiciary is able to declare law and dispositions proposed and/or approved by the legislator, unconstitutional.⁴

On this basis, the first part illustrates the context of political crisis during the Albanian transition. In the second part, the institutional form selected is explained. This part analyzes the legal and constitutional provisions on the functions of the court. In the third part, the decision to delegate to the court is explained. More concretely, a full demonstration of the delegation to the courts and the interests of the key actors involved in

⁴ The judiciary in communist countries was neither independent nor active. Their status was considered nevertheless constantly at risk, for many if not most of these courts operate in civil peril. Even the most stable have had precious little time to establish securely their role as constitutional guardians (Schwartz 2000).

the decision to delegate is provided. So, some key cases, for which the Albanian Constitutional Court was solicited, are described.

Generally speaking, the study may be used to analyze the extent to which the judiciary is able to declare law and actions unconstitutional in the new democracies⁵ and the kinds of political backgrounds which create the potential for such political exercises that leave the constitutional court as the only option for the parties.

I. Theoretical considerations on judicial review

Judicial review can surely be counted as being one of the most important, if not the most important instrument in ensuring a constitutional's efficacy.⁶ Authorities exercising judicial review are sometimes political bodies, but more often courts.⁷ In particular way, the courts play an essential role in the solution of political disputes when different actors are in conflict on a matter concerning the game rules.⁸ Every not-insubstantial parliamentary faction that loses a fight on a controversial bill turns promptly to the constitutional court to try to win constitutionally what it lost politically

⁵ Herman Schwartz, *The struggle for constitutional justice in post-communist Europe*, London: University of Chicago Press, 2000.

⁶ Ran Hirschl, "The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions", in *Law and Society Inquiry*, no. 1 (25), 2000, pp. 91-149; Ran Hirschl, *Towards juristocracy: the origins and consequences of the new constitutionalism*, Harvard: Harvard University Press, 2004; Barry R. Weingast, "Political Institutions: Rational choice Perspectives", in Robert E Goodin, Hans-Dieter Klingemann, (eds.), *A New Handbook of Political Science*, Oxford-New York: Oxford University Press, 1996; Larry Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review*, Oxford-New York: Oxford University Press, 2004; James L. Gibson, Gregory A. Caldeira, "Defenders of Democracy? Legitimacy, Popular Acceptance, and the South African Constitutional Court", in *Journal of Politics*, no. 1 (65), 2003, pp. 1-30; Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012.

⁷ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 797.

⁸ Leonardo Morlino, "Architectures constitutionnelles et politiques démocratiques en Europe de l'Est", in *Revue Française de Science Politique*, no. 4 (50), 679-712, 2000, p. 683.

Thus, rulers must believe that their interests are better served by delegating to a non-majoritarian institution, relative to an existing situation or an alternative institutional arrangement.⁹ Consequently, as Tate and others support, constitutional courts can increase their policy influence when other branches of government are weakened by partisan or lower levels of public support.¹⁰

In light of the legality and necessity of building a tradition of guarantees of individual rights in a democracy on an undergoing consolidation, the Constitutional Court is noted as the '*third actor*'.¹¹ As Trevor, Brown and Wise put it, courts should be added to the list of potential important factors among political parties that condition stability.¹² In this way, courts can be arenas for pressure group activity, via constitutional and legal challenges to governments, public interest litigation and test-case strategies.¹³ Constitutional courts, as non-majoritarian institutions, are defined as those governmental entities that (a) possess and exercise some grant of specialized public authority, separate from that of other institutions, but (b) are neither directly elected by the people, nor directly managed by elected officials.¹⁴ There must always be, and so far there has been the possibility for judges to interpret the Constitution, independently of the political mainstream, in accordance with convincing arguments derived from the Constitution.¹⁵ Because decisions of the constitutional courts are final and formally binding, the court is a parametric actor in this sequence to the extent that it need not hinge its decisions on its beliefs about preferences and likely

⁹ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, p. 9.

¹⁰ Tate Vallinder, "The Judicialization of Politics. A World-Wide Phenomenon: Introduction", in *International Political Science Review*, no. 2 (15), 91-99, 1994, p. 738.

¹¹ Leonardo Morlino, "Architectures constitutionnelles et politiques démocratiques en Europe de l'Est", in *Revue Française de Science Politique*, no. 4 (50), 679-712, 2000, pp. 706-07.

¹² Trevor L. Brown, Charles Wise Ragin, "Constitutional Courts and Legislative-Executive Relations: The Case of Ukraine", in *Political Science Quarterly*, no. 1 (119), 143-169, 2004, p. 148.

¹³ Carol Harlow, Richard Rawlings, *Pressure through Law*, London-New York: Routledge, 1992, p. 192.

¹⁴ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, p. 2.

¹⁵ Christine Landfried, "The Judicialization of Politics in Germany" in *International Political Science Review*, no. 2 (15), 113-124, 1994, pp. 113-24.

actions of the governments; it can place policy wherever it sees fit.¹⁶ In this way, courts are public decision-makers. The expansion of the province the courts or the judges at the expense of the politicians and/or the administrators, that is the transfer of decision-making rights from the legislature, the cabinet, or the civil service to the courts; 2. the spread of judicial decision-making methods outside the judicial province proper¹⁷ have been called judicialisation of politics.

An important modality of judicial review is the moment a priori (*ex-ante*) or a posteriori (*ex-post*). When it is exercised *ex-post* has an important political dimension.¹⁸ *Ex-ante* judicial review (or preventive norm control) is abstract in nature. On the level of legal theory, *ex-ante* review can also be understood as respecting the supremacy of parliamentary law: review is not applied to already binding law but to a draft only. *Ex-ante* judicial review can contribute significantly to constitutional efficacy, mainly because it is able to stop unconstitutional legislation before any infringement can occur.¹⁹ The delegation theory to non-majoritarian institution of judicial review explains variation in the design of systems of review with reference to the extent to which political authority (or the party system) is fragmented at the *ex-ante* moment.²⁰ An *ante* review is such when, before the international agreement is signed and/or ratified, certain specific state organs can request an *ante* review to the court that it may assess its conformity with the constitution.²¹

¹⁶ Lee Epstein, Jana Knight, Olga Shvetsova, "The role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government" in *Law and Society Review*, no. 1 (35), 117-164, 2001, p. 124.

¹⁷ Neal C. Tate, Torbjorn Vallinder, *The global expansion of Judicial Power*, New York-London: New York University Press, 1995, p. 13.

¹⁸ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 808.

¹⁹ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 806.

²⁰ Alec Stone Sweet, "Constitutional Courts", in Michel Rosenfeld, Andras Sajó (eds.), *Comparative Constitutional Law, The Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 820.

²¹ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 807.

Concerning the form of judicial review in countries with centralized legal review, in form of a constitutional court, is the *ex-post* control of computability of primary legislation with the constitution.²² *Ex-post* review is the essential nature of courts to assess the legality of measures after they have been taken. As Thatcher and Sweet put it, when officials delegate in order to increase technical efficiency, reduce their workload, or improve their information, extensive *ex-post* controls are often more compatible with their objectives.²³

Therefore, while a priori control seems logical, and is actually the rule for checking the formal regularity of referendums, things are not so clear regarding the material control of the issue, which is sometimes perceived as conflicting too much with popular sovereignty if a posteriori.²⁴

There are mainly three approaches to constitutional review which are the abstract review, the concrete review and, in some countries, the individual constitutional complaint.²⁵ On the one hand, concrete judicial review is applied with regard to actual legal cases that raise constitutional questions in the context of ordinary litigation. On the other hand, abstract review typically entails specific procedures in a constitutional court and is also called 'preventive review' where the parties are allowed to challenge the constitutionality of statutes and decrees prior to their application.²⁶ In general, such abstract review provides the courts with real power to affect policy by providing them with the ability to set policy agendas and as a

²² Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajo (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 807.

²³ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, p. 15.

²⁴ Laurence Morel, "Referendum", in Michel Rosenfeld, Andras Sajo, (eds.), *Comparative Constitutional Law, The Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, pp. 522-23.

²⁵ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajo (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 807.

²⁶ In contrast, in a system limited to incidental review, parties are limited to challenging government actions once they have been implemented.

method of defusing constitutional disputes.²⁷ Usually, such litigation can only be initiated by privileged actors, for example parliamentary minorities or regions in federal systems.²⁸ The procedure of judicial review is abstract in cases where political institutions question the constitutionality of a given law and ask the constitutional court to assess its conformity with the constitution without the need of any actual case or specific infringement being present. In abstract review cases, the condition that a plaintiff is directly and individually concerned does not apply. Additionally, the extent of judicial review mainly depends on two dimensions: the institutions/persons able to initiate such judicial review procedure and the degree of judicial self-restraint.²⁹ The first hypothesis states that explicit access to judicial review will be greater where political forces are diffused. The political context is relevant while observing the judicial review. As Smithey and Ishiyama state, it is the political context that provides insight into the process of judicial activism.³⁰ More concretely, a first sub-hypothesis is that political parties will turn to prosecution in court in order to eliminate their political opponents. The phenomenon of '*politicization of judging*',³¹ as a tendency of political parties or factions to turn to prosecution in court as a way of eliminating political opponents by showing them to be guilty of corrupt practices,³² is used to explain the tendency of policy-makers to solicit the court. A second sub-hypothesis is that, constitutional courts are

²⁷ Smithey S. Ishiyama; John Ishiyama, "Judicial Activism in Post-Communist Politics", in *Law and Society Review*, no. 4 (36), 2002, 719-734.

²⁸ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajo (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 805.

²⁹ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajo (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 807.

³⁰ Smithey S. Ishiyama, John Ishiyama, "Judicial Activism in Post-Communist Politics", in *Law and Society Review*, no. 4 (36), 719-734, 2002, p. 738.

³¹ Carlo Guarneri, Patrizia Pederzoli, *The Power of Judges; A Comparative Study of Courts and Democracy*, Oxford: C. A. Thomas Editor, 2002.

³² Leslie F. Goldstein, "From democracy to juristocracy", in *Law Social Review*, no. 3 (38), 611-629, 2004, p. 614.

rendered powerful when they are in systems requiring them to separate the power boundaries.³³

For what concern the second hypothesis on institutional design, the more a constitution allows political actors to launch a judicial review procedure, or the easier the modalities, the more judicial review can be exercised by a constitutional court.³⁴ Additionally, it is assumed that the more acute are the problems of imperfect commitment and incomplete contracting, the more authority - or discretion, the framers must delegate to the court.³⁵ But as Thatcher and Sweet put it, constitutional courts have provided a response to the dilemma of political parties who agreed on the benefits of constitutional 'rules of the game', but disagreed, sometimes fundamentally, on the precise content of those rules.³⁶ There is not a clear cut on the competencies of the court on the cases to review until where their authority is extended.³⁷

As a result, there is a wide range of possibilities, and it is important to know considerable institutional details to understand how much coordination is possible among and within the political branches to hold the judiciary in check.³⁸

³³ Martin Shapiro; Alex Stone Sweet, *On Law Politics and Judicialization*. United Kingdom: Oxford University Press, 2002.

³⁴ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajó (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 808.

³⁵ Alec Stone Sweet, "Constitutional Courts", in Michel Rosenfeld, Andras Sajó (eds.), *Comparative Constitutional Law, The Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 822.

³⁶ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, p. 9.

³⁷ John Ferejohn, Frances Rosenbliuth, Charles Shipan, "Comparative Judicial Politics", in Carles Boix, Susan C. Stokes (eds.), *The Oxford Handbook Comparative Politics*, Oxford: Oxford University Press, 2007, p. 734.

³⁸ John Ferejohn, Frances Rosenbliuth, Charles Shipan, "Comparative Judicial Politics", in Carles Boix, Susan C. Stokes (eds.), *The Oxford Handbook Comparative Politics*, Oxford: Oxford University Press, 2007, p. 734.

II. Institutional Form selected of Delegation to Constitutional Court of Albania

There are at least two phenomena analyzing the court's jurisdiction in Albania, that is, the political context into which the opinion of the court is solicited, and the kind of actors involved in this process of judicial review.

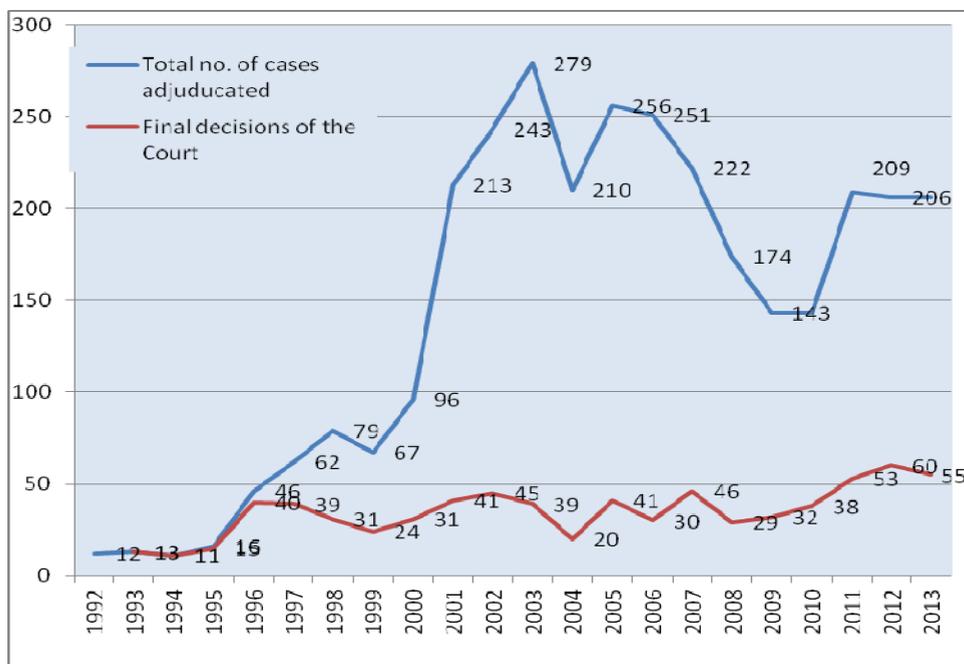
a) *The Albanian Constitutional Court institution*

When constitutions are broken down and are completely rewritten, powerful opportunities exist for delegation - for instance - by creating new constitutional courts or agencies.³⁹ This was the case for Albania where the establishment of the Constitutional Court aimed to ensure the constitutional order. There have been three main moments where the main legal provisions provided the competencies of the court that is, in 1991 with the Law No. 7491, on 29th April 1991 '*On the main provisions of the Constitution*', 1998 with the entry into force of the Law No. 8373 dated 15.07.1998 '*On the organization and functioning of the Constitutional Court of the Republic of Albania*' and 2000 with the Law No. 8577 '*On the organization and functioning of the Constitutional Court of the Republic of Albania*'. The Constitutional Court was instituted and has functioned according to the Law No. 7491, on 29th April 1991 '*On the main provisions of the Constitution*', to be followed by Law no. 7561, dated 29 April 1992, '*On several changes and additions to Law No. 7491*,' and since 1998, according to the Law No. 8373 dated 15.07.1998 '*On the organization and functioning of the Constitutional Court of the Republic of Albania*', which established a legal basis for issues regarding the activity of the Constitutional Court. The entry into force of the constitution on 28 November 1998 sanctioned again the role of the court by allowing changes on the appointment of its members. On 10.02.2000, the Assembly adopted the Law No. 8577 '*On the organization and functioning of the Constitutional Court of the Republic of Albania*', which has been laid down with the support of the Commission of Venice. This law has regulated issues such as the submission of the applications for judicial review, the preliminary review, the adjudicating procedures, the status and terms of office of constitutional judges.

³⁹ Mark Thatcher, Alec Sweet Stone, "Theory and Practice of Delegation to Non-Majoritarian Institutions", in *West European Politics*, no. 1 (25), 1-22, 2002, pp. 11-13.

The Albanian Court has only the right to invalidate the acts that it reviews (Art 132 Const.). It is mainly concerned with constitutional issues, but it will entertain actions against administrative institutions where the claim is that ‘the institution has made subordinate legislation or performed administrative actions which are in breach the law’.⁴⁰ In this way, in the following graphic, there is the number of cases judged by the constitutional court ever since it was founded to 2013. The following data corroborate this:

Table 1. Total cases and the final decisions adjudicated by the Albanian Constitutional Court (1992 - 2013).⁴¹



⁴⁰ OECD, “Administrative Procedures and the Supervision of Administration in Hungary, Poland, Bulgaria, Estonia and Albania”, Sigma Papers, no. 17, OECD Publishing, 1997.

⁴¹ The Constitutional Court decisions, [http://www.gjk.gov.al/].

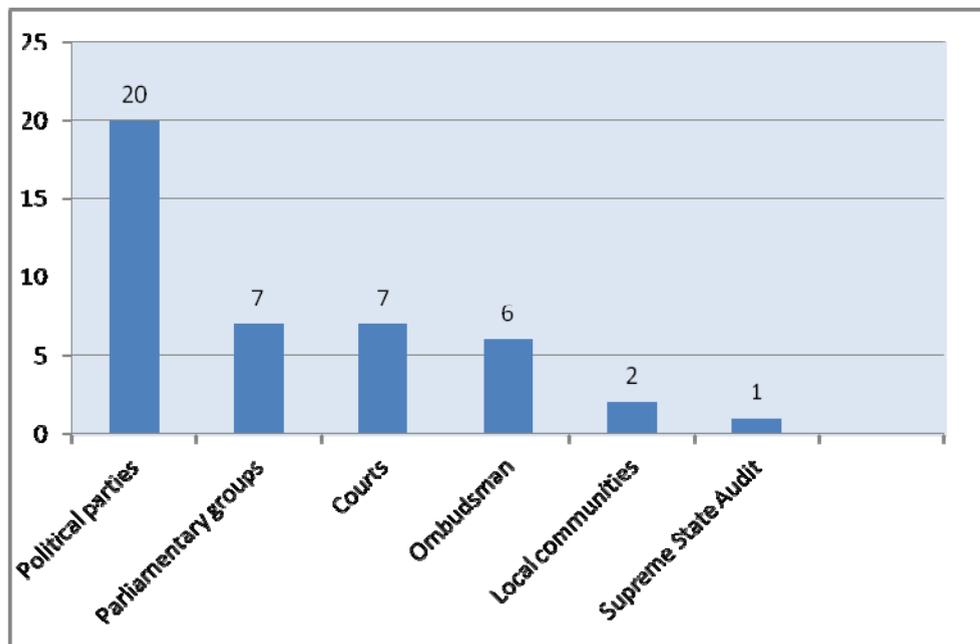
The Constitutional Court is composed of nine members, nominated by the President of the Republic with the consent of the Assembly (Art 124 Const.).⁴² It exercises a general jurisdiction over the legality and constitutionality of administrative norms and actions. Some of the criteria for the appointment as a judge to the Constitutional Court are the following: a) members of political parties are not allowed to become members (Art 130 Const.); b) most courts surveyed reserve at least partial immunity from prosecution of their members; c) there is a general preference for lawyers. The judges are appointed by the President of the Republic upon the consent of the Assembly. The Chairman of the Constitutional Court is appointed from the ranks of its members by the President of the Republic with the consent of the Parliament for a three-year term (Art. 125/4 Const.). There have been polemics as to the issues concerning the renewal of the membership of the Constitutional Court. The main constitutional provisions required the issuance of some other acts in order to regulate its activity.

b) Who brings the requests to the Court?

One of the crucial criterions in order to assess the extent of judicial review is who may lodge an appeal. There is much variation in this respect.⁴³ In Albania, the review by the Constitutional Court may be initiated by: a) the President of the Republic; b) the Prime Minister; c) one-fifth of the deputies; d) the Chairman of High State Control; e) every court according to Article 145/2 Const.; f) the People's Advocate; g) local government organs; h) organs of religious communities; i) political parties and other organizations; j) individuals (Art. 134/1 Const.). For a graphic representation of total number of cases with final decision, solicited by political and judicial actors, see Table 2.

⁴² There have been controversies regarding the issue of renewal of the composition of the Constitutional Court. The reason for these controversies was the different interpretation done to the provisions of the constitutional laws regulating the functioning of this institution.

⁴³ Juliane Kokott, Martin Kaspar, "Ensuring Constitutional Efficacy", in Michel Rosenfeldn, Andras Sajo (eds.), *Comparative Constitutional Law, the Oxford Handbook of Comparative Constitutional Law*, Oxford: Oxford University Press, 2012, p. 797.

Table 2. Total number of cases solicited by political and judicial actors

Despite the abovementioned wide range of actors enabled by the constitution to make appeal to the court, there are a quite restricted number of actors applying for judicial review. For example, in the early '90s, parliamentary groups were the most active in asking the court its opinion on political issues. This latter has included mainly a clear cut with the communist past.

Furthermore, requests were made by judicial actors such as the Forum of Lawyers for Justice, district and appellate courts (thirty requests), the Union of Judges, the Ministry of Justice, the Prosecutor General and political actors such as political party and MPs (thirty-one requests). Additionally, few cases have been brought up to the courts by enterprises and none by citizens. Thus, from 1993 to 1995, no case was sent to the court by political parties and still very few from the citizens. The most active groups to bring cases to the court were the parliamentary groups.

Yet right after 1997, the main actors soliciting the court were mostly institutional actors such as the opposition parties, the President of the Republic, parliamentary groups, councils of city communities, the Bank of Albania, the Council of Ministers, parliamentary groups, Expropriation Association (two requests), district courts, ombudsman and only few citizens.

Immediately, following 2001, the citizens were more active in asking the revision by the court⁴⁴ and solely after 2009, with the political crisis and a general mistrust in other institutions, political actors were more willing to bring their cases to the court. The court was able to consider citizen complaints, where the bulk of the work consists of property rights issues raised by individual citizens, national and international issues as well.

c) *The nature of the cases brought to the court*

Since its institution in 1992, the court was asked the review of the constitutionality of cases of different types. The Constitutional Court decides on: a) compatibility of the law with the Constitution or with international agreements as provided in Article 122 Const.; b) compatibility of international agreements with the Constitution, prior to their ratification; c) compatibility of normative acts of the central and local organs with the Constitution and international agreements; d) conflicts of competencies between powers, as well as between central government and local government; e) constitutionality of the parties and other political organizations, as well as their activity, according to Article 9 of the Constitution; f) dismissal from duty of the President of the Republic and verification of the impossibility for him to exercise his functions; g) issues related with the election and incompatibility in exercising the functions of the President of the Republic and of the deputies, as well as the verification of their election; h) constitutionality of the referendum and verification of its results; i) final adjudication of the individual complaints for the violation of their constitutional rights to due process of law, after all legal means for the protection of those rights have been exhausted (Article 131 Const.).

⁴⁴ The court was able to consider citizen complaints, where the bulk of the work consists of property rights issues raised by individual citizens, national and international issues as well.

In the first decade, the court dealt with the country's past issues such as the criteria for the treatment of disabled people against fascist invaders during the Second World War, the candidacy of the Communist Party in the elections, the mandate of Prosecutor General, the files of the former State Security, the Veterans Status Pensions, the legitimacy of officials serving during the communist era, the genocide and crimes against humanity committed during the communist rule. Nevertheless, this was not the end of regulating communist practices as far as many issues were raised along with the two decades of Albanian transition. The first decade was affected by the 1997 turmoil. Thus, in 1997, because of a nationwide turmoil which affected the malfunctioning of state institutions, the constitutional court had very few cases in its agenda. The cases of juridical type included the renewal of the composition of the court, the dismissal of the President and the civil panel of the Court of Cassation etc.

In the second decade, Additional cases were brought to the court in order to draw the line between political and juridical compatibility of mandates of MPs and other political and juridical actors. The cases submitted to the court, concerned mostly the cases the Central Election Commission and Electoral Code. Some examples regarded the mandate of the MPs, the mandate of the member of the High Council of Justice, the mandate of the member of the Supreme Court, the profession of the lawyers etc.

III. The judicial review of the court in the context of political crisis

During different political crisis, major political controversies were brought to the court and reviewed by constitutional judges, rather than by elected legislators. The result was obvious and inevitable: every not-insubstantial parliamentary faction that lost a fight on a controversial bill turns promptly to the Constitutional Court to try to win constitutionally what it was lost politically. As a result, the political crisis brought the Constitutional Court to the attention of the public by considering it the only actor able to interfere and resolve the political disputes. Thus, the political crisis as an independent variable is used to explain whether it would impact the judicial review.

There have been significant political crisis in Albania during the two decades. One of them is the 2009 political crisis. Noticeably after 2009, the Albanian political institutions claim the intervention of the Court to give the final verdict to their conflicts. In 2009, the most implicative political crisis took place. The ballot papers parliamentary elections saw a close race between the governing Democratic Party and the leftist Socialist Party with 68 and 65 seats in the Parliament respectively. The leftist 'Socialist Movement for Integration Party' who had four seats from the elections formed an alliance with the right-wing Democratic Party, helping the latter to win the elections. This brought the longest political crisis ever in Albania. The leftist opposition refused the electoral result claiming that fraud was committed and boycotted the Parliament. A whole procedure of investigative commissions, voted by the Parliament began. The elections of 2009, held in the absence of legal authority of the state, were deemed by international actors as an acceptable choice for the moment, but, in fact, they served as a long-term solution. The opposition initially recognized the elections but refused to participate in the plenary session in the Parliament for a long time and several months later described them as a useless political solution and radicalized the struggle for new elections. Even though tendencies to use the Constitutional Court against the political adversary existed, before 2009 elections, the court gained another kind of relevance within the context of the crisis. There has been an ongoing demand of political actors to ask the intervention of the court for clarifying the electoral issues during and after the elections, mainly concerning the parliamentary elections.

IV. The decision to delegate to the Court

There are at least four different conditions under which there is an interest in soliciting the court. Firstly, when the government wants to avoid the least popular decision; secondly, when the political parties or factions tend to eliminate the political opponents; thirdly, when the court is the only actor able to give a resolution; fourthly, when there is a need for an institutional isophormism for which the government wants to skip the legal and/or

juridical polemics. In the following paragraphs, there is an analysis and illustration of each condition with a typical political case revised by the constitutional court.

The first condition is therefore, when the government wants to avoid the least popular decision. A clamorous example of a case where the government avoided a less popular decision was when the court voted, through an *ex ante* and concrete review, against the government decision related to the agreement on 'territorial waters' agreement with Greece. Upon the request of the Albanian social groupings and six opposition parties, the court was solicited to decide on the draft agreement signed by Albania and Greece. The agreement was on '*The delimitation of the respective continental shelf areas in the Ionian Sea and other maritime areas*'. On 26. 01. 2010, based on Article 131/b of the Constitution, the court decided unanimously to declare the decision unconstitutional, annulled the agreement, and suspended the ratification made by the Albanian Parliament. The government declared that it was not oppose to the arguments of the Court. In this way, the court's actions of striking down the agreement deflect the responsibility from the government in front of the neighboring country. Thus, the awareness of the government on the public discontent on the international agreement on the one hand, and the intention not to aggravate the relations with the neighboring country on the other, made the Albanian government to accept willingly the decisions on this matter. The decision of the court to declare unconstitutional the government decision on the maritime agreement shows that whenever there is a pressure from civil society and public opinion, and where the decision of the government is strongly unpopular, the court is most willing to declare a law or agreement, unconstitutional.

The second condition is when the political parties or factions tend to eliminate the political opponents.⁴⁵ A typical example is offered by an *ex-post*

⁴⁵ A relevant decision dates back in 1994, when the court was asked by the parliamentary group of the Socialist Party 'to interpret whether it was constitutional, the call of the Attorney General from the National Assembly in order to 'answer questions from MPs'. The court, by majority vote, decided that the call of the Attorney General to Parliament to answer questions from MPs was in accordance with the basic constitutional provisions'.⁴⁵ In 2009, that is 15 years later, there was another attempt from the part of the Assembly to call the Attorney General. The court declared it unconstitutional by arguing that '*political interest was involved and judicial independence was violated*'.

abstract review of the court. An attempt was made by the government to propose the Lustration Law only a few months before the parliamentary elections.⁴⁶ One of the instruments used in this framework is the legislation on the cleanliness of the figure (lustration). A group of deputies, the National Association of Prosecutors (NAP) and the Albanian Helsinki Committee (AHC) addressed to the Constitutional Court with complaints, on the declaration of Law No. 10034, dated 22 December 2008 "*On the cleanliness of the figure of high functionaries of the public administration and elected persons*" as incompatible with the Constitution. They asked the suspension of implementation of the law until the announcement of the final decision of the Court. The law was approved in the Assembly by a simple majority of the deputies entitled to vote. The object of this law was the definition of the high state functions and subjects as incompatible with the public activity of the post as officials because of the past status as a member, director and/or collaborator in the policy-making and implementing structures of the dictatorship of the Proletariat and/or the former State Security, for the period 29 November 1944 up to 8 December 1990 (Article 2 Const.). In an open judicial session on 07.05.2009, the court took under examination the case and unanimously decided the incompatibility of the law with the Constitution. The Court set out that the law did not meet the criteria of public interest, and it were not indispensable for the democratization of the country, and the restrictions imposed by it were not justified in a reasonable and objective way claiming that several parts of the law violated the lawful rights, the interests of prosecutors and a series of constitutional rights, taking the Constitution as the legal basis. In March 2010, the Constitutional Court repealed unanimously the already suspended 'Law on Cleanliness of Public Figures (lustration law) and asked the Venice Commission for an *amicus curiae* opinion. Both the Venice Commission and the Constitutional Court argued that many provisions of the law violated the Albanian Constitution. Although the lustration law has not been officially implemented in Albania due to the constitutional concerns it raised, the spirit of the law

⁴⁶ After the fall of Communist regime attempts were made in Albania to break from the totalitarian past. Those attempts were expressed in a series of legal, institutional and financial measures.

served as the basis for the parliament's rejection of one of the candidates. In this case, it was clear the tendency of the party in power, the rightist Democratic Party to fight its principal political opponent just before the elections.

The third condition is when the court is the only actor able to give a resolution. An illustrative example is when in April 2009, two months before the parliamentary elections, the Parliament approved in April 2009 the Parliament approved an Inquiry Committee to review the request of a group of deputies to investigate the practices and procedures of granting building permits by the Municipality of Tirana, whose major was the leader of the opposition (Socialist Party). The Municipality of Tirana asked to the Constitutional Court the resolution of the jurisdictional dispute claiming that this decision contrasted with the Albanian Constitution and the European Charter of Local Autonomy. It also claimed that the scope of activity of the inquiry commission was exceeding the functions of the Parliament by intervening in the powers of the local government. On 08.05.2010, the Constitutional Court declared unconstitutional the investigation on the Mayor of Tirana from the Inquiry Committee. In this way, the intention of the government which, through the parliamentarian groups, attempted to eliminate beforehand the political opponent was clear. In such manner, the court was the only legal organ to which Tirana Municipality could ask a resolution.

Another example concerns the 'Anti-Mafia Law'. In 2010, the court was asked to judge the constitutionality of this law which provides '*the prevention and combating organized crime and trafficking*' through preventive measures against property.

According to the government, its purpose is to '*smash organized crime, particularly the asset forfeiture to all those individuals living in conditions of unjustified living.*' The opposition responded that '*this was an operation against the entrepreneurs who financed the leftist media which was active in criticizing the government activities.*' The Constitutional Court ended the debates rejecting the request of the Albanian Helsinki Committee and legitimizing the law with seven members in favor of it'. The "Anti-Mafia" law is considered by many as the most relevant case reviewed by the court. The decision of the court to judge as constitutional this case, which goes hand in hand with the interest of the government, does not tell a dependency from the preferences

of the government. On the contrary, keeping in mind that other decisions were not according to the government trend, shows a certain level of neutrality from the probable politicization that may have involved the court that showed no political preferences for any of the factions.

The fourth condition under which there is an interest in soliciting the court is when there is a need for an institutional isomorphism for which the government wants to skip the legal and/or juridical polemics. One typical example of institutional isomorphism is the abolition of death penalty. This was considered as '*one of the most remarkable ex-post and abstract judicial review of the Constitutional Court provided by the Criminal Code.*'⁴⁷ On November 11th, 1999, it was declared incompatible with the Article 21 of the Constitution.⁴⁸ An argument of the Constitutional Court was that Albania was oriented to implement the rules of the international law. Additionally, the concept of life is a value from which all other fundamental rights follow and that to negate it, means to eliminate all other rights. Thus, human life, as a value, takes precedence over all other constitutionally protected rights.⁴⁹ Its view based on the fact that Albania should observe the protocol to the European Convention even though it had not signed it yet. In 2007, Albania ratified the Protocol No. 13 to the ECHR, abolishing the death penalty under all circumstances. There were polemics from many political and legal actors as that the capital punishment should not be abolished in such a critical criminal context such as Albania. It was argued that the abolition of death penalty would increase the rates of crime especially after a previous turmoil in 1997. In such manner, the government preferred to solicit the constitutional court as a neutral organ to express itself in this regard. The court, in different cases, has had different stands support the government decisions. As a judge would state, '*in some cases, the court may have shown signs of denigration because the decisions did not correspond best to the interests of one*

⁴⁷ Interview by the author with a constitutional judge and current Head of the Constitutional Court of Albania, Sokol Sadushi, April 2011, Tirana, Albania.

⁴⁸ Alb-1999-008 - a) Albania b) Constitutional Court c) /d) 10-12-1999 / e) 65 / f) / g) *Fletorja Zyrtare* (Official Gazette), 33, 1301 / h) Codices (English, French).

⁴⁹ Mathieu Bertrand, *The right to life in European constitutional and international case-law*, Strasbourg-France: Council of Europe, 2006, p. 56.

political side but, it has argued its decisions very professionally such as the decision on territorial waters, or the law on the organization of the judiciary and so on'.⁵⁰

In such manner, the difference of court decisions between 1994 and 2009 shows how the Court may be in favor of one or other governments' preferences of cases of high level public and political interests.

Conclusion

The Constitutional Courts of Eastern Europe were designed to assist the parliament and the president in doing their jobs: many courts were required, or at least permitted, to render advisory opinions on pending legislation at the request of legislators or of the president becoming the flagships of the rule of law and constitutional faith in the emergent East European democracies.⁵¹ The Albanian Constitutional Court was created in parallel to other democratic institutions and was based on a western model.⁵² In a first period, the performance of the Constitutional Court was regulated by the main provisions of the Constitution, and in a second period, by the new Constitution of the Republic of Albania and the law on the Constitutional Court after they became effective. It has been very active in deciding constitutional disputes and has handed down a large variety of judgments. It has delivered decisions of different characters on the constitutionality or unconstitutionality of normative acts of local and central government bodies, making the interpretation of the Constitution. In the course of its decisions, it was drawn deeply into many of the political and social conflicts overturning two dozens of legal initiatives passed by the Parliament in the last four years. In some cases, different actors have asked to reduce its powers. For example, in April 2002, the former President of the Republic asked to the Assembly to review the law concerning the Constitutional Court with the aim of reducing its powers. The 2009 political crisis in Albania, contributed even more to a major active role of the court

⁵⁰ Interview by the author with a judge of the Court of Appeal, April 2011, Tirana, Albania.

⁵¹ Herman Schwartz, *The struggle for constitutional justice in post-communist Europe*, London: University of Chicago Press, 2000, p. X.

⁵² To be noted that most West European countries had a democratic culture *ex-ante* the adoption of Constitutional Courts.

which was solicited by the opposition and the citizens whose request in 2009 and 2010 represented respectively 83 % and 84 % of the requests received by the court. The Constitutional Court became a relevant actor in the democratic arena and this fact increased its role in the democratization process of the country. The hypothesis of political interest is complex and implies multidimensional explanations. Some of the decisions of the Albanian Constitutional Court showed clearly the detachment of the court from the political will of the government. This shows that the increasing interest of the media and the pressure of the public opinion and civil society, especially when it concerns the overall nationwide interest, are determining factors. On the other hand, other decisions of the court showed clearly its concern to please the political class.

My initial theoretical argument that explicit constitutional power and access to judicial review will be greater where political forces are diffused was supported in all cases which dated the post-2009 period. Therefore, the article's major finding is that judicial review is both based on political and contextual behavior and institutional design but the former has more significance than the latter. The paper supported the argument that divided governments such as the extent to which the party system is fragmented and the extent to which the court enjoys popular trust rather than, the formal powers entrusted to the court by the constitution, contribute the most to the degree of review by Constitutional Courts.

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**UNSERE LIEBE FRAU VON EUROPA. MARIENWALLFAHRTEN
ZWISCHEN EUROPÄISCHER UND NATIONALER
IDENTITÄTSSTIFTUNG**

**OUR LADY OF EUROPE. MARIAN PILGRIMAGES BETWEEN
EUROPEAN AND NATIONAL IDENTITY FORMATION**

Mariano Barbato* und Emöke Péter**

Abstract

Die Erkundung des christlichen Europas, wie sie Joseph Weiler gefordert hat, stößt in Ost und West auf die Tradition der Marienverehrung. Wie ein Netzwerk ziehen sich marianische Wallfahrtsorte über Europa. Eine gesamteuropäische Identitätsstiftung kann hier anknüpfen; historisch gewachsene Wallfahrten stabilisieren aber auch nationale oder regionale Identitätsstiftung. Die Perspektive marianischer Wallfahrt bringt so die Spannung der Identitätskonstruktionen in den Fokus. Der Beitrag analysiert dazu den Wallfahrtsort Csíksomlyó im Siebenbürgen und setzt ihn in den Kontext europäischer Marienverehrung.

Keywords: Europäische Integration, Nationalismus, Identität, Wallfahrt, Jungfrau Maria, Csíksomlyó

Abstract

The exploration of Christian Europe that Joseph Weiler has called for meets in East and West traditions of Marian veneration. These pilgrim routes and pilgrim destinations span like a net across Europe. They can support a pan-European identity construction

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as well as regional or national narratives of identity. The perspective of Marian pilgrimage sites can thus help to understand the tensions but also the complementary and coherent aspects of identity construction on a European, national and regional level. The article focuses on Csíksomlyó in Transsilvania, which is discussed in the context of European Marian veneration.

Keywords: European Integration, Identity, Pilgrimage, Virgin Mary, Csíksomlyó

Erinnerungsorte der europäischen Marienverehrung

Unter dem selbstbewussten Namen „Shrines of Europe“ haben sich 1996 die wichtigsten marianischen Pilgerziele Europas auf Betreiben Altöttings, das sich als religiöses Herz Bayerns und deutsches Zentrum der Marienverehrung versteht, zu einem Netzwerk zusammengeschlossen. Es umfasste zu Beginn Altötting (Deutschland), Loreto (Italien), Tschenstochau (Polen), Lourdes (Frankreich) und Fatima / Ourém (Portugal). 2004 kam Mariazell in Österreich dazu. Die Altöttinger Selbstdarstellung im Internet stellt dieses Projekt als eine langsam gewachsene Struktur der Partnerorte vor. Aus Sicht Altöttings begann das Netzwerk mit einem Treffen der Kommunen von Altötting und Loreto 1989 und reifte 1991 zu einer Städtepartnerschaft. Loreto brachte eine Städtepartnerschaft mit Tschenstochau ein. Tschenstochau wiederum war mit Lourdes und Fatima verbunden.¹ Tschenstochau, Loreto, Fatima und Lourdes haben mit vier bis fünf Millionen Wallfahrern im Jahr ein anderes Gewicht in den globalen Pilgerströmen der Katholiken als Altötting und das ebenfalls jährlich gut eine Million Pilger anziehende Mariazell. In Europa kommen mehr als vier Millionen Pilger pro Jahr am Ende des Jakobswegs in Santiago de Compostela, bei Antonius von Padua, bei Franz von Assisi und vor allem bei Padre Pio in San Giovanni Rotondo am Gargano zusammen. Am Gargano lässt sich auch an die alte europäische Tradition der Erscheinungsorte des Erzengels Michael anknüpfen, die neben dem Monte Sant'Angelo auf dem italienischen Gargano vor allem Mont Saint Michel im Westen (Frankreich) und zuvor Chonae (heute Türkei) kannte. Die Pilgerzahlen in Rom und beim Papst lassen sich weniger leicht messen, denn die Weltstadt Rom zieht jährlich

¹ *Shrines of Europe* [[Http://Www.Altotting.De/Cms/Shrines-Of-Europe.Phtml](http://www.altoetting.de/cms/shrines-of-europe.phtml)] 02.12.2014.

fast zwanzig Millionen Besucher an, die nicht alle zum Papst möchten. Veranstaltungen mit dem Papst besuchen jährlich vier bis sechs Millionen Pilger. Nicht eingerechnet sind Großereignisse, wie die Heiligsprechung von Johannes XXIII und Johannes Paul II am 27. April 2014 mit 1,5 Millionen Pilgern an einem Tag, für die keine Einlasstickets vergeben werden. Denn diese Pilgerzahlen beziehen sich auf die offiziell vergebenen Tickets zu den päpstlichen Großveranstaltungen.² Von den ausgegebenen Tickets kann ein Pilger aber auch mehrere erhalten, es verstehen sich aber auch Besucher als Rompilger, die nicht die begehrten Tickets erhalten, sondern nur den Vatikan und die Apostelgräber besucht haben. Ähnlich wie in Santiago de Compostela haben die alten Ziele der Apostelgräber, dort Jakobus des Älteren, in Rom die Apostelfürsten Peter und Paul, gegenüber dem Papst bzw. dem Jakobsweg als solchem, an Bedeutung eingebüßt.

Trotz dieser Verschiebungen und den unpräzisen Zahlen scheint im säkularen Europa die Attraktivität der Pilgerziele ungebrochen, ja der Trend geht nach oben. Addiert man nur die Pilgerzahlen der großen europäischen Pilgerorte auf der Grundlage dieser Schätzungen, kommt man auf eine Zahl von etwa 40 Millionen Pilgern jährlich, etwa die Hälfte davon entfallen auf das marianische Netzwerk „Shrines of Europe“.

Erkundungsgänge im christlichen Europa, wie sie Joseph Weiler vorgeschlagen hat,³ kommen an der Wallfahrt generell und besonders an den marianischen Wallfahrten nicht vorbei. Wallfahrtsorte sind besondere Erinnerungsorte⁴ des kulturellen Gedächtnisses,⁵ die religiöse, säkulare, nationale und transnationale Aspekte vereinen. Nora entwickelt sein Konzept der Erinnerungsorte vor dem Hintergrund einer verblassenden Nationalgeschichte. Während die moderne Geschichtsschreibung an die Stelle der christlichen Weltdeutung und ihres Erinnerungskalenders der Gedenk- und Festtage die Erinnerung an nationale Großtaten und damit

² Francis X. Rocca, *Francis Draws More Than Six Million to Rome in First Nine Months*, 2014 [<http://www.catholicerald.co.uk/news/2014/01/02/more-than-6-million-people-have-attended-papal-events-under-francis/>] 02.12.2014.

³ Joseph Weiler, *Ein christliches Europa. Erkundungsgänge*, Salzburg: Pustet, 2004.

⁴ Pierre Nora (Hg.), *Erinnerungsorte Frankreichs*, München: C.H. Beck, 2005.

⁵ Aleida Assmann, *Formen und Wandlungen des kulturellen Gedächtnisses*, München: C. H. Beck, 2009.

die Sinnstiftung der Nationalgeschichte gesetzt hat,⁶ gelingt dem Zeitalter des Gedenkens keine neue Großerzählung. Die Bevölkerung bemächtigt sich der sich fragmentierenden Großerzählungen der Nationalgeschichten in je partikularen Erinnerungen des „Kulturerbes.“ „Aus den Nationalmuseen herausgetreten, fand es [das Kulturerbe] eine neue Heimat in den Grünanlagen oder den Pflastersteinen alter Straßen.“⁷ Ob aus der religiösen Vitalität der Wallfahrtsorte die Kraft zu neuen, postsäkularen Identitätskonstruktionen und Großerzählungen führen könnte, sollte als Hintergrundfrage mitbedacht werden.

Folgt man aber zunächst Nora weiter und achtet auf die Fragmentierung, in seinem Bild des ‚Kulturerbes der Grünanlagen und Pflastersteine‘ kann man nicht bei den großen marianischen Wallfahrtsorten allein stehen bleiben. Die Verehrung Mariens zieht sich in vielen lokalen und regionalen Wallfahrtsorten durch ganz Europa, die sich kaum erfassen lassen. Während das Netzwerk der großen „Shrines of Europe“ eine Städtepartnerschaft säkularer Gemeindeverwaltungen darstellt, die Wallfahrer als Pilgertouristen begrüßen, wird ein anderes marianisches Netzwerk von der Katholischen Kirche selbst organisiert. Das europäische marianische Netzwerk umfasst 20 Wallfahrtsorte in 20 Ländern Europas. Die großen Wallfahrtsorte Altötting, Fatima, Loreto, Lourdes, Marizell und Tschenschow gehören auch hier dazu. Weitere Mitglieder des Verbunds sind Banneux (Belgien), Brezje (Slowenien), Csíksmyló (Rumänien), Einsiedeln (Schweiz), Knock (Irland), Levoca (Slowakei), Máriapócs (Ungarn), Marija Bistrica (Kroatien), Vilnius (Litauen), Walsingham (England), Zaragossa (Spanien), Zarvanyzia (Ukraine) und die beiden Heiligtümer auf der Halbinsel Gibraltar und der Insel Malta.⁸

Falls wie an anderer Stelle ausführlicher dargestellt,⁹ Helmut König recht hat, es gäbe „gute Gründe für die Vermutung, dass das Gedächtnis nicht nur soziale *Bedingungen* hat, sondern zugleich soziale bzw. politische

⁶ Pierre Nora (Hg.), *Erinnerungsorte Frankreichs*, München: C.H. Beck, 2005, S. 554.

⁷ Pierre Nora (Hg.), *Erinnerungsorte Frankreichs*, München: C.H. Beck, 2005, S. 561.

⁸ *Das Europäische Marianische Netzwerk*

[<http://www.neueschatzkammer.de/de/europ%C3%A4ische-marianische-netzwerk>] 02.12.2014.

⁹ Mariano Barbato, "Europawissenschaftliche Erkundungsgänge im christlichen Europa. Das Leitbild der Pilgerschaft und Joseph Weilers Ansatz zwischen Religion, Recht und Politik", in *Studia UBB Europaea*, Nr. 4, 2012, S. 97-118.

*Folgen und Funktionen*¹⁰ dann gehört die Erforschung dieses lebendige kulturelles Gedächtnis der Europäern an ihren marianischen Wallfahrtsorten zur politikwissenschaftlichen Integrationsforschung dazu. Darüber hinaus scheint in der marianischen Perspektive der Pilgerziele etwas vorzuliegen, was andernorts oft fehlt. König urteile kritisch, dass die europäische Landschaft der Erinnerungsorte meist doch nur national geprägt bleibt und bestenfalls zu einem Austausch nationaler Erinnerungsorte geraten kann, und so allenfalls einem Europa der Vaterländer eine kulturelle Grundlage gibt.¹¹ Im Sinne Noras reicht die transnationale Kraft nationaler Erinnerungsorte nicht aus für eine europäische Erzählung. Die marianische Perspektive der Erinnerungsorte offeriert hingegen mehr. Nationale Erinnerungen verbinden sich mit einer transnationalen marianischen Erinnerung, die die Pilgerorte von Portugal bis in die Ukraine miteinander verbindet und mehr stiften kann als lediglich den Austausch nationaler Erfahrungen. Zumindest für katholische Christen, aber auch für die orthodoxen Glaubensbrüder,¹² stellt die Marienfrömmigkeit eine europäische Konstante dar, die zum kulturellen Gedächtnis Europas beitragen kann.

Es wäre zu früh, hier bereits eine neue europäische Identitätsstiftung feststellen zu wollen. Doch lässt sich an marianischen Wallfahrtsorten wie an den heterogenen Kulturstraßen Europas, deren erste der Jakobsweg war und denen andere folgten, ein postsäkulares Potential für Europa ausmachen.¹³

Mária út – Marienweg – ist eine junge Initiative von 2010. Der Marienweg verbindet die beiden Wallfahrtsorte Mariazell und Csíksomlyó und soll die Nationen im südlichen Mitteleuropa über ihre marianischen

¹⁰ Helmut König, "Statt einer Einleitung: Europas Gedächtnis, Sondierungen in einem unübersichtlichen Gelände", in: Helmut König, Julia Schmidt, Manfred Sicking (Hg.), *Europas Gedächtnis: Das neue Europa zwischen nationalen Erinnerungen und gemeinsamer Identität*, Bielefeld: transcript Verlag, 2008, S. 14.

¹¹ Helmut König, "Statt einer Einleitung: Europas Gedächtnis, Sondierungen in einem unübersichtlichen Gelände", in: Helmut König, Julia Schmidt, Manfred Sicking (eds.), *Europas Gedächtnis: Das neue Europa zwischen nationalen Erinnerungen und gemeinsamer Identität*, Bielefeld: transcript Verlag, 2008, S. 22.

¹² Peter Leander Hofrichter (Hg.), *Auf der Suche nach der Seele Europas. Marienfrömmigkeit in Ost und West*, Innsbruck: Tyrolia, 2007.

¹³ Mariano Barbato, "Kulturelles Gedächtnis: Ein postsäkularer Blick auf europäische Erinnerungsorte", in Peter Filzmaier, Peter Plaikner, Karl Duffek, Christina Hainzl, Daniela Ingruber (Hg.), *Wir sind EU-ropa: Von vielen EU-Öffentlichkeiten zu einer europäischen Öffentlichkeit*, Wien: Facultas (Edition NetPOL, Band 4), 2013, S. 171-178.

Wallfahrtsorte zusammenführen.¹⁴ Den historischen Ausgangspunkt stellt die Weihe Ungarns an die Gottesmutter Maria durch den heiligen König Stephan von Ungarn dar. 1038 übergab König Stephan der Jungfrau Maria die Krone Ungarns und erklärte sie zur „Königin, Patronin und Mutter aller Ungarn“ und Ungarn zum *Regnum Marianum*, zum Reich Mariens.¹⁵

Die Marien- und Heiligenverehrung haben vor allem seit dem Konzil von Trient 1545-1563 an Bedeutung gewonnen, da insbesondere Maria eine Schutzfunktion zugewiesen wurde. Ihrer Hilfe schrieb die katholische Christenheit die Siege in der Seeschlacht von Lepanto 1571 gegen die Türken und in der Schlacht am weißen Berg bei Prag im Dreißigjährigen Krieg 1620 zu. Es gab eine verbreitete Tradition des europäischen Adels, Mariensäulen zu errichten und das Land unter den Schutz der Gottesmutter zu stellen. Im Fall Ungarns konnten die Mariensäulen an die Marienweihe Ungarns durch Heilige Stephan anknüpfen. Auf die Schutzfunktion Marias muss man auch im Fall Csíksomlyós eingehen. Mariens Schutz erwies sich einerseits bei den Mongolenstürmen, andererseits bei der Erhaltung des katholischen Glaubens in Siebenbürgen. Der Glaube an das Patronat Mariens trug wesentlich zum Aufblühen der Schomlenberger Wallfahrt auch in späteren Zeiten bei.

Europas postsäkulare Identität könnte aus solchen Netzwerken der Erinnerung wachsen. Ihr Potential wird hier am Beispiel von Csíksomlyó, dem rumänischen Wallfahrtsort der Ungarn in Siebenbürgen ausgeleuchtet. An diesem Wallfahrtsort kommen verschiedene nationale Spannungen zusammen, so wie in Europa an vielen Orten. Wenn sich hier ein postsäkulares Potential für eine Einhegung der nationalen Erinnerung in eine transnationale Identität andeuten könnte, ließe sich Ähnliches auch an anderer Stelle erwarten. Der religiösen und postsäkularen Erinnerung könnte das Wunder gelingen, die nationale Erinnerung im gemeinsamen, transnationalen Raum Europas aufzuheben – vielleicht sogar im hegelschen Sinne.

¹⁴ Stephan Baier, „Maria verbindet Mitteleuropa. Von der Steiermark bis nach Siebenbürgen führt ein marianischer Pilgerweg“, in *Die Tagespost*, Nr. 47, 2013, S. 5.

¹⁵ Clemens Prinz, *Die Pfingstwallfahrt von Csíksomlyó-Schomlenberg/Siebenbürgen. Eine ungarische Wallfahrt in Rumänien - Religiöse und ethnische Aspekte mit besonderer Berücksichtigung der teilnehmenden Csángó-Ungarn aus der Moldau*. Wien/ Budapest: Grin Verlag, 2001, S.28.

Csíksomlyó

Die Siedlung Csíksomlyó befindet sich etwa zwei Kilometer vom Stadtzentrum Csikszeredas (Miercurea-Ciuc) entfernt, im Kreis Harghita, in Siebenbürgen. Csíksomlyó, auf Rumänisch Șumuleu-Ciuc, auf Deutsch Schomlenberg, ist erst im Jahre 1334 in die Siedlungsverhältnisse des ersten Drittels des 14. Jh. als Ansiedlung erwähnt.¹⁶ „Das Schicksal, über Jahrhunderte hinweg Grenzregion zum osmanischen Reich zu sein, haben dem zwischen der ungarischen Tiefebene und dem Karpatenbogen gelegenen Land eine bewegte Geschichte und eine verschiedenen Ethnien entstammende Bevölkerung beschert.“¹⁷ Dazu gehören vor allem Rumänen, Ungarn – Székeln und Csángós, Siebenbürger Sachsen sowie Roma, Armenier und Juden. Im Gebiet des historischen Siebenbürgens findet die Sprachen- und Völkervielfalt ihre Entsprechung in einer bunten konfessionellen Mischung der römisch-katholischen und der griechisch-orthodoxen Kirche. Die protestantischen Konfessionen finden sich sowohl in der lutheranischen wie auch in der kalvinistischen Ausprägung. Diese ethnische und konfessionelle Vielfalt blieb jedoch nicht ohne Spannungen, die die Geschichte Siebenbürgens nachhaltig geprägt haben. Jedoch war ein Zusammenleben unterschiedlicher Mentalitäten und Kulturen durch gegenseitige Toleranz möglich. Dazu haben die Grenzlage und der über Jahrhunderte andauernde Kampf gegen den gemeinsamen äußeren Feind, die aus der ungarischen Tiefebene hervorbrechenden oder über die Karpatenpässe drängenden Osmanen, beigetragen.¹⁸ Das Erlebnis des gemeinsamen Abwehrkampfes, das Gefühl, dass alle gemeinsam gelitten haben, erwies sich im Laufe der Jahrhunderte als der stärkste Faktor, den die hier lebende Minderheit vereinte. Seit 1920 gehört das bis dahin ungarisch dominierte Siebenbürgen, mit einer kurzen teilweisen Unterbrechung während des Zweiten Weltkriegs unter deutschem Einfluss, zu Rumänien.

¹⁶ Miklós Endes, *Csik- Gyergyó- Kászón-székek (Csik megye) földjének és népének története 1918-ig*, Budapest: Akadémiai Verlag, 1994, S. 25.

¹⁷ Gerhard Kaufmann, *Besuch in Siebenbürgen: Die Pfingstwallfahrt von Schomlenberg*, 1997 [<http://www.riehener-jahrbuch.ch/de/archiv/1990er/1997/zrieche/besuch-in-siebenbuergen-die-pfingstwallfahrt-von-schomlenberg.html>], 02. Dezember 2014.

¹⁸ Gerhard Kaufmann, *Besuch in Siebenbürgen: Die Pfingstwallfahrt von Schomlenberg*, 1997 [<http://www.riehener-jahrbuch.ch/de/archiv/1990er/1997/zrieche/besuch-in-siebenbuergen-die-pfingstwallfahrt-von-schomlenberg.html>], 02. Dezember 2014.

Ein Ereignis, das jährlich inmitten Siebenbürgers stattfindet und sowohl aus religiöser als auch aus geschichtlicher und ethnologischer Hinsicht zum Erinnerungsort wurde, bildet die Pfingstwallfahrt nach Csíksomlyó. Die große Pfingstwallfahrt nach Csíksomlyó findet zwischen dem 10. Mai und dem 13. Juni am Pfingstsonntag statt. Darüber hinaus gibt es noch mehrere Wallfahrten nach Csíksomlyó, wie z.B. die Wallfahrt zur Kirche „Sarlós Boldogasszony“ am 2. Juli, die Wallfahrt an Maria Namen „Mária neve bucsú“ am 12. September. Im Mittelpunkt steht die größte Wallfahrt, die Pfingstwallfahrt.

Der Anlass der Pfingstwallfahrt nach Csíksomlyó ist komplex.¹⁹ Dementsprechend lässt sich die Pfingstwallfahrt nicht als ein einziger Erinnerungsort begreifen. Vielmehr überlagern sich verschiedene Erinnerungsorte, die eine vielschichtige Konstellation ergeben. Das anfängliche, religiöse Hauptanliegen der Wallfahrt wurde im Laufe der Zeit umgedeutet. Der Wallfahrtort entwickelte sich zum größten Treffpunkt ungarischsprachiger Pilger. Bildet sich daraus ein postsäkulares Potential für Europa aus geistiger Tradition oder entwickelt sich hier ein Unruheherd des Protests? In argwöhnischen Augen ist dieses Ereignis ausschließlich als nationale Massenveranstaltung der Ungaren anzusehen, hinter der die religiöse Dimension zurücktritt.

Das verbindende Element von Religion und nationaler Selbstbehauptung stellt die Erinnerung an eine historisch nicht gesicherte Schlacht dar. 1567 rückten Johann Sigismund und sein reformiertes Heer an, um die Szekler der Gebiete Csík, Gyergyó und Kászon zum Glaubenswechsel zu zwingen. Am Pfingstsonntag 1567 unterlag das Heer Sigismunds in der Schlacht an Tolvajos Gipfel (Harghita) den katholischen Szeklern, die sich zur Verteidigung des alten Glaubens erhoben hatten.

Nicht übersehen werden sollte, dass diese konfessionelle Auseinandersetzung innerungarisch zwischen magyarischer Elite und den ländlichen Szeklern ausgetragen wurde. Während der Schlacht blieben die älteren Menschen, Frauen und Kinder im Gnadenort Csíksomlyó beteten für den Sieg ihrer Männer, Väter und Söhne. Nach dem Sieg kehrten die

¹⁹ Clemens Prinz, *Die Pfingstwallfahrt von Csíksomlyó-Scholmenberg/Siebenbürgen. Eine ungarische Wallfahrt in Rumänien - Religiöse und ethnische Aspekte mit besonderer Berücksichtigung der teilnehmenden Csángó-Ungarn aus der Moldau*, Wien/ Budapest: Grin Verlag, 2001, S. 60-62.

Kämpfer zurück nach Csíksomlyó, bedankten sich bei der Jungfrau Maria für ihre Hilfe und versprachen eine jährliche Dankwallfahrt am Pfingstsonntag nach Csíksomlyó. Diese Dankwallfahrt findet nun seit bald 450 Jahren statt.²⁰ Die alte Wallfahrt zur Franziskanerkirche und ihrem Gnadenbild erlebte durch dieses Ereignis eine neue Prägung. Die Volksfrömmigkeit der Pilger macht sich aber nicht nur an diesem politisch-religiösen Ereignis fest, sondern bindet diese Erinnerung ein in die persönlichen Erfahrungen von Gnade und Hilfe, die die Muttergottes ihren gläubigen Kindern in ihren großen und kleinen Alltagsorgen von Not und Krankheit geschenkt hat.

Im Zentrum des Wallfahrtsorts Csíksomlyós steht die Marienverehrung, die sich an einer alten Marienfigur festmacht und weiterzurückreicht als die Wallfahrtstradition.²¹ Die aus Lindenholz geschnitzte, 2,27 m hohe Statue Figur der Jungfrau Maria ist von gleichmäßigen Sonnenstrahlen umgeben; darum bekam die Figur auch den Beinamen „Die Frau in der Sonne“. Unter ihren Füßen liegt den Halbmond, hinter dem Kopf ein Nimbus aus 12 Sternen, auf dem Kopf eine Krone. In der rechten Hand hält Maria ein Zepter, in der linken trägt die Jungfrau ihren Sohn.²² Den Mond, die Sterne und die Sonne haben eine symbolische Bedeutung in der Kultur der Szekler, die die Einheit, Gleichheit, Hoffnung und Glaube repräsentieren. Diese Symbole sind auch die Grundelemente der Flagge der Siebenbürger Szeklern.²³ Auf der rechten Seite der Marienstatue steht König St. Stephan, auf der linken Seite König St. Ladislaus.

Die genauen Daten über ihren Ursprung, sowie über deren Bildhauer sind bis heute nicht vollständig geklärt. Kronstadt und Hermannstadt waren zu dieser Zeit die bekannten Altarbauwerkstätten, die den ganzen siebenbürgischen Landstrich versorgten. Die dort tätigen Altarbaumeister

²⁰ Gerhard Kaufmann, *Besuch in Siebenbürgen: Die Pfingstwallfahrt von Schomlenberg, 1997* [<http://www.riehener-jahrbuch.ch/de/archiv/1990er/1997/zrieche/besuch-in-siebenbuergen-die-pfingstwallfahrt-von-schomlenberg.html>], 02. Dezember 2014.

²¹ *A székelyek győzelmét idézi a csíksomlyói búcsú*, 2009 [http://www.mult-kor.hu/20090530_a_szekelyek_gyozelmet_idezi_a_csiksomlyoi_bucsu], 02. Dezember 2014.

²² Clemens Prinz, *Die Pfingstwallfahrt von Csíksomlyó-Schomlenberg/Siebenbürgen. Eine ungarische Wallfahrt in Rumänien-Religiöse und ethnische Aspekte mit besonderer Berücksichtigung der teilnehmenden Csángó-Ungarn aus der Moldau*, Wien/ Budapest: Grin Verlag, 2001, S. 49.

²³ Die achtsäckigen Sterne repräsentieren die acht von ungarischen Szeklern bewohnten Regionen von Siebenbürgen. Die Mondsichel ist ein Zeichen der Hoffnung, das den religiösen Glaube der Volksgruppe symbolisiert.

lernten in deutschen oder polnischen Werkstätten und kamen nach Siebenbürgen. Die Statue könnte ein Werk der ungarischen Schule von Veit Stoß sein. Die Csángós beanspruchen jedoch den Ursprung für sich und tradieren, dass die Marienstatue aus der Moldauer Hauptstadt Bacău nach Schomlenberg kam. Daher wird in einem Dorf neben Bacău zu Pfingsten eine „Gegenwallfahrt“ zur Schomlenberger Pfingstwallfahrt abgehalten.²⁴

Die Schomlenberger Pfingstwallfahrt erinnert auch an die Anfänge des ersten Kirchenbau 1567, der den Ort als Stätte der Marienverehrung ausbaute. Die Geschichte der Wallfahrt nach Csíksomlyó geht bis 1444 zurück, als Papst IV. Eugen in die Gläubigen auffordert, dem Franziskanerorden beim Kirchenbau zu helfen. Für die abgeschlossene Arbeit versprach er ihnen eine vollständige Wallfahrt.²⁵ Nach mehrjähriger Zusammenarbeit und dank der finanziellen Unterstützung von Johann Sigismund wurde das gotische Franziskanerkloster errichtet. Die türkisch-tatarischen Angriffe zwischen 1658 und 1661 waren ein schwerer Schlag für Siebenbürgen. Viele ungarische Gebiete waren wegen der Angriffe vom Aussterben bedroht. 1661 haben die türkisch-tatarischen Horden Kirche und Kloster niedergebrannt. Nur der Altar des Heiligen Antonius, der unter den franziskanisch geprägten Ungarn besonders verehrt wird, sowie die Marienstatue wurden vor der Zerstörung bewahrt. 1664 wurde um eine Geldsammlung für den Wiederaufbau der Kirche gebeten. Die damals neugebaute Kirche bewies sich am Ende des 18. Jahrhunderts als zu klein, um die großen Pilgerströme zu fassen. Daher hatte man vor, eine ganz neue, größere Kirche zu bauen. 1802 bereitete Konstantin Schmidt, Architekt von Târgu Mureș (Neumarkt), die ersten Pläne für die neue Kirche vor. Die Pläne fand man aber nicht gut genug, deshalb wurde Schmidt nach Ungarn, Polen, Österreich und Deutschland geschickt, um dort die Kirchenarchitektur zu studieren. Nach seiner Heimkehr fertigte er die neuen Pläne der bis heute bestehenden Kirche an. Der größte Teil der inneren Einrichtung wurde von Nicolae Pop ausgeführt. Die Gnadenstatue Mariens ist der Mittelpunkt der Kirche.²⁶

²⁴ Clemens Prinz, *Die Pfingstwallfahrt von Csíksomlyó-Schomlenberg/Siebenbürgen. Eine ungarische Wallfahrt in Rumänien - Religiöse und ethnische Aspekte mit besonderer Berücksichtigung der teilnehmenden Csángó-Ungarn aus der Moldau*, Wien/ Budapest: Grin Verlag, 2001, S. 49-54.

²⁵ Miklós Endes, *Csik- Gyergyó- Kászón-székek (Csík megye) földjének és népének története 1918-ig*, Budapest: Akadémiai Verlag, 1994, S. 25.

²⁶ Emese Pál, *Ferences Templom és Kolostor. Csíksomlyó*, 2013, [<http://lexikon.adatbank.ro/mobil/muemlek.php?id=309>], 07.08.2013.

In der aktuelleren Perspektive der jüngsten Vergangenheit erinnern sich die ungarischen Pilger vor allem an Traumata der Aufteilung der Österreichisch-Ungarischen Monarchie durch dem Vertrag von Trianon, der Siebenbürgen Rumänien zuschlug, sowie an die Periode der Unterdrückung der kommunistischen Herrschaft, die die Wallfahrt verbot.

Die Wallfahrten sind nicht nur spirituelle Ereignisse, sie haben auch eine soziale Funktion. Auch die Wallfahrt von Csíksomlyó war nie nur von religiöser Bedeutung. Sie war immer auch ein soziales Ereignis, die zur Begegnungen und zum Austausch zwischen Gläubigen führte und die jahrhundertlang die Zusammengehörigkeit von Seklern, Gyimeser und Moldawischer Ungaren symbolisierte.²⁷ Heute hat sich die Pfingstwallfahrt nach Csíksomlyó zunehmend zu einem Feiertag der Gesamtungarn entwickelt, unabhängig von Religions- oder Staatenangehörigkeit. Dies lässt sich mit der Erinnerung an verschiedene geschichtliche Ereignisse seit dem Ersten Weltkrieg zu verbinden, die zumindest teilweise erklären können, warum immer mehr vor allem ungarischsprachige Pilger aus allen Ecken Rumäniens, Ungarns, Mitteleuropas und aus Übersee, die nicht alle gläubige Christen sind, nach Csíksomlyó kommen. Der marianische Wallfahrtsort in Siebenbürgen ist zum „nationalen“ ungarischen Wallfahrtsort aufgestiegen.

Die ungarische Reichshälfte der Donaumonarchie wurde durch den Friedensvertrag von Trianon 1920 auf acht europäische Länder (Ungarn, Österreich, Slowenien, Kroatien, Serbien, Rumänien, Ukraine und Slowakei) aufgeteilt. Die geographischen Grenzen trennen zwar die ehemaligen Großungarn, löschten aber die gemeinsame Geschichte nicht aus. Vielmehr führte das gemeinsame Leid zu einem stärkeren Zugehörigkeitsgefühl der in verschiedenen Ländern voneinander getrennten Ungaren. Die Aufteilung des Friedensvertrags von Trianon erklärt, dass heute in Siebenbürgen ca. drei Millionen ungarischsprachige Bürger leben. Von Seiten des rumänischen Staates waren sie mehreren Homogenisierungsmaßnahmen ausgesetzt. Vor allem in den 1980er Jahren zielte Ceaușescu auf eine rasche Rumänisierung der ungarischen und auch der deutschen Minderheit.²⁸

²⁷ Xanthine Csíksomlyói *zárándoklata* [<http://www.rubicon.hu/magyar/oldal/csiksomlyo>], 02 Dezember 2014.

²⁸ Clemens Prinz, *Die Pfingstwallfahrt von Csíksomlyó-Schomlenberg/Siebenbürgen. Eine ungarische Wallfahrt in Rumänien - Religiöse und ethnische Aspekte mit besonderer Berücksichtigung der teilnehmenden Csángó-Ungarn aus der Moldau*, Wien/ Budapest: Grin Verlag, 2001, S. 17-18.

1948 gab es die letzte organisierte Wallfahrt nach Csiksomlyó. Ab 1949 wurden die ungarischen Pilger von den rumänischen Behörden daran gehindert, an der Wallfahrt teilzunehmen. Entweder wurden keine Zugtickets mehr ausgestellt oder es wurden Ausnahmegenehmigungen verlangt. Die Pilger zu Fuß wurden verprügelt, um sie von der Wallfahrt abzuhalten. So kamen während des Kommunismus nur die wirklich überzeugten religiösen Csángós aus der näheren Umgebung. Zu Zeiten des Sozialismus war in Rumänien nicht nur Religiosität ein Diskriminierungsgrund, sondern auch die Zugehörigkeit zur ungarischen Minderheit.

1990 fand sofort die erste große öffentliche und freie Wallfahrt nach der Zeit des Sozialismus statt.²⁹ Obwohl der Kommunismus auf die Beschränkung der Traditions- und Religionsausübung abgezielt hatte, blühte die Wallfahrt sofort nach dem Sturz von Ceaușescu wieder auf. Es pilgerten so viele Menschen nach Csiksomlyó, dass die Kirche für sie nicht genug Plätze lieferte. Daher findet seit dem Ende des Kommunismus die Messe am Pfingstamstag im Freien statt, zwischen Kissomlyó und dem Nagysomlyó Hügel, beim Dreierhügel-Altar (Hármashalom-oltár).³⁰

Nach 1990 konnte an die alten Traditionen der früheren Wallfahrten nicht mehr nahtlos angeknüpft werden. Der Traditionsfaden war soweit abgerissen, dass unterschiedliche oder fehlende Erinnerungen an den traditionellen Ablauf der gesamten Prozession keine authentische Rekonstruktion mehr zuließen. Die Details der Tradition mussten neu erfunden werden. Dabei wurden nicht nur die religiösen Aspekte umgestaltet, sondern die Wallfahrten erhielten auch ein öffentlichkeitswirksames und mediales Gesicht, das es der Gemeinschaft der katholischen Ungarn erlaubt, sich durch die Medien in ganz Rumänien, sogar in der ganzen Welt, zu präsentieren. Dadurch wurde sowohl das katholische als auch ungarische Identitätsbewusstsein gestärkt.³¹ Wenn man am Pfingsten die Frage des Identitätsbewusstseins aufwirft, bekennen sich viele Pilger, die sich sonst primär als rumänische Staatsbürger verstehen, zuerst zu ihrer ungarischen

²⁹ Astrid König, *Rumänien: 5. Rundbrief*, 2010 [<http://www.sofia-blog.de/2010/08/02/rumanien-5-rundbrief-von-astrid-konig>], 02. Dezember 2014.

³⁰ *A székelyek győzelmét idézi a csiksomlyói búcsú*, 2009 [http://www.mult-kor.hu/20090530_a_szekelyek_gyozelmet_idezi_a_csiksomlyoi_bucsu], 2. Dezember 2014.

³¹ Astrid König, *Rumänien: 5. Rundbrief*, 2010 [<http://www.sofia-blog.de/2010/08/02/rumanien-5-rundbrief-von-astrid-konig>], 02. Dezember 2014.

Nationalität. Eine empirische Erhebung von Vergleichsdaten zur Zeit der Wallfahrt und im Alltag könnte hier interessante Ergebnisse liefern.

Das kollektive Gedächtnis über die Folgen des Trianonvertrages sowie der Repression der Minderheiten in der kommunistischen Periode wurden zum Gestalter der nationalen Identität. Die Erinnerung an die gemeinsamen Geschichte hat daher eine so große Bedeutung gewonnen, dass sich zugespitzt formulieren lässt: „The pastness of the past does not exist.“³² Dieses Ereignis trägt dazu bei, die Vergangenheit jährlich wieder aufleben zu lassen. Daneben erfüllt es die Menschen mit Stolz, dass trotz der Dramatik der Geschichte, vor allem trotz der Traumata nach den territorialen Anschlüssen, und der Romanisierungsansprüche der Ceaușescu-Zeit, die ungarische Minderheit fähig war, diesen Ort als Erinnerungsort der Einheit der Ungaren zu erhalten. Lässt sich aus diesem kämpferischen, marianischen Erinnerungsort der Ungarn ein Potential für eine europäische transnationale Identität entwickeln?

Unsere Liebe Frau von Europa

Die Bezüge der Jungfrau Maria zur europäischen Integration sind so vielschichtig wie die zu nationalgeprägten marianischen Erinnerungsorten. Der Sternenkranz auf dem blauen Grund der Europafahne erinnert nicht nur an den marianischen Sternennimbus, er hat auch eine komplexe Entstehungsgeschichte, die einen bewussten marianischen Bezug innerhalb der europäischen Administration nicht ausgeschlossen erscheinen lässt. Doch ist auch unstrittig, dass die Intention der politischen Auftraggeber keine marianischen Bezüge aufweist.³³ Unabhängig von den historischen Ursprüngen lässt sich eine marianische Deutung des Sternenkranzes aber ebenso vertreten, wie einem das Zusammenfallen marianischer Festtage mit europäischen Gründungsdaten zu denken geben kann.³⁴

³² Hue-Tam Ho Tai, „Remembered Realms: Pierre Nora and French National Memory“, in *American Historical Review*, Nr.3, 2001, S. 906-922.

³³ Johannes Nebel, „Die Europaflagge – ein marianisches Symbol? Versuch einer differenzierten Sichtweise“, in Manfred Haucke (Hg.), *Maria Patronin Europas. Geschichtliche Besinnung und Vorschläge für die Zukunft*, Regensburg: Pustet, 2009, S. 172-189.

³⁴ Benno Mikocki, „Maria als Förderin der christlichen Identität Europas – Ein Versuch“, in Manfred Haucke (Hg.), *Maria Patronin Europas. Geschichtliche Besinnung und Vorschläge für die Zukunft*, Regensburg: Pustet, 2009, S. 139-150.

Aus diesem weiten Bogen soll hier als Klammer der nationalen und der europäischen Marienverehrung die Verehrung Mariens als „Unsere liebe Frau von Europa“ herausgegriffen werden. In das oben erwähnten marianischen Netzwerkes europäischer Wallfahrtstätten, dem Csíksmlyó angehört, ist auch die Wallfahrtstätte in Gibraltar eingebunden. Dort wird die Jungfrau Maria als „Unsere Liebe Frau von Europa“ verehrt. Dieses Heiligtum geht auf die spanische Reconquista zurück. Gibraltar als Brücke zum maurischen Nordafrika war von strategischer Relevanz. 710 begann über diese Brücke die maurische Eroberung der iberischen Halbinsel. 1309 vertrieb König Ferdinand IV die Mauren wieder aus Gibraltar. Auch wenn die Reconquista damit noch lange nicht abgeschlossen war, galt Gibraltar doch als symbolisch wie strategisch entscheidende Etappe. Der Legende nach soll Ferdinand deswegen nach der Rückeroberung Gibraltors ganz Europa der Jungfrau Maria geweiht haben. In einer zur Kirche umgewandelten Moschee wurde eine Marienstatue aufgestellt, um dort die Verehrung Mariens als „Unsere liebe Frau von Europa“ pflegen zu können. Die kämpferische Perspektive dieser Marienverehrung blieb aber nicht auf diesem Aspekt des Erinnerungsortes beschränkt. Bereits 1333 fiel Gibraltar zurück unter maurische Herrschaft und konnte erst 1462 wieder befreit werden. Die Statue „Unserer lieben Frau von Europa“, die die fliehenden Christen mitgenommen hatten, kehrte wieder zurück. Damit war der Kampf aber nicht ausgestanden. 1540 wurde Statue und Heiligtum von Piraten verwüstet. 1704 wurde Gibraltar wieder erobert, diesmal von Briten und Holländern. Das Heiligtum wurde verwüstet und die Marienfigur mit abgerissenem Kopf ins Meer geworfen. Sie wurde jedoch geborgen und nach Algeciras gebracht. Die kleine Halbinsel ist noch immer britisch, doch konnte die Statue in ihr Heiligtum zurückkehren.³⁵

Die britische Herrschaft über Gibraltar wird von Spanien als illegitim angesehen und führt zwischen den beiden EU-Mitglieder Großbritannien und Spanien immer wieder zu Spannungen. Johannes Paul II hat aber gerade dieses relativ kleine Heiligtum ausgewählt, um darüber marianische Impulse der Europapolitik zu senden. Zum Festtag des Heiligtums erklärte er den 5. Mai, den Europatag des Europarates. Auch

³⁵ *A Short History of the Shrine* [<http://www.ourladyofeurope.net/page12.html>], 02. Dezember 2014.

krönte er die Statue, die 2002 nach Rom gebracht worden war. Benedikt XVI setzte diese päpstliche Förderung des Wallfahrtsortes fort, indem er ihm die päpstliche Goldene Rose verlieh, ein Zeichen besonderer päpstlicher Wertschätzung eines Wallfahrtsortes.³⁶

Ein Europa in marianischer Perspektive ist offensichtlich kein Europa der süßlichen Harmonie, sondern eines der zu überwindender Gegensätze, die sich aber nie ganz auflösen lassen. Europa bringt aus seiner Geschichte viele Wunden mit, die nicht zur Pflege von Ressentiments erinnert werden, sondern um die eigene Identität, die durch Leid, Kampf und Bewährung geformt wurde, nicht zu vergessen und darüber Sinnstiftung zu erfahren. Aus diesem Selbstbewusstsein kann dann die Kraft zur Vergebung und Versöhnung und zur Gestaltung einer gemeinsamen Zukunft erwachsen. Europa wird durch die Erinnerung dieser Gegensätze nicht auf das Niveau einer ausschließlich ökonomischen Konsumgesellschaft herunter nivelliert, sondern behält seine Stärke, die aus ausgehaltenen und überwundenen Gegensätzen hervorgeht. Die europäischen Nationen erinnern sich ihrer Konfliktgeschichte und nur in dieser unterschiedlichen und gegensätzlichen Erinnerung kann Europa in einer authentischen Form zusammenwachsen. Wenn diese Erinnerung aus unterschiedlichen Perspektiven Maria als Patroninnen aufgreifen, erscheint „Unsere liebe Frau von Europa“ als Brücke, die die verschiedenen europäischen Nationen zusammenbringen kann, ohne sie und ihre Erinnerung in einer gegenwartsfixierten Konsumgesellschaft aufzulösen.

Diese Haltung liegt auch der Wallfahrtstatue „Unserer Lieben Frau von Europa“ zugrunde, die in einem anderen europäischen Grenzort aufgestellt worden ist. Nicht am Meer, sondern hoch oben auf der Serenissima in den italienischen Alpen in der Nähe des Splügenpasses wurde eine große Marienstatue zu Ehren „Unserer lieben Frau von Europa“ errichtet und 1958 von Kardinal Montini, dem späteren Papst Paul VI. (seliggesprochen am 19. Oktober 2014), eingeweiht.³⁷ Die zwanzig Meter hohe, vergoldete Statue steht auf einem Gipfel, an dem die italienische

³⁶ *Our Lady of Europe* [<http://www.ourladyofeurope.net/index.htm>], 02. Dezember 2014.

³⁷ Adolphine-Therese Treiber, "Maria, Schutzfrau Europas, in der marianischen Theologie Bischof Rudolf Grabers", in Manfred Haucke (Hg.), *Maria Patronin Europas. Geschichtliche Besinnung und Vorschläge für die Zukunft*, Regensburg: Pustet, 2009, S. 155.

Sprachgemeinschaft auf die deutsche und die französische Sprachgemeinschaft trifft.³⁸ Hier soll die Patronin Europas die Völker zusammenbringen und Grenzen überwinden, ohne die jeweils eigene Identität zu verwischen.

Diese Bedeutung einer marianischen Gestaltung Europas aus seinen Gegensätzen heraus, lässt sich mit einer letzten, kleinen Wallfahrtstätte, diesmal am westlichen Rand der ehemaligen Donaumonarchie abschließend auf den Punkt bringen. Philippsdorf, heute Filipov, liegt im Sudetenland und galt bis 1918 als österreichisches Lourdes und war nach Mariazell einer der größten Wallfahrtsorte Österreich-Ungarns. Die Wallfahrt geht auf eine Marienerscheinung zurück, bei der die schwerkranke Magdalena Kade 1866 geheilt wurde. Die Muttergottes sprach dabei die Kranke mit den Worten an: „Kind, von jetzt an heilt’s.“ Dieser trostreiche Satz wurde zum Zentrum der Wallfahrtstradition und auch in das Wallfahrtslied des Ortes als Refrain integriert. Das deutsche Lied gab es bald auch in einer tschechischen Version, die aber den Satz Mariens auf Deutsch beließ. Nach der Vertreibung der Deutschen aus dem Sudetenland hielten tschechische Katholiken nicht nur die Wallfahrt aufrecht, sondern behielten auch den deutschen Satz der Muttergottes in der Wallfahrtstradition bei.³⁹ Dieser marianische Satz könnte auch für das in Vielfalt geeinte Europa gelten, das seine konfliktreiche Erinnerung aushält und in eine gemeinsame Zukunft einbringt: „Von jetzt an heilt’s.“

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ELECTION AND POLITICAL EVIL AMBITION IN THE INDONESIA'S REFORMASI ERA

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Abstract

Indonesia's politics in the reformasi era has been far more dynamic compared to previous regime. People have been enjoying the democratic atmosphere as a result of people struggle that change political system from authoritarian. Direct election for political positions (president/vice president, parliament members, and local leaders) have been practiced in a very democratic ways on one hand, but on the hand there is inclination to create people political demoralization due to the justification of any mean to achieve political ends by politicians, government officials and including election organizers. Both people and elites, in short, tend to be trapped by pragmatism politics. These practices and attitudes are contradictive with reformasi struggle values which hope new political system will be used for the better and improvement of social political and state-government management. The late of making consolidated democracy has been always used to explain this phenomena, but actually the low political willingness of the state actors to be toughly consistent in implementing reformasi agenda become a crucial reason. Social economic conditions of many Indonesian, mainly who are poor with their lack political awareness, tend to be exploited by certain political elites to achieve their own interest by disdaining morality and reformasi values.

Keywords: reformasi, election, justification any means, people demoralization.

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Introduction

Since President Soeharto was forced to step down in 1998, Indonesia has entered a reform era (popularly called as '*reformasi*'). Unlike the previous era, notorious for being authoritarian in character, in this new era the door for freedom is widely opened as the manifestation of the people's will in enjoying the democratic atmosphere is accommodated through the change of the constitution. The State's officials, mainly the legislators (from local-regional up to national level), and the executive leaders (president/vice president, governors, district heads and mayors) are no longer promoted or appointed as formerly done in the authoritarian era, but instead are directly elected by the people every five years. However, in this open era, which has been experiencing in 16 years, the democratic practices don't seem to get better, in that they turn to deteriorate and even tend to create demoralization at people's level. Or, at a certain level, the democracy is still made as a vehicle to satisfy the elites' interests, in which the parties competing in the election tend to make use any way in order to achieve their targets such as through political money. Every election in this *reformasi*, starting from the election for Legislators (House of Representatives (DPR), Regional Representative Council (DPD), and Provincial and district Legislative Council (DPRD), district heads (abbreviated in Bahasa as '*pemilukada*') up to the election for president and vice president have been always filled with tension and conflicts along with a great variety of victims. The deviation has been customarily done by the election committees and/or the election contestants (including the conspiracy between both parties) and the abuse of power by relevant administrators.

The district heads, for example, freely mobilize or dictate their subordinates (lower level officials) to vote for certain political parties, running candidates or figures based on their will. If known to disobey the head of district instruction (who is from political state official), the subordinates will suffer from administrative sanctions such as they will lose their position, or transferred, and alike. What's worse is that such things keep happening and the authorities keep allowing them to take place, which make the society assume that they are part of the political culture. These kind of practices are what I call as "political evil ambition in general election" in the Indonesia's *reformasi* era.

These practices are correspondent to the change of political system which is not consolidated yet, amidst the increasing number of parties who have the interests on the running contestants who (if elected) are going to be the decision makers or local/national authorities. Hence, it is not surprising if they justify any means to win the battle – a political evil which is unhealthy for the development of society's morality. Let alone, if this deviation of practice is taken for granted, in that the country's administrators keep allowing it to occur. Indonesian society's being paternalistic in character has become the reason for this, in that elites are regarded as patrons whose thoughts and behaviors become their role models or references. This phenomenal inclination is indeed ironical because: (1) the Indonesian society and the country as stated in the constitution highly respect religious values and (2) the reformasi agenda is basically directing all nation's elements to get back on the right track based on the religious values and laws, rejecting or leaving behind all disrespectful practices, such as those that ever lasted for 32 years during presidents Soeharto's regime.

This paper tries to describe various forms of deviation, which tend to be taken for granted, in administering general elections in the reform era. The conspicuous cases in the process of elections for legislators, district heads, and also president and vice president will be important parts of the subject matter to be analytically described. The data and information used are based on the news collected from mass media, both printed and on-line, within which I don't only observe but also get directly involved in. I analyze those events using interpretative-phenomenological approach leading to rational subjective construction on the socio-political tendency in Indonesia.

Various Ways in Hunting For Power, Filed Facts

Based on the field facts, from one to another elections in this reformasi era (election for legislators, president-vice president and regional/district heads), election contestants do various ways to get voters support, or to show to the public as if they get vote support from the people. To certain level, these attempts are regarded as normal but sometimes they have brought negative effects both directly and indirectly, including moral destruction on the people and related parties. All of these things are inseparable parts of the efforts of battling for a political-official seat and power at the country level

both national and local level. Below are a number of causes of conflicts including physical fights between supporters of the contestants happening in the processes of election.

1. **The Mass Mobilization, People Being The Victims**

The election contestants conduct the open campaign to show the strength of their supporting mass, the way of which is done through mass mobilization. The more mass attending the open campaign, the higher the satisfaction degree the contestants get. Behind all this, however, the contestants have to spend much money for the food, and transport fare of the mass attending the campaign, usually amounted to Rp. 50.000 (equal to 5 US dollars) even per person, as not all of them do it on the voluntary basis. In relation to this, there are three categories of mass attending the open campaign. *First*, ideological mass, who are fanatic supporters of a political party or the running candidates or contestants of the election.

The number of this category of mass is relatively small but they are very short-tempered and will be reactive when offended even though for trivial matters. It is not surprising, therefore, for these mass to be involved in fights if there is a certain trigger. *Second*, paid mass, who have been always mobilized by a kind of mass mobilization agents. This group of mass are not fanatic to the contestants as they are mobilized for a certain pragmatic interest but can turn to be brutal and create chaos when they are not satisfied with the payment as promised. And, *third*, *bandwagon* mass, who are attending the campaign not for the first two reasons but for interesting music, attractive artists or different kinds of entertainment for examples. They are generally unpaid by the contestants as they come on their own initiative for temporarily recreation atmosphere. When chaos or fights take place, however, they tend to be merely the unfortunall victims.

Based on the formal data issued by the government in regard of the physical fights occurring, the number of victims or casualties caused by the conflicts during the elections for district heads (popularly as 'pemilukada') in the reformasi era is quite significant, in that the

number of people died has reached 50, excluding the injured caused by physical fights between supporters and other material loss including the destruction of the public facilities (vandalism). The pemilukada conflict in Luwu district, South Celebes, in early April, 2013, which later brought impact on 'the street blocking on the Celebes lane' (though only temporarily done) disturbed the public service along with the flow of products and services for the people in that island. All of these are parts of the uncontrolled emotion of the mass triggered by several factors.

2. The Exploitation of The Authorities And Local Bureaucracy

Often, the political officials and the controlled lower level bureaucracy are not neutral in the campaigns and this usually happens in the local-regional bureaucracy level. If this also happens in the national government level, it can only be read in a discourse level through mass media news. In the local-regionals, the atmosphere is felt indeed, in which the districts heads endorsed by political parties have been first in favor of, in their own various ways, the contestants or political parties that have become parts of their political vehicle. What's worse is that, as previously mentioned, the bureaucracy is under political parties' control, in which the bureaucracy officials and their subordinates are openly or secretly asked to work for the triumph of certain political parties or figures. This means that the districts, the officials of whom are endorsed by political parties have shown unfairness in political competition.

That kind of tendency is directly known by local society, mainly and most sensitively by political parties or contestants whose political vehicle is different from that of the local authority. The "unhealthy and resistance-colored" relationship between the bureaucracy officials and their subordinates politically directed by their superiors' political interests make the political parties and their supporters rage and feel offended. This conflict potential in turn can sometimes be so suddenly manifested that casualties and loss of materials are inevitable.

3. Negative and Smear Campaign

The election contestants, through their actors, often attack their opponents using tendentious words or sentences, starting from the political party's policies, the concepts that was being offered, up to personal matters of the actors involved. In this 2014 presidential election, for instance, black campaign movement is vigorously done by a party suspected to have come from one of the running candidate side, by publishing a special tabloid (named 'Tabloid Obor Rakyat'¹), the contents of which are filled with news cornering the opponent. This is certainly not merely a black campaign but is already categorized as a *smear campaign*.

What's worse is that, again the lay people become the victims, whereas the elites spreading the *negative words* are irresponsible and hard to be touched. This phenomenon is a part of the political immaturity of the elites in this country. Even, at a certain level, it did not only happen among political parties (in legislative election) but also within a party itself. It even gets worse at local level, in that the slices and contiguity among legislative candidates are very thick or thin: on family, friendship, kinship and space based community. The society as constituents, are without realization carried away emotionally based on those slices related to the emotional relationship between the legislative candidate figures and their supporters.

What I am trying to say here is that the political elites are misguided in playing their political roles. They often show violent politics, in that the competition (contest) is regarded as "boxers on the ring". As a matter of fact, the politicians may differ in their ideologies, political parties or missions, but may not display violent situation to the society. Such a thing actually becomes backfire for immature politicians, or their being elected will bring negative impact on the people, country and nation.

¹ 'Obor Rakyat' was a temporary printed tabloid that's suspected as was special printed to make a negative campaign for Joko Widodo in one hand, and political positively promoting Prabowo Subianto during the presidential election campaign process. Joko Widodo and Prabowo Sunianto were two figures running for the Indonesian president candidates in 2014 presidential election (they were competing each other). Obor Rakyat, in that context, although it was not admitted, seems to be in the Prabowo's side. But Joko Widodo is still getting fortune because he becomes the winner as the Indonesian President for 2014-2019.

The politicians fundamentally should display themselves beautifully to the public by showing their various programs and strengths, as an elegant behavior and culture. They are basically “marketing themselves to be bought by the people”. Those considered decent or proper by the people are the ones who will be elected. The politicians should not display “subjective superiority”, but instead ensure themselves as decent and proper actors representing or leading the people.

4. The Non-Neutrality of The Election Organizers

The election committee and administrators, starting from *KPU (Komisi Pemilihan Umum* or Elections Commission) up to the TPS (Polling Station Committees) are often perceived as “to side with” certain contestants (both political parties and figures). A number of field facts show the truth of the perception. In the legislative election 2009, the siding proof is even considered as a problem of the Constitutional Court (MK) and took the case to the police department of the republic of indonesia. The election administrators sometimes get direction and/or are internally directed to escort “the winning and vote security” of certain candidates until the engineering of the gained votes. The vote calculation and recapitulation are vulnerably engineered by certain contestants in collaboration with the election committee administrators and are strengthened by local authorities siding the contestants. In this context, the term “winning or triumph and vote security” must be paid special attention as it is related to the fate of certain contestants and again Indonesian pragmatism politics, the security of the position can be gained by justifying all means. In other words, certain contestants who actually won the election votes can risk losing them as “ they are unsecured “, whis is caused by: (1) the inability of the contestants in approaching the election commisioners (including the administrators) and (2) the play made by other contestants who can change the number of votes by justifying all means. This kind of vulnerability potency in legislative context, of corse does not only occur among political parties but also among candidates in the same political party. There are at least three factors driving the the election administrators to be trapped

in the uneutrality. **First**, There is a certain political commitment with the party persons (through parliament) who giving them the mandate, started from the election of eneral elections commissioners. The actors administring the election feel to have “debt of gratitude” to certain political parties or figures regarded of being in favor of their being elected. **Second**, the presence of an offer considered to be pragmatically and subjectively beneficial from the contestants, not to mention if they are from the ruling regime. The offers can be in the form of: (1) a promise of a public political position after the election² and (2) a certain material offer, part of money politics. And **third**, related to local authority. The election committee in the district of course have financial and/or other facilities from local authority, which in turn trap them in a political interest or the efforts of making the local authority win the election.

5. The Involvement of Mass Media In Supporting The Contestants

This phenomenon is very conspicuous from one to another election, especially at national level in regard with the legislative and presidential elections. The most striking which is then known by the people is that mass media group is associated with certain contestants. The support map results from the fact that the media owner owns a political party or sides with certain poltical party(s), which directly makes the advertisement and news broadcast of the media are more frequently focused on the interests of the political party that he/she supports. This map is clearly seen both in the legislative and presidential election of this year,2014.

² The case in which two KPU members, namely Anas Urbaningrum (KPU member in 2003-2008 period) and Andi Nurpati (KPU member in 2008-2013 period) joined PD (Democratic Party) at two different election periods , is mostly suspected to be part of the political conspiracy. The Democrat Party as the ruling political party under the strong control of Susilo Bambang Yudhoyono, also as the President of the Republic of Indonesia in 2004-2009 and 2009-2014 periods, perhaps used ‘the expertise of these two KPU members’ for his political party’s interest in trying to win the election both at the national and local levels. Anas Urbaningrum later was elected to be the Chairman of the Democratic Party, even though was then forced to step down due to his being involved in the corruption case of Hambalang Sport Center project. He is now at the KPK’s custody (convict).

At the legislative election of 2014 (April 9)³, for instance, with 12 participants, Metro TV and its group clearly promoted NASDEN Party (Partai Nasional Demokrat or Democrat Nationalist Party), because the founder and owner of this political party is Surya Paloh, who is also the owner of Metro TV group. The result is very significant as it comes to the 8th rank from 10 political parties in the parliament (DPR/the House of Representatives) entering the Parliamentary Threshold, in spite of its being newly established on July 26, 2011. TVONE and its group, to which the owner of whom is Aburizal Bakrie, the head of Golkar Party, vigorously campaigned for Golkar party, whereas MNC group openly campaigned Hanura Party-including prospective presidential candidates namely, Wiranto/Haritanoe Sudibio, because the owner of this group is Haritanoe Sudibio. The other political parties such as PKB, PAN, GERINDRA, PDIP, PPP, PKS, PBB, PD, and PKPI, whose officials own none of the mass media campaigned normally based on their financial strength to pay their advertisements on mass media.

In the presidential election, there was a shift in media support, the direction of which was only divided into two groups due to the KPU's determining only two presidential candidates running for the election. TVONE group and MNC group intensively supported Prabowo Subianto-Hatta Rajasa because Golkar Party (Aburizal Bakrie) and Haritanoe Sudibio (individual support, as he formerly joined Hanura Party) supported the couple endorsed by GERINDRA, PAN, PPP, PKS, GOLKAR, PBB, and (supported afterwards by) PD.

Whereas the couple Joko Widodo-Jusuf Kalla gained support from Metro TV group along with Jawa Pos group after Dahlan Iskan, the BUMN (state-owned companies) minister and Jawa Pos group owner came in. Jawa Pos group is a media business group whose network widely spreads throughout Indonesia with local print media including cable TVs.

³ The twelve political parties participating in the April 9 legislative election of 2014 are: the National Democratic Party (Nasdem), the National Awakening Party (PKB), the Golkar Party, the United Development Party (PPP), People's Conscience Party (Hanura), National Mandate Party (PAN), Prosperous Justice Party (PKS), Crescent and Star Party (PBB), Indonesian Justice and Unity Party (PKPI), Democratic Party (PD), Indonesian Democratic Party – Struggle (PDI-P) and Great Indonesia Movement Party (GERINDRA).

The involvement of mass media openly siding with certain contestants in political contest is widely known by the society, who are also then picky in choosing what to read and watch. The worst, however, is that the mass media involvement, to some extent, does not give the right political education to the citizens, in which the information presented is sometimes not only subjective but also leads to negative or smear campaign towards the opponent. TVONE, for example, ever released news stating that a number of PDIP cadres are contaminated by PKI (Indonesian Communist Party) which made the provoked PDIP cadres and its symphatizers, who could not bear the smear, crowded TVONE Stations and sealed them anarchically – even though they can operate again afterwards.

6. Money Politics

Money politics has become a trend itself in every election in Indonesia. At the same time, this shows a proof that Indonesian politics in the reform era becomes very expensive, which belongs more to the haves or the wealths. This money politics is done both directly and indirectly. Based on ICW (Indonesian Corruption Watch) research results, 2004, the direct modus is done through : direct money distribution (50,87%), social activities and daily needs distribution (18,42%), infrastructure development (7,89%), religious activities (7,01%), gift rewarding (7,89%), and others (7,93%). Whereas the indirect one is done through special relations done prior to the commencement of the election processes, in that the contestants have first planted services to the constituents. This *indirect vote buying* might be more money-consuming than the operational cost spent during the election processes.

“*Serangan fajar*” (dawn attack) and “*serangan dhuha*” (dhuha attack) are two terms widely known by both voters and election contestants in Indonesia. “*Serangan fajar*” is a secret visit done early in the morning (dawn) to voters’ vertices, where groups of people have been expecting for material distribution. The term ‘*serangan dhuha*’ is an operational movement to distribute money and daily needs in the morning before the residents head for TPS (polling stations). The method used by the

contestants is (usually using the third party) directly visiting prospective voters at their houses, hangout points, and/or on the way to the polling stations (TPS); while secretly offering or giving some money or daily needs with the expectation that these people will vote for the contestants. The actors in local level are or might be from local authorities or bureaucrats siding with the think tank of the election participants. The bureaucrats usually use more persuasive-intimidative approaches and also interfere the election organizers (at TPS or polling stations, PPS in the village, PPK in subdistrict and even KPU in the district). The problem is that the special election organizers' line starting from TPS (polling stations), PPS (*polling stations coordinator – village level*) dan PPK (*subdistrict election committee – sub district level*) are partly government apparatus, both civil servants and non structural apparatus at RW and RT levels. Even, violence-flavored intimidation can frequently be done if there are people in their line or wagon, from both politicians and bureaucrats, who have thugs' character.

This practice of money politics gets higher in degree to influence the voters in Indonesia. The people seem to be more tempted with instant material or money offered by the election contestants without realizing that their rights and votes have been exchanged or pawned with money, and don't want to know that the money givers, if elected later, can misuse his/her position or power by doing corruption to get a return of the political cost he/she has spent.

The evidence showing that money politics is getting more accepted is shown among others by the results of LSN (National Survey Institution) survey stating that the number of citizens refusing money politics has declined from 60% in 2009 election to only around 30% in 2014 election. This means that voting citizens in Indonesia are morally degrading, in that they allow a deviation practice in politics or that they are getting more pragmatic. Some religious leaders start to have been seemingly carried away by the influence of money politics and this among others is stated by KH Idris Marzuki, a leader of Islamic Boarding School from Lirboyo, East Java, who allegedly allows money politics (Tempo, March 3, 2009). What is worse is that Prabowo Subianto, a presidential candidate in 2014, at several occasions during his campaign openly encouraged the citizens to 'accept the money given by the contestants' –

an anomaly or awkwardness in which a prospective head of the country even encouraged his citizens to undergo a pragmatic politics by exchanging their votes with money.

The political cost spent by the the couples of president/vice president and district head candidates is of course much bigger than that spent by the legislative candidates or individuals (including the member candidate for the Regional Representatives Council of the Republic of Indonesia/DPD RI), let alone for those executive leader candidates who are not political party officials. The problem is that (except for those owning a political party and have fulfilled the requirements to be the candidate couples), especially those who still need a political vehicle or try to fulfill the requirements to be able to run as the candidates, will have to spend much because being confirmed as formal candidates itself is not free of charge. Based on the prevailing regulation, the candidates for district heads must have the support of at least 15% of the number of chairs in DPRD (district Legislative Council) at its own level, or 15% of the total number of population in their voting administrative district for those who would like to run as independent candidates, whereas the president/vice president candidates are required to obtain the political party chair support of the endorsing political parties at least 20% of the total chairs in the House of Representatives (DPR), or at least 25% the total votes in the legislative election. To get the early required support itself is not easy, in that the candidates must do the cross-political elite lobbying which is entirely in the form of transaction or political exchange. The measurement is definitely money. The sacrifice the executive leader candidates, therefore, is surely very expensive and it can be estimated that if they are later elected, they will absolutely search for compensation.

7. The Disputed Election Results

The general election administrations in Indonesia in the *reformasi* era are indeed different from those done in president Soeharto's regime. One of the most conspicuous differences is the presence of a lawsuit to the election results, which legally gains its space in MK (Constitutional Court). From 2008 to 2013, MK had received 737 cases of pemilukada

(district head election) disputes. However, only 55 cases were granted. The rest were rejected, or unaccepted, or withdrawn by the plaintiffs, and also considered deciduous. The existence of an institution which makes a final decision on *pemilukada* dispute has also \made a number of politicians, the district head candidates, apply money politics in a more sophisticated way with large amount of money, which also seems to be tempting for some judges of Constitutional Court to trade their decisions to the power hungry politicians. The real and sensational proof is the catch-handed of Akil Muhtar (The Chairman of the Constitutional Court/MK) by KPK (the Corruption Eradication Commission) when he received some amount of money from a political broker expecting him to side with certain district head candidate. Akil Muhtar's being arrested has also revealed some briberies ever done by a number of district heads to him. At present, the former head of MK is in jail along with some people who bribed him, while some others are still undergoing investigation process.

MK is the product of the *reformasi*, one of whose mandates is to handle the disputes of the election results. Its main task is do a judicial review on a law, whether or not it is suitable with the constitution, based on the request of the injured party. Since *pemilukada* was directly administered, the disputes had also been handled by MK, but later through its decision on May 19, 2014, MK handed over the responsibility of handling *pemilukada* disputes to MA (the Supreme Court of the Republic of Indonesia). MK has also dealt with a number of disputes related to three legislative elections in the reform era which has shown an increasing trend. In 2004 election, MK received 273 lawsuits from the contestants (political parties and legislative candidates), 41 of which were granted. In 2009 election, the number rose to 828 cases, and only 70 were granted, whereas in 2014 legislative election, the number of lawsuits received by MK was 903, only 23 of which were granted.

On one hand, the big number of political dispute cases claimed to be finally decided by MK indicates the society's awareness to solve a political problem through law administration line, but on the other hand, it shows that there is something wrong in the election administrations in Indonesia. Money politics, the non-neutrality of election organization,

and various deviation cases in election administration processes as mentioned above are proven with the the fact that lots of dispute cases ended up at the Constitutional Court (MK). It is worth noting, and this is also admitted by MK judges , that the decision to reject or return the suit request doesn't indicate that there was no election deviation practice in the filed but it is more due to the limited data and number of witness presented by the plaintiffs , and therefore cannot cancel or abort KPU's decision.

8. Political Corruption

High political election cost processes seem to have directly influenced the elected authorities' behaviours to corrupt or abuse his/her power and position. The election disputes solved in MK not only indicate that there are problems in regard with the election administrations but also show that the contestants are not ready to lose in the competition as they have spent much in the election processes, starting from the preparation, facing the campaign period and the campaign itself.

Hence, it is not surprising to know the fact that there was one district head suffering from mental disorder after failing the election. This is experienced by Yuli Nursanto, a Bojonegoro district head candidate in 2008 who suffered from mental disorder and ever walked throughout his village nakedly. Or, in the cases of the legislative candidates in April 9, 2014 election, in which three legislative candidates who failed to get enough votes to become DPRD members in Tebo District (Jambi province) suffered from mental illness due to acute stress and had to be hospitalized in the local lunatic asylum. Also, Similar cases were reported to have been found in other districts.

Many of the politicians who achieved their goals, namely elected through the election, were later involved in legal cases because of position abuse. Formal data show that, ranging from 2005 to 2013, 314 district heads involved in corruption cases (the total number of regency/municipal, and province heads in Indonesia is 530). Some of them are already in jail and some others are still legally processed.

Also, in this *reformasi* era, a number of House of Representatives (DPR) members and political party officials were involved in legal cases since they were proven to have corrupted and become the country's budget mafias, in that some of them were put in jail, some are still in jail, and some others are being investigated as suspects and/or witnesses by the investigators. In the year 2011, for example, 11 DPR members were imprisoned because of corruption cases, 24 DPR members were also sent to jail in the year 2012, and 9 DPR members became corruption suspects. Similarly, a number of ministers were involved in corruption, some of whom were already sent to jail and some others have become the suspects and witnesses in KPK. Many people conclude that the corruptive behaviour or power abuse are considered as part of the impact of the high cost election processes

Theoretical Discussion

Sociologically, there are at least four main trends on political crime phenomena which happened during election times, including within the governance Indonesia's *reformasi* era.

First of them is regarding the democratic transition and political violence. Political systems change from authoritarian regime into reform regime has caused psycho-political shock in people. If in the New Order (Orba) era leaders' and people's representatives' elections were always decided by a group of elite (President/Vice President by the People's Consultative assembly or MPR, Governor/Mayor by Regional/Local Council or DPRD members, and the members of House of Representatives (DPR) elected through political parties, where people only elected political parties). In the *reformasi* era, especially since the 2004 Presidential Election was conducted through direct vote, which was followed by regional leaders' election (*pemilukada*) – also through direct vote since 2006. Whereas in the New Order era (Seharto leadership) political parties were only three and even those were already under the control of the authoritarian power, in the *reformasi* era were in the system of multiple parties – regardless of the blurred ideological boundaries.

Such systems change and political atmosphere seems to yet be accompanied with consolidation agenda on solid regulatory framework of democracy. Political elites are occupied with their own self-interests to

'survive', be it as individuals or as political parties. The political elites' orientations trends also seem to, be it realized or not, have 'trapped' the President or other the State Officials, since they too are parts of political beings fighting for their own subjective group interests. On the other hand law enforcers are no more than guardians of various policies, which are products of all such interests-driven politics. Thus, in effect, various electoral regulations, some of which are supposed to be anticipative in their nature towards misuse possibilities and/or conflicts which are prone to instability; seem to have yet to be presented. Or, in other words, due to such inadequacy of regulations, socio-political instability, which is an expression of the fighting elites' political desires fulfillment, within which is making election organizers as parts of the political game, is still unavoidable.

It is such political trend which drives people involved or emotionally driven, which takes form of conflict in its various forms. Violence in political processes hence occur a number of times, whether in the form of dissatisfaction towards acts or policies of State officers or as a form of coercion to others. Be reminded that Indonesia's democracy, admitted or not, is imported from other democratic nations and Indonesians only have been practicing it after President Soeharto was forcefully overthrown, which even involved clashes between the people and security forces of the power. Therefore, in the context of political violence in Indonesia in post-reform era, it seems to align with what John Schwarzmantel stated: *"the imposition of democracy or its construction 'from outside' is in deep tension with democratic idea itself. Much of the violence in contemporary politics stems from its paradoxal association with the democratic idea. Violence and democracy and intertwined since some liberal democratic state use violence and war in order to overthrow authoritarian regimes and install democracy. The violence resistance stimulated by such such democracy-building projects....."*⁴

The history of regime change in Indonesia from President Soekarno (the Old Order era) to Soeharto (the New Order –authoritarian regime) and from the New Order to the *reformasi* (democracy) era have always been marked with violence.

⁴ John Schwarzmantel, *Democracy and Political Violence*, Edinburgh University Press, pp.129-130.

As a new system which as imported from outside, it actually needs perseverance to well-develop it, including by learning from the experience of other countries which have already been practicing it. But apparently even after more than 16 years that we are in the democracy era, not all relevant democracy-related regulations, especially relating to the election organizing, amongst politicians and election organizers, part of who still have a-Pancasila-ist morality. Thus, as long as such democracy consolidation focusing on the two aspects of regulations and related actors have not been finalized, it is also that far that domestic conflict or socio-political instability will keep (re)occurring.

Secondly is maturity in politics. There are at least two main phenomena regarding political immaturity in some of the nation's elites, which also drives towards instability. They are namely: (1) unwillingness to accept loss in election. The fighting and (who then) lost party's elite's emotion or political move, be it realized or not –intentional or not, sometimes drives the supporting mass (or traps the mass' mindset) to react towards disobedience to rules and may form some violence. The patronizing attitude of Indonesian people, in this context, has been misused by the political elites to satisfy their political desires. And (2) low neutrality level of officials and bureaucrats. The officials on bureaucracy level seem to make the political officials as their patrons in power, therefore with various ways transgressing from professional bureaucracy principles. As a result, the bureaucracy officials and others of their ranks are driven along the political interests of the power, getting involved in supporting, as though becoming the shield for certain political mission. Such condition then forces a fight-back reaction from some elites and also some of the people; hence once again instability is unavoidable. It is given that a serious dilemma exists amongst bureaucracy officials, since their fate depends on the politics officials in power.

Such phenomena are related to the officials in power's and politicians' attitudes. Their power, be it realized or not, has been misused to destroy democracy values, by forcing their will on one part, and committing misuse towards rules and values by taking shelter under the power in hand. The officials who have been misusing their power this way actually has positioned the people or parties outside them as though not having the right to question the job they are handling. Such condition, refer to Pinkney

(1993, p.65), is undemocrated behavior facilitated by elected politician. They only bow down to the subjective interests with pragmatic orientation, including bowing down to the officials' interests in power.

Thirdly is political perception, power and positions which are regarded as decisive of everything. Until now, people have been inclined to perceive politics in two contradicting sides. *First side*, politics is seen as something bad, moreover if added with the corrupt behavior of its actors or elites, deviant and its look-alikes, including various Machiavellistic ways. Thus, people within whose selves good values are still attached strongly according to religious or inherited cultures (*best legacy-natural wisdom*), are fighting back against the politicians along with the follower gangs, which causes instability. Or, at the same time, between the political elites with each of their own supporters having friction or clash, started by propaganda on public level up to "field" level.

Such perceptual inclination and political attitudes of the people can be theoretically linked and thus called as the consequence that our political world is dominated by pragmatism. To obtain power, in this perspective, politicians do it with various ways; legalizing any way. Politicians with such perspective apparently are also able to drive or influence some people. This is although generally our people culturally have value standard of good and bad. Thus, once again, political instability facing the election basically is a part of cultural class amongst people: between moralists and pragmatists.

The problem then is, when political battles are won by the pragmatic political faction, then either or all of law products or attitudes or political culture will also follow. Political leaders, the government officials or even the bureaucracy (along with even at the certain levels as well as the security forces and law enforcement bodies including judicial institutions) are recruited with pragmatism values by itself will also drive people or the supporters. In the context of Indonesia, whose people are paternalistic, such inclination clearly has negative effect. At least the people would be split and/or will experience a shock or be on a crossroad. Such pressure and conflict all the time are prone to manifest in form of horizontal or vertical social clash, which are clear in the processes facing and after the election.

This is where it is necessary to make present political parties with good actors or politicians. Moreover in Indonesia, political parties have justified themselves (supported by related legislations) as source of recruitment of the nation's leaders. This is although in the view of **Chinese well-known philosopher Confucius**: "*the moral character of leader is wind. The moral character of people who beneath is grass. When the wind blows, grass bend.*" Or, Confucius continues, "*if your desire is for good, people will be good.*" This, in my perspective, is 'homework' or is supposed to be an agenda for all political parties in the nation.

The second side, people perceive political officials and also political parties as the decision makers of all things. Determining the nation's leaders, controlling the State's policies through people placed to control bureaucracy – as well as controlling various projects, even (once again) to control security forces and judiciaries and to become officials from political parties (e.g. Regional-Local and National Parliament Members or even Ministers) can be literally financially enriching. This is why many people are fanatical towards political parties' decision makers or towards party as an institution.

Business people are leaning to, getting close, or even providing financial or material supports to some politicians, the controlling political party or that/those predicted to be in power in the near future, including donating financially, as has been proven in some of the past corruption cases, and will be in process legally by the *KPK (Komisi Pemberantasan Korupsi* or Corruption Eradication Commission). The bureaucrats also have, on one side supports (by moving their subordinates) to support certain political parties whose people are the existing high ranking officials – even more so in autonomous regions; and on another side rejecting other parties that are not in power. Some of the people also become trapped this way, even more so in a society with patronizing characteristics as described above. In this context, fanaticism level of supports will be regarded as contribution which will bring about compensation in form of official position, or certain projects (including *good will* of the political party based officials) which can make life financially well off.

Such phenomena inclination, in the view of Doran Acemoglu and James A Robinson (2013) is called 'extractive political institution'; controlling

resources from the economy sectors, bureaucracy and people. And when each fights for the resources through political positions via elections, then the frictions would be hard, heated with high tension. Such is because the chance to be in power or obtain such positions only exists once in five years, that various ways and resources are utilized, including within them has manipulative character. In such situation, be it realized or not, people are provoked by the political elites they support, and conflict is again unavoidable.

Fourth, political world and political positions are regarded not merely 'exclusive' positions in the State level and amongst the people, but also as a way to obtain material fortunes. This has also influenced people's perception which has also been material oriented; hence all things are regarded to be determined by money. Political world and political positions in the end tend to be dominated by those with capital, gaining votes from the people through transactional processes. Thus the new patronizing type is created: that 'people support rich political officials'. And while continuously supplying materials to people in their electing regions (both in times of campaign processes or after being elected), then such individual has the chance of being elected. People do not care about the source of such money. Religious, education, cultural public figures and/or figures from other strategic groups, experience relative downturn of influence compared to politicians or officials with money. Or, such public figures would only become political instrument of politicians, while also getting money as commissions for such political works in helping the election winning of such related political officials. Such phenomena of 'legalizing money politics' by a religious leader in Lirboyo, East Java, as has been described above, is a proof of influence of money which has entered the minds of some public figures.

For regional leaders (e.g. governors, mayors), keeping their political positions for the second period is not difficult. This is because, besides already regarded as a main influential figure, such person also with ease can direct all resources within their hands to then be elected for the second time (the position of a region leader is limited only twice). Even if such figure loses in the regional election, then the chance to gain winning through the fight in the Constitutional Court or *MK (Mahkamah Konstitusi)* -- which then would be directed to the Supreme Court, is still open, since the money politics transaction can still influence some key judges of such case. Thus,

to gain or keep political positions, everything is regarded to depend on the amount and ways transactions. On the other hand, while assuming such political positions, heads of regions every effectively utilize their powers to not only return political costs that have been used, but also to increase their wealth. Such big power on region heads in controlling bureaucracy and regional budgets makes it easy to commit various ways to regain *kick back fee* from projects that are managed by their subordinates and people, including by involving their client business people to run the projects in their regions. All those are not yet including the various policies or *good will* related to business of his relations, which are also not free from bribery.

Such corrupt attitudes of some parliament members and cabinet members who are proven through their legal cases, also are a reflection that political positions literally are used to gain personal or group wealth, where the State's money (which is in fact the people's money and rights) become the object of manipulation. Maybe this is also related to the relations between elected political officials or with strategic positions with political parties for example, where on the one hand having the duty of enlarging the size of their political parties, on another side political parties must also be run with money while the parties' sources of income are unstable since generally only depend on limited donations of some of their members with political positions. As a result, such political officials use all ways to gain money with the purpose besides for themselves, also for their political parties.

This trend impresses us on the theme "Kleptocratic State": a form of political and government corruption where the government exists to increase the personal wealth and political power of its officials and the ruling class at the expense of the wider population, often with pretense of honest service (see *Wikipedia*). This type of government corruption is often achieved by the embezzlement of state funds. Such trend is undeniable, although for its justification it is yet to be studied. But what is for sure is that the high political costs amongst people who have been trapped inside pragmatism of trades of votes during elections, is a beginning of bad political behavior of officials and other state officers in Indonesia.

Concluding Remarks

Election is the most important instrument in the running of democracy where people as individuals use their rights to determine actors running the country. The people of Indonesia in their four times election in post-reform era have relatively been experiencing such practice of democracy, being involved in voting their heads of government from heads of regions, president, as well as parliament members on the national level (DPR) and regional (DPRD) levels and the Regional Representative Council (DPD). But in such election processes, it is also apparent that not every aspect has given the lesson of the substantive value within them, which is the fair process and the generation of State officials who are 'clean' and responsible to the betterment of governance. It has been the opposite, what happens has been process of destroying the values of sincerity, honesty and goodness which have been the cultural inheritance of the people, where the actors involved include some politicians, State officials, and the Election Committees themselves. In such context, deviant actions committed by the election organizers, physical violence that happen through political evil-whispers, verbal violence committed by some politicians in forms of negative campaign and slanders (smear), money politics practices and so on, may become a potential bad picture of democracy practices and may even be regarded as something common.

Financial power seems to still be a deciding factor in the democracy experience through election in this *reformasi* era. Politicians and capital owners, or capital owners who are also politicians, including the mass media, have been hugely contributing in changing people's perception towards material pragmatism. Socio-economic conditions of the people who are still around poverty level become a very good 'field' for influence by money politics. The worst is that politicians who are then elected, where the processes involve high costs, quite a few of them become involved in corruption practices. But some of them still seem 'survive' becoming officials while financially enriching themselves, become re-elected as officials through the next election with pragmatic ways as have usually been done.

Such post-reform democracy practices in Indonesia is what causes perception that within the people's condition who are still poor, real democracy practices still has not been able to be brought upon. If such way of thinking is taken, then the statement that "*democracy is weak and in a serious difficulty in many poor and even some middle-income countries*"⁵ seems valid and not only would turn around their perception towards instant pragmatism, but also would have fatal effect of bad governance.

Alas, many observers and experts regard such condition of Indonesia as normal in a state which is still new in democracy; a democratization process which has not yet been consolidated. Such view of course has a valid argument which also has been touched in a part of this present paper, as a part of optimistic perspective in viewing the journey of political democracy in Indonesia. But based on facts from the 'field' with the continuously increasing tolerance of the people towards bad election practices, including the continuously supporting of the politicians and officials who normalizes pragmatism practices, then perhaps pessimism outlooks may spring out that democracy is friendly with bad values.

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⁵ L. Diamond, *The Spirit of Democracy: the struggle to build free societies throughout the world*. Times Books. Henry Holt an Company, LLC., 2008, p. 27.

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An abundant specialized literature has been written on the topics of democracy and democratization; moreover, the refinement of conceptualizations, the plethora of democratic theories, the worldwide dissemination of the vocabularies of democracies and the propagandistic and/or rhetorical formulas for expanding democratic mentalities and practices have overwhelmingly contributed both to the richness of democratic culture today and to the imprecision, baffling complexity and consensual troubles about the meanings and future configurations of democratic political regimes. Even if there is a certain consensus regarding some empirical indicators for the existence of consolidated democracies and certain historical realities revealing consistent democratic pasts worthy of being characterized in terms of democratic traditions, the recent political ideal of global democracy has been indicative for the existence of incongruences, disparities and gaps between advanced democracies and the empirical state of affairs in those democratic regimes in transition, a process which has been frequently depicted as “democratization”. Any minimalist comparative approach on the qualitative and quantitative factors of democratic regimes might be conducive to the idea that there is the mainstream, straight and narrow path of strong democracies, on the one

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hand, and various ambiguous, alternative and contextual ways followed by democratizing political regimes, on the other,¹ even if an exhaustive description of what democracy's strength is about might be problematic. In brief, the concept of "vital democracy" seems accurate and appropriate for explaining the differences, peculiarities and circumstantial conditions among present-day world democratic regimes.

Accordingly, the question "what are the best ways to achieve a superior democratic political order?" gains a proper explanatory value when it comes to elucidating what has been achieved and what has been lost in the processes of democratization of Central and Eastern European states for the past twenty-five years. In a recent study, Jeffrey Kopstein noted one important characteristic explaining the disjunction between North-American advanced democracies and the democratic political regimes in Europe: while Americans tend to identify the abolition of tyrannical governments, the instauration of civil society and the free market as the necessary and sufficient conditions for the emergence of genuine democracy, the European political mindset in this respect has connected the state of democracy with the will of political leaders.² This form of dependence upon political will seems a relevant variable when explaining democratic institutions, behaviors and attitudes especially in the case of Central and Eastern Europe.

I think that the question "Is democracy possible without democrats?" is worth further consideration; if the answer is no, then one has to confront the difficulty of portraying a satisfactory model of what a democrat is;³ if the answer is yes, then one will have to admit that democracies have a self-driving force, irrespective of political actors and circumstantial obstacles. But both answers are rather simplistic and risky when it comes to arguments. By and large, the state of democracy today stems from and is overwhelmingly influenced by several difficulties in establishing a comprehensive definition of it; as such, theories and conceptualizations of democracy have to face the

¹Frank Hendriks, *Vital Democracy: A Theory of Democracy in Action*, Oxford: Oxford University Press, 2010, p. 16.

²Jeffrey Kopstein, "The Transatlantic Divide over Democracy Promotion", in *The Washington Quarterly*, vol. 29, no. 2/2006, pp. 85-98.

³Adam Przeworski, *Democracy and the Limits of Self-Government*, New York: Cambridge University Press, 2010, pp. 5-6.

problem of democracy's limits or "edges".⁴ The more recent attempt to promote an internationalist and cosmopolitan view of democracy (David Held's version, for instance) and the ideological claim that the future of a peaceful world is dependant upon the implementation of the global democracy model are under critical scrutiny today. The fact that democracy is a far too protean, non-disjunctive and non-discriminatory term has led to the postulation of more complex and technical approaches designed to replace the mechanical, procedural and rigid participative views of narrow-sided democratic closures. Some researchers have found out that the desideratum of deliberative democracy should aim at far more reaching approaches than the present-day conjunctures of a democratic community, in order to include a genuine conversation with past defenders and partisans of democracy, or what has been termed as the "democratic imaginary".⁵ Others inferred that a profound state of democracy would be synonymous with an all-encompassing, all-inclusive character of democratic practices, understood in terms of achieving the principle of "non-exclusive justice".⁶ Last, but not least, scientific formulations of democracy aimed at overcoming the inadequacies of traditional models of democracy (procedural, participative, deliberative, liberal, pluralist, communitarian, cosmopolitan, global, etc.): one of them was called the "social choice theory", a species of rational choice theory and a working hypothesis in game theory; another one was termed "catalaxia" (the science of exchanges), according to which the approach of democracy should be consistent with the theory of political economy in Hayek.⁷

These quite recent developments in the study of democracy and democratization have continued in the spirit of late 20th century approaches in political sciences, according to which axiological, historicist and hermeneutic approaches of democracy are detrimental to strong (neo)realist perspectives on the topic which are based on rather positivist, economic or behavioralist studies.⁸ In general terms, empirical studies superseded idealist approaches

⁴ Ian Shapiro and Casiano Hacker-Cordon (eds.), *Democracy's Edges*, New York: Cambridge University Press, 1999.

⁵ Robert E. Goodin, *Reflective Democracy*, Oxford: Oxford University Press, 2006.

⁶ Iris Marion Young, *Inclusion and Democracy*, New York: Oxford University Press, 2000.

⁷ Frank Cunningham, *Theories of Democracy: A Critical Introduction*, London and New York: Routledge Taylor & Francis Group, 2002.

⁸ Anthony H. Birch, *The Concepts and Theories of Modern Democracy*, 3rd edition, London and New York: Routledge Taylor & Francis Group, 2007, pp. 259-292.

and the consequence was the demise of the prescriptive ideals of democracy and the refusal to credit those normative responses to democratic deficiencies. Both the recent constructivist and realist approaches of democracy aimed at overcoming rigid conceptualizations and strong theoretical views on democracy and resorted to contextual analysis, comparative studies, perspectivist considerations and issue-oriented investigations in order to endorse the plural character of democratic societies and institutions and the essentially dynamic nature of democratic processes. Because of the provisional and perfectible character of democratic institutions and societies, which frequently generated democratic protest movements and interpellations for further improvements even in consolidated democratic regimes, the key term for understanding the present-day challenges of democracies had been "democratization" (i.e., democratic transformations, transitions, processes, evolutions, sideslips, etc.).

Following the collapse of the Soviet communist block in 1989, the countries of Central and Eastern Europe committed themselves to the implementation of the liberal democracy model attempting to reduce the gap between the western world and the pervasive mentalities, behaviors and institutions which were still dominant in the aftermath of the post-Cold War period. Accordingly, the paradigm of "democratization" became the characteristic endeavor of the new political actors engaged in massive regime changes in all the states of the above-mentioned geographical region. If both inner and outer critical voices seemed to admit the existence of notable differences between consolidated liberal and democratic regimes of the western world and the transitional arrangements necessary to authentic democratic conditions in Central and Eastern Europe, there were certain disagreements on how this processes of transition should be carried out in order to reach a convergence with the solid establishments specific to democratic practices and institutions. In other words, there were two basic types of real cleavages: on the one hand, there was a principled disruption between consolidated democracies and political regimes on the path to democratic consolidation, and, on the other, there were incongruences and gaps as far as the meanings of "democracy in progress" would be about. In the latter case, which is explanatory for both the good and bad progression of democratization processes in Central and Eastern Europe, a version of accelerated democratization was counterbalanced by its slow democratization alternative.

In very general terms, transition to democracy has been a complex and multi-faceted factual reality including the dissolution of authoritarian regimes and their replacement with legitimate political powers, the replacement of autarchic and planned economies by free market and trade, the shift from state control over society to civil societies, freedom of expression and public opinion, etc. These multi-level transformations took place distinctly in Central and Eastern European countries, generating particular effects and contextual problems and being understood and approached in agreement with specific situations. That is to say that countries which underwent a process of accelerated democratization through rapid reforms and radical changes (i.e., Czech Republic, Poland, Hungary) achieved more visible and beneficial results, while those states opting for slow reforms and gradual changes (i.e., Slovakia, Ukraine, Bulgaria, Romania, Albania) preserved much of the "body and spirit" of communist political regimes. The states in the first group rapidly moved to adopting liberal-oriented constitutions and institutional arrangements which were favorable to a superior integration into and convergence with international political and economic institutions, while the new political leaders of the countries included in the second category argued that, because of structural problems and contextual realities, the slow motion was the temporary working solution; using a cautionary and populist rhetoric, these post-communist political actors feared the shocking social and economic consequences of radical changes, pretending that they were first and foremost interested in maintaining political stability; in fact, they were just crypto-communists aiming at infiltrating the fragile institutions and the new socio-economic structures. For most of these hesitating approaches to democratization, the transition processes have never been concluded.

In recent years, the democratization paradigm that was dominant for the last decade of the past century has been substituted by the deficit of democracy approach. The fact that both states which adopted accelerated democratization reforms and states which opted for slow democratic changes were included in the European Union has become an explanatory factor for the arbitrariness, inconsistencies and disparities of integration processes. The misleading problem of integration should have been investigated starting from acknowledging the failures of the democratization processes of the 1990s and not exclusively from deploring the lack of European political socialization or

condemning the prevailing character of nationalisms.⁹ Even if democratizations are still relevant in explaining the deficit of democracy today especially in the former communist part of Europe, the main focus on the topic refers to the troublesome relationship between the European citizens and the decisionist technocracy working according to a top-down approach to all sorts of difficulties.

But this does not mean abandoning democracy and past and present democratization inconveniences altogether; after all, democracy was a political invention of South-Eastern Europe and it should be defended despite inconsistencies, weaknesses and dissatisfactions. The collective volume *Democratization and Democratic Consolidation in Central and Eastern Europe*¹⁰ represents such an attempt to resist the shortcomings of democracy and democratization processes and to stand for further improvements and corrections. The authors of the twelve studies included in the volume suggest multiple perspectives for approaching the processes of democratization in the above-mentioned area, which are grouped in three fundamental methodologies of investigation. First, the institutionalist approach reveals differences of constitutional arrangements, legislative initiatives and procedural mechanisms among former Central and Eastern European communist countries. Second, the behavioralist stance refers to the role of elites and public opinion in influencing, stimulating or obstructing the democratization processes, and third, the study of attitudes in relation to democratization processes is a measuring tool for clarifying the public support and commitment to the cause.¹¹

The Romanian case represents the central axis of the pluri-perspectivist assessment of democratization in Central and Eastern Europe, mirroring the discrepancies, peculiarities and postponements in comparison with other states in the region. Following the case studies and comparative investigations proposed by the authors, one might think that Romanian democratization (and not only) has been incomplete and subservient to

⁹ Alex Warleigh-Lack, *Democracy and the European Union: Theory, Practice and Reform*, London: Sage Publications, 2003, pp. 121-124.

¹⁰ Sergiu Gherghina, Sergiu Mișcoiu (eds.), *Democratizare și consolidare democratică în Europa Centrală și de Est*, Iași: Institutul European, 2014, in original.

¹¹ Sergiu Mișcoiu, Sergiu Gherghina, „Introducere”, in Gherghina, Mișcoiu (eds.), *op. cit.*, pp. 15-16.

circumstantial decisions, oscillating laws and interest-directed strategies; moreover, the critical diagnoses of these thorough studies make room for future corrections, punctual improvements and positive appreciations of factual realities and contextual factors. The evaluations are lucid and realistic, beyond mere optimistic or pessimistic characterizations. The analysis of the externalities' impact upon democratization processes (Ruxandra Ivan), the advantages and shortcomings of the configuration of political systems in the region (Valentin Naumescu), the mechanisms for controlling powers (Irina Ionescu), the participation of political elites in democratization processes (Daniel Șandru), the influence of nationalist discourses in shaping democratizations (Alexandra Sabou), the impact of electoral systems on the consolidation of democracies (George Jiglău), the role of party systems and representation mechanisms (Sorina Soare), the disturbing influence of corruption on the advancement of democracy (Clara Volintiru), the rule of law, the implementation of judicial reforms and the monitoring of the states' commitment to the justice principle (Radu Carp, Ramona Coman), the citizens' attitudes towards democratic transformations (Dragoș Dragoman) and the examination of forms of protest and civil disobedience in Central and Eastern European countries (Raluca Abăseacă) represent the chorus of those considering that the democratization problem is still of topical interest and that further reflections on all its complex elements are not only welcomed but also requisite.

Herfried Münkler, *The New Wars*, UK: Polity Press, 2005, 180 p.

Laura M. Herța*

The term “new wars” prompted a large and interesting debate in the academic *milieu* and is the centrepiece of most scholarly works tackling the transformation of war. On the one hand, several scholars (Mary Kaldor¹, Herfried Münkler, Martin van Creveld², Mark Duffield³, Michael Ignatieff⁴) focused on the main differences between conventional, Clausewitzian, trinitarian warfare (associated with the rise of the modern state) and the novel aspects of post-Cold War armed conflicts. The general observation of scholars concerned with the new wars is that after the Second World War, the classical, Clausewitzian pattern of *inter-state* war was gradually replaced by various dynamics of *intra-state* violence. Despite obvious regional peculiarities, recent and contemporary armed conflicts share certain structural features: the asymmetrical configuration of the belligerents, lack of respect for the *jus in bello*, and violence directed against civilians.

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¹ Mary Kaldor, *New and Old Wars*, Stanford: Stanford University Press, 2001; Mary Kaldor; Basker Vashee (eds. on behalf of UNU World Institute for Development Economic Research), *Restructuring the Global Military Sector. Volume I: New Wars*, London, Washington: Pinter, 2001.

² Martin van Creveld, *The Transformation of War*, New York, 1991.

³ Mark Duffield, *Global Governance and the New Wars. The Merging of Development and Security*, London, New York: Zed Books, 2001.

⁴ Michael Ignatieff, *The Warrior's Honour. Ethnic War and the Modern Conscience*, New York, 1997. See also Dietrich Jung; Klaus Schlichte, “From Inter-State War to Warlordism: Changing Forms of Collective Violence in the International System”, in Håkan Wiberg; Christian P. Scherrer (eds.), *Ethnicity and Intra-State Conflict*, Brookfield USA: Ashgate, 1999, pp. 35-51; Bjørn Møller, “The Faces of War”, in Håkan Wiberg; Christian P. Scherrer (eds.), *Ethnicity and Intra-State Conflict*, Brookfield USA: Ashgate, 1999, pp. 15-34.

On the other hand, a series of scholarly works argued against the “newness” of contemporary wars. Siniša Malešević⁵, Mats Berdal⁶, E.A. Henderson and D. Singer⁷ are adamant to demonstrate that characterizing features of contemporary wars (like massacres, banditry, population displacement, or sexual violence as tactics of war) are in fact not new, but have a long history; hence, “many of the ‘new wars’ are simply amalgamations of various interstate, extrastate, and intrastate wars - i.e., the ‘old wars’ - that have been lumped into a single category.”⁸ Theses of new wars were revisited and certain scholars, such as Mary Kaldor, addressed the issue in response to criticism and re-articulated main arguments by showing that “‘new wars’ should be understood not as an empirical category but rather as a way of elucidating the logic of contemporary war that can offer both a research strategy and a guide to policy.”⁹

The theorists of war, experts in conflict resolution, political scientists and theorists in international relations do not agree upon a single definition of the attributes that characterize certain transformations of warfare. Since a unanimously acceptable conceptual framework is lacking, we can observe an emergent terminology in the last decades which is meant to encompass the forms and features of new armed conflicts: “new wars”, “asymmetric wars”, “small wars”, “hybrid wars”, “privatized wars”, “neo-Hobbesian wars”, “irregular wars”, “dirty wars”, “future wars”, or “ragged wars”. Essentially, irrespective of the terms that are attributed to conceptualisation of contemporary conflicts, the following research questions are raised within this scholarly debate: 1) Is the “trinitarian war” model of Carl von Clausewitz (based on the clear-cut separation among the three levels, state/leaders, army/generals, and people) still valid to accurately describe the new forms of intrastate violence?; 2) Is the Clausewitzian model a generally valid prototype of war or does it represent merely an accurate description of warfare that characterized a certain historical period (namely

⁵ Siniša Malešević, *The sociology of War and Violence*, Cambridge: Cambridge University Press, 2010.

⁶ Mats Berdal, “How ‘new’ are ‘new wars’? Global economic change and the study of civil war”, *Global Governance*, vol. 9, no. 4, Oct.-Dec. 2003, pp. 477–502.

⁷ E.A. Henderson; D. Singer, “‘New wars’ and rumours of ‘new wars’”, *International Interactions: Empirical and Theoretical Research in International Relations*, Vol. 28, issue 2, 2002, pp. 165-190.

⁸ *Ibidem*.

⁹ Mary Kaldor, “In Defence of New Wars”, *Stability*, 2(1): 4, 2013, pp. 1-16.

the one of conventional, European, symmetrical warfare that roughly illustrated inter-state war during the 17th, 18th and 19th centuries)?; 3) Did the forms and means of war changed, or the nature of war itself?

Whether the prevailing arguments on the new wars are convincing or not (and notwithstanding the controversy over the concept of “new wars”), the debate itself generated a relevant literature for International Relations students and Herfried Münkler’s *New Wars* remains a seminal and much quoted work.

The starting observation of Herfried Münkler is that “the classical model of inter-state war [...] seems to have been discontinued” and that states tend to lose their *de facto* monopoly on organized violence and are replaced by “military entrepreneurs”. According to Münkler, “states have given up their *de facto* monopoly on war, and what appears ever more frequently in their stead are para-state or even partly private actors – from local warlords and guerrilla groups through firms of mercenaries operating on a world scale to international terror networks” (p. 1). The main argument related to the features of new wars is related to a “multiplicity of interest groups”, which breed on war economies and hence have no direct or lucrative interests in initiating peace processes or in the “renunciation of violence”. The author’s contention about the transformative nature of war is centred on several developments: 1) *De-statization of war or privatization of military force*; 2) *Greater asymmetry of military force*; 3) *Autonomization of forms of violence* (p. 3).

Herfried Münkler’s tenet claims on the “newness” of recent and current wars are presented and described in the first chapter, illustratively entitled “What is new about the new wars?” (pp. 5-31). Herein the author distinguishes between “state-building” wars, on the one hand, in Europe and North America (which evolved in almost “clinical conditions, with no major influence ‘from outside’”) and, on the other hand, “state-disintegrating wars” in the Third World or the periphery of the First and Second Worlds (pp. 8-11). In the case of the latter, the author argues, the wars led to the failure or collapse of “young and still unstable states” due to constant interference from outside powers and also due to the challenges from “world market systems that makes it impossible for them to politically control the developments of their national economy.” The core argument is that certain areas are exposed to new patterns of conflict and

the underlying causal factor for the transformation of wars is economic globalization. The result is the inability of weak states to compete (by controlling national wealth and linking it to the growing of their economies) or to achieve development. In fact, the scenario described by Münkler is one in which war is triggered and perpetuated by the destructive and cumulative effects of globalization and tribalism upon state-building capacities in the Third World. Since such wars tend to be prolonged (because of shadow economies, support from outside powers, increased consumption of resources, and local warlords' reliance on profits from war economy), one major observation is that the "short-wars between states" (from the mid-seventeenth to the early twentieth century) were replaced by "long wars within societies." The latter imply the following intertwining characteristics: the asymmetry of forces/belligerents; the gradual privatization of violence; the deviation from codified rules of warfare; and the use of force (in its utmost brutal force) against civilians.

The examples provided by the author are meant to indicate such areas predisposed to new wars, which are considered "border regions of old empires": Somalia (where violence was associated with violence, weak state structures, and the result was Cold War superpower interference), wars in sub-Saharan Africa (Sudan, the Great Lakes crisis, Congo, Angola); wars associated with the collapse of Yugoslavia; armed conflicts throughout the Caucasus (notably Chechnya); but also the war in Afghanistan and the protracted conflict in Sri Lanka. The characterizing element of such areas is the fact that new wars emerged here out of historical particularities, namely "they developed in the margins and breaches of the former empires that ruled and divided the world until the early part" of the twentieth century (p. 5).

Herfried Münkler's thesis on the new wars is built upon the following claims. First of all, in contrast to the classical, old wars whose basis was a centrally controlled economy, the economy of new wars "is characterized by high unemployment, high level of imports and weak, fragmented and decentralized administration." Secondly, old wars/classical wars were "separated from peace by legal acts such as war declarations" and peace treaties. They tended to be concentrated in time and space, thus indicating a precise definition of the state of war and a confrontation "between soldiers in accordance with the codified rules of war." New wars

have neither an identifiable beginning, nor a clearly defined end. Also, the traditional peace agreements are replaced with long and vulnerable peace processes which are usually successful only when the international community provides financial support and commitment to ending the violence. Thirdly, conventional, inter-state wars indicated a scenario wherein approximately 90% of victims (killed or wounded) could be defined as combatants, according to international legal provisions, whereas new wars display a different profile of the victim: roughly 80% of those killed are civilians. Fourthly, in the case of old wars – the battlefield was the *locus* wherein armed opponents sought to resolve their dispute (and by the end of the war an armed opponent was forced to submit to the political will of the other side). In the case of new wars, the defining feature is extreme violence meant to intimidate the unarmed civilian population. According to Münkler, new wars display a “distinctive management of fear”, which is built on the “economy of robbery and plunder”, and which is organized and constructed by the armed side against the unarmed. This scenario leads to the complete breakdown of discipline among the armed groups, “soldiers become looters” for whom the laws of war or codes of honour do not exist. Two observations are prevailing here: the increasing brutality against civilians and the fact that distinctions between combatants and non-combatants are blurred.

In his sub-chapter called “Victim totals, refugee camps, epidemics”, Münkler shows that a major characteristic of new wars is “the association of military violence with starvation and epidemics” (pp. 14-15). Three main phenomena are attributed to the new wars: warlordism, child-soldiering, and refugee flows. Recent and contemporary wars produce regional destabilization and the internationalization of such intra-state violence. Hence, “new wars are visible to us mainly through the refugee flows, slum camps and famished populations.” In another sub-chapter called “Privatization and commercialization: warlords, child soldiers, firms of mercenaries”, Münkler pinpoints to “the main protagonists and profiteers in the de-statization of war” who are usually local warlords or transnational entrepreneurs who do not pursue an interest (and responsibility) in undertaking the attributes of state power, but merely in continuing “the booty-hunting by other means.” Finally, another cause for emergence of new wars is the existence of “global political asymmetries”

and subsequent strategies intended to counteract a militarily and technologically superior enemy. The author contrasts the inter-state war which “was the most developed form of symmetrical warfare” to the characterizing trait of current warfare, namely *asymmetry* (pp. 25-31). By presenting two main strategies developed and consolidated during the second half of the twentieth century, that is *guerrilla warfare* and *terrorism* (to which the Intifada could be added) and by analyzing the chief differences between them (see chapter 5 – *International terrorism*), Münkler emphasizes the “clash of military strategies and political rationalities which are in principal dissimilar from each other and which [...] escape regulation and limitation by international law.”

The *de-statization of war* is meant, in Münkler’s analysis, to indicate a current opposing process to the *gradual statization of war* after the Peace in Westphalia and the rise of the modern state. The second chapter of Münkler’s *New Wars* (entitled *Warfare, State Building and the Thirty Years’ War*) is centred on the comparison between features of pre-modern wars (plunder, rape and massacre) and main traits of conventional, inter-state wars, as discussed by Carl von Clausewitz in his *On War* (wherein war was “the continuation of politics by other means” and commanders tried to pursue military victory on the battlefield, by avoiding the “bloodiest way of solution”). Basically, as Münkler shows, that transformation of warfare involved the transfer from “the devastation of the enemy’s land to military resolution in a great battle” (p. 37). The main demarcations on which modern states rested upon and the distinctions clarifying inter-state relations are tackled in order to indicate the gradual, though non-uniform geographically, process (from the fifteenth to the eighteenth century) of *the statization of war*. The six distinctions explained by Münkler are: 1) creation of precise state boundaries (differentiating states from “empires whose claim to rule diminished” moving towards periphery), the mutual recognition of territorial boundaries, and the subsequent separation between internal and external which fomented the basis for the organization of the state apparatus; 2) the creation of clear prerequisites for the separation between war and peace due to territorial demarcation and the rise of clear conditions (such as violation of territory) and lawful motivations (breach of peace treaties) for declaring war; 3) the transfer from “vertical loyalty under feudal law” to “horizontal loyalty by the territorial

state" which led to sovereigns' decisions to establish *friends* and *enemies* in co-constitutive political contexts; 4) the distinction between non-combatants and combatants (identified by uniform, arms, and belonging to the army) and subsequent protection of non-combatants built on a "transition from a strategy of economic damage" (in pre-modern wars) to "a strategy in which battle determined the outcome of war"; 5) the distinguishing line between permissible violence and criminal violence which gradually fomented the core of the codified rules of war; 6) demarcation between the use of force and commercial activity which led to the creation of standing armies (*militum perpetuum*), to new disciplinary regulations, and to the confinement of violence to the garrisons (meaning that violence was associated to the military sector within societies).

The archetype of pre-modern war is the Thirty Years' War and Münkler's chief argument is that new wars share many characteristics with pre-modern wars. The latter, up to 1648, involved plundering and looting, as well as attacks on civilians, and implied privatized forms of waging war (mercenaries, *condottieri*). According to Münkler's detailed analysis, wars of the late Middle Ages "were conducted as expeditions against the enemy's estates and possessions" and, since "it was seldom possible to seize the enemy strongholds (castles, walled cities), the aim was to devastate the surrounding countryside by attacking villages and burning down farms" (p. 35). The main objective herein is to illustrate and demonstrate that late-medieval warfare typically involved devastation more than armed encounters and battles, just as new wars at the end of the twentieth and beginning of the twenty-first century involves increasing brutality against civilians.

Chapter 3, *The Statization of war*, is centred on the process through which the state has become the war monopolist (due to regularization and multiplication of tax revenues, the creation of standing armies, the evolution to the fiscal states, the statization of military affairs). All these developments culminated with the emergence of symmetrical wars and the establishment of European rules of war: "The mutual admission of equality involved in the recognition of state sovereignty became the basis for Europe's international rules of war, according to which only sovereign states had the right to wage war" (p. 64). The monopolization of legitimate

violence as part of the modern state prompted a new set of rules. They became the core of international law in Europe and were based on the idea that opposing parties resort to war, which is “the ritualization of violence between adversaries who respect each other as equals” (and not on the theory of just war which is “intended to empower and bond a superior civilization against a ‘savage’ or ‘barbarian’ Other.”) The post-Thirty Years’ War system was marked by symmetry and warfare did not threaten the system itself, because the latter was centred on *military strategy*, *international legality* (based on the acceptance of states under international law), and *political rationality* (which triggered stability with respect to calculations about necessity and engagement in war, estimations regarding relationships of forces, and a symmetrical distribution of costs between belligerents).

The opposing process to the statization of war rests upon the de-statization of war and emerged after the Second World War (though it became more visible after the Cold War). The fourth chapter called *The Economics of Force in New Wars* shows the gradual regression to characteristics of pre-modern wars. The new wars are analyzed here in terms of 1) cheapness (since they are fought with light weapons and cheap child soldiers, meaning “the availability of young people who want to attach themselves to a warlord or militia leader in return for a kind of livelihood and a prospect of an otherwise unattainable social reputation” – p. 77), 2) deliberate and systematic sexual violence as strategy in the new wars (which is not “the result of indiscipline among armed contingents”, but the calculated tactics of spreading fear, terrorizing females and children, and destroying the enemy on the psychological front), and 3) manipulation of refugee flows and humanitarian aid (which becomes part of the war economy) by local warlords.

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