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L'ESPACE PERIURBAIN DE KECHIDA : MORPHOGENESE ET STIGMATES DES TISSUS URBAINS TRADITIONNELS

Djafar Djefal¹
Salah Bouchemal²

Abstract

L'article explore les nouvelles formes du processus de fabrication des villes de la rive Sud de la Méditerranée et permet également sa contextualisation dans l'évolution des réalités urbaines contemporaines.

Intéressée par cette idée, la présente contribution cherche à lire et comprendre les modalités de production de l'espace périurbain du quartier de Kechida, situé au Nord-Ouest de la ville de Batna, en Algérie. Celui-ci résulte, pour l'essentiel, du phénomène d'exode rural accru des années 1990 et d'une mobilité résidentielle récemment observable. C'est un espace bien singulier, il demeure difficile à définir et n'a de cesse de s'étendre, en l'absence de politiques et de mécanismes institutionnels cohérents, suite au désengagement des autorités publiques des opérations d'aménagement, notamment lorsqu'elles étaient préoccupées par la double crise économique et sécuritaire qu'a traversée le pays. En conséquence, toutes ces conditions étaient propices à l'avènement toléré de l'initiative privée et individuelle et à la formation de tissus urbains informels, loin des normes en vigueur, et dont le tracé et son occupation obéissent à des choix de circonstances, nourris des représentations sociales et sociétales des habitants, d'où l'apparition d'analogies avec les tissus urbains traditionnels. À travers cette recherche, nous avons tenté de répondre à la question suivante : qui et comment se fait l'espace périurbain de Kechida ? Nous avons mis en exergue le processus de fabrication de l'espace périurbain de Kechida, tout en privilégiant l'approche morphologique, dont l'avantage est d'élucider, à priori, la typologie d'urbanisme considérée. De même, et afin d'être plus interprétatifs que descriptifs, l'étude est consolidée par une enquête auprès des habitants, afin de décrypter les modes de perception et d'appropriation de l'espace.

Mots clés : urbain, morphologie, Algérie

Quelques caractéristiques de la ville de Batna

La ville de Batna, en pays Auressien, figure parmi les grandes villes de l'Algérie. Située dans l'Est algérien, à une centaine de kilomètres de Biskra, une porte du Sahara, elle compte plus de 318000 habitants, soit 26% de la population de la wilaya dont elle est le chef-lieu. En 1954, ce n'était

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qu'une petite ville, elle rassemblait, avec sa banlieue, seulement 18420 habitants. Cette explosion démographique a généré, comme dans les autres villes algériennes, une extension considérable des espaces bâtis, sustentée par un étalement urbain et une périurbanisation aux effets incontrôlables (Bouchemal, 2013),

C'est une création ex-nihilo, elle est née lors de l'épisode colonial, en 1844, à partir d'un camp militaire, auquel s'est greffé, dès 1850, un premier noyau pour asseoir un peuplement européen. Le plan général est le plan romain, une unité en damier où les rues se coupent à angle droit. À cet endroit s'est adjoint, très vite, un quartier, la Z'malla, où s'est installée une population venue des campagnes, mais c'est surtout dans les années 1920 que la ville a commencé à s'agrandir, à la faveur de l'arrivée d'une vague importante de colons et l'installation de nouveaux autochtones. Apparaissent alors d'autres quartiers (Stand, Fourrière, Chikhi et Bouakal).

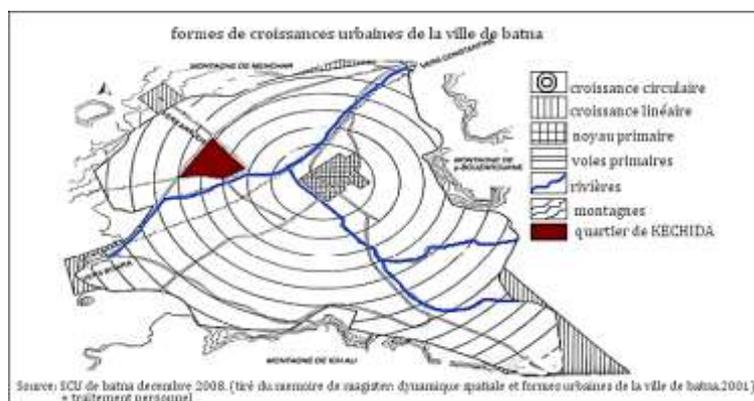
Le plan de Constantine de 1958, qui a prévu la réalisation d'un nombre important de logements, de type HLM pour la population européenne et d'un type correspondant au modèle des cités de recasement pour les autochtones, a stimulé une croissance urbaine allant du centre vers la périphérie, selon différentes directions. Ainsi naquit le quartier de Kechida, objet de notre étude, à l'origine, une cité de recasement avec un nombre de 260 habitations destinées à des ruraux chassés des zones déclarées interdites, lors de la guerre de libération (PDAU de Batna 1998).

L'accélération du développement urbain de la ville s'est opérée sur un rythme fluctuant, au gré des événements politiques et des programmes économiques de chaque période. La photo aérienne de Batna met en évidence un espace urbain étalé et hypertrophié, à extension circulaire. Il est constitué d'une plaine où se concentre un habitat très dense, celle-ci est ceinturée par le djebel Azzab, au Nord-Est, le djebel Ich Ali, au Sud, et les djebels Kassrou et Tarkat, des ensembles qui constituent un obstacle à la poussée urbaine dans cette partie de la ville. Aussi la portée de l'urbanisation effrénée de Batna se lit-elle par la conurbation qu'elle a produite avec Tazoult et ses extensions en direction de Fesdis et Oued Chaaba, en suivant les axes routiers.

Genèse du quartier de Kechida

Le quartier de Kechida est constitué d'un groupement d'habitations en majorité de type individuel, auto-construit et abritant une population estimée, en 2013, à 14634 habitants regroupés en 3005 ménages, l'ensemble occupant environ 2767 logements. Du point de vue de sa structure et de son

type d'habitat, c'est un espace qui produit beaucoup de contrastes (carte ci-dessous).



Pour A.M. S. Babonaux (1985), la périurbanisation consiste en « *la diffusion, dans un milieu originellement rural, des lieux de résidence des urbains* », suite à la mobilité résidentielle et aux extensions des espaces centraux. Sur le plan fonctionnel, les périurbains adoptent un mode de vie urbain, et morphologiquement l'espace périurbain est fait de maisons individuelles, d'espaces verts et ouverts (Laurent Brück, 2002), donc un espace hybride, aéré et lâche.

Après l'Indépendance du pays, et une période de statisme, la ville de Batna a bénéficié d'un programme spécial dit Aurès 1968³, pour la réalisation de plusieurs logements et d'équipements. C'est ce qui a été à l'origine d'un premier éclatement de la ville et d'un exode rural massif. Aussi le quartier de Kechida se présente-il comme une illustration parfaite de cette situation.

Depuis ce programme spécial, la ville de Batna n'a pas cessé de s'agrandir, parce que les pouvoirs publics ont institué d'autres programmes de développement ayant favorisé la création d'emplois et attiré les habitants des campagnes, à la recherche de meilleurs revenus. La crise sécuritaire des années 1990 et la pratique de la terre brûlée ont vidé les campagnes de leur peuplement, d'où un exode rural sans répit. Ainsi, on voit bourgeonner, à la périphérie des villes, des quartiers informels, un phénomène dont Batna n'a pu échapper, mais qui l'a fait éclater par empiètement sur les terres de sa zone limitrophe.

³ Plan directeur d'aménagement et d'urbanisme 1998. direction d'urbanisme et de la construction. Batna)

À défaut d'un plan cadastral préétabli, les résultats de l'enquête réalisée dans le cadre de l'atelier d'urbanisme du département d'architecture, de l'université de Batna, pour l'année en cours (A. Haridri et al, 2016), atteste que l'ilotage et la parcellisation du quartier de Kechida constituent une contravention à la législation en vigueur, celle de l'obtention, au préalable, par leurs initiateurs d'un permis de lotir. Ces deux éléments résultent des partages établis par les héritiers du propriétaire initial des terres sur lesquelles a été érigé le quartier, puis par ceux qui ont succédé à ces derniers. Tous, ensemble, ont formé deux groupes de famille peuplant l'essentiel du quartier, les Hachani, au Nord-Est, et les Kechida, au Sud-Ouest. Aux habitations de chacun des deux groupes se sont agglutinées quelques maisons habitées par des individus qui leur sont étrangers et installés à la faveur de transactions informelles, car ne pouvant être soumises à la publicité foncière, étant donné un statut des terrains n'autorisant guère leur lotissement.

L'aspect morphologique de Kechida

La lecture morphologique permet d'acquérir des connaissances à propos du processus de formation du tissu urbain de Kechida, elle donne une idée sur la manière dont se sont imbriqués les éléments de la forme urbaine. C'est en fait la raison pour laquelle nous privilégions la méthode d'Alain Borie et François Denieul (Unesco 1984), qui appréhende la forme urbaine en interactions avec le contexte social, économique et culturelle. La méthode consiste à décomposer le système urbain en sous-systèmes élémentaires et à faire sa lecture selon des critères topologiques, géométriques et dimensionnels.



Image satellite représentant le quartier de Kechida

Source : Google, 2016

1. Le système bâti

Une virée pédestre à l'intérieur du quartier de Kechida contrarie l'observateur non seulement par l'érosion de la voirie, mais également par la banalisation et la laideur architecturale des constructions. Par référence aux critères de définition et de catégorisation, tels que suggérés par Alain Borie et François Denieul, topologiquement, le modèle d'habitat prédominant à Kechida est de type planaire. Il se caractérise par un accollement des bâtiments les uns aux autres, presque de tous les côtés. Les maisons sont ouvertes vers le ciel par des patios assurant l'aération et l'éclairage naturel. Certaines habitations, mais elles sont en petit nombre, ont un accès commun, alors que d'autres sont même des maisons privées de façade (schéma et photos ci-dessous).

En fonction du règlement du PDAU, dans sa version 2009, les droits d'urbanisme et de construction fixent le COS et le CES à 0.6 ou moins pour l'emprise au sol, et à plus de 1 pour l'occupation des sols. Mais la réalité est toute autre, puisque le CES est égal à 1 et parfois plus, ce qui a engendré un tissu compact.

schéma 01: formes et caractéristiques de l'habitat

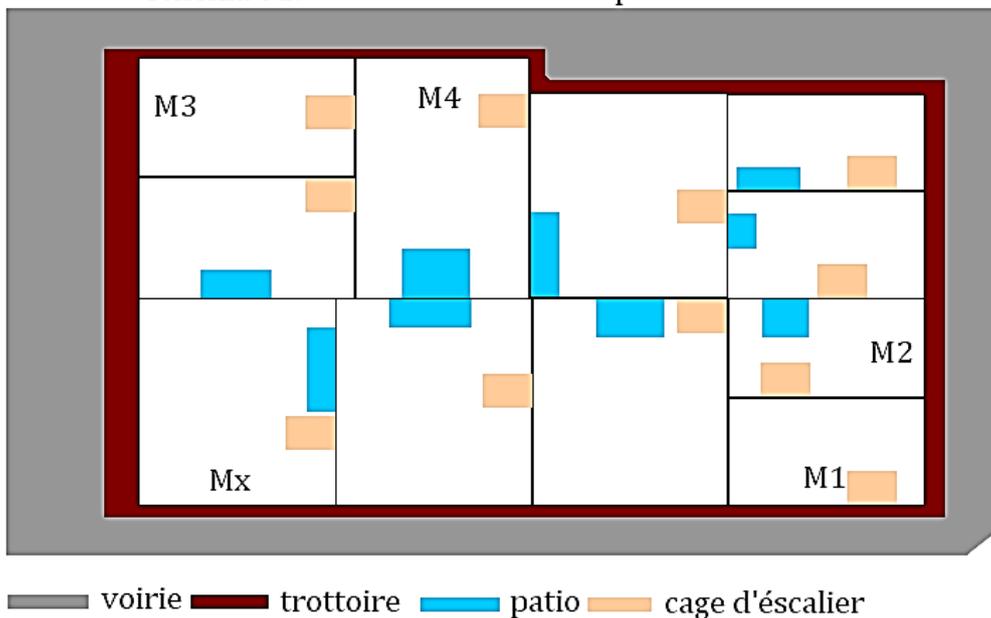


photo 02: formes et caractéristiques de l'habitat



Source : D. Djéffal, 2016

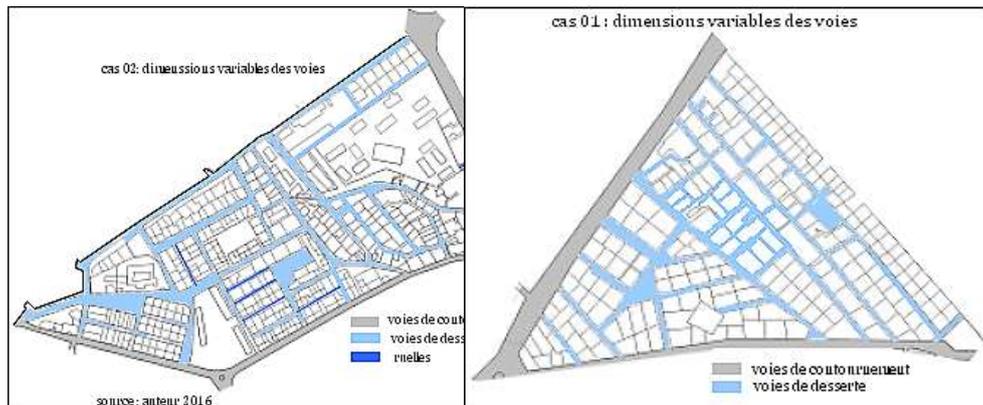
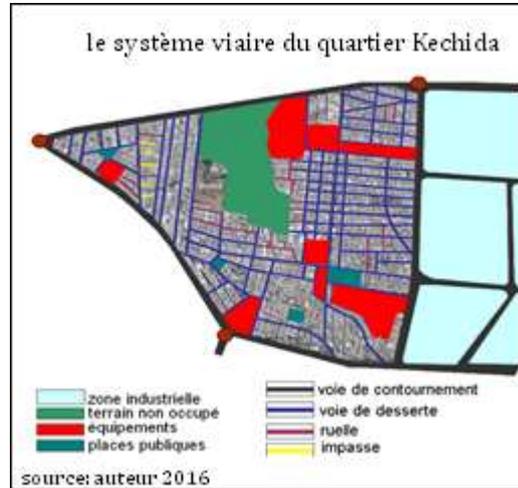
Le quartier de Kechida se distingue également par une distribution incohérente des masses bâties, une contradiction avec les critères d'alignement et de continuité. Cette manière d'occupation a des incidences négatives sur la géométrie et la dimension de la voirie.

Du point de vue de la verticalité, la modénature, que façonnent les constructions par leur hauteur et leur disposition, laisse apparaître certaines discontinuités et incohérences qui résultent de la confusion des directives d'urbanisme ($1 \geq \text{COS} \geq \text{ilimité}$) d'une part, et d'autre part de la nécessité à satisfaire, en espace, les besoins de la famille nombreuse. Ainsi l'élément habitat est-il en contradiction avec l'ensemble des lois et normes en vigueur, mais, en même temps, il présente des analogies avec l'habitat traditionnel, comme la présence du patio et de murs aveugles sur l'extérieur.

En l'absence, au préalable, d'un tracé du parcellaire techniquement rigoureux, la hiérarchisation géométrique des constructions est compromise. L'aspect dimensionnel des habitations est de diverses formes (rectangulaire, carrée, lanière et en trapu). Ici, l'habitat n'est pas seulement un refuge ou un besoin de sécurité, il véhicule un mode de vie et un moment d'expression de ses occupants. En ce sens, « *la fonction d'abri de l'habitat est une fonction passive. Son but actif est de constituer une unité signifiante et pertinente au sein de l'espace social d'une culture* » (A. Rapoport, 1972).

Le système viaire

La vue sur plan du quartier de Kechida affiche un maillage dense et relativement cohérent, à structure quadrillée (figure ci-contre). Il s'explique par la planéité du relief, les modalités de l'ilotage et son obéissance à la distribution des masses bâties. La géométrie et les dimensions des voies sont faiblement ajustées, du fait que l'équilibre et l'harmonie des îlots-parcelle-bâtie, sont imprécis. Il s'agit donc d'un élément passif du système urbain et d'un espace résiduel du constructif (cas 01/02).



Du point de vue fonctionnel, le système viaire dispose d'une hiérarchisation apparente, d'une part, par rapport aux parties desservies, et d'autre part, par des activités économiques et commerciales implantées selon l'importance des artères. Elles lui assurent une dynamique quotidienne. Nous les représentons selon divers seuils.

- **Seuil premier :**

Voies de contournement (RN3) d'un trafic important et une activité commerciale en conséquence (photo ci-contre).



- **Seuil deuxième :**

Il englobe l'ensemble des voies de desserte qui, par leur étendue, assurent l'accessibilité et le déplacement à l'intérieur du quartier. Cet endroit héberge des activités liées à l'artisanat et à quelques services.



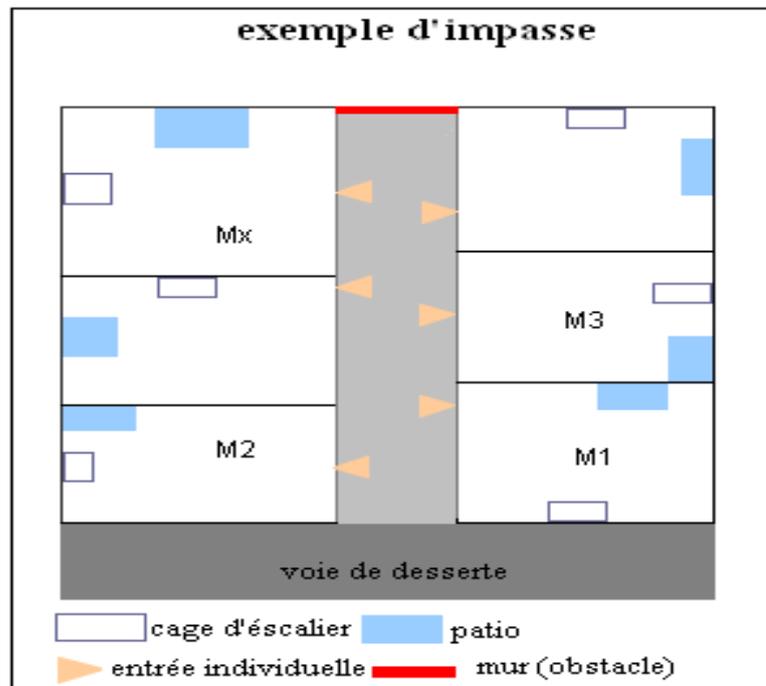
- **Seuil troisième :**

C'est un espace où les ruelles sont étroites, elles relient les voies de dessertes et permettent l'accès direct aux habitations du côté latéral, elles sont moins fréquentées



- **Seuil quatrieme :**

À ce niveau, l'usage et le franchissement de l'espace sont strictement réservés aux habitants. Comme le montre la photo, ce seuil représente une impasse, un espace semi-public, dans la mesure où il constitue un dernier passage pour l'accès direct à l'habitation. C'est un aspect que l'on relève également dans le tissu urbain des vieilles cités traditionnelles algériennes, où la hiérarchisation de la voirie va du public au semi-public, puis du privé. La photo indique que l'impasse n'est pas un obstacle à la circulation mécanique. Une telle conception est due certainement à une adaptation aux besoins de la vie d'aujourd'hui



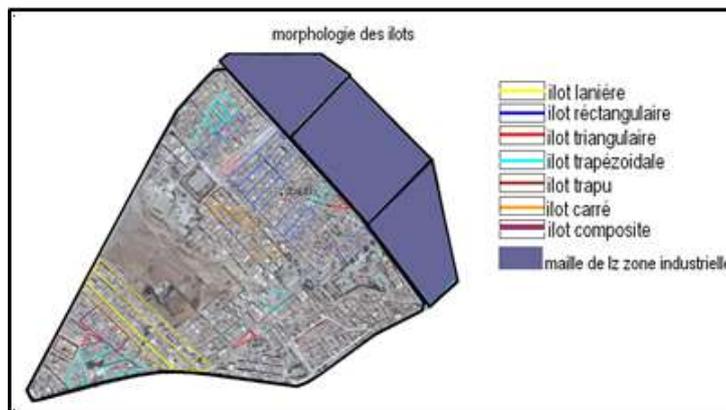
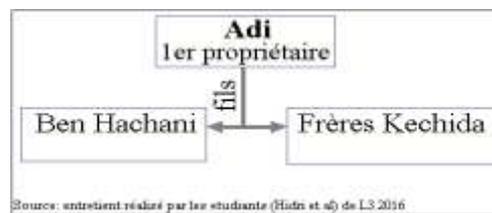
Le système parcellaire.

Des informations récentes fournies par l'Agence nationale⁴ du cadastre affirment que périmètre urbain de la ville de Batna est partiellement cadastré, soit une estimation qui s'élève 63% du nombre total des sections. Les documents recueillis auprès du service

⁴ Agence nationale du cadastre. <http://www.an-cadastre.dz/AVPO.html> , site consulté le 16/04/2016.

cadastral local font état d'une procédure inversée des opérations cadastrales telles en usage. Elle consiste en la restitution du parcellaire depuis l'état de fait où les dimensions et la géométrie reprennent celles des constructions.

Comme nous l'avons souligné, nos entretiens avec les habitants du quartier de Kechida nous ont permis de connaître l'identité de ses occupants, selon leur alternance. Ainsi, nous avons pu constater, par exemple, qu'à un premier



propriétaire, dénommé Adi, se sont succédés, jusqu'à maintenant, plusieurs possesseurs, les derniers constituant deux groupes de famille, les Ben Hachani et les Kechida (schéma ci-contre)

À défaut d'un plan cadastral préétabli, précédent les actes d'urbanisme, nous procéderons à l'étude du parcellaire par la reprise des formes et des dimensions telles que représentées par le système bâti.

Le plan de masse du quartier de Kechida présente, dans sa grande partie, une mosaïque de petites parcelles disproportionnées et regroupées en plusieurs îlots de différentes formes. Dans ce même plan figurent les terrains d'une zone industrielle découpés selon de

grandes mailles géométriques et les terres, d'un seul tenant, d'une exploitation agricole, de près d'une dizaine d'hectares.

Sur le plan topologique (A. Borie, Denieul), la direction du parcellaire présente deux cas de figures, celui des parcelles hiérarchisées, où les îlots sont de forme rectangulaire ou carrée, et celui dont les formes des îlots sont moins hiérarchisées.

Nous n'avons pas pu réaliser une étude dimensionnelle des parcelles, faute d'archives cadastrales qui auraient permis de retracer l'évolution des parcelles, qui sont, dans leur majorité, soit de formes rectangulaires, soit de formes carrées. Sachons, néanmoins, que la parcellisation de l'espace de Kechida a pour origine les partages successoraux successifs d'un terrain d'une superficie d'environ 70 hectares ayant appartenu à un seul propriétaire. Ce dernier aurait légué son bien à deux héritiers, chacun d'eux aurait, à son tour, transmis son héritage à sa progéniture qui, elle aussi, s'est fait héritée. Au laminage des terres, par le jeu des successions, s'ajoutent les aliénations envers des individus ne descendant pas du propriétaire initial.

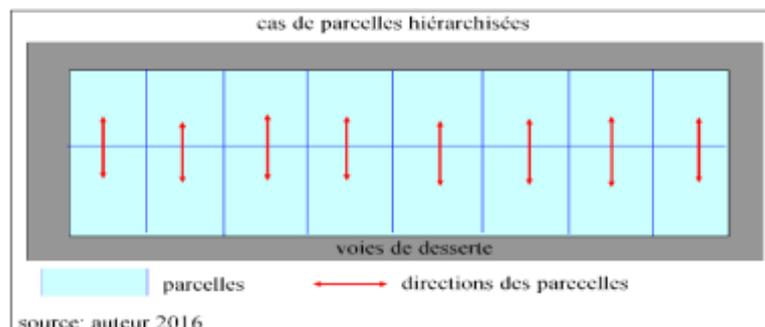
Les espaces libres

La forte densité de construction et l'occupation des sols, essentiellement par des habitations, créent un déficit flagrant en espaces libres publics, car même si certains dégagements existent, ils résultent de la discontinuité des masses bâties et n'ont jamais bénéficié d'aménagements appropriés, pour abriter une fonction précise. Topologiquement, ces espaces se trouvent en position de liaison avec les rues, ils forment une césure dans la continuité des masses bâties. Géométriquement, ils sont de formes peut équilibrée, puisqu'ils résultent de la distribution du bâti et du système viaire.

Conclusion

Cette contribution, qui demande à être complétée, a répondu à quelques questions soulevées dans l'introduction. Cependant, pour mieux comprendre la manière avec laquelle les habitants du quartier de Kechida pensent et pratiquent l'urbain, d'autres questions méritent d'être posées, mais nous en parlerons lors des débats qui seront organisés durant des rencontres de l'APERAU de 2016, ce qui nous amènera à répondre aux questions suivantes :

- Qui a fait l'espace périurbain de Kechida ? Dans quel contexte socio-économique ?
- Comment a-t-il évolué ?
- Quelles sont les communautés qui l'habitent ? Comment le pensent-elles ? Comment le pratiquent-elles ?
- Quel pourrait-être son devenir ?



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TRILATERAL COOPERATION RUSSIA, MONGOLIA AND CHINA: IN CASE OF RAILWAY PROJECT

Urantsetseg Enkhbaatar⁵

Abstract

The President of the China Xi Jinping announced the initiative "One Belt & One Road" in the world in 2013. This initiative is the Chinese foreign economic policy of the nearest 10 years. As part of this initiative, China has started to cooperate with many countries, including the countries of the Eurasian continent. In line with this, our country wants to cooperate with China in the framework of the initiative. Mongolia wants to become a transit country between Russia and China. Thus, the heads of the three countries agreed to create an "economic corridor". However, the question remains of what Mongolia is in a political and economic crisis can I participate in the initiative "One belt one way" and its railway modernized.

Keywords: trilateral cooperation, Russia, Mongolia and China, New Silk Road, Steppe Road

At the beginning XX century railway came into existence in the world transportation system. In the past century world powers used the railway as a vehicle for one's own political sphere of influence. Russia was able to use themselves in favor of the historical time. Thus, Russia became "the territory of the superpower" with a combination of sea and land transport.

However after from the XXI century, crucial strategic importance of Central Asia grew. Because, world and regional powers strongly compete with each other in the space of the region to take control over the energy and strategic resources. But infrastructure and roads of the region directed to only Russia (Bor, Ulambayar 2013: 431).

So, world and regional powers implement many railway projects: "CAREC", "International transport corridor", "TRACEKA", "TAPI" etc.

However the president of Chinese People's Republic Xi Jinping announced about initiative "Economic belt of the Silk Road", which focuses on infrastructure projects in the Eurasian direction, in Astana in September 2013. So, the railway is again to attract a lot of attention in the XXI century. Analysts said that China has two reasons in order to re-establish "Silk Road", which connect to Asia and Europe.

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Firstly, China wants to be independent maritime transport routes controlled by Americans and reduce the time of delivery of goods from China to Europe. Currently, the average time of delivery of containerized cargo from China to Europe by maritime transport is 45-60 days. In case of successful realization of the project "Silk Road" goods from China to Europe will be delivered within 10 days (TASS Russian News Agency 2016).

The second reason - to implement the initiative "Economic belt of the Silk Road" is that opportunity to expand the Chinese domestic market. China is directing the special attention to the north-western, eastern and south-western and central provinces within of implement the initiative "Economic belt of the Silk Road" (TASS Russian News Agency 2016).

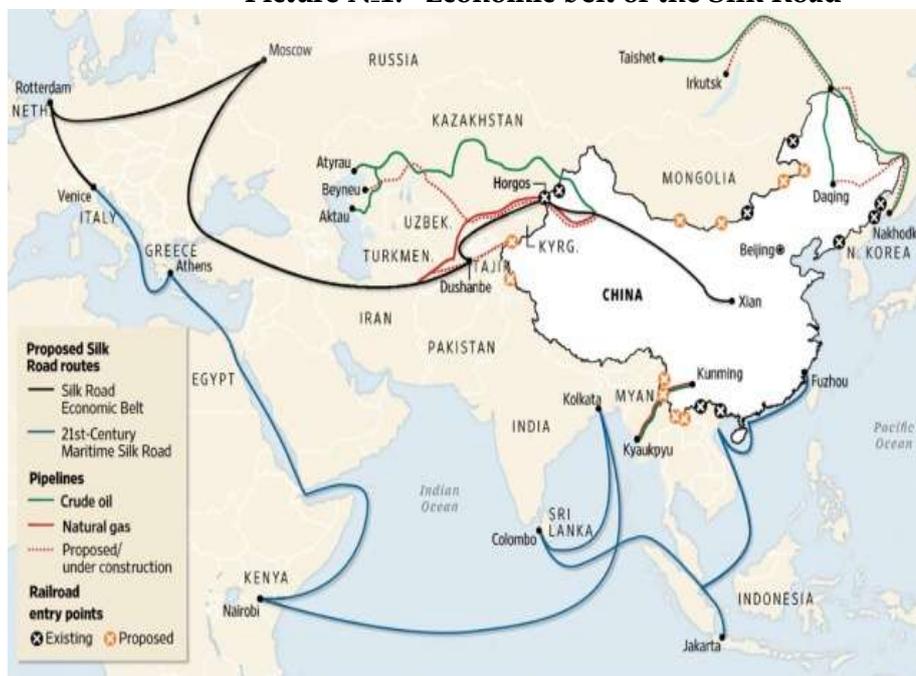
The initiative "Economic belt of the Silk Road" involves the creation of a vast area of economic cooperation from China to Europe with a population of 3 billion populations. Country from Central Asia plays a leading role in implement the initiative "Economic belt of the Silk Road".

Reporter of Italian newspaper "La Repubblica" Jampaolo Vizetty said that project "Economic belt of the Silk Road" is project of the XXI century and China gives an important signal to The Western countries. Moreover, the reporter said that Beijing takes an important position in the strategic region in the world, which covered the Pacific Ocean (Как Китай отвоевывает 2015).

China has concluded free trade agreement with countries, which are in economic belt of the Silk Road. Nowadays, 40 countries want to conclude free trade agreement with China.

Analyst from "Royal United Services Institute" Raffaello Pantuchchy considered that China will be an important player on the geopolitical stage of this region in the world.

Picture №1: "Economic belt of the Silk Road"



Source: *Путешествие на Запад": зачем Китаю новый путь в Европу*
<http://tass.ru/ekonomika/3503810>

After announcing this project, Russia began work immediately on the development potential of Russia-China cooperation. As one of these formats in the internal working level considered the so-called concept of "Eurasian belt of growth", whose purpose - to enter the Chinese initiative in the existing institutional framework of the Eurasian Economic Union.

Moreover, Russia is directing the attention to infrastructure development and activating trade-economic cooperation of Eurasian countries in order to don't lose sphere of influence in this region.

Therefore, Russia has created a "Eurasian Economic Union". One of the most important issues of integration "Eurasian Economic Union" is to increase the freedom of movement of goods.

Today the "Eurasian Economic Union" provides for the establishment of zero rates of customs duties between the member countries and the abolition of customs borders and a common external tariff for third countries. However, there are some sectors where there is still no single market have harmonized rules: the markets oil and oil products, alcohol, cars and gas.

It is important for Russia that interest of Russian businessmen accords with objective of the initiative "Economic belt of the Silk Road".

Also, Russia interests project that focuses on built modern transportation corridors, which includes Eurasian region.

At the same time, an important project for the Russian Railways is to build lines of high-speed rail in the central region of Russia. In particular, this project is currently being developed, with the support of foreign investors, including those from China, who intend to take part in the project "Moscow – Kazan".

In addition, Russia wants to implement the project of connecting the Trans-Siberian Railway with the Trans-Korean Railway.

Picture №2: The project of connecting the Trans-Siberian Railway with the Trans-Korean Railway

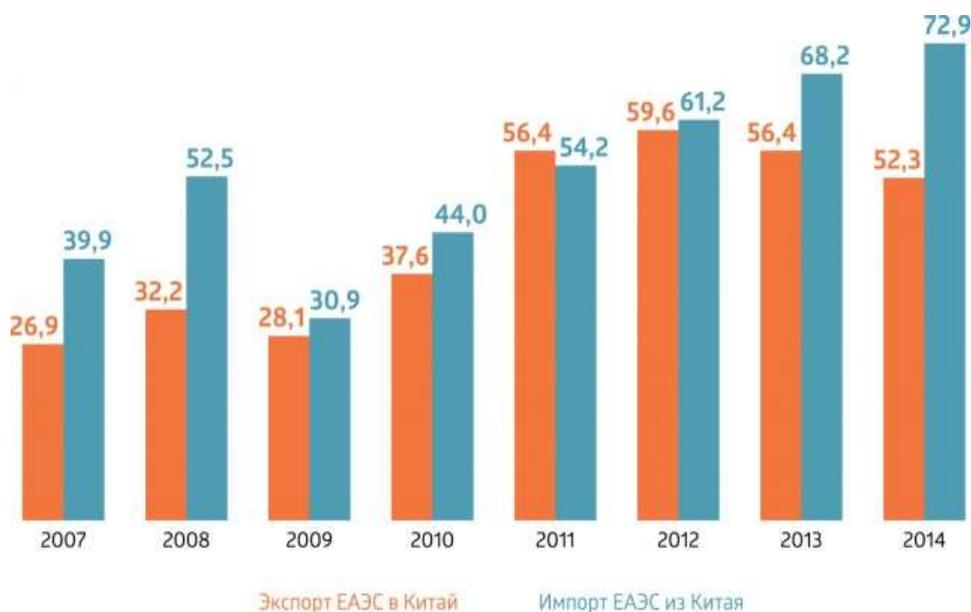


Source: Mongolian railway

For Russia, China is one of the trade partners from countries of "Eurasian Economic Union". For the period 2011-2014, China's investment in Russia increased from \$ 125.9 million to \$ 1271 million.

If so, export of Eurasian Economic Union to China increased from \$ 26.9 billion to \$ 59.6 billion from 2007 to 2012. But these exports decreased by \$ 52.3 billion in 2014.

Chinese investors interested in Kyrgyzstan. But they aren't interested in Armenia and Belarus.



Source: Владимир Саламатов "Экономический пояс евразийской интеграции"
<http://www.vestifinance.ru/articles/71847>

Thus, cooperation Russia and China makes more active, beginning Eurasian region movement and planning to build large-scale railways, which will be connect Asia with Europe.

Nowadays, external environment of Mongolia changes. So, Mongolia wants to deepen cooperation with Russia and China and interested in become trustworthy bridge between Russia and China.

Nowadays, "Ulaanbaatar railway" executes the majority of goods in transit in Mongolia. The "Ulaanbaatar railway" is one of the corridor in Central Asia Economic Cooperation. Therefore, Russian and Mongolian parties was agreed augment goods in transit in 2014. The two parties approved the "Ulaanbaatar Railway" development strategy, in order to update the "Ulaanbaatar Railway. To this end, Russian and Mongolian parties will finance "Ulaanbaatar Railway" \$ 890 million until 2020.

The president of Mongolia Elbegdorj Tsahia innovated mechanism trilateral meeting of heads of Russia, Mongolia and China in 2014. So, three heads of state agreed "Economic corridor" in 2016, which consists of three projects: Mongolian "Steppe route", Russian "Eurasian railway" and Chinese "Silk road".

Russia-Mongolia-China corridor consists of 32 projects, 13 are focused on transportation infrastructure (Program of Russia, Mongolia, China economic corridor).

1. Conduct a feasibility study for comprehensively redeveloping the main railway links of the economic corridor (UlaanUde-Naushki-Sukhbaatar-Ulaanbaatar-Zamiin Uud-Erenhot-Ulaan Tsav-Zhangjiakou-Beijing-Tianjin), constructing a double-track railway, and distributing electricity to it.
2. Conduct studies on northern railway links of the economic corridor (Kurangino-Kyzyl-Tsagaan Tolgoi-Arts Suuri-Ovoot-Erdenet-Salkhit- Zamiin Uud-Erenhot-Ulaan Tsav-Zhangjiakou-Beijing-Tianjin). In the case of a positive feasibility study result, the construction work will start immediately.
3. Conduct studies on western railway links of the economic corridor (Kurangino-Kyzyl-Tsagaan Tolgoi-Arts Suuri-Khovd-Takashiken-Haxi Prefecture-Urumqi). In the case of a positive feasibility study result, the construction work will start immediately.
4. Conduct studies on eastern railway links of the economic corridor (Borzya-Solovevsk-Ereen Tsav-Choibalsan-Khuut-Bichigt-Zuun Khatavch-Ulaan Khad-Chifeng-Jinzhou). In the case of a positive feasibility study result, the construction work will start immediately.
5. Conduct studies on Tumen River Transportation Corridor project, also referred as “Coast-2” corridor, (Choibalsan-Sumber-Rashaan-Ulanhot-Changchun-Yanji-Zarubino). In the case of a positive feasibility study result, the construction work will start immediately.
6. Conduct studies on “Coast-1” railway corridor (Choibalsan-Sumber-Rashaan-Manchuria-Qiqihar-Harbin-Mudanjiang-Suifenhe-Vladivostok-Nakhodka). In the case of a positive feasibility study result, the construction work will start immediately.
7. Study opportunities to connect Mongolia with the superhighway between Moscow and Beijing.
8. Organize a joint discussion session on establish a trilateral logistics company.
9. Actively use Asian Highway Networks AH-3 (Ulaan Ude-Kyakhta, Altanbulag-Darkhan-Ulaanbaatar-Sainshand-Zamiin Uud, and Erenhot-Beijing-Tianjin) for transportation, and conduct feasibility study for building a highway joining Mongolia to AH-3.
10. Construct AH-3 routes Novosibirsk-Barnaul-Gorno-Altaysk – Tashanta, UlaanBaishint-Khovd-Yarantai, and route Takashiken-Urumqi-Kashi-Honqiraf.
11. Conduct a study on East Highway Corridor (Borzya Borzya-Solovevsk-Ereen Tsav-Choibalsan-Baruun Urt-Bichigt-Zuun Khatavch-Xi Ujimqin-Ulaan had; routes between Zuun Khatavch

and Chaoyang, between Chengde and Jinzhou) and begin construction if feasibility study shows positive result.

12. Establish an Intergovernmental Agreement on the Asian Highway Network between governments of Mongolia, Russia and China.
13. Ramp up construction of communications infrastructure, manage technological operations and ensure safety of transportation corridors running from Ulaan Ude to Kyakhta, as well as on routes Altanbulag-Darkhan-Ulaan-baatar-Sainshand-Zamiin Uud and Erenhot-Ulaan Tsav-Beijing-Tianjin.

Picture 5: Mongolian Railway project



Source: The ministry of transportation and development of Mongolia

Thus, Mongolia has developed its proposal to join the movement of the Eurasian region. In addition, two neighboring expressed their support. However, they have to discuss with any project, which should begin. This question will meet the Vice-Ministers of Transport of the three countries in the October 20, 2016.

The economic corridor is intended to strengthen the three countries' mutual cooperation and support win-win economic development, as well as to increase the countries' competitiveness in international market. Multiple channels will be used for financing, such as government investment, public-private partnerships and investment from international

financial institutions such as the Asian Infrastructure Investment Bank, the New Development Bank and BRICS.

However, it is unclear how we will receive funding of these projects. The reason is that today China produces in the form of loans more than 70 billion dollars. Countries of the region's economic belt of the Silk Road. Researchers refer to this concept as the Chinese soft intervention (Рыжова, Экономический пояс Шёлкового).

In any case, the new government has included these projects in its program, which will be implemented during 2016-2020. However, the Ministry of transport development plans to finish building these projects in 2026. If we are able to implement these projects, then our country will not be landlocked. It can restore our economy. Specifically,

- The Ulan Bator Railway will increase the freight transportation by 10 Million Tons, then Mongolia will have more opportunity to participate in the regional economy
- Countries, which carry transit goods by railway via Mongolia, will open their office in Mongolia. So, Mongolia has opportunity to execute role transferor.
- Russia and China railway's gauge vary. So, it's bring Mongolia to benefit
- The "Ulaanbaatar railway" plans to transit 34 million tons in 2018, 48 million tons in 2020, and 76 million tons in 2030.
- The "Ulaanbaatar railway" will have tax haven in region.

Creating new railway is one hand Mongolia has a few export gateways and develop infrastructure in urban areas. Other hand Mongolia needs to computing foreign residents. Because, this issue is related to national security.

The "railway" sector is subject of an economic "war" and of hot debates of the political representatives. So, our country has made efforts to elaborate an integrated policy, which is based on facts and exploration. An important fact is that Mongolia needs to enter into balanced relationships with Russia and China. In other words, Mongolia needs to have a specialized institute, which will study questions related to transport geopolitics.

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<https://www.vedomosti.ru/economics/articles/2015/10/26/614254-kitai-aziyu-rossii>

THE INCREASING CONCERNS OVER GOVERNMENT SECRECY

Myagmar Ganbat⁶

“Government ought to be all outside and no inside. . . . Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety”
Woodrow Wilson

Abstract

In the democratic system, an informed and educated public and an open government are two main guardians of democracy. It is often viewed that the media is the traditional and regular means by which the public gains knowledge of government activities in a democracy. The long-running controversy over the Wiki Leaks case, which was the public release of classified United States government documents by an international nonprofit organization, illustrated the strong tension between the desire for government to keep many of its actions in secret and the desire of the public to know what its government is doing. Those who disclose government's misconducts have the compulsion to uncover any wrongdoings in government in order to protect the democratic process. On the other hand, they fear that disclosing secret information may harm the government. Despite the uncertainties and the potential risks, government whistle blowing does seem a necessary aspect of the democratic process. There is a very simple yet very important question that remains unanswered which is what, if anything, government should or must keep secret and to what extent government should keep secret including in the name of national security?

Key words: access to information, transparency, accountability, national security, government secrecy, citizen participation

The relationship between free access to information and responsible government is direct. The importance of an informed public with timely information in a democracy is the essential power to safeguard democracy. In his famous book *The Social Contract*, the great philosopher J. J. Rousseau implies that a government should recognize its fundamental reason of existence, which is the union of its members. Indeed, an underlying principle of democracy is that government authority flows from the people and is based upon their consent. In this sense, the end of democracy ought to be based on the individuals' wants and needs.

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According to John Locke, a government is to provide for individuals' safety and security, which is the end for which they are in society. However, safety and security are not the only desirable ends of democracy, but freedom, equality, individual rights, and justice, as well.

Furthermore, in his essay "On Liberty," John Stuart Mill defends the value and liberty of speech for two main reasons. First, the freedom of speech leads to the truth and second, it also leads to diversity and individuality in terms of a larger impact on social life (Ross 1972: 261-266). As J. S. Mill asserts, the first implied meaning of freedom of speech is truth-telling. Truth-telling in the workplace is seen as an effective and beneficial practice exclusive to liberal democracies, that is, to those social arrangements where not only violations of law are punished, but certain values such as free speech, transparency, and accountability are also cultivated (Mansbach 2009). The second account of freedom of speech is its larger impact on social life.

All governments engage in furtive behavior and in the name of national security commit acts they prefer to conceal. It is often too easy to oversimplify the contrast between "righteousness of openness" and "evils of secrecy" (Liber 2013). When governments are neither open nor transparent, secrecy increases; accountability withers away. In other words, limited transparency often nurtures corruption, fraud, and the undermining of democratic institutions. Secrecy is embedded in relations of trust and notions of responsibility, but it can also impede accountability. There are many cases like Daniel Elsberg, Wikileaks, Bradley Manning, Edward Snowden who exposed government secrets to the press and public. The latest breaking news, "Panama Papers" revealed the secret records about 143 politicians including 12 national leaders, their families and close associates from around the world who allegedly have been using offshore tax havens to launder money, dodge sanctions and avoid taxes. Every time, someone reveals a government's secret to the public, there is much debate opened by the press and the public on what should government keep secret.

When the public knows that the government keeps too many secrets, the trust in the government decreases. In other words, more secrecy leads to more distrust and more desire to expose government secret /Picture 1.1/. There is no doubt that the government has to keep some secret in the name of national secret and for the sake of foreign policy, but if the government wants to keep some secret, the government bears the burden of proving the necessity of restrictions on the right to information (Wenjing 2010). The reason is that the public has the right to know what areas of governmental activity its government wishes to keep secret, what the justifications are, and what respective independent review systems are

in place to serve the public interest. In the name of secrecy, we need privacy for the citizens and accountability for government.



Picture 1: The cycle of secrecy

As it is apparent that any government needs confidentiality for certain data and information and some government would like to keep secret as much as possible from the public, the roles of whistleblowers especially in the public sector are important. As whistle blowers expose unethical or illegal behavior of government organizations to external authorities and the general public, they keep democracy vibrant and have the potential to more radically affect democratic subjects and politics (Mansbach 2009: 363). In other words, whistle blowing safeguards democracy as keeping public informed and promoting openness and honesty in government because excessive secrecy discourages citizen participation, and thus destroys the democracy. The contemporary U.S. society accepts the fact that cultivating an atmosphere of trust and openness, where the individual is free to express opinions and bring problems into the open, is central to promoting accountability and integrity in the bureaucracy (Alford 2002: 369). Not only the United States, but also many developed countries including Australia, Canada, Netherlands, United Kingdom, and New Zealand adopted their different versions of comprehensive whistleblower protection laws and regulations. However, many countries including Mongolia, not only do they not have any protection for potential whistleblower, but they also often retaliate those who exposed government wrongdoing. Furthermore, based on the

comparative studies between different countries, she concluded that the reason the practices of whistle blowing vastly differs in different countries is not the presence of whistle-blower protection laws. Rather, it is the country's unique history, values, and institutional experience that stimulates or stifles whistle blowing and determines whether those who expose wrongdoing are considered heroes (Johnson 2004a: 140).

Arguments in Favor of Whistle blowing

As a Means of Ensuring Freedom of Speech

In his essay "On Liberty," John Stuart Mill defends the value and liberty of speech for two main reasons. First, the freedom of speech leads to the truth and second, it also leads to diversity and individuality in terms of a larger impact on social life (Ross 1972: 261-266). Indeed, whistle blowing is protected speech under the First Amendment to the U.S. Constitution. As J. S. Mill asserts, the first implied meaning of freedom of speech is truth-telling. Truth-telling in the workplace is seen as an effective and beneficial practice exclusive to liberal democracies, that is, to those social arrangements where not only violations of law are punished, but certain values such as free speech, transparency, and accountability are also cultivated (Mansbach 2009: 370).

Whistle-blowing as a Means of Ensuring Accountability

Indeed, insofar as public officials in a democracy always act with the license granted by others, on behalf of others, and with materials provided by others (Moore, Sparrow 1990: 129-147), the public holds them accountable for whether they act in accordance with the rule of law and the democratic frameworks, in an open and impartial manner. In fact, Transparency International, the global coalition against corruption, calls whistle blowing a '*fundamental principle of accountability*' that underpins the design of a good governance system (Johnson 2004b: 13). To sum up, whistle blowing ensures accountability of government officials to the public by keeping them responsible for their wrongdoings and misconducts and disclosing the results in a transparent manner.

Whistle-blowing as a Means of Eliminating Fraud, Waste, and Abuse

Whistleblowers sound an alarm within the organization in which they work, aiming to spotlight neglect or abuses that threaten the public interest. It has been suggested that whistleblowers also benefit the wider society by helping to eliminate and control individual and organizational misconduct. In particular, the immediate beneficial effects can be seen in high-stakes area of public health and safety. For instance, Barbara Moulton had a profound and lasting effect on the Food and Drug Administration in the early 1960s alerting Congress and the public to the dangers of close ties between the drug industry and the Food and Drug Administration. To sum up, whistle blowing secures the integrity and efficiency of the government

as it detects and deters fraud, waste, abuse, and violation of laws, rules, and regulations in government agencies.

Whistle-blowing as a Means of Fostering Sense of Community

A great Chinese philosopher Confucius observed long ago that the indirect effects of a statesman's actions were far more important than his direct decisions. In fact, the character of the community would be shaped in part by the power example set by public officials occupying the leading positions of public honor and trust (Douglas 1952: 20). Hence, if employees in the public sector can show the highest loyalty to the public interests with moral courage and integrity against wrongdoings of their organizations, it will set a great example to the larger community as well. Furthermore, a large group of political scientists believe that the leading problem in the United States currently is the loss of a sense of community and belonging. Robert Putnam writes that more Americans are bowling alone – that is, not participating in the civic life of the country (Alford 2002: 35). But, the whistleblowers can illuminate many others as they remind them that individuals belong to the larger world. To sum up, whistle blowing fosters a sense of community by sending signals to the public that they belong in a mass society.

Arguments Against Whistle blowing

Increased Regulation, Litigation, and Costs

Some whistleblowers are heroes due to great publicity, but it is a stereotype. In practice, however, there are almost always dire consequences to whistleblowers, to their careers, and to their personal lives as a result of their actions (Johnson 2004a: 327). According to the studies of 1980, 1981, 1983, and 1992, conducted by the U.S. Merit Systems Protection Board, a considerably large percentage of federal employees were reluctant to report instances of illegal or wasteful activities they had observed mostly because of the fear of retaliation and the belief that nothing would be done to correct the problem (U.S. Merit Systems Protection Board 2016). Furthermore, among those who did report such activities, a significant percentage felt they experienced some form of reprisal as a result. In 1996, the Board conducted a survey to discover if the passage of 10 years of the Whistleblower Protection Act changed the way the Federal employees responded to suspicions of fraud, waste and abuse, and they found minor indications of change from previous studies. Besides the negative consequences for whistleblowers, Sissela Bok, a contemporary philosopher and social critic, argues that the act of whistle blowing can be so damaging to programs, agencies, and to the people involved (Johnson 2004b). To wrap, whistle blowing increases regulation, litigation, and other related costs not only for whistleblowers, but also for organizations and for the society as a whole.

Whistle-blowing in the term of national security

The national security has always been on the spot when whistle blowing occurs in government main organizations. The domain of foreign policy especially required confidentiality and secrecy. According to Mark Moore and Malcolm Sparrow, there is a natural tension between the responsibility of a democratic government to provide the public with sufficient information to be held accountable, and the need for the government to conduct secret operations in the national interest. The strongest basis for keeping secrecy in government foreign policy is a consequence-based argument that the United States will be handicapped in its efforts to influence other nations if its internal deliberations are transparent (Moore, Sparrow 1990: 126-129). It thus becomes crucial to decide between the importance of preserving confidentiality in the national interest and the importance of enhancing the quality of policy deliberations through openness. To sum up, whistle blowing may interfere with the government necessity to preserve confidentiality in the national interest.

Breach of Loyalty

To be a whistleblower, an employee must reveal information the organization does not want revealed. To do so, an employee uses information obtained in virtue of membership in the organization Davis, M. (1996: 6). In this sense, whistle blowing is difficult to justify because employees have absolute obligations of confidentiality and loyalty to the organization for which they work. Revealing the information they trusted is definitely a breach of loyalty to the organization. In many instances, whistleblowers can weaken an organization's chain of command, pose a threat to its effectiveness, unsettle employees' confidence in their ability to use discretion, and create a sense of unpredictability (Johnson 2004b: 75). In fact, the publicity from whistle blowing might also cause financial losses for the agency, a reduction in public support, increased management turnover, and sometimes loss of cohesion within the organization. When employees blow the whistle, they exhibit disloyalty not only to their organization, but also to their colleagues. The memoirs of many whistleblowers have revealed that they lost contacts with many of their colleagues because of their actions. To wrap, whistle blowing infringes on the rights of the organization as its whistleblower employees exhibit disloyalty.

In another point, societies with closed-door government seem to be low-happiness societies. As a result of the comparison between countries, a top ten of the world's happiest countries in 2015 was elaborated. Eight out of ten countries including Switzerland, Denmark, Norway, Canada, Finland, Netherlands, Sweden, New Zealand all ranked high in World press freedom index, corruption perception index, world best democracy

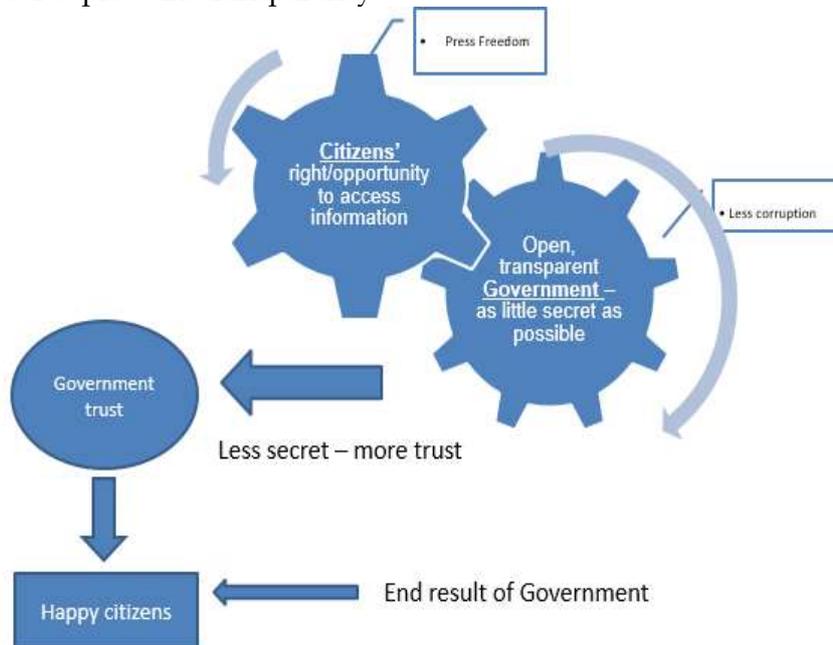
indexes. Of course, there are some overlaps between these ranking index indicators. The point here is that one of measurement to having happy citizens in the country is to give them opportunity to express their right to information and press freedom. Press freedom means there is less secrecy in the society. Also, government with low corruption means that the government is transparent and open. All these conclude that happy citizens are people who trust their government, and trust means honesty and openness. A state which does not trust its citizens will produce citizens who do not trust their state. When state keeps secrets, citizens feed on their own doubts.

World Happiness index 2015	CPI (Corruption perception index) 2015	World Press freedom index 2015	World Best democracies 2015
1.Switzerland	7.Switzerland	20.Switzerland	2.Switzerland
2.Iceland	13.Iceland	21.Iceland	
3.Denmark	1.Denmark	3.Denmark	5.Denmark
4.Norway	6.Norway	2.Norway	1.Norway
5.Canada	9.Canada	8.Canada	15.Canada
6.Finland	2.Finland	1.Finland	4.Finland
7.Netherlands	5.Netherlands	4.Netherlands	6.Netherlands
8.Sweden	3.Sweden	5.Sweden	3.Sweden
9.New Zealand	4.New Zealand	6.New Zealand	8.New Zealand
10.Australia	13.Australia	25.Australia	13.Australia
	8.Singapore	7.Austria	9.Ireland
	10.Germany	9.Jamaica	7.Germany

Picture 2: The comparison of countries' rankings in terms of "World Happiness index", "Corruption perception index", "World Press freedom index" and "World best democracies"(combined by author itself).

But, we have to admit that total openness and transparency is almost impossible. Only in an ideal world, governments should be completely transparent. The domain of foreign policy especially required confidentiality and secrecy. According to Mark Moore and Malcolm Sparrow, there is a natural tension between the responsibility of a democratic government to provide the public with sufficient information to be held accountable, and the need for the government to conduct secret operations in the national interest. The strongest basis for keeping secrecy in government foreign policy is a consequence-based argument.

For example, the United States will be handicapped in its efforts to influence other nations if its internal deliberations are transparent. It thus becomes crucial to decide between the importance of preserving confidentiality in the national interest and the importance of enhancing the quality of policy deliberations through openness. National security has been misused a lot in many countries by many governments simply to hide information from the public. From the public perspective, government should keep secret to a minimum level without abusing its power. To clarify, I am not suggesting here weak government is desirable, but we need open and transparent government. To cite a few examples here, in 2013, in Singapore, lack of transparency over population policy brought thousands out in an unprecedented protest. Also, in August 2013, a desire for openness in the treatment of military personnel and justice system prompted over 250,000 people to demonstrate before Taiwan’s presidential office. People want transparency.



Picture 3: The government secret (source: author itself)

Keeping some secrets may indeed be inevitable but it seems that the era of secrecy should be over by now. The excessive secrecy often leads to distrust. The art of deception should not be a tool in government’s domestic and foreign policy. Especially, in a democracy, transparency is the norm, not the exception. For this reason, my conclusion is that governments should keep secret as little as possible. As citizens of democratic society, we should have a consensus on the idea of accountable

and transparent government that should keep as little secret as possible. Excessive secrecy discourages citizen participation in government and destroys popular sovereignty.

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ROMANIAN ECONOMY BETWEEN ECONOMIC GROWTH AND POVERTY: A REGIONAL APPROACH

Romeo-Victor Ionescu⁷

Abstract

The paper deals with the contradiction between Romania's economic performances and its population's welfare. The whole analysis is made within the European context. Using the assumption of economic recovery across the EU28, the comparative analysis points out the idea that the Euro area's economic performances are worse than those of the EU28, at least during the latest period.

A distinct part of the paper uses regression analysis in order to quantify the economic disparities between EU28, Euro area and Romania.

The analysis is focused on relevant economic indicators: GDP growth rate, total investment, labor productivity, saving rate of households, government gross debt. A very interesting analysis is that related to population at risk of poverty or social exclusion.

The main conclusion of the paper is that there is a great difference between the official economic growth and population welfare in Romania and this difference becomes greater at NUTS2 regions. The paper uses the latest official statistic data and pertinent diagrams in order to support the analysis and its conclusions.

Key words: economic growth; total investment; risk of poverty; regional disparities

1. General approach

Last year the European Union had to face to new important challenges. The Greek crisis was followed by the immigrants' crisis, as well. Their impact on the economic development was high.

Moreover, the EU28 operated as a divided regional organization for the first time. UK reiterated its intention to exit from the EU, while Island quitted its position of candidate country. Greece was close to another exit from the Euro area, while Spain has unsolved economic problems, too.

The Euro area economic performances were lower than in the EU28 (European Commission, 2016). The GDP growth rate, for example, was not able to reach the levels from 2000 (see Figure 1).

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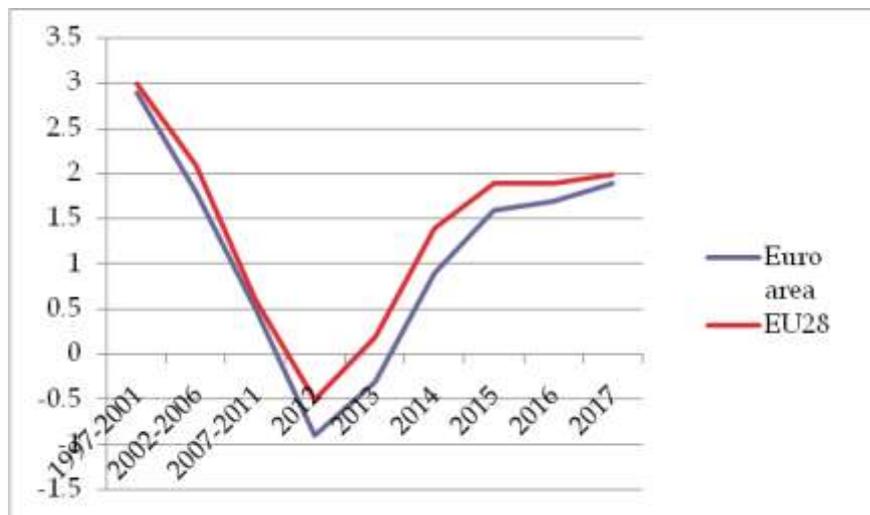


Figure 1: GDP growth rate (%)

According to Figure 1, the optimistic GDP growth rate forecast will be reached in 2017 the same level as in 2006.

The above evolution was supported by a fluctuant total investment trend during the same period (European Commission, 2016).

The total investment will be able to achieve the level from 2001 in 2017. On the other hand, the total investment in the EU28 will have better evolution than in the Euro area.

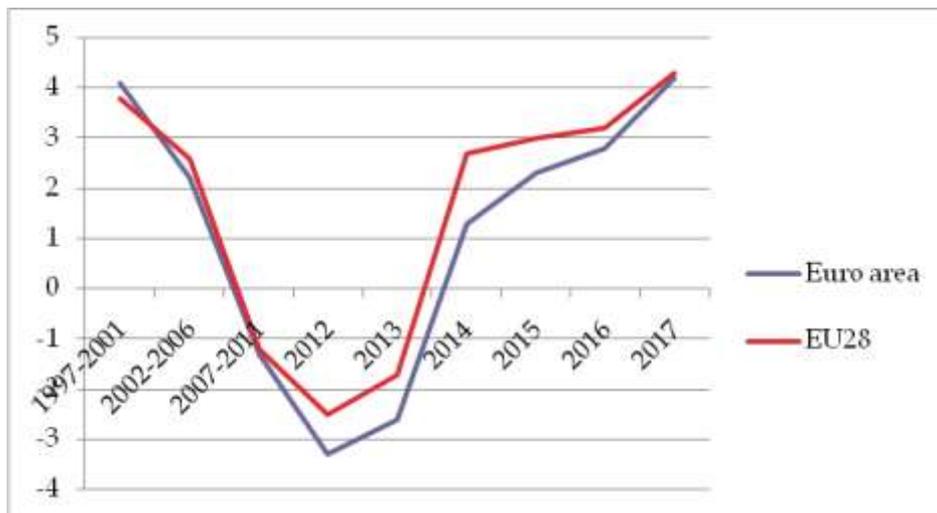


Figure 2: Total investment growth rate (%)

Moreover, the labor productivity will be not able to reach the same growth rates in 2017 as in 2001, for example (European Commission, 2016).

The first intermediate conclusions are that the economic recovery process in EU28 is not finished and the Euro area's economic performance is worse than EU28's economic performance.

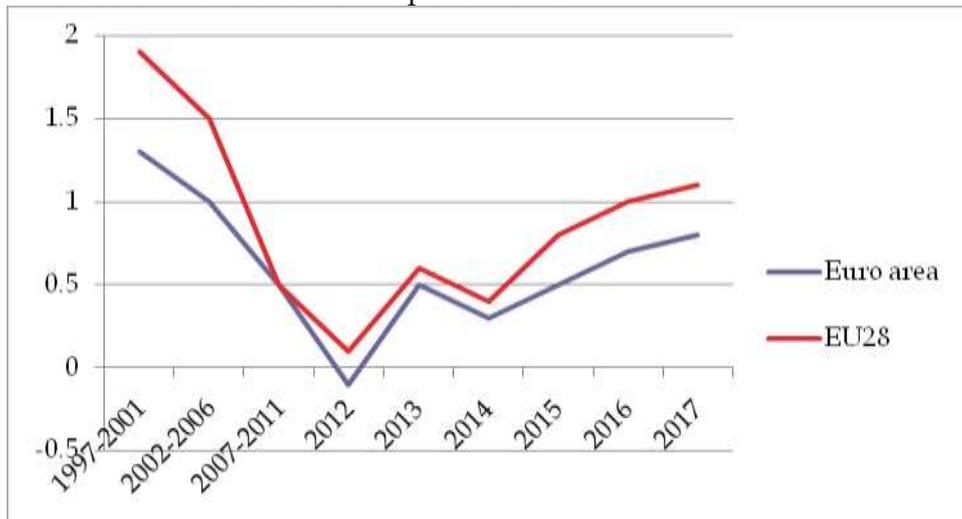
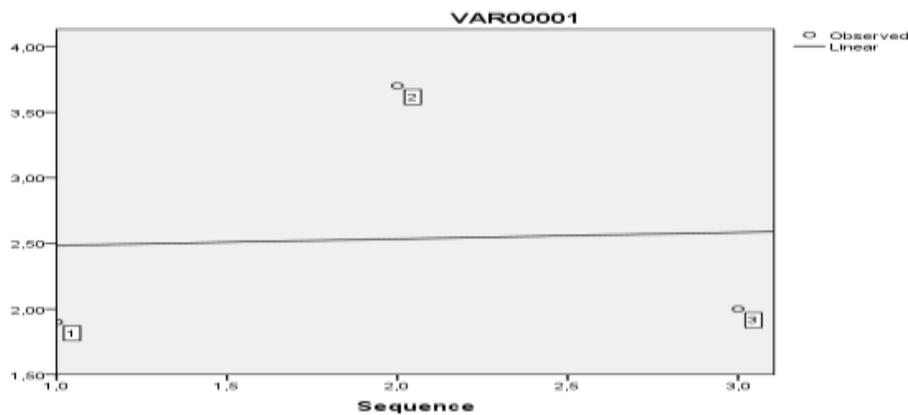


Figure 3: Labor productivity growth rate (%)

2. Romanian economy in the official statistics

Romania succeeded in achieving better economic performances than EU28 and Euro area in the latest years. Moreover, the official forecasts are very optimistic (see Figure 4).



1. Euro area; 2. Romania; 3. EU28.

Figure 4: GDP growth rate's disparities in 2017 (%)

Using the regression analysis, the Romanian economy will achieve greater economic growth rates than Euro area and EU28. Moreover, the economic growth rate in Romania will be higher than in Germany, Netherlands, Austria, Denmark, Sweden and UK during 2016-2017.

The same positive trend has total investment in Romania (see Figure 5).

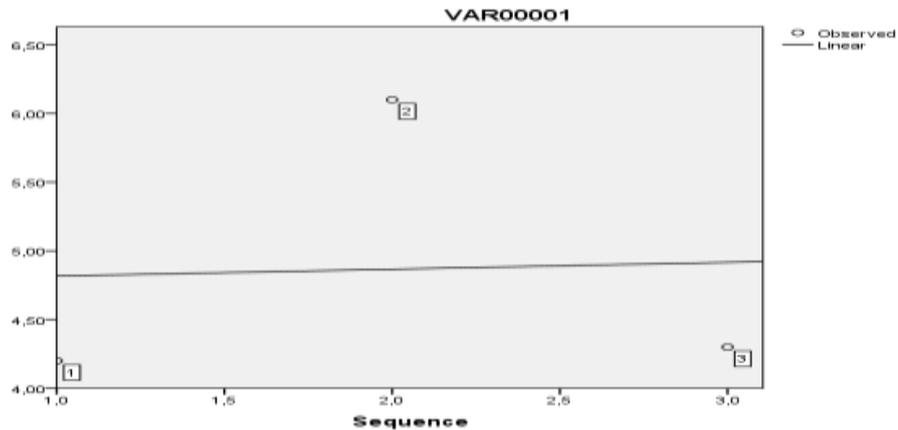


Figure 5: Total investment rate's disparities in 2017 (%)

The total investment growth rate will reach 6.1% in Romania, compared to 4.2% in Euro area and 4.3% in EU28 in the same year.

One of the greatest gaps between Romania and Euro area is that related to the labor productivity. As a result, Romania will achieve a 4.5 times higher labor productivity than in Euro area and 3.3 times higher than in EU28 in 2017 (see Figure 6).

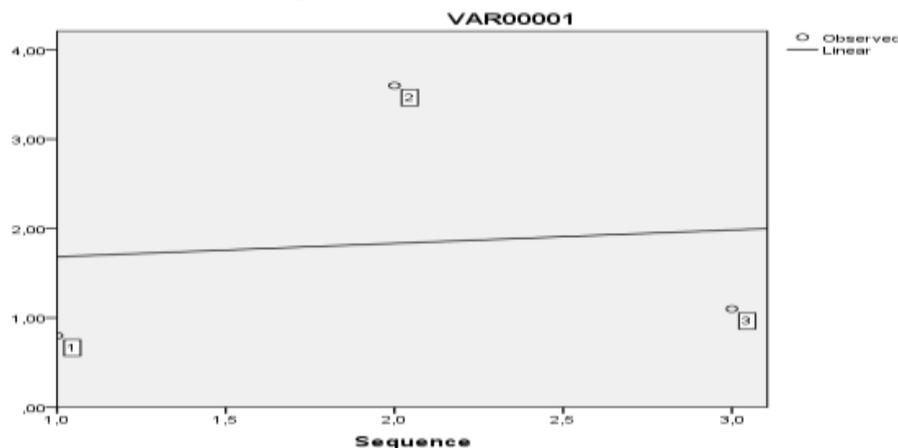


Figure 6: Labor productivity disparities in 2017 (%)

Other representative economic indicators talk about high economic performances in Romania. Romania will achieve the 8th lowest gross debt as percentage of GDP from EU28 in 2017 (42.6% of GDP).

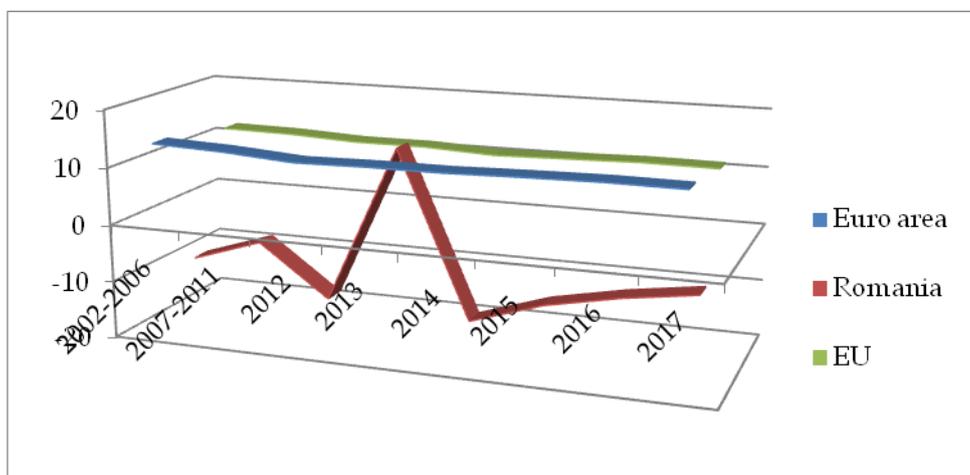


Figure 7: Saving rate of households (%)

All these positive economic trends would have good impact on the Romanian inhabitants' welfare.

The first contradiction is that the economic growth in Romania is not followed by an increase in households' saving. Romania faced to negative saving rates of households from 1996, excepting 2013 (see Figure 7).

Even the relative general government gross debt in Romania can be put in another image because it increased 2.14 times during the last 6 years (see Figure 8).

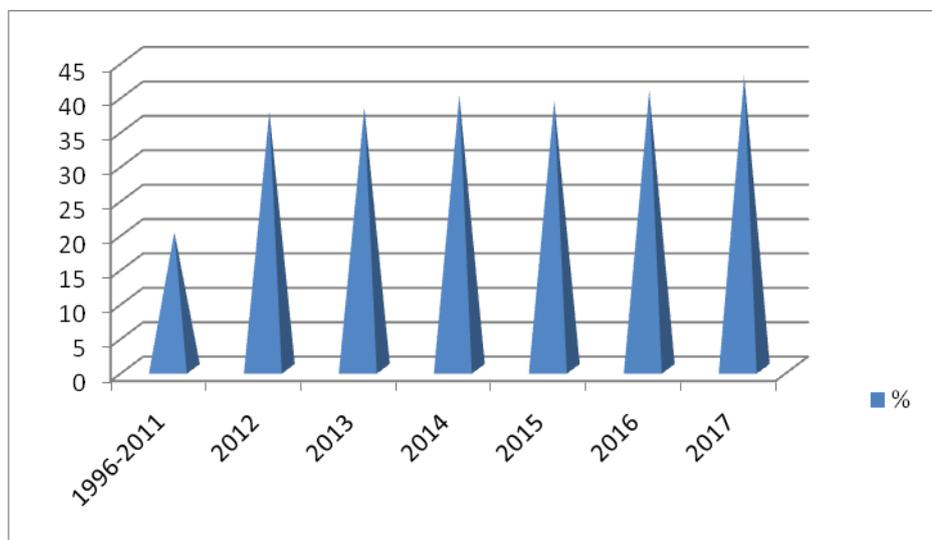


Figure 8: General government gross debt (% of GDP)

Moreover, the government gross debt's trend in Romania is different than the EU and Euro area's trends, because both regional entities succeeded in achieving decrease of this indicator from 2014.

But maybe the greatest contradiction between official statistic data and economic reality in Romania is that related to population at risk of poverty or social exclusion.

3. Risk of poverty or social exclusion in Romania

Despite the political enthusiasm in Romania, Eurostat published its latest official analysis on risk of poverty or social exclusion (Eurostat, 2014).

According to this analysis, Romania faced a rate of 40.4% for its population at risk of poverty or social exclusion. Only Bulgaria had a greater rate than Romania. The lowest shares of population at risk of poverty or social exclusion was in the Czech Republic (14.6%) (see Figure 9).

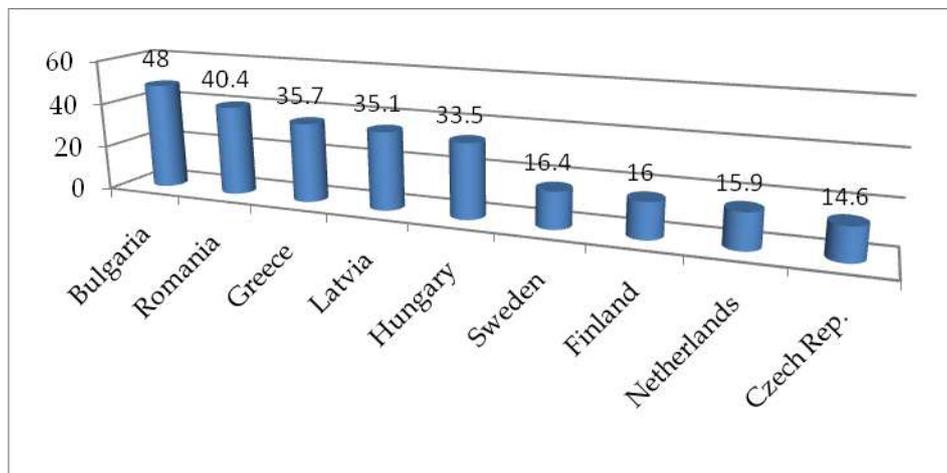


Figure 9: Population at risk of poverty or social exclusion (% of total population)

Unfortunately, Romania achieved 2nd rank in the EU regarding population at risk of income poverty (22.4%) and population severely materially deprived (28.5%).

The situation has not improved even after the social transfers. Moreover, according to this last indicator Romania faces the worst rank across the EU28 (Eurostat, 2016).

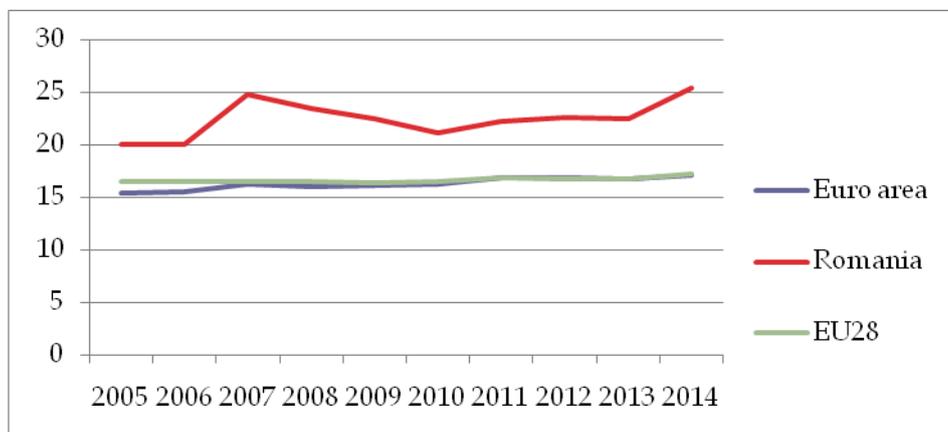


Figure 10: Population at risk of poverty after social transfers (% of total population)

This unwished trend in Romania is supported by the early leavers from education and training. This phenomenon faced to higher rates than

EU average from 2000. Moreover, only Malta faced higher early leavers from education and training rate than Romania in 2014 (Eurostat, 2016b).

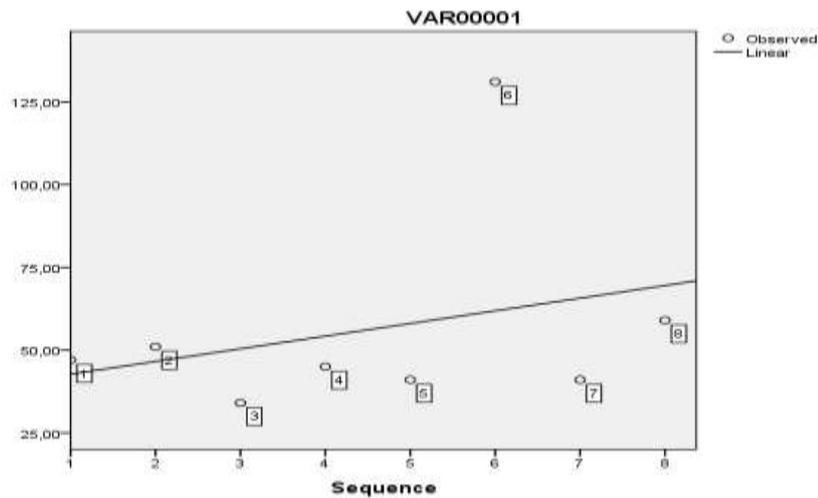


Figure 11: Early leavers from education and training (% of total)

The risk of poverty, social exclusion and early leaving from education and training in Romania are supported by the greatest regional economic disparities. According to the latest official data, 5 Romanian regions (Nord-Est - 34% of the EU average, Sud-Vest- 41%, Sud-41%, Sud-Est-45% and Nord-Vest-47%) are ranked among the fifteen lowest according to the regional GDP per capita (Eurostat, 2015).

The regression analysis points out the great disparities between the GDP per capita in the Romanian regions and EU28 average (see Figure 12).

According to this figure, the Romanian NUTS2 regions (excepting Bucuresti-Ilfov) have to start a very seriously economic catching up process which could bring them close to the EU28 average.



1. Nord-Vest; 2. Centru; 3. Nord-Est; 4. Sud-Est; 5. Sud; 6. Bucuresti-Ilfov; 7. Sud-Vest; 8. Vest

Figure 12: Regional GDP per capita disparities in Romania (EU=100)

A successful regional economic catching up will decrease the population at the risk of poverty or social exclusion and will stop early leavers from education and training in Romania.

4. Conclusions

EU28 was not able to solve the regional disparities related to economic development. The Cohesion Policy is nearly to become just a simple concept in the absence of positive results. The Greek crisis, the immigrants' crisis and the latest Brexit crisis are just the most visible elements able to destroy the concept of unified Europe. As a result, the Europe 2020 Strategy's goals are far away of achieving.

According to Romania's official statistic data, the economic growth rates were higher than EU average during the last 5 years. This trend will continue during 2016-2017, as well. The problem is that such economic growth is not followed by an improvement in the population's welfare.

Moreover, there are great economic, social and educational disparities between the Romanian NUTS2 regions. And these disparities didn't decrease.

Is the economics approach different in Romania? Is the economic growth in Romania just a theoretical concept as Madame de Stael's "art for art"? Unfortunately, the answer is not available now.

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THE POSSIBLE REVISION OF THE CONSTITUTION - A POTENTIAL SOURCE OF DISCRIMINATION?

Mădălina-Elena Mihăilescu⁸

Abstract

Given that over 3 million Romanian citizens have requested the amendment of article 48 of the Constitution, i.e. the State should only agree with the marriage between a man and a woman, our study tries to make a brief overview of the positions taken by the European Court of Human Rights or other national courts in similar situations where such sensitive issues were debated, e.g. marriage between partners of the same sex or civil partnerships between such persons.

During our analysis we have strived to show the completely different positioning of the ECHR regarding marriages between the same sex - which it does not support - as well as civil partnerships - which they easily accepted, their motivation residing in the acceptance of various social and interrelated realities, in the idea that equal opportunities must be agreed on several levels, including the cases of same-sex partners who want to be able to buy common property, to achieve a joint bank loan or to inherit each other after a long period of cohabitation.

At the same time, we have also reviewed the position of the National Council for Combating Discrimination (NCCD) or other competent bodies campaigning in this new social and legislative context which led to vivid controversy, for tolerance and for the removal of discriminatory practices by referencing to the status of such couples already recognized by the Constitution of other European countries or by the provisions of art. 16 of the Romanian Constitution which speaks about the principle of non-discrimination between citizens, a principle we want to be real, applicable, and not one of declamatory nature only.

Key words - amendment, citizen, marriage, family, consultation

Introduction

In connection with major events related to the proposed amendment of art. 48 of the Romanian Constitution, at the end of 2016, the judges of the Constitutional Court postponed taking a decision until 29th of November 2016, on the plea of unconstitutionality in which a gay couple married in Belgium requires the recognition of their marriage in Romania too, postponing thus a possible disorder of the various factions of society who oppose, more or less motivated, such kind of marriages.

On the grounds of Decision No. 580 of 20.07.2016 of the Constitutional Court of Law concerning the citizens' initiative entitled *The law to amend the Romanian Constitution*, they analysed both the opinion of the Legislative Council no.1200 of November 6th, 2015 on the legislative initiative of the citizens entitled

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"The Law to amend the Romanian Constitution" and the Declaration establishing the Committee for promoting the citizens' legislative proposal on the revision of article 48, section (1) of the Romanian Constitution.

Basically, the goal of this initiative is the intention to amend the legal provision mentioned above which states in its current form, that *'families are created based on the consensual marriage between spouses, on their full equality and on the right and duty of parents to ensure the upbringing, education and schooling of children'*, the newly proposed text being no more than a confirmation of the provisions of art. 259 section (1) of the New Civic Code, which states: *'Marriage is the freely consented union between a man and a woman completed under the law.'*

I. Romanian perspective

Under the current Romanian constitutional provisions, marriage is the consensual act between spouses, which translates, in its conservative social meaning, as the union between a man and a woman. Other types of partnerships, for instance a civil partnership between two persons of the same sex, proves to be unacceptable to our society, because its ancestral religious, social and cultural grounds are in total opposition to this new form of union.

The new bill aims to amend the Article 48, section (1) of the Romanian Constitution. Thus, the *'family is created based on the consensual marriage between spouses, on their full equality and on the right and duty of parents to ensure the upbringing, education and schooling of children.'*, the new constitutional article aims to turn into *'the family is founded on the consensual marriage between a man and a woman, on their full equality and the right and duty of parents to ensure the upbringing, education and schooling of children'*. The 3 million people who voted the amendment of the constitutional text considered that the term *'spouses'* in its current wording is ambiguous and leaves room for interpretation, providing a legal loophole for the same-sex partners advocating for the official recognition of their relationship.

According to article 16 section 3 of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on the 10th of December 1948, *'the family is the natural and fundamental element of society and is entitled to protection by society and by the State, the text of the statement itself describes, however, the legalization of marriage between a man and a woman, which derives from pt. 1 of art. 16'*. Beginning of full age, male and female, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They have equal rights to marry, during marriage and at its dissolution.

The same Statement also mentions, in art. 1 section 1 that *'All human beings are born free and equal in dignity and rights'* as confirmed by our constitutional text, art. 16, which declares all citizens of equal rights and opportunities, among which it is not accepted discrimination based on sex, religion, race. etc. This is the paragraph which lets us understand that this equality of opportunity should also apply to persons of the same sex whose rights to enter civil partnerships, to inherit

each other or to pay debts on behalf of the other, should be recognised just as in the case of an ordinary family.

According to Fundamentation of the Govt. Decision project regarding the endorsement of the national strategy regarding the equal opportunities between women and men for the period 2014 - 2017 and of the General Action Plan for implementing the Strategy, 'equal opportunities in general and equal opportunities and treatment between women and men in particular is a complex social process, established in time and conditioned not only by objective factors - the economic ones being the most important - but also socio-cultural and subjective factors, among which traditions, customs and gender stereotypes are the most obvious'.

In Romania they adopted the republished Govt. Order no. 37/2000, regarding *the prevention and sanctioning all forms of discrimination*, which enshrined the right to personal dignity, it civil-sanctioned the concept of harassment by defining it as any behaviour based on race, nationality, ethnicity, language, religion, social affiliation, beliefs, gender, sexual orientation, belonging to a disfavoured category, age, disability, refugee or asylum status or any other criteria that could create an intimidating, hostile, degrading or offensive framework, but also the victimization, consisting of any adverse treatment, in reaction to a complaint or legal action regarding the infringement of the principle of equality and non-discrimination.

In March 2002, they passed the law no. 202/2002, amended by Law no. 229/2015, on equality between women and men which *defined and criminalized the direct and indirect discrimination*, harassment and sexual harassment, the discrimination on grounds of sex and multi-discrimination. Also, this law established the National Agency for Equal Opportunities for Men and Women (ANES) (Avram, Radu 2010), a specialized body belonging to central public administration, subordinated to the Ministry of Labour, Family and Equal Opportunities, which promotes "equal opportunities and treatment between men and women and ensures the active integration of gender perspective into all national policies and programs" (art. 24 section. 3).

II. European perspective

As regards the European directives on various types of discrimination one should note:

a) *the Directive for equal treatment* - 'This directive prohibits any discrimination based on sex in terms of access to employment, working conditions, chances of promotion, the actions concerning training and continuous development as well as labour contract. Thus, a general ban on working night shifts for women is illegal in the EU if there is no similar ban for men.' (Popescu 2007:73) or

b) *The Burden of Proof Directive regarding discrimination* - This directive defines the concept of indirect discrimination and supports removing the responsibility of the discriminated person to provide evidence. 'When persons who consider themselves wronged, because in their case one did not apply the directive for equal treatment, they argue before a court or other competent authority facts from which one infers that there has been direct or indirect discrimination, as it is the obligation of the defendant to prove that the principle of equal treatment' (Popescu 2007:73) was not infringed.

'Although the concept of human rights has imposed itself in the consciousness of humanity, individual protection continues to be a concept whose content is difficult to be grasped, considering that respect for cultural diversity is widely recognized as a prerogative belonging to human rights' (Berna 2015:191).

'The universality of human rights certifies the immutable absolute nature of human rights - giving the nature of preeminence to the latter, regardless of the context in which one invokes human rights, while cultural relativism has its starting point in the idea that every community enjoys a set of cultural norms which must be observed in order to maintain the identity of that respective community in its external relationships' (Berna 2015:192).

In this context of cultural diversity and diversity of opinions, *the National Strategy for equality between women and men for the period 2014 - 2017* has identified various actions in five main areas: *education, employment, equal participation in decision making, gender mainstreaming and gender violence*. For each area, it established key actions to boost progress in the respective area (Strategia națională în domeniul egalității de șanse între femei și bărbați, 2013), thus putting in question the equality of opportunity in several fundamental areas, specific to everyday life, meant to protect the person directly and thus its private life.

Regarding same-sex marriage, according to the latest statistics, it is legal in 18 countries of which 13 are in Europe. Here, several countries allow marriages between the same sex (e.g. Belgium, Denmark, Netherlands, Sweden, Norway and Spain) or some form of civil union (Austria, Germany, UK, Czech Republic, Switzerland etc.), countries such as Netherlands, allowing both marriages between the same-sex and adoptions of children since 2001, this being also accepted by Sweden since 2009 or Iceland since 2010.

According to MEDIAFAX, in the article about the law on the marriage between the same-sex persons (MEDIAFAX 2013), France, a country where the main religion is Christianity - a religion whose principles underlie the refusal to accept such unions in Romania - has begun to legalize such marriages since May 2013. It is also known that in England and Wales, laws authorizing the marriage between persons of the same sex were adopted in July 2013, followed by Scotland in February 2014.

Regarding ECHR's position against marriages between persons of the same sex, *the Decision in the case of Hämäläinen vs. Finland*-Request no. 37359/09, judged

on the 13th of November, 2012- stated that, currently ' *the European Convention on Human Rights cannot be interpreted as imposing an obligation on the member States to allow marriages between persons of the same sex*' (section 49) and given that, at that time, only ten (10) countries of the European Council were granting homosexuals the right to marry, so it concluded that '*one cannot say that there is a European consensus on the permissibility of marriages between persons of the same sex*' (section 74), both vindications based on the provisions of art. 12 of the Convention, which '*confers the fundamental right of a man and woman to marry and form a family.*'

Regarding civil partnerships, the Strasbourg Court in the case of *Oliari and Others vs. Italy* (Request no. 18766/11 și 36030/11, judged in the 21st of July, 2015) Section Two of the European Court of Human Rights (ECHR), decided unanimously that 'the right to private and family life was violated, in this case about the legalization of civil partnerships / marriage between persons of the same sex in Italy'. Thus, the Second Section imposed a positive obligation arising from the Convention to institute civil partnership (section 164 and 185) i.e. the Court ascertained that 'the Italian Government has exceeded the margin of appreciation and failed to fulfill its positive obligation to ensure that the applicants are provided a specific legal framework designed to ensure the recognition and protection of unions between persons of the same sex '(section 185). In fact, this case refers to three Italian homosexuals' couples who wanted to get married or to be part of a civil partnership in Italy, but they were turned down by the authorities.

Once again, ECHR, in *the Case of Schalk and Kopf vs. Austria*- Request no.30141/04, judged on the 24th of June, 2010- adopted on the 24th of June 2010, stated that stable couples of the same sex can enjoy '*the right to family life*' in the same way as the couples of opposite sex on the grounds that '*it is considered that it is artificial to continue to believe that a homosexual couple, unlike a heterosexual couple, would not enjoy a "family life" within the meaning of Article 8. Consequently, the relationship the applicants have, a homosexual couple which cohabits de facto in a stable way emphasizes the notion of "family life" in the same way as for a heterosexual couple in the same situation.*'

The same violation of the right to family life and of art. 8 of the Convention was invoked by the petitioners in the case for which the Romanian Constitutional Court was currently vested for a resolution. The petitioners are also supported in this case by the National Council for Combating Discrimination (CNCD), the President of this structure stating that '*the current legislation (editor's note - of Romania) limits the right to human dignity, intimacy and family life of sexual minorities because banning marriages between persons of the same sex and the failure to recognize such marriages, or civil partnerships, places them outside society*' (Digi24, 2016). The file was opened following a lawsuit initiated by the Romanian citizen R.A.C. and by the American R.C.H. who were married in Brussels in 2010. The exception of unconstitutionality was raised by a homosexual couple, consisting of a Romanian and an American at the Court of Sector 5, after the General Inspectorate of the

Romanian Immigration refused to grant the American the right to be a resident. The Court of Sector 5 admitted the exception of unconstitutionality and sent it to the Constitutional Court.

Conclusions

Coming back to our analysis on a possible inequality of opportunity after a possible revision of the Constitution, we note that, supported also by the legal doctrine, 'indeed the complexity of the principle of equal rights, its scope and practical application led to the identification, also in the jurisprudence of Constitutional Court, of a *right to be different* as an expression of citizens' equality before the law, which is incompatible with uniformity' (Muraru, Constantinescu in Muraru, Tănăsescu 2008 :151).

To the concept of equal opportunities, in the doctrine we also noticed the idea that '*the legislator will have to identify the most suitable legal formula precisely because this text must not remain a mere declaration*' (Muraru in Muraru, Tănăsescu 2008: 153), which also encourages the positioning of a part of the Romanian members of the Parliament or of the citizens in accepting the civil partnerships which enables the two members of the couple to inherit each other or to actually live with his husband of Romanian nationality.

Of course, equality of opportunity should not be treated and interpreted as in anything and anytime is worth allowing. If the balance tilts towards unaccepting a segment of the population that understands, wants to live and cohabits '*this way*' we risk, however, to place ourselves only theoretically among tolerant societies, societies which show poor, discretionary understanding towards the equality of opportunity, which also implicitly means a deviation from the text of art. 16 of the Constitution.

As of now, we look forward to the decision of the Constitutional Court regarding marriages between persons of the same sex, and we mention in the end of this article, that it is precisely our EU membership which gives us the right to see the things surrounding us from new perspectives, including culturally and socially. Moreover, we have the obligation to tolerate the policy of the other Member States which, in time, agreed to eliminate the discrimination against those of a different sexual orientation, showing thus that we are part of a new, modern, open world, detached from the old restrictive and religious dogmas which dominated our concepts about privacy and family for centuries.

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PUBLIC SERVICE REFORM IN ROMANIA - STRATEGIES FOR REDUCING BUREAUCRATIC DYSFUNCTION OF THE PUBLIC SERVICE

Cristina Pătrașcu⁹

Abstract

Since the analysis of the reform process in the domain of the public service in Romania has not been explored often enough, the present paper aims to identify various types of bureaucratic dysfunctions of public service with special focus on the causes of these dysfunctions. The paper also points out the strategies and mechanisms proposed by the government to reform the public service, an area of crucial importance for the activity of public administration. For a better understanding of the causes of bureaucratic dysfunctions, the article makes a brief comparative analysis of the solutions of reform applied by other European states in order to find possible ideas or models that could be also efficient for the Romanian public administrative system.

Keywords: public service, reform, bureaucracy, bureaucratic dysfunction, public administrative system

1. Introduction

Evolving in an environment that has been recently shaken by a global economic crisis and that has been getting more and more complex, public administration has to cope with more and more complex problems, such as: its duty to contribute to the social-economic progress and to the improvement of people's life through a higher quality of the public services, the decrease of social inequalities (when their total removal is not possible), solving the citizens' requests, increase of efficiency, quality and responsibility. All these matters are only some of the many and varied challenges that public administration has to face, both in the most and less advanced countries, Romania belonging to the latter group. The solutions are not easy to find, all the more that the environment is continually changing. This fact requires a continuous effort of adaptation for public administration, but also the determination to solve all problems through a joint endeavor of all the affected parties, primarily the citizens.

Scientific research in the field of public service in Romania is not as extensive as expected, whereas important aspects like administrative dysfunctions and their correction as a consequence of an appropriate sense of responsibility for the organization and delivery of public service are not analyzed very often. These are the main reasons for which this paper aims

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to present a brief analysis of the bureaucratic dysfunctions of public administration in Romania, concentrating mainly on the causes of these dysfunctions. Another objective has been to identify the main characteristics of the environment in which public administration carries out its activities at both a national and international levels.

The research methods used are the qualitative analysis and the comparative study, following the exploration and evaluation of the specific scientific literature, available in Romania and other European countries.

2. Current European trends in public service reform

The challenges that the public administration has to solve in the 21st century are not anymore and not only national ones. These challenges that manifest themselves on a global scale (the handiest example being surely the global economic crisis that started in 2008) have a serious impact on national public administrations in ways that have never been anticipated. Professionals and scientific researchers in the field have been stirred to reflect on the necessity of transformation of political-administrative systems and to define the role of public administration, of 'what is and what public administration should be' (Curry 2014: 5).

During the last decades, as a global trend, we can see that public administration and the various organizations in the public sector have gone through an extensive transformation process, with a view to finding and applying the most appropriate strategies to ensure an increase of their efficiency and efficacy (Broucker, De Wit, Leisyte 2015; Broucker, Cromptvoets 2014; Pollit, Bouckaert 2000).

The specialists, who have been interested in analysing the evolution of public administration in the last years, have grouped the factors that have the greatest impact on public administration in several different categories. These categories have been established on the basis of various trends of evolution, such as: changes of the socio-economic context, changes of the modes of governance in the public sector, and changes of the theories and approaches of public administration as a scientific field (Curry 2014: 8).

In the first category, namely the changes or aspects related to the socio-economic environment, the researchers have, first of all, included the financial crisis and the demographic changes, but also the climatic changes that appear to take place more and more often and are more and more difficult to predict and manage. These are considered the main and worst challenges that governments have been confronted with at a global level, in the last five years (Broucker, Cromptvoets 2014: 2; Curry 2014: 8). At the same time, the specialty literature in the field highlights another important

fact, and that is the pressure exerted on public administration by the citizens whose expectations related to the quality and promptitude of the public services have become greater and greater with the passing of time (a tendency that may be synthetically expressed by a simple phrase: public administration is expected to do more and more with less and less – fewer resources!)

To all these factors another one has to be added: the growth of public spending in parallel with the decrease of the public revenues, which, disappointingly enough has a negative influence on the overall evolution of public administration and its capacity to provide better public services. In this sense, the main action to be taken is to strike a balance between the level of public spending and that of the revenues which can only be accomplished by finding new sources of revenues at the level of public local administration. The task of finding new resources is assigned to local administration because it is considered to be the closest level to the citizens.

At present, at a time considered as 'post-crisis' by specialists, most of the European countries are going through a reorganization process in the public sector. The scientific studies show that the reform measures applied by governments have first of all intended to rationalize the spending and to raise the efficiency of public services. It is also true, that these measures have had a variety of forms and have aimed at solving many different aspects related to the activities carried out by public administration, like the administration organizational structures, the number of the employees in public administration, the policies in the field of the human resources, the work conditions, but the main goal remains that of reducing the public expenditure to better adapt to the growing financial pressures (Dogaru 2015: 2). Related to the solutions that have been found by governments, various authors (Curry 2014; Peters, Pierre and Randma-Liiv 2011) state that their reaction to the economic crisis has been very different, being determined by the context, and therefore it is hard to be classified in a certain category (Peters, Pierre and Randma-Liiv 2011: 13-27; Curry 2014). Nevertheless, several categories may be established on the basis of the similarities observed between the countries. Thus, states like France and Germany have preserved their fundamental vision of governance, so that their governments' approach of the problems of the public administration was not radically influenced by the economic crisis. Other countries, for instance Great Britain has initiated a profound reform process of the public service. There are other states, like Finland where the government preferred to strengthen the centralization of the public administration, whereas countries like Sweden and Slovenia chose to deepen the decentralization process, as a response to crisis (Curry 2014: 10).

Romania has also gone through the economic crisis and the main measures applied were aimed at rationalizing the costs of public administration. These measures, including substantial salary cuts, did not bring about the expected outcome and did not contribute at all to the increase of the quality of the public services. On the contrary, Romania's current slow reform process seems to be even slower and more difficult than ever. In this sense, the main obstacles are represented by the structural flaws of the strategies elaborated by the government, and at times, by a lack of vision and political motivation to carry out the reform in public administration.

3. Public service in Romania - legal framework

In Romania, the organization of public administration is ruled primarily by the Constitution of 1991, revised in 2003, and by the existing legislation adopted in compliance with the constitutional principles, namely: Law no. 215/2001 on local public administration (republished in 2006), Law no. 195/2006 (the Framework Law on decentralization) together with its methodological norms; Law no. 273/2006 (regarding the local public finances); Law no. 340/2004 (on the institution of the Prefect). At the same time, there is the Law no. 51/2006 on the public service, called the 'law on the community services of public utility'.

According to the Romanian Constitution (art. 120) and the Law no. 215/2001 on local public administration, public administration in Romania is organized on the basis of the principles of decentralization, local autonomy, public service deconcentration, the eligibility of local public authorities and the principle of citizens' consultation about issues of local interest. According to this law, the autonomy is of administrative and financial nature, which means that, besides the organizational and functioning autonomy, the law establishes a patrimonial and financial autonomy, sustained by local taxes and fees (Manda 2007: 122).

It is important to note that the main source of the power of the public administration is the law which can bestow discretionary powers on the administrative authorities to enable them to accomplish their specific tasks (Bălan 2005: 28). These powers are exerted on the citizens, not only in the process of the execution of the law, but also in the process of the delivery of public services, and through various other activities, like granting of permits and authorizations (Bălan 2005: 29). Along the same lines, the literature in the field states the importance of the notion of public service, highlighting the idea that the administrative law itself is defined by two fundamental concepts: the organic one (the legal entity of public law) and the material one which refers to the notion of public service (Manda

2005: 291). The concept of the public service is closely connected with the idea of public interest and citizenship welfare and may be defined as 'the activity carried out by an administrative authority (organ) or public agent (of the state or private) in order to fulfill a general interest' (Bălan 2008: 129).

4. Bureaucratic Dysfunctions in the Public Administration in Romania

The Romanian public administration, organized mainly as central and local administration, has gone through profound changes after 1989, one of the most important achievements being Romania's integration in the European Union in 2007. This event had a significant impact on the reform process of the public administration, forcing the government to make considerable efforts to meet the criteria required to access the EU. One of the immediate consequences was the necessity to adopt and adapt the public administration to the EU legislative corpus and to the European mechanisms of governance.

The time before the accession was one of progress because, under the pressure exerted by the EU institutions, the Romanian public authorities demonstrated their will to apply the necessary strategies and adopt the necessary laws to meet the standards. Unfortunately, neither the will, nor the effort required by the reform were firm enough, and with all the positive accomplishments, the public administration continues to face serious issues, caused by structural factors such as:

- excessive politicization of administration which leads to a lack of professional competency;
- widespread distrust of public administration, both amongst the politicians and the citizens who see the administration as an inefficient system, a heavy apparatus that spends too much and charges too many taxes, a view that is strengthened by a rather high level of corruption. At the same time, the relationship between the two spheres, political and administrative, is marked by a lack of trust and frequent tensions between the two, which has a negative impact on governance and on the overall image of public administration;
- the lack of a true political and organizational culture that usually sustains the idea of the state as a source of welfare for all its citizens and as a promotor of economic growth for all, not only for some people or groups (legal entities or individuals);
- lack of a coherent strategic vision on the future and evolution of Romanian society;

- lack of transparency in the decision-making process, resistance to change, lack of initiative on the part of public administration;
- little involvement from partners of the business environment, civil society and the academic field, as well as other associative structures of the administrative-territorial units, so as to play an active role in the establishment of strategic visions or in the decision-making process
- high frequency of institutional and legislative changes which causes a lack of coherence and continuity in the field of public policies, as well as the impossibility to maintain and consolidate institutional capacity;
- ambiguity of the institutional role manifested in practice as an unclear assignment of responsibilities between the organizational structures at the central level which actually leads to a 'dilution' of responsibility (Bivins 2012).

Despite the fact that the EU granted Romania financial aid to ensure the development of its administrative capacity, under the form of pre-accession funds and later through the Operational Programme Administrative Capacity, the factors mentioned earlier have caused a lack of transparency and inefficiency in spending public money. This is the main reason for criticism, many voices identifying public administration with an excessive and costly bureaucracy. In this sense, researchers have remarked that, over the last ten years, there has been a growing interest in the phenomenon of bureaucracy. The newest trend of research is represented by the analysis of the impact that bureaucracy has on the citizens' daily lives and on the capacity of public administration to address social issues. This interest has been doubled by a constant encouragement to find solutions to reduce bureaucracy.

In Romania, one of the domains that is seriously affected by bureaucracy is the public service. Keeping in mind that the delivery of public services is one of the fundamental activities of public administration, Romanian scholars and professionals have pointed out the necessity to apply a set of rules to reduce the costs and accelerate the response of the administrative authorities to the citizens' needs. Among these rules to be cumulatively fulfilled, the most important are: the existence and applying of standards of quality and cost, a more appropriate distribution of both competences and resources in the process of public service delivery, the development of the administrative capacity to ensure the accomplishment of administrative tasks.

In order to reduce these structural deficiencies and to meet the standards existing in the EU, the Romanian government has tried to

elaborate and apply a series of strategies in an effort to diminish the bureaucracy. The main goals of these strategies are to simplify the administrative procedures for the citizens and the business representatives and to lessen the burden represented by a costly administrative apparatus, respectively. The elaboration of the governmental strategies was based on the analysis of the existing legislation and on the measurements of costs to find out what are the real costs of the administration which have to be cut down.

Between 2001 and 2013, the measures that have been taken were mainly meant to simplify the administrative procedures for the citizens. One of these measures proposed the introduction of the principle of the 'one-stop-shop', understood as a unique office for the delivery of identity (ID) cards, electoral ID cards, vehicle registration certificates, license plates, driving licenses and simple passports, which represent the most solicited documents by the citizens. For the business environment, there has been some progress in the field of taxes and fees.

In 2014, the government presented the *Strategy for the Consolidation of Public Administration 2014-2020* (shortly, *the Strategy*), approved by the Government Decision no. 909/2014. In order to remove the bureaucratic obstacles and simplify the administrative procedures that have a negative impact on the citizens (in terms of costs, information, time of response etc.), *the Strategy* proposes a fourfold action, along the following directions: the analysis of the needs and goals to be accomplished in order to simplify and rationalize the administrative procedures, the elaboration of an integrated plan of action, the auxiliary activities of implementing and monitoring the plan, and the periodical evaluation of the impact of the adopted measures. Until now, two stages, the analysis of needs and objectives and the elaboration of an integrated plan, have been concluded. In 2014, at the level of the central public administration, the process of measuring the costs paid by the businesses (costs that are caused by the complicated and too long procedures) was completed.

In as far as the legislation is concerned, an effort to arrange systematically the administrative corpus and provide the missing and ever needed legislative codes, such as the Administrative Code, the Administrative Procedure Code and the Code of the Local Public Finances, has to be carried out. Unfortunately, only few steps have been made in this direction, namely the amendment of the codes specific to the judiciary procedures, but the announced administrative codes have not yet been adopted and it seems that the term of their completion is indeterminately postponed.

The Integrated Plan on the Simplification of the Procedures Applicable to the Citizens was elaborated in agreement with the *Strategy for a Better*

Regulation 2014-2022 and the National Strategy on the Digital Agenda for Romania in 2020. At the same time, the *Plan* has been based on the conclusions of the *Analysis of the Needs and the Objectives of Simplification and Rationalization of the Administrative Procedures for the Citizens*. This analysis concerned eight domains: citizens' rights and obligations, public transportation, immovable property, work and social benefits, healthcare, family, education and the service of personal records. A number of fifty four services have been evaluated and classified according to four degrees of priority, namely 'very high', 'high', 'moderate', 'reduced' priority. The 'very high degree' of priority has been assigned to seven services: identity cards, construction authorization, buying and selling of a vehicle, vehicle registration certificates, purchase of a building, fiscal obligations and other taxes to the local and state budget and non-fiscal obligations.

The main measures of simplification are represented by solutions of e-governance, applied in agreement with both the national and the European legislation and standards, and by the necessary solutions to ensure the communication with the citizens who are not familiarized with the use of technology until the moment of introducing the e-services as a generalized, common practice. Another way of simplifying the procedures is the single gathering of data from the citizens, in the sense that the documents and information already collected by the public administration will not be required from the citizens each time they have a request or need to be fulfilled. The data will be transferred from the public institution which owns and manages the documents and information and this practice based on simple rules and principles will ensure a unitary and faster interaction with the citizens. The main modalities to communicate with the public administration will be the physical interaction and the interaction in the electronic environment (online). The town hall will be the main point of physical meeting between the administration and the citizens and at the same time will ensure the citizens' access to the majority of the available services online.

5. Conclusions

The analysis of the phenomenon of bureaucracy in the public administration makes the subject of a very diverse and rich scientific literature. The scholars interested in the research of this topic have elaborated an entire typology of the dysfunctions which may affect the public administration's activities in the 21st century, trying to characterize and classify these dysfunctions and presenting some possible solutions to apply when confronted with 'red tape'. Nevertheless, the researchers have, on every new occasion, highlighted the importance of making an analysis

which is closely related to the specific context in which the problems manifest themselves, insisting on the difficulty to find universal recipes. The analysts of this phenomenon insist on the idea that the bureaucratic dysfunctions are very difficult to analyze, define, and all the more difficult to solve. For instance, Jorrit de Jong, one of the co-founders of the 'Kafka' brigade, the author of *Dealing with Dysfunction: Innovative Problem Solving in the Public Sector* (2016), considers that: 'The "Anna Karenina principle", applies here: all well-functioning bureaucracies are alike; every dysfunctional bureaucracy is dysfunctional in its own way' (xi). Jorrit de Jong, as a representative of the Kafka brigade, proposes new methods of research in the field and asserts the importance of finding innovative solutions to deal with dysfunctions.

Bureaucratic dysfunctions and the public service represent a research topic which poses many challenges to the researcher. The essential goal remains that of finding the answers to the questions that arise from the complex relationships between the public administration and the citizens, a relationship which is fundamentally influenced by the quality of the public service. The natural concern should remain that of ensuring the welfare of the citizen, since without this, the public administration cannot fulfill its noble mission.

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THE RIGHT TO GOOD ADMINISTRATION WITHIN THE EUROPEAN SYSTEM OF HUMAN RIGHTS PROTECTION SET UP BY THE COUNCIL OF EUROPE

Elisabeta Slabu¹⁰

Abstract

*In the vision of the Council of Europe, **good administration** has the meaning of ensuring quality legislation, quality services rendered based on a proper evaluation of the society needs, an efficient public management, efficiency and effectiveness, corruption exclusion and recruitment, and training a quality staff. But, first of all, by **good administration** is understood the observance of individuals' rights, openness and transparency in public activity. And the activity carried out by the European Court of Human Rights, based on the provisions of the European Convention on Human Rights and Fundamental Freedoms, ensures the observance of human rights and has supported the development of European democracies, and, implicitly, achievement of a better governance and administration in the European countries.*

Keywords: good administration, the Council of Europe, European Convention on Human Rights and Fundamental Freedoms, Code of good administration

1. Brief introduction

The Council of Europe was established with the purpose to achieve a higher unity among the Member States and to facilitate their economic and social progress. This purpose was to be achieved by discussing matters of common interest, concluding agreements and adopting common actions in the economic, social, cultural, scientific, legal and administrative areas, but also by promoting and observing human rights and fundamental freedoms. Following the changes occurred in the late 80s in Central and Eastern Europe, the Council of Europe provided support to countries on their path of democratization and human rights observance. More than 200 European conventions and treaties, compulsory documents once they have been signed or ratified, have been replenished with a set of recommendations and assistance programs for the European states interested in implementing reforms in the constitutional, legislative and administrative areas (Duculescu 2008: 77-78). The generally binding rules established through conventions and treaties, as well as the recommendations approved for assisting in the implementation of mandatory documents have caused a strengthening of the European

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national legal systems, democracy consolidation, **increase in the quality of governance and administration at the European states level**. Also, the activity of the European Court of Human Rights, consisting in checking the manner in which the member states of the Council of Europe ensure human rights observance, backed up, beyond all doubt, the development of older and newer European democracies, and, implicitly, accomplishment of **better governance and administration** in the European countries.

2. The right to good administration in the *European Convention on Human Rights and Fundamental Freedoms*¹¹

The European Convention on Human Rights and Fundamental Freedoms, subsequently supplemented by 16 protocols, is the core of the complex system of promotion and protection of human rights and freedoms, a system improved over time so as to ensure an attainment of the purpose and objectives proposed at the establishment of the Council of Europe. The Convention provisions and the decisions of the European Court of Human Rights (ECHR) contributed in time to consolidating the European system of human rights protection.

Article 6 the Convention proclaims the "right of each person to a fair trial", stipulating in paragraph 1 that "every person has the right to a **fair trial**, publicly and within a reasonable period of his/her case, by an independent and impartial court established by law, which will decide either on the breach of his/her rights and obligations of civil nature, or on the proofs of any criminal charge against him/her. The decision should be "pronounced publicly", but the access to courtroom may be prohibited to the press and the public during the entire trial or a part of it in the interest of morality, public order or national security in a democratic society, where the minors' interests or protection of the parties' private life require this, or to the extent considered absolutely necessary by the court when, in special circumstances, the publicity is likely to prejudice the interests of justice ...".

This fundamental right is an essential element of the **principle of ensuring the rule of law in a democratic society**, specifying at the same time the guarantees necessary for carrying out any trial: fairness of the proceedings, public debate of the case and the trials to last a "reasonable time" (Birsan, 2005: 394-399).

The provisions of this article are closely related to the provisions of **Article 13** which states that "any person, whose rights and freedoms recognized by the Convention have been breached, has the right to actually come before a national court, even when that violation would be committed by persons acting in exercising their official duties". This text guarantees a subjective right of every person to be able to appeal before the

¹¹ Adopted in Rome on November 4, 1950.

national courts violation of the rights provided by the Convention, and also implicitly assumes the states' obligation to regulate such a possibility in the domestic legislation (Bîrsan 2005: 867).

The above-mentioned aspects represent the core of another fundamental principle of human rights, the legality of public authorities' activity - a defining element of good administration. The right of a person injured by an action or a failure to act of a public administration authority to approach the court about complying with the law and recovering the prejudice is considered a highlight of democracy and a means of preventing and combating corruption. It can even be a possibility to improve the public administration activity, given the fact that the decisions made by the courts concerning the observance of people's fundamental rights would be known by politicians and civil servants. But unfortunately, in Romania, the trials pending before the courts last long enough, which determines and justifies citizens' lack of trust in justice and do not lead to restoration of truth within a reasonable time.

A number of other four articles protect rights that represent social respect owed to individual (Bîrsan 2005: 593), as follows:

- ✓ **Article 8** stipulates that "every individual has the right to respect for his/her private and family life, his/her home and correspondence"
- ✓ **Article 9** provides that "every person has the right to freedom of thought, conscience and religion";
- ✓ **Article 10** stipulates that "every individual has the right to freedom of expression. This right includes freedom of opinion and freedom to receive or communicate information or ideas without immixture by public authorities";
- ✓ **Article 11** establishes the right to freedom of assembly and association.

These provisions ensure the individual protection against arbitrary intromission of public power in the exercise of its prerogatives by imposing both a number of negative obligations from the state (to do nothing that would prejudice the rights exercise) and a number of positive obligations for the actual guaranteeing of all components of those rights (the state is obliged to adopt a series of legal instruments that would have as result the accomplishment of these rights). However, there are also established certain conditions in which the exercise of these rights may be subject to some restrictions necessary in a democratic society to protect national security, public order or for prevention of committing criminal offences. The states have an "obligation to set up adequate and sufficient guarantees in order to exclude any abuse that might be committed by public authorities in this field" (Bîrsan 2005:595).

It should also be mentioned that in April 2009, the European Court of Human Rights announced that the "access to official information" is a

right protected by Article 10 of the European Convention on Human Rights.

In the same line of thought, it should be highlighted once more that among the objectives of the Council of Europe is "citizen participation in the life of local and regional communities and protection and consolidation of local and regional democracy, and freedom of expression and information, including freedom of the media, are essential for a real democracy and democratic processes". When these freedoms are not protected, the state subject to the rule of law may be compromised. "The right to peaceful assembly", as provided by Article 11, is a fundamental right in the democratic society, an essential element of public life, guaranteed for any subject of law intending to organize such a manifestation. The states have the obligation "to do nothing likely to hinder the exercise of this freedom and even the adoption of positive measures to ensure the possibility of its accomplishment, such as the measures of protection and security likely to provide efficacy and substance to the exercise of freedom of assembly" (Birsan 2005:808).

All these rights, promoted through a mandatory legal instrument and protected by the ECHR case law, in its turn binding on all member states of the Council of Europe, have underlain and are still underlying the principle of good administration, at present a principle promoted and protected by the EU legislation and CJEU case law.

The principle of non-discrimination, entered in all treaties and international instruments for the protection of human rights, is regulated by the Convention, in **Article 14**, as follows: "Exercise of the rights and freedoms acknowledged by ... the Convention has to be ensured without any discrimination based, especially on gender, race, color, language, religion, political or other opinion, national or social origin, membership of a national minority, wealth, birth or any other situation". It appears as a modern and refined form of **the principle of equality before the law**, as it has been provided in Article 7 of the *Universal Declaration of Human Rights of 1948* and is supplemented by the provisions of Protocol No. 12 to Convention concerning the general forbiddance of all forms of discrimination. In the literature is stated that the "right to non-discrimination" can be also labeled as "a right to equality, since equality and non-discrimination are equivalent notions" (Velu, Ergec 1990: 138), being pursued the protection of persons in similar situations against applying a different treatment.

The principle of non-discrimination or of citizens' equality contributes to achieving a **good administration** by enhancing confidence in the ability of public administration authorities to resolve the problems of all

types of administered persons, not only those belonging to certain social categories.

3. The right to good administration in the case law of the European Court of Human Rights

The European Court of Human Rights (ECHR) has contributed by interpreting the provisions of the European Convention on Human Rights, to the development and clarification of the terms that define the concept of **good administration**.

Thus, the ECHR Decision dated April 14, 2009, in Case 37374/05, *Társaság a Szabadságjogokért* against Hungary, it is very important for the evolution of the concept of **good administration**, representing practically a recovery in relation to the previous practice of the Court, which considered that Article 10 of the Convention does not impose an obligation to communicate information when the state does not want it. According to the new case law, "the right of access to information already available held by the state is formally recognized as belonging to Article 10, the Court finding that non-disclosure by the state of certain information that would have required a public debate on areas of general importance may lead to a breach of the freedom of expression".

In this case, the ECHR emphasized that "it would be fatal for the freedom of expression in the sphere of politics if public figures could censor the press and public debates invoking their personal rights, claiming the fact that their views on public issues regard their own person and, consequently, are personal data that cannot be disclosed without consent" (Barbu, Bogdan 2009). And since transparency is an essential condition for **good administration**, it should be highlighted once again the ECHR contribution to promoting and protecting the fundamental principles that are **elements of the good administration**.

Also, the European Court of Human Rights showed in Case 17056/06, *Micallef versus Malta*¹², that **impartiality** means the lack of prejudice or favor, and its existence or absence can be verified in many ways. According to the case law of the Court, "the existence of impartiality is determined based on a **subjective approach**, within which attention is paid to personal conviction and behavior of a judge". The Court decided that the "**personal impartiality of a judge should be assumed until there appear proofs to the contrary**". At the same time, it also takes place an "**objective approach**, within which it is checked whether the court itself shows enough guarantees so as to exclude any legitimate doubt in relation

¹² The ECHR, Case *Micallef against Malta*, Decision of 15 October 2009, available on page file:///C:/Users/user/Downloads/001-95031.pdf, accessed on 18.11.2016.

to its impartiality, such as the judge's participation in the trial in another stage of the trial".

In most cases having as object the issue of impartiality, the Court has focused on the **objective approach**. Nevertheless, there is not a clear delineation between subjective impartiality and objective impartiality of the judge; in some cases it can be difficult to find any proofs that would invalidate the presumption of subjective impartiality of the judge, the requirement concerning objective impartiality confers an important guarantee (Calin 2013).

The ECHR has also ruled that "in assessing the **objective impartiality**, appearances play a critical role ... since in a democratic society, the courts have to inspire confidence in litigants (Muraru, Tanasescu 2008: 1220). Also, the ECHR considers that **subjective impartiality** is related to the inner forum of the person, convictions, beliefs and behavior of a person and is presumed until the contrary is proved. It is a mental attitude that involves lack of prejudice¹³.

All these interpretations of the ECHR are essential since **they strengthened those concepts that underlie the good administration**, such as that of **impartiality**. The interpretation that the ECHR has provided concerning impartiality as a fundamental principle of law for any national juridical order, has underlain and will underlie any national legal regulations applicable not only to the judicial system, but also to the public administration system, a system that through a **good administration** is bolstered the sustainable development of any nation.

The European Court of Human Rights also stated that "a judicial review procedure is an effective appeal in the meaning of Article 13 of the Convention when courts can effectively control the legality of a decision taken by the administrative authorities in the exercise of their discretionary power, in relation to substantive and procedural rules, being also vested with the prerogative of the possibility to cancel the contested"¹⁴. The appeal to justice is, as a matter of fact, an element essential for the legality protection of the public administration action and, implicitly, for carrying out a **good administration** at national level.

As regards the right to respect private life, as an element of the good administration, the European Convention on Human Rights does not define **family life**, this being an **autonomous notion**, interpreted by the ECHR independently of the significance it has in the Member States' national law. Ordinarily, the existence of family life is determined by a

¹³ See the ECHR Decision in Case Kyprianou versus Cyprus dated 15 December 2005.

¹⁴ The ECHR, Decision dated 23.01.2002, Case Slivenko against Latvia.

biological and/ or legal connection (kinship, marriage, adoption, etc.) **in the presence of a real and effective personal relation**. However, there are exceptional situations, when either the biological and/or legal connection or an actual personal relation is enough to illustrate the concept of "family life".

The **principle of respect for private life** requires that in the public administration activity to be respected the individuals' private life and, in particular, the personal data to which public authorities have access (Albu 2007: 71), and the ECHR judges extended the scope of Article 8 of the Convention in order to include in the private life **data of public nature registered by public authorities** (Renucci 2009: 250).

Thus, in Case Rotaru against Romania¹⁵, the ECHR decided that "some data of public nature can come under the private life when they are systematically gathered and entered in files held by public authorities". The Court reminds that "both the registration by a public authority of data on an individual's private life, and their use and refusal to give the possibility that these be challenged is a violation of the right to respect private life guaranteed by Article 8 par. (1) of the Convention". And the violation of this right also assumes non-observing the **right to good administration**.

Also, the ECHR case law states that the principle of legal certainty involves a **predictable regulatory framework**, the rules of domestic law needing to be formulated with sufficient precision so as to enable the persons to whom they are addressed to be able to foresee, at a reasonable level, taking into account the concrete circumstances of the de facto situation, the consequences that could arise from a determined act¹⁶. Still from the case law of the ECHR we draw the conclusion that "**a legal certainty factor**" represents the need to establish a time limit for bringing legal action (de Salvia 2002: 188). Also, the **right to a fair trial** has been often associated with the notion of **legal certainty**, the ECHR considering that "in any litigation, the order pronounced by the court as the final solution ... cannot be disputed any longer ..."¹⁷.

Thus, in Case Beian against Romania¹⁸, the ECHR pointed out that "uncertainty, be it legislative, administrative or judicial, is an important factor that should be taken into account for evaluating the state's behavior ... and the **principle of legal certainty** is one of the fundamental elements of the state subject to the rule of law".

¹⁵ The ECHR, Decision of 29/03/2000, published in the Official Journal of Romania, Part I, no. 19/11.01.2001.

¹⁶ The ECHR, Case Goodwin against Great Britain, 1996, paragraph 31.

¹⁷ The ECHR, Case Brumărescu against Romania, 1999, paragraph 61.

¹⁸ The ECHR decision of 06.12.2007, published in the Official Journal of Romania, Part I, No. 616/21.08.2008.

In conclusion, we can add up that **legal uncertainty leads to a maladministration**, an aspect which may entail breach of fundamental rights of the European citizens and cause various consequences: from sanctions established by the ECHR decisions for states, until a decrease of citizens' confidence in the ability of states to ensure a coherent legal framework and to effectively protect the rights of all persons carrying out the activity within their legal area.

4. The provisions and importance of the Code of good administration

The Council of Europe continued to adopt documents through which strengthened the concept of **transparency** and, implicitly, that of **good administration**, and in 2007, 6 years following the adoption of the Charter of Fundamental Rights of the European Union, the Committee of Ministers adopted **Recommendation R (2007) 7 on good administration**, a background paper for the Council of Europe Member States as concerns the attainment of **the right to good administration** European states citizens.

Taking into account that the **right to good administration** is based on the fundamental principles of the state subject to the rule of law, such as: **legality, equality, impartiality, proportionality, legal certainty, respect for private life, transparency**, as well as the fact that the state should regulate the ways to protect the rights and interests of individuals, to inform and enable them to participate in adopting administrative decisions, **the member states of the Council of Europe are proposed to promote good administration as a principle of the state subject to the rule of law** and to ensure the efficient organization and functioning of public authorities, by adopting, where appropriate, the standards set in the code pattern annexed to this recommendation, also ensuring their effective implementation by office holders.

As inherently stated in the doctrine, "the adoption of Recommendation R (2007)7 was the final point of some endeavors undertaken by the Council of Europe bodies with the purpose of establishing at the level of Member States uniform principles and standards that would govern the relations between public authorities and the administered "(Vlaicu 2012: 291-292), considering that **good administration determines an even better social and economic development of states**.

As seen even since the Preamble of this document, some of **the fundamental elements of the right to good administration** are emphasized: legality, transparency, effectiveness and efficiency of public administration activity, the existence of administrative procedures coherent and known by citizens, corruption decrease etc.

The Code of good administration, an Annex to Recommendation No. 7 (2007) concerning good administration develops the principles of

legality, equality, impartiality, proportionality, legal certainty, reasonable time limit, participation, respect for private life and transparency; presents **the regimen of administrative acts**, from their way of drafting until enforcement, as well as the **remedies at law** and the **possibilities of compensation** in the case of damages caused as a result of their issuance.

Thus, pursuant to Article 2 of the Code, the public administration authorities **must act according to the legal provisions**, both domestic and international, and to comply with the rules of procedure and competence which regulate their activity (*principle of legality*). The public administration authorities must treat **equally and impartially** all natural and legal persons who apply to their services (*principle of equality and impartiality*), according to Article 3 and 4 of the Code, maintaining an adequate **balance** between the measures that should be adopted in the exercise of their responsibilities and prejudices that will be caused to the private persons' interests (*principle of proportionality*), according to Article 5 of the Code. Also, in accordance with Article 6 of the Code, the authorities of public administration have to observe the *principle of legal certainty*, which stipulates that "measures should not be taken retroactively but in cases provided expressly by law, so as not to affect the rights won except in urgent cases of public interest". In addition, all decisions must be made by the public administration authorities, according to Article 7 of the Code, within a *reasonable time limit*, correlated with the complexity of the problem.

The same document sets out also the fact that the state has to provide procedures in order to protect the rights and interests of individuals, *to inform citizens and to enable their participation in adopting administrative decisions*. Thus, for the purpose of carrying out a **good administration**, excepting the case when action must be taken urgently, the public authorities should give individuals the possibility that through adequate means *to take part in the preparation and implementation of administrative decisions* that affect their rights or interests, pursuant to Article 8 of the Code.

Code of good administration establishes in Article 10 that the public authorities have to act in accordance with the *principle of transparency* by complying with several rules, as follows:

- "- **private persons should be informed** by appropriate means, regarding the public authorities' actions and decisions, including through the publication of official documents;
- **public authorities should observe the right of access to official documents**, in compliance with the rules on the protection of personal data;
- principle of transparency should not prejudice the secrets protected by law;

- administrative decisions can be taken by public authorities either on their own initiative, or at the request of private persons;
- public authorities should establish procedures enabling the participation of the community members in the decisions making process through written comments, hearings, representation in a social consultative body, consultations and public inquiries."

5. Conclusions

In the Committee of Ministers' vision, **good administration** means *to ensure a legislation of quality, coherent, clear, and accessible*. Also, **good administration** means *services of quality provided on the basis of a correct evaluation of the needs of society*. It represents an aspect of the *good administration* and is not limited only to juridical manifestations, but it also means *an efficient public management, efficiency and effectiveness, corruption exclusion and recruiting and training a quality staff*. Also, by **good administration** is also understood *observing the rights of individuals, openness and transparency in the public activity*¹⁹.

Adopting this Code proves that **the two European legal systems - of the EU and of the Council of Europe - are interacting and influencing each other**. Although the Code of good administration is adopted by a recommendation of the Committee of Ministers, an act of soft-law nature, non-binding, its contents can be a resource for the codes of administrative procedure of the European countries and even of the EU institutions.

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EVOLUTION OF THE INTERNATIONAL REGULATIONS REGARDING CYBERCRIME

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Abstract

By binding global computers networks, the issue of cybercrime acquired the features of cross-border criminality, becoming a global problem, whose settlement got the attention of regional and international organizations.

Because computer crimes go beyond national borders, without the criminals or the goods resulting from the crime necessarily needing to cross such limits as well, the question "who should investigate such deeds?" requires a carefully analysed answer.

The problem of multiple jurisdictions that might interfere with the investigation of such cybercrimes and the acknowledgement that national laws are very different, many of them lacking the specific provisions regarding cybercrime (in the early '80s), triggered, especially within the international organizations, debates regarding this phenomenon and the creation of efficient combat instruments.

Keywords: global computers networks, multiple jurisdictions, cybercrime, international organizations

Within the international organizations various bodies coordinated and performed legislative harmonization activities against cybercrime. Besides the European Union, the Council of Europe, the G8 group (group of the largest industrialized states of the world plus Russia), OECD (Organization for Economic Co-operation and Development), Interpol and the United Nations Organization (UN) have been actively involved (Sieber 2007).

According to the specialized authors (Schjolberg 2007), the first discussion among cybercrime specialists in Europe took place in 1976 on the occasion of a conference organized under the aegis of the Council of Europe, namely the 12th Conference on the criminological aspects of economic crimes, held in Strasbourg in November 1976, when a new series of crimes, including fraud, was introduced.

1. INTERPOL

The first international organization that handled the cybercrime has been, not at all surprisingly, the INTERPOL. As a cooperation organization between national police forces, the association was established in 1923 at

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Vienna, under the name of the International Criminal Police Commission, its basis being laid with the reunion of the national police forces from 16 states at Monaco (1914) (Troneci 2001: 15).

In 2007, Interpol had 186 member states. The name of INTERPOL has been used as of 1956 and Romania has been present in this association ever since its establishment in 1914.

In 1979, INTERPOL discussed for the first time the issue of cybercrime during a symposium regarding fraud (The Third Interpol Symposium, Paris, 1979). Two years later, in 1981, on the occasion of another Interpol Conference, The First Interpol Training Seminar for Investigators of Computer Crime, also held in Paris, the member states presented reviews of the criminal laws and incriminations specific to computer-related crimes in their national law, legislative shortages and a series of issues in the enforcement of the existing law texts being identified.

The Interpol held its first conference on cybercrime at Lyon in 1995. On this occasion, the document that substantiated the conference works recommended that the computer-related criminality be similarly approached by each member state and in Africa, America and Asia.

In 2000, Raymond Kendall, Interpol's Secretary General, in a speech held during the Global Security Imperative conference (London, October 2000) said about cybercrime: "*We weren't prepared for the explosion of the use of the internet and the way the criminal fraternity understood they could use it as yet another tool to commit crime, especially fraud, much more quickly, and therefore with much less risk of detection*" (McCue 2000).

During the 6th *International Conference on cybercrime* held by the INTERPOL at Cairo (13-15 April 2005), the participants adopted a Resolution whereby they recommend a series of measures to fight this type of crime, among which the impulse to adopt new common procedural rules, the *European Convention of Cybercrime* (2001) offering the required legal framework, the strengthening of the cooperation with the supranational and national bodies, the creation of a common database for computer-related crimes.

In 2007, among Interpol's top 5 priorities was the *Financial and new high-tech crimes* (INTERPOL website, 2007) within which a separate office operates, specialized in Information Technology Crime - ITC).

2. The Organization for Economic Cooperation and Development (OECD).

O.E.C.D.²¹, decided at Paris in 1983 to appoint a committee of experts to analyse the issue of computer-related crimes and the need to

²¹ The predecessor of O.E.C.D was O.E.E.C (Organisation for European Economic Cooperation) established in 1947 for the administration of the Canadian and American

modify criminal laws within this meaning. This committee completed its activity in 1986 by creating a document called "Computer-related crime - analyses of the legislative policies within the O.E.C.D.", where two crimes concerning the modification or erasure of computer data had been clearly defined.

In 1996 the French and Belgian governments proposed to O.E.C.D to adopt an agreement regarding the international cooperation on Internet (International Cooperation Carta on Internet), a document setting forth, among others, four principles of judiciary cooperation and between the national police forces of the member states.

Within the O.E.C.D. Directorate for Science, Technology and Industry a special department was created, called *Committee on Information, Communications and Computer Policy (ICCP)* whose purpose was to determine the common policies required to maximize the social and economic benefits of the informational society.

To this effect, the workshop organized under the aegis of the ICCP at Paris on 8.03.2006 called "The future of Internet" brought together politicians, scholars, representatives of the private sector and civil society to discuss about shaping the Internet and about the measures that had to be adopted (technically, legislatively, economically) in order to improve and build the trust in the activities performed on the Internet.

3. Council of Europe.

The first cybercrime initiatives of the Council of Europe were those established on the occasion of the 12th Conference of the Criminology Research Institutes Directors (15-17 November 1976) - The Council of Europe's Conference on criminological aspects of economic crimes. Thus, a series of computer-related crimes, including that of fraud (Schjolberg 2007) were introduced.

Other initiatives were indirectly related to the protection of private life and personal data by the signing, in 1981, of the *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*.

In 1985, within the Council of Europe, it was decided to appoint a committee of experts to analyse the legal aspects pertaining to computer-related crimes.

The committee analysed the national legislations, debated the issue of cybercrime and completed its activity in 1989, drafting a report that was

funds intended for the reconstruction of Europe after WWII within the Marshall Plan. It changed its name into OECD in 1961, its purpose becoming that of helping member states to reach a sustainable economic growth and to improve the living standard along with the maintenance of the states' financial stability. Today it comprises 30 member states and over 70 partner states.

adopted by the Committee of Ministers of the Council of Europe in September 1989, which took the legal form of a very important recommendation at European level – *Recommendation no. 9 from 1989*.

Without obliging the member states, this recommendation suggested to the states to consider the need to amend and complete the national criminal legislations with the computer-related crimes identified by the authors of the mentioned report.

Still within the Council of Europe, on the basis of the report issued by the Mass Media Committee, the Committee of Ministers adopted on *Recommendation no. 2 from 1988 on the measures to protect copyright and neighbouring rights and combat piracy*, regulation ruling that the authors of software programs should benefit from the copyright protection.

After Recommendation no. 9 from 1989 was adopted, in 1991 the Council of Europe decided to establish a Committee of experts to approach the issue of the procedural aspects pertaining to the investigation of computer-related crimes, finding that the specifics of the new crimes must be reflected into and instrumented by the new procedures, adapted to the computer technology.

In April 1995 this committee's report underlay the adoption by the Committee of Ministers of Recommendation no. 13 from 1995 *regarding the criminal procedure issues related to information technology*.

The three aforementioned recommendations created the necessary prerequisites for the adoption of a European convention – an instrument bearing a higher legal force, capable to bind the creation or levelling of national legislations in the field of cybercrime combat.

As Universitæan Würzburg from Bavaria (Germany) had organized several international conferences on cybercrime topics, analysing national legislations and proposing legislative amendments, the European Commission decided in 1995 that this university, through its specialists, should perform, on the basis of a research agreement, a survey whose purpose was *“to provide to the European Commission updated information on the legal aspects regarding computer-related crimes, establishing the required connection with the development of the informational society”* (Sieber, 2007).

The survey was achieved in the period October 1996 – January 1998 and underlay the adoption by the Council of Europe of the European Convention on cybercrime at Budapest on 23.11.2001.

Signatory of the convention, Romania ratified it only on 1.09.2004 further to the adoption of Law no. 64/2004, for the ratification of the Convention of the Council of Europe on cybercrime.

Although a regional instrument elaborated within the Council of Europe ever since its elaboration, the European Convention on cybercrime asserted not only its European but also global impact – upon its elaboration

states outside Europe participated, namely Japan, Canada, U.S.A and South Africa.

The convention became effective, under the rules established therein, on the date of its ratification by the 5 states, among which at least 3 member states of the Council of Europe, namely on 1.07.2004, and was accompanied by an *Explanatory report*, having a very important role in the correct understanding and application of the Convention provisions (fulfilling the role of a "law enforcement regulation" from the Romanian legal system). At present the Convention has been ratified by 20 European states, other 22 European states signed the treaty but haven't yet ratified it, and from the non-member states, USA is the only one who ratified the Convention on 29.09.2006, being opposable in terms of legal force as of 01.01.2007 (ratification status is reported on 01.07.2007).

Although the United States signed the Convention being interested in minimizing or removing the administrative and jurisdictional obstacles in the investigation of computer-related crimes committed especially against American companies and institutions, one might notice that it is the state who formulated the most reserves (6) upon ratification, some of them rendering inapplicable by the USA certain important provisions of the Convention. Convention ratification by the American Senate caused vivid debates and controversies regarding its content, the obligations falling to the Americans by the approval of the treaty (McCullagh, Broache 2006; McCullagh 2005)

To the *European Convention on cybercrime* was added an Additional Protocol, ETS no.189, (adopted on 28.01.2003 at Strasbourg, France) whereby are incriminated as crimes the publication through the computer networks of any propaganda, racist or xenophobic contents, the quoted Additional protocol became effective on 01.03.2006, being ratified by 11 European states and signed by other 20 states (Canada and other 19 European states).

In the analysis of the unfolded activity made by the main international bodies (regional or global) in the field of cybercrime combat, we acknowledge that there are preoccupations to this effect in all the regions of the Earth, but the status of such bodies regarding the measures against the criminal phenomenon is different.

We could certainly assert that the European Convention on cybercrime signed at Budapest in 2001 is the only regional legal instrument setting out concrete obligations and measures for the signatory states and offers the necessary mechanisms to fight this type of criminality.

Neither of the other specified bodies managed to substantiate the prevention and combat measures into a single international legal instrument.

By reporting the activity of the regional bodies from the Asian-Pacific area and the Western Hemisphere (American states) to the specified convention – which became a model instrument, that not only the member states of the Council of Europe but also non-member states (USA, Canada, Japan and South Africa) signed, we notice the tendency to transform the European Convention on cybercrime from a regional to a global instrument, which would allow a better cooperation between states in the fight against cybercrime, given its transnational nature.

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TRENDS OF ECONOMIC INTEGRATION WITHIN AND BETWEEN REGIONS

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Abstract

Integration within and between regions is becoming the main trend of development in international economic relations. Regional integration has known an increasing trend due to development and the reduction of cost of transportation and communication, tariff reduction, lesser trade barriers, and liberalized labor migration. In the beginning phases of integration, countries within a region worked on trade and economic cooperation. In the current stages, regional integration is being expanded even further.

Keywords: economy, trade, integration

In the current globalized world, economies of the states are becoming more integrated with one another and their development pertains to each other. Regional integration has been increasing due to development and cost of transportation and communication, tariff reduction, lesser trade barriers, and liberalized labor migration. Since 1990, regional trade and economic integration have developed rapidly. Formed regional integration groups have been working together since 2000. It shows a future trend of new development in regional integration groups. In the beginning stages of integration, countries within a region worked on trade and economic cooperation. In the next stage, regional integration is currently being expanded into cooperation between regions.

Therefore, integration within and between regions is becoming the main trend of development in international economic relations.

Regional trade, economic integration, and their primary conditions

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International trade and economic integration are initiated by government agreements in order to approximate their enterprise mechanisms, create unified business environment, and develop at the same pace. The management of their cooperation is usually carried out by organizations that were created for this purpose.

Thus, trade and economic integration within and between regions are directly dependent on government policies and mutual understanding between countries.

Regional trade and economic integration has following stages depending on how deeply the participant countries work with each other:

- Trade preferential zone,
- Free trade zone,
- Customs union,
- Economic union.

When countries participate in regional economic integration and deepen their cooperation, the states aim to accomplish the following:

- Expanding the economic and market size, which creates opportunities to bring investment and heighten the effect.
- Creating political and business stability / strengthening the common trust between countries.
- Adjusting the economic structural change to regional development trend with increased effects.
- Sustaining further integration which creates the possibility to use the region's resources, materials, human capital, and bigger market.
- Creating more suitable conditions for the stakeholders domestically, and protecting them from competitors of third countries as a result of a deeper cooperation between the countries.

Economic integration differs from other trade and economic cooperation in the following ways (Sanjmyatav 2015: 160-161):

- Amid integration, economies of the states blend with each other and increase the process of production.
- In the production, technological, and science sectors of the countries, the process of cooperation, specialization, and differentiation actively occurs.
- As a result, regional production value chain occurs creating change in economic structure.
- In order to administer these events, the stakeholders make unified management and regulate their policies relatively.
- Economic integration usually occurs between countries that are located close to each other geographically.

Consequently, regional integration provides the friendliest atmosphere of international trade, in other words trade without tax, avoidance of customs bureaucracy, unification of standards, and opportunity to expand the market for the participant countries as well as connecting to infrastructure of the other countries in the region, and developing with the support of other countries' common wealth, raw materials, labor force, capital, and leading technology. In the region, markets integrate and expand while production and foreign investment increases.

By joining regional and international integration, countries with small economies mitigate their vulnerability. Subsequently, the countries get the opportunity to expand their market, increase their production, and receive or exchange products that are expensive to produce or not produced domestically in a reasonably cheaper way. In addition, regional cooperation reduces transportation costs and investment risk, and affects increase of the investment margin. It supports companies to boost their productivity and interest to invest (World Development Report 2005: 65). Another feature of customs union and free trade zone is that products or services without competitive capacity in the world market can have opportunity to be competitive within certain customs union or free trade zones. Also, World Trade Organization permits developing countries to be able to receive some exemption and assistance related to their development.

If the following condition precedents are assembled, regional trade and economic integration can expatiate

On the occasion of integration between countries with comparable development level, the market can supplement each other. If the countries with different degree of development partake in integration, it creates circumstance where developed countries can assimilate the countries with lesser economic development.

Geographically, the countries should be adjacent.

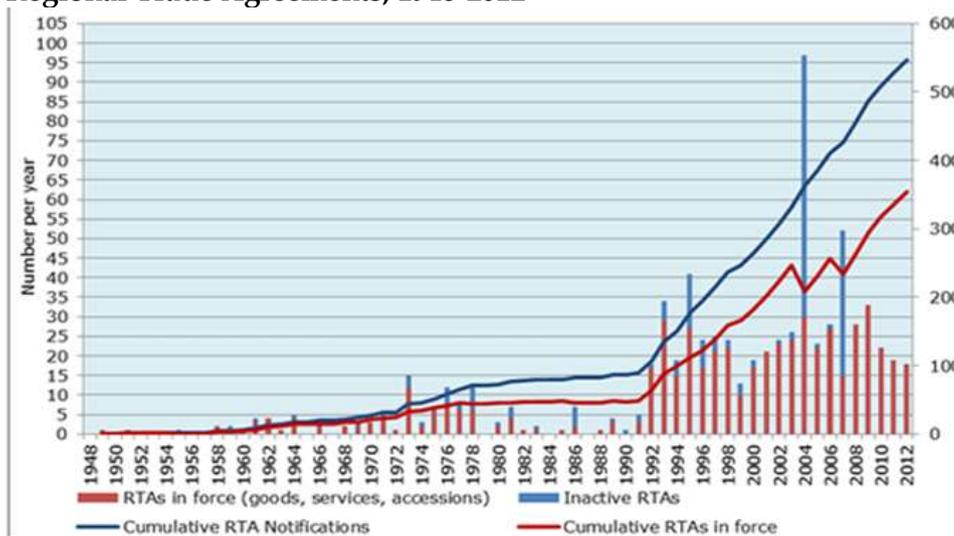
Economic interests of the integrated countries should be similar and willing to cooperate in decision making.

At present, the process of regional trade and economic integration determines the trend of world economy. Figure 1 demonstrates this process.

As of January 15, 2016, 419 regional free trade agreements are effective out of 622 that were initiated. 90% of these agreements are free trade agreements and 10% are about customs unions. Moreover, there are several pending free trade agreements at the negotiation stage. This trend has been increasing rapidly in the recent years. For instance, 123 free trade

agreements were recorded between 1948 and 1994. Nonetheless, approximately 500 service trade agreements have been recorded since the establishment of World Trade Organization in 1994. The trend is illustrated in the following figure.

Figure 1
Regional Trade Agreements, 1948-2012



Source: WTO, www.wto.org/RTA

The legal environment of regional integration is based on multilateral agreements of World Trade Organization and multilateral arrangements. Member states of WTO are regulated to follow “Principle of most favored nations” according to Article I of 1947 General Agreement on Tariffs and Trade, and have no discrimination towards other members. However, the memorandum to explain Article 24 of 1947 General Agreement on Tariffs and Trade (Multilateral Trade Agreement 2000: 31) conformed to **create free trade zone between certain countries and participants that are not obligated to provide advantages that are given to one another to other members in order to deepen regional integration between countries and encourage development.**

Measures to create trade preferential legal environment and eliminate trade barriers regulated amongst customs unions and free trade zones becomes the basis for multilateral trade agreements that would originate from WTO. Correspondingly, declaration of WTO member states’ ministerial meeting held in Doha in 2001 asserts, “Regional trade agreements play vital role in freeing and expanding the trades as well as accelerating development” (Qatar Conference Declaration 2001).

Trade and Economic Integration between Regions

Since the beginning of this century, countries have been expanding regional integration and dilating regional cooperation. It is feasible to say this process has the following reasons:

- Countries or regions became unable to solve bigger world issues. Hence, regions had no choice but to work together.
- Throughout the world, natural wealth/resources are growing scarce resulting in dominant suppliers and consumers establish long term collaboration.
- In order to deliver raw materials and parts for final products that are needed for production and service to the desired destination in timely manner, it became essential to connect and develop infrastructure.
- For the purpose of enhancing product competitiveness and reducing cost, joining global production and value chain became imperative.
- Nowadays, time equates to money. Therefore, developing international cooperation became necessary to decrease bureaucracy, create prompt service, reduce price, and immediate customs service.
- To utilize conditions to improve governance, transparent decision making, and foreseeable decisions, common effort is required to establish and enforce international standards.

Nowadays, **internal regional integration among developed and developing countries is coming to an end**, which leads to development in integration between regions. The following examples can demonstrate this trend:

- World's biggest economies, European Union and the United States, have been negotiating since 2013 in order to set up Transatlantic Trade and Investment Partnership which is currently at its final stage. If this agreement is established, it will cover 40% of the world economy (Malstrom 2015).

As stated by EU trade commissioner Karel De Gucht regarding the purpose of above agreement, "Today's decision sends an important signal to people across Europe that we are united in our determination to create jobs and strengthen our economies on both sides of the Atlantic. Our aim is to release the untapped potential of a comprehensive transatlantic trade and investment partnership (TTIP) by bringing our economies closer together than ever before. We will achieve this through increased access to the US market, by working with the US towards setting global standards and by

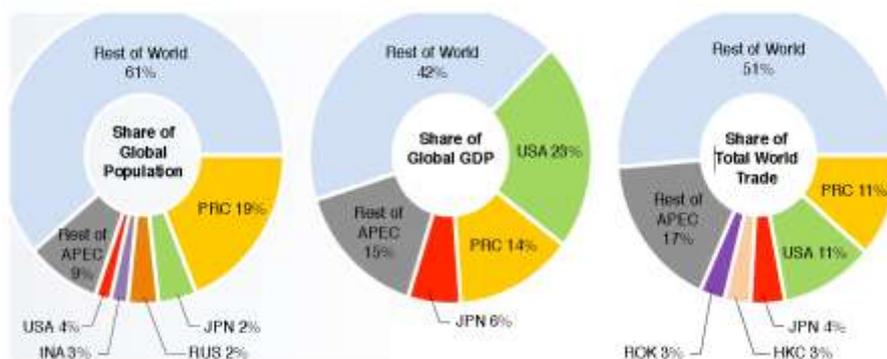
greater compatibility between our respective regulations” (Press Release of the EU Commission 2013).

In 2006, EU conducted 24.8% of its total trade in other tax-free zones. This index increased to 35% in 2015. If the current agreements settled successfully, this indicator will be 66.4% which can bring a growth equivalent to 2% (€ 250 billion) of EU GDP. Currently, EU is in the process of negotiating approximately 20 agreements with 60 countries or groups from Asia, Africa, and America. As a result of EU free trade agreement with South Korea, EU export to the South Korea increased by 50% (Malstrom 2015).

- Within the scope of Asia-Pacific Economic Cooperation, 21 economies of Asia and Pacific have set out an objective to achieve Free trade zone. Following chart illustrates current world economic share of APEC member states on scale (APEC in Charts 2015: 4).

Chart 1

World Economic Share of APEC Members on a Scale, 2014



The chart shows APEC member countries consist of 40% (2.8 billion people) of world population producing 57% (44.1 trillion USD) of world GDP, trading 49% (18.5 trillion USD) of world trade, and receiving 53.1% (652 billion USD) of foreign direct investment (APEC Declaration 2015: 1). Three primary goals of APEC are creating pleasant trade and investment environment, eliminating business obstacles, and encouraging economic and technical cooperation. Its operations principles include respecting each other, promoting equality, benefitting mutually, helping each other, honoring productive and fair partnership, and making decisions based on common agreements.

“**Trans-Pacific Partnership (TPP)**” agreement was signed by 12 Pacific countries in Oakland, New Zealand on February 4, 2016. According

to the Prime Minister of Canada, member states would likely to endorse this within next two years (Fakete 2015).

The main objective of this agreement is to create free trade zone between the stakeholders, and it was signed by countries Brunei, Chili, New Zealand, Singapore, Australia, Canada, Japan, Malaysia, Mexico, Peru, USA, and Vietnam.

Historically, the TPP is an expansion of the Trans-Pacific Strategic Economic Partnership Agreement (TPSEP or P4), which was signed by Brunei, Chile, New Zealand, and Singapore in 2005. Beginning in 2008, additional countries joined the discussion for a broader agreement: Australia, Canada, Japan, Malaysia, Mexico, Peru, the United States, and Vietnam, bringing the total number of participating countries in the negotiations to twelve. Current trade agreements between participating countries, such as the North American Free Trade Agreement, will be reduced to those provisions that do not conflict with the TPP, or that provide greater trade liberalization than the TPP (Jegarajah, Dale, Shaffer.[9]

- ASEM originally aimed to broaden mutual understanding and cooperation between Asian and European countries. However, it is now more focused on developing trade and economic integration between the two continents in recent years. Currently, European Union has signed free trade agreements with South Korea, Singapore, and Vietnam and in the process of establishing same agreement with China, Myanmar, Japan, Thailand, Malaysia, and India.

In 2016, member states of ASEM will be meeting in Mongolia. During the meeting, the result of the past 20 years' cooperation and the future goals will be determined.

- Shanghai Cooperation Organization (SCO) was first established in 2001 to protect borders of several Eurasian countries and fight against separatism and extremism. Yet, SCO has expanded with a structure to develop trade, economy, and infrastructure in Eurasia. In 2016, India and Pakistan are planning to join the SCO which will broaden the scope of the organization making it an influential integration scheme in the world.

- Regions' cooperation mechanisms have been instituted in the recent years as well. For example, China-Africa, China-Latin America, India-Africa clubs have been set up by the standard of French-African summits. They discuss the affairs of their cooperation and implement vast projects.

- In recent times, initiatives of certain countries have been connecting the regions and expanding their cooperation on trade, economy, and investment. For instance, China has initiated "Silk Road Economic Belt," "Maritime Silk Road," "Asian Infrastructure Investment Bank," and India initiated "South-North Road" have been supported by South, Central Asia,

Europe, and Arabian countries and they are being successfully implemented. Furthermore, fast developing countries of BRICS have enlarged their cooperation on international trade, investment, and finance, and even formed BRICS Development Bank.

Chinese “Silk Road Initiatives” will cover 60 countries and wait for each country’s support. The government of China has created 40 billion USD fund in order to implement this project, and has possibility to be funded from Asian Infrastructure Investment Bank and ADB. The following image illustrates the scope of the project Chinese initiative will cover.

Image

The geographic area the Chinese initiated Silk Road will cover



There is a possibility for South-North Road project initiated by India and Russian Federation in 2000 to be implemented. Iran was one of the transit countries of the project which had international economic ban; however, this obstruction is eliminated now. After this initiative is implemented, Asia and European continents will have another road to be connected with each other. Scope of the project is shown in the image below.

Image

The geographic area India, Russia initiated North-South Road will cover



Although there is rapid development of regions' cooperation on such projects and many have been successful, it is also important to note the negative aspects. For instance, many regional conflicts and wars have occurred because of dreadful motivations, such as: gaining more and more influence in the region, seeking strategic location for bigger countries or getting control over natural resources, especially those which are scarce (for instance, energy sources and metal reserves). Examples include the Arabian revolution in North Africa and the wars in Iraq, Afghanistan, and Syria.

In conclusion, the process of regional trade and economic integration is at its final stages, and it is obvious that the cooperation between regions is expanding and being integrated.

The trend answers the question presented in this conference, **"Can the regions have mutual understanding and are they cooperating with each other?"** as **"Yes"** in other words, **"Most Definitely."** Europe and Asia have common understandings and they are able to work together while enhancing their cooperation and essence. We anticipate to see the implementation of Chinese "Silk Road," Indian "North-South Road"

Corridor" initiatives which will be of vital contribution to the trade and economic integration between the two continents.

Mongolia is the only country out of WTO member countries that has not been involved in regional integration. It presents Mongolia as a country muddled in least profitable trades and economic cooperation. Thereupon, Mongolia faces the risk of being left out alone from the world trend, and regional production and value chain while not receiving foreign direct investment in other sectors except mining if Mongolia continues not to get involved in regional cooperation and integration.

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FUNDAMENTAL PRINCIPLES OF MONGOLIA'S ENERGY SECURITY STRATEGY

Enkhtsetseg Sosorbaram²⁴

Abstract

For Mongolia that is located between two giant powers which play significant role in global political and economic policies, external factors including policies pursued by the Russian Federation and People's Republic of China, and cooperation with these two countries impose direct influence on Mongolia's energy policy.

As Mongolia's neighbor countries China, furthermore Japan and Korea are main consumers of petroleum, natural gas, it creates a primary leverage for intensive development of raw material exploration and manufacturing. On the other hand, it shall be deemed another leverage to involve Mongolia into North East Asian political, economic security regional integration. Therefore, in order to increase competitiveness and economic influence balance of two neighbor countries, it is essential to encourage third neighbor involvement. By taking into account the current global development trend carried out environmentally friendly, modern technology based activities, a principle of global market price orientation is maintained, ensuring tax payment, transparency, equality of rights and interest in developing bilateral and multilateral cooperation.

Keywords: energy policy of Mongolia, NEA, Asian super grid, international relations

Conventional hubs of global energy market have changed and new centers have emerged. China and India have developed into biggest global consumer markets, whereas Russia and Kazakhstan entered the global energy market as some of the biggest suppliers. World's leading countries have been focusing on the growing importance of energy sources, as well as on the transportation of energy, through transmission pipelines which raise security issues. Therefore, world's great powers such as the USA and China pay attention on creating strategic reserves of petroleum. US energy policy has impacted the energy supplying countries developing into enormous centers of power and authority. On the other hand, unequal distribution of petroleum revenue, worsening political conflict leads to

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regional conflict. Consequently, people started to describe petroleum as *"wealth abnormal phenomena"*, *"devil shit"* based on resource-cursed countries' bad experiences. Obviously, the problem is not in its nature, but its revenue and wealth distribution.

As for Central Asia, main geopolitical competition surges in setting control on oil, natural gas manufacturing and resource, participating in natural gas transporting pipeline exploitation. Issues of diversifying import market in Central Asia, Caspian region into many channels to strengthen energy security are main the focus of the USA, some countries of Europe and Asia. Although Central Asia and Caspian region have abundant resource of oil and gas, due to landlocked situation, underdeveloped infrastructure, most of pipelines running across the territory of the Russian Federation, the issue of delivering oil and gas to the world market has become an essential geopolitical problem. Actually, one who sets control over transmitting pipeline gets authority to control energy resource of the region and strengthen one's influence. Upon Vladimir Putin's initiation to found Energy Council of the Shanghai Cooperation Organization, Kazakhstan developed energy strategic plan to coordinate member countries energy policies. The President of Kazakhstan is calling for building pipeline through Russia, Central Asia and China.

It is estimated that oil consumption by North East Asian Region, which is capable to compete with the European Union, North America and South East Asian Region by GDP production and to impose profound impacts on regional and global energy market, will exceed by 2-3 times more than European consumption. The Russian Federation has been giving priority to fulfill its historic, extraordinary function to link Europe with Asia and concentrating on increasing natural gas and petroleum manufacturing of Eastern Siberia, Far East that are dependent from solely European market, furthermore taking into account the growing demand in East Asian Region. Rapid growth of military and economic development of the People's Republic of China is urging, not only Japan but also the Russian Federation, and USA to keep away. Russia and Japan consider joining their power to resist growing power of China.

Northeast Asian regional situation of energy security is shaped by the following factors: the eastward expansion of Russian energy transportation network, nuclear power plant accident in Japan, the rise of China and its high demand for energy supply, geopolitical competition between US and China, and North Korean nuclear issue (Seol, In Hyo 2013). The United States is the country not directly connected with this region, but it has huge national interests and influences on the energy issues of the region. Generally, US tend to support this region's multilateral institutions when its national interests are secured. US also recognize

Chinese energy policy as aggressive and provocative, so at some moment the country may try to intervene in political situations originating in energy problem (Seol, In Hyo 2013).

The Russian Federation is strengthening its strategic decisive role in creating international energy relations that is geopolitically beneficial to Eurasian Region with oil and natural gas supplying integrated system joining the Commonwealth of Independent States with Europe; and maintaining a policy to develop into a main exporter of gas and petroleum to Asian market. Russia is considered one of fewer countries capable to supply its energy demand with energy resource and one of leading exporting countries. Moreover, Russia possesses 45 percent of global natural gas resource, 13 percent of petroleum and 14 percent of uranium. And it solely produces 12.4 percent of total petroleum products, and natural gas production. 10-12 percent of natural resource of Russia is located in the western part, 80-90 percent in the northern and eastern part of the country. The 1/3 percent of Russian energy sector's capacity belongs to Siberia (petroleum, natural gas and coal etc). Therefore, within the scope of policy on developing regional integrated centers for energy supply relying on strategic deposits, Russia defined its state policy as developing petroleum and natural gas integrated system in the Eastern Siberia and Far East.

The energy potential of East Siberia and Far East of Russia includes territory - 10.3 km² (60 %), population - 16.7 Mln. people (11 %), GDP - 13 %, potential oil resources - 17.8 Bln. t (40 %), potential gas resources - 56.1 Trln m³ (44 %), potential coal resources - 170Bln. t (85 %), potential hydro resources - 640.0 Bln. kWh (75 %). Therefore, Russia has motivation for energy cooperation with neighbouring countries (Voropai 2015).

For Mongolia that is located between two giant powers, which play significant role in global political and economic policies, external factors including policies pursued by the Russian Federation and People's Republic of China, and cooperation with these two countries impose direct influence on Mongolia's implementation of energy policy. As international relations are freed from ideological influence, competition for natural resource is escalating Mongolia's economic and energy security; related to this, geopolitical issues may exacerbate. For this purpose, it is concentrated on 'strategic partnership' intensively developing between our two neighbor countries. *"Non aligned, non opposing, non confronting third countries"* relations between Russia and China favorably influence on neighboring countries, region and international situation. For our country sandwiched between two giant powers constructing market economy, creating favorable external environment to ensure national security are essential targets. Within the framework of economic foreign relations, Mongolia has

been pursuing a key principle of 'achieving success by being mutually beneficial', and as a result, big opportunities of joint development have been opened.

Taking into account fragile condition of Mongolian economy, it mainly focused on external and internal factors influencing oil sector of the country. Policies maintained by the Russian Federation, People's Republic of China, their positive and negative influences constitute main external factors. By maintaining its policy of petroleum, natural gas, electricity and energy export the Russian Federation is pursuing geoeconomic policy to increase political and economic influence in the region and world because it is able to turn into captain of global petroleum and natural gas export. Russia has imposed its complete control over European and Eurasian natural gas transmission network. China, Japan and Korea accept this great reflux of petroleum, natural gas transmitting pipeline.

Mongolia has some oil resources. It is announced about 30 oil exploration blocks for Production Sharing Contract (PSC), and most of them are licenced and the contractors are doing seismic and exploration drilling on some area (Tseveenjav, Odsaikhan, 2013: 12-13).

Mongolia imports 90 percent of petroleum products from the Russian Federation, consequently interruption of fuel and petroleum supply will negatively influence on investment of greater projects that are being implemented in the mining sector. Supplying 90 percent of strategically important products from Russia, which is able to turn off the gas tap because of disagreement with Ukraine on price, making investors of Mongolian mining biggest projects keep away. Rapidly developing People's Republic of China, one of the most populuous country, has scarce resource of petroleum. Therefore it entered into petroleum and natural gas agreement with Russian Federation. It is obviuos that China will remain one of biggest consumer of petroleum and natural gas in the nearest future. In terms of geological and tectonic structure, Mongolian oil deposits Tamsag, Dornogobi are situated in parallel location with China's oil deposits. Owing to the above-mentioned reason, apart from Chinese investors, Mongolia's oil deposits do not attract potential foreign investors. On the other hand, another external factor or China's policy on searching new and reliable resource of energy in neighboring countries in order to meet rapidly developing economic growth and safeguarding security of the country may have led to increasing number of affiliates of Chinese national companies operating in Mongolia. Although the two countries have agreed on greater issues, they have conflict of interest. Precisely, as for the Russian Federation, grandous investment is needed to carry out technological reform and increase transporting channels in petroleum sector, therefore it is cautious about China's investment decline. Secondly, as for China, it

prevents petroleum supply to meet steadily growing demand from interruption. For Mongolia it is important to take its advantage of geopolitical location, favorable condition of foreign market as soon as possible.

As Mongolia's neighbor countries, the People's Republic of China, furthermore Japan and Korea are main consumers of petroleum, natural gas, it creates a primary leverage for intensive development of raw material exploration and manufacturing. On the other hand, it shall be deemed another leverage to involve Mongolia into North East Asian political, economic security regional integration. Therefore, in order to increase competitiveness, and balance economic influence of two neighbor countries, it is essential to encourage third neighbor involvement. By taking into account the current global development trend carried out environmentally friendly, modern technology-based activities maintain a principle of global market price orientation, ensuring tax payment, transparency, equality of rights and interest in developing bilateral and multilateral cooperation.

Opportunities of reducing petroleum products' import, reforming dependence on petroleum import focused on the following two ways. First, opportunities of processing petroleum at home country, for this purpose, initially, build oil refinery factory to process crude oil imported from Russia. Along with considering market demand in order to save investment, domesticate high technologyd produce ecologically friendly fuel, it is rational to construct oil refinery with capacity to produce no less than 1 ton of petroleum a year. Refining imported oil, manufacturing petroleum products have a number of more advantages in technical and economic terms than importing petrol and fuel.

Setting up the oil refinery project in Darkhan with Japanese investment was a top priority, but unfortunately the project failed. We consider that the oil industry in Mongolia may be able to create value added income and ensure tangible percentage of the GDP. At the same time, it may contribute enormously to the revenues of the state budget, as compared to customs tariff on crude and refined oil products, and also reduce foreign trade deficit almost two times. Other positive effects include the creation of hundreds of jobs in chemotechnological industry, in parallel with the training and formation of national specialists in this industry, and the provision of environmentally friendly, high quality standard products. Secondly, exploring and exploiting new sources to reduce importing petroleum products seems to have a promising future. Implementation of above mentioned policies and projects will take long period of time and great amount of money; accordingly, without waiting for their implementation, it is vitally important to search for other sources to reduce

petroleum import. This may comprise producing petrol by liquifying coal, using oil shale and discovering natural gas resource. As of today, reliable enough sources of natural gas and oil have not been discovered yet in Mongolia. Consequently, coal is a key source of energy production and valuable wealth that defines Mongolia's economic perspectives.

Mongolia is rich with fuel energy resource, like coal, oil, gas, CBM, CMM and oil shale. Our total coal resource is more than 170 billion tons, including inferred resources with a potential for further increase. Almost 10 billion tons of proven reserves are established through preliminary and detailed exploration. With 300 deposits and occurrences spread through 15 basins, so Mongolia is one of the world's top 15 coal-rich countries (Tseveenjav, Odsaikhan, 2013: 12-13). The shale oil in our country has deposits located over an area of about 312,000 km². Only 20 percent of these areas have been studied in detail geologically. It is calculated that the estimated resources of oil shale reach 788 billion t., which is equivalent 22.7 billion of shale oil and is mainly spread on the basins in central and southeast regions of Mongolia (Tseveenjav, Odsaikhan, 2013: 12-13). Although manufacturing various liquid fuel from coal is costlier than processing crude oil, Mongolia has abundant source of its raw material, at the same it is reasonably cheaper. Such circumstances provide opportunities of developing this industry in Mongolia.

So, introducing this technology will create opportunities of supplying petroleum and chemical products' demand of our country, which has abundant source of coal. Along with oil exploration, it is possible to produce petroleum products using oil shale. It is necessary to intensify exploration for shale, define reserve of deposits, shale concentration and quality and develop technical and economic rationale. Another important issue is to conduct natural gas deposit exploration mainly in western, central, and northern parts of the country. Discovering natural gas deposits will enable to develop petroleum production

Mongolia's energy generation is 90 percent dependent on fossil fuels, the country is firmly committed to clean energy, exploring coal gasification, coal bed methane use and other options. According to the Energy Master Plan jointly developed with the Asian Development bank, the share of renewables in the country's energy mix shall reach 20 percent by 2020, and 30 percent by 2030. Mongolia is endowed with all kinds of mineral wealth, but it is particularly rich in renewable wind and solar energy resources, while its Gobi is known as a land of Sun. To support the use of renewable energy resources, the country implemented "100,000 solar ger" between 1999-2010, providing power to rural households, adopted National Renewable Energy Policy 2005-2020. "Renewable Energy Law" (2007) regulates the generation and supply of energy utilizing renewable

energy sources. *Millennium Development Goals* strategy should be implemented between 2008 and 2021. According to the “National Renewable energy program (2005-2020)”, the Government of Mongolia has set the target to increase the share of Renewable energy in total energy supply, reached 3-5% share by the year 2010, is supposed to reach 20-25% share by the year 2020, which implies that an increased use of renewable energy systems will be an important contribution. Due to recent intensive activities in mining sector, in near future Mongolia should become a large producer and exporter of electricity. Mongolia has been importing up to 509.384 million kWh of electricity from various power plants in Inner Mongolia. In 2014, a total 5 applicants have received permits to build renewable generators (wind parks), with combined annual capacity of 450 MW, equivalent to 50 percent of the country’s current installed capacity. The development of Eg, Shuren river hydro power stations, complementing Taishir and Durgun hydro power stations with additional solar capacity are under research currently (Purevbaatar 2015).

Mongolia has enormous wind power resources. The amount of wind land using conservative assumptions could support over 1.1 million MW of installed capacity, and could potentially deliver over 2.6 trillion kWh per year. Approximately 270-300 sunny days per year, with the sunlight duration of about 2.250-3.300 hours, are available in most of the territories of Mongolia. An annual average amount of solar energy equals 1.400 kWh/m²/y with solar intensity of 4.3-4.7 kWh/m² per day (Jigjid, Bavuudorj 2015).

Table 1

Installed capacity of renewable power (2015)

Power Plant	Capacity	Share
CHPs	877.3 MW	87 %
Renewable power	81.7 MW	8 %
Diesel stations	46 MW	5 %

Note. B. Amarsanaa, (2013) Development trend of energy Sector in Mongolia, presented at International Conference on Energy Security in North East Asia, Ulaanbaatar, Mongolia

The Mongolian energy system belongs to the Siberian energy. Our current energy system's installed capacity is 862MW, produces 90% of total energy production and supplies energy 70% of population. Mongolia connected 220kV transmission line to Buriad power system. Mongolia imports electricity 325.3 million kWh from Russia through 5 lines (Selendum-Darkhan 220kV, Chadan-Ulaangom 110kV, Oochin-Davst 10kV, Mond-khankh 10 kV, Deed ulikhan – Chuluun khoroot 10kV). From China, Mongolia imports 335 kV electricity (for instance, Oyutolgoi 220kV, Khovs Bulgan, 35kV, Umnugovi Chinhua MAK 35kV, Sukhbaatar Erdenetsagaan 35kV, Dornod Khalkh gol 10kV) (Amarsanaa 2013).

Table 2

Mongolia's energy reservation

Natural resources in Mongolia	Measurement	Measure
Coal	GW	2400
Wind	GW	4300
Solar	million GW	2000*10 ⁶
Natural Gas	GW	6226,65
Hydro	GW	6,42

Source: www.energy.gov.mn

The reforming policy energy aims at ensuring the fully supply of domestic energy consumption through reliable and stable operations and at expanding the existing capacity of power plants. Energy policies also intend to build new power sources, such as thermal and hydro power plants, as well as new power exporting sources.

Mongolia has rich resources of coal, coal bed methane, solar and wind power, the country is poised at supplying full domestic energy needs as well as exporting power to abroad. Economy-wise, producing energy with lower cost with extensive and reliable region-wide supply network will make a unit cost of product lower. The countries in NEA are interdependent on one another in terms of economic integration. This interdependency will be increased in the future. Energy cooperation among NEA countries will be key factor to ensure peace and security in the region.

That's why Mongolia is to get connected with energy system, which is other than the Siberian energy system.

Mongolia initiated the Asian Super Grid²⁵ research team to widen our energy supply cooperation in NEA region. There are the following main purposes:

- to build Mongolian energy interconnected network and cooperate with North-East Asian countries to build regional power interconnected system
- to promote building a high-voltage, direct current (HVDC) electric power transmission line between Northeast Asian countries through Mongolia
- to establish the Asian super grid in NEA region, which can significantly promote the development of abundant renewable energy and coal resources in Mongolia and help to export electricity to North East Asian countries through HVDC.

The **Asia Super Grid (ASG)** represents the strategy of connecting locations of high energy demand with regions of large renewable energy potential. Therefore, the proposed grid connects renewable energy sources in the Gobi Desert with Irkutsk in the North, incorporating hydropower electricity in the system. It is also connected to the locations of demand in Shanghai and Seoul in the South as well as Tokyo in the East of the ASG region.

The Gobitec concept represents the idea of producing clean energy from renewable energy sources in the Gobi Desert and to deliver the produced energy to regions with a high demand of electric energy. The delivery of the energy produced is planned to be using power corridors: the planned Asian Super Grid (ASG), connecting Russia, Mongolia, China, South Korea and Japan (Tumentsoyt 2015). The project is conducive to economic development of the sustainable development in North East Asian region, fosters energy cooperation in the region. Trans-boundary transmission line projects reflect advanced transmission technologies and integration of neighboring countries' transmission networks facilities future planning and sustainability of respective transmission networks. Coordinated use of power stations based at larger thermal coal mines will transform massive but low calorific value coals into electric power, thus resulting in substantial socio-economic benefits (Zorigt 2015).

²⁵ "Asian super grid" research team was established under the Ministry of Energy of Mongolia in March, 2014. Memorandum of Understanding was signed among Ministry of Energy of Mongolia (MEM), Russian Energy Institute (REI), Korean Energy and Economic Institute (KEEI), Japanese Renewable energy fund (JREEF) and Energy CHART secretary. MOU aimed to conduct joint research and develop feasibility study on Asian super grid.

Conclusion

There are two key factors of energy cooperation of Northeast Asian countries. First, Russia, Mongolia, Western China have potential energy resources, secondly, Japan, Republic of Korea, Eastern China have deficient in energy resources.

To overcome energy poverty, it is real essential to build big energy projects, which can produce petroleum products by exploring oil shale and intensify exploration for natural gas in parallel with developing the big renewable energy (wind and solar) stations. All these conditions, factors promise high probability to facilitate to abolish Mongolia's complete dependence on energy import, and develop into energy exporting country. Therefore, it regards oil, coal, and shale as cornerstones of deciding energy problem.

To sum up, establishment of Asia super grid in NEA region can significantly promote the development of abundant renewable energy and coal resources in Mongolia and help to export electricity back.

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INNER MONGOLIA SHOULD TAKE THE OPPORTUNITY OF “ONE BELT AND ONE ROAD” STRATEGY TO BOOST THE CONSTRUCTION OF CHINA-MONGOLIA THOROUGHFARE

Tumentsetseg²⁶

Abstract

In recent two years, the implementation of China's "One Belt and One Road " strategy, the building of the comprehensive strategic partnership between China and Mongolia, the establishment of a mechanism for the meeting between state heads of China, Russia and Mongolia and the China-Russia-Mongolia economic corridor becoming clear lay a solid foundation for cooperation and development in Northeast-Asia region and also provide an unprecedented opportunity for the acceleration of building China-Mongolia thoroughfares. As China's important area involved in the integration process of regional economies in Northeast Asia, Inner Mongolia Autonomous Region should actively take the initiative to seize the opportunity to play its particular bridge and link role in the multilateral cooperation between China, Russia and Mongolia and to push forward the cooperation.

Key words: Relation between China and Mongolia, One Belt and One Road, China-Mongolia thoroughfares

1. The economic and trade cooperation between inner Mongolia and Mongolia lays good foundation for the construction of China-Mongolia thoroughfares

With a long and narrow terrain between the east and the west of China, Inner Mongolia Autonomous Region, outside China, borders on Mongolia and Russia and has a border line of more than 4200 kilometers; within China, it is adjacent to 8 provinces and regions in northeast China, North China and northwest China. Because of the unique geographical position, Inner Mongolia has unique geographical superiority in participation in the regional cooperation in Northeast Asia, including the regional cooperation in Tumen River. Particularly it plays a vital role in the economic and trade cooperation between China, Mongolia and Russia.

Mongolia has long been Inner Mongolia's major trading partner due to the geographical relationship. The volume of trade between Inner Mongolia and Mongolia has exceeded that between Inner Mongolia and Russia. Mongolia has become Inner Mongolia's biggest trade partner. In

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2014, the volume of trade between Inner Mongolia Autonomous Region and Mongolia was \$4.097 billion, accounting for 55.3% of the volume of trade between China and Mongolia, which was \$7.31 billion, and increasing by 2.3 percentage points compared with the previous year. Among which, the volume of imports was \$3.17 billion, accounting for 62.3% of China's volume of imports from Mongolia, which was \$5.09 billion, and increasing by 5 percentage points compared with the previous year; the volume of exports was \$0.927 billion, accounting for 41.8% of China's volume of exports to Mongolia, which was \$2.22 billion (Song Zhenqing, Yang Zhijun 2015). Particularly in terms of the coal trade, in 2012 the volume of coal trade between Inner Mongolia and Mongolia reached \$1.79 billion, accounting for about 47.2% of the volume of trade between China and Mongolia. Coal has become the first major trading goods. Influenced by the price fluctuation of mineral products in international market, the volume of coal trade declined slightly after 2013, while still remained stable as a whole.

As for the structure of imports and exports, the main export commodities from Mongolia to China are resource products, such as coal, copper concentration powder, iron ore, iron powder and crude oil. The main export commodities from China to Mongolia are steel products, building materials, heavy-duty trucks and mining equipment.

Since the economic cooperation between China and Mongolia was restored in 1989, the economic cooperation between Inner Mongolia and Mongolia has gradually been enhanced and the investment scale has gradually been expanded. The investment field primarily involves exploitation of mineral resources, construction and decoration, plush processing, transportation, cement products, agricultural planting and breeding and processing, etc. In 2014, the number of Inner Mongolia Autonomous Region's investment projects in Mongolia was registered at 19. The contracted foreign investment at the Chinese side was \$0.35 billion, which increased more than fourfold on a year-on-year basis, accounting for 31% of the contracted foreign investment of the entire district (Hong Yan 2015).

It can be seen from the data above that Inner Mongolia plays a major role in the economic and trade cooperation between China and Mongolia, which also lays a solid foundation for the future expansion of the exchange and cooperation between China and Mongolia in various fields.

2. The status quo of Inner Mongolia's participation in the building of tumen river thoroughfares and the development of Arxan port

Since China's reform and opening up, driven by the national strategy of opening to the north, Inner Mongolia via its geographical advantages has been constantly deepening its economic and trade cooperation and cultural exchange with Mongolia and Russia, which laid a good foundation for its participation in Northeast-Asia regional cooperation. As an important bridgehead for China's strategy of opening to the north, led and driven by the central government, Inner Mongolia Autonomous Region in recent years has built close partnership with local governments of various countries in Northeast Asia through forms such as exchanging delegations, economic and trade negotiation, holding exhibitions and signing cooperative agreements, with the policies of regional trade, investment and tourism constantly becoming consummate, exchanging visits and exchanges at all levels being constantly deepened, border and regional economic and trade cooperation constantly being enhanced. In recent years, Inner Mongolia has realized the strategic significance of China-Mongolia thoroughfares for the opening up and development of the eastern area of Inner Mongolia. It has included the construction of the "two mountain" (Arxan in China-Choibalsan in Mongolia) railway in the *Mid-Long Term Planning for Inner Mongolia's Railway Network* (Yang Chenhua, Huang Zhanbing 2008).

The communication and collaboration with Jilin Province have begun to enter the operation stage. At the beginning of 2014, the *Request for Instructions about Asking for Support for the Construction of the "Two Mountain" Railway between China and Mongolia*, which was countersigned by the chief executives of Inner Mongolia and Jilin Province, was reported to the State Council.

Currently, the two provinces and region have reached many consensuses in terms of soliciting the central government's support, enhancing local cooperation and deepening the exchange and negotiation with Mongolia, with the join forces to advance the construction of "two mountain" railway being constantly increasing.

Inner Mongolia has built a relatively complete port system opening to the outside world through many years of construction. It now has 16 open ports, including 11 highway ports, 2 railway ports and 3 aviation ports.

These ports are the platform and vector for Inner Mongolia's development and opening up. In Inner Mongolia's regional cooperation with Tumen River, the ports to Mongolia in this area include Arxan port, Ebu Duge port and Ari Harsha Te port. Also, the exchange and cooperation between Hulunbuir City, Hinggan League and Mongolia have been increasingly closer in recent years. In August, 2015 the Chairman of Inner

Mongolia Autonomous Region, Barta, visited Mongolia and attended the third provincial-governor conference of Local Governments in Northeast Asia Cooperation Committee of "Great Tumen Initiative", which was held in Mongolia's Choybalsan City. During the conference, Hulunbuir City signed memorandum of understanding on the cooperation and development of border tourism and the building of cross-border highway and cross-border economic cooperation zone with Eastern Province of Mongolia. Hinggan League signed memorandum on the building of cross-border tourist area and economic cooperation with Eastern Province (Inner Mongolia Daily 2015).

The building of the important node of China-Mongolia thoroughfares, the "two mountain" railway, was advocated by United Nations Development Programme in the early 1990s. The "two mountain" railway being conceived will be the nearest access to the Sea of Japan for Mongolia and the Far-East region of Russia. It will also be the important "supply line" for the future development of Jilin Province and Hinggan League of Inner Mongolia, and still more be the supporting project for the strategy of entering the east and linking the west proposed in the national Changchun-Jilin-Tumen Planning. If the railway is constructed, a new Eurasia bridge from Huichun through Changchun, Ulanhot, Arxan and Mongolia's Choybalsan to Russia's Chita and connected with the Far-East railway of Russia will be formed, which can effectively make up for the short slab in the cooperation and development in Tumen-River region, thus facilitating the progress of regional cooperation of Northeast China with surrounding countries in Northeast Asia. Therefore, Arxan port receives close attentions because it is situated at the hinterland of Northeast-Asia economic circle and the key node of Tumen-River thoroughfare. Currently Arxan port has opened the highway port, the nature of which is international seasonally opened highway passenger-and-goods transport port. As the only port in Hinggan League, Arxan port, driven by the national strategy of "One Belt and One Road", Inner Mongolia Autonomous Region's development strategy and a series of reform measures, is accelerating its development and construction, prompting the port economy to become a new engine driving the regional growth. In recent years, all levels of government in Inner Mongolia have been constantly making greater efforts to build the Arxan port, with transportation, power supply, water supply, telecommunication and full coverage of internet and wireless network of broadcast television being achieved. As of 2014, accumulative investment of ¥0.231 billion in port highway, port site and non-site infrastructure had been completed (Hinggan Daily 2015: 2). On July 15th, 2013, the Arxan-Sombert highway port between China and Mongolia was formally opened.

At present, the “two-mountain highway” whose building is being accelerated, particularly the building of high-grade tourist highway between Sombert port and the Halhbol County in Mongolia, are actively preparing for the building of China-Mongolia cross-border tourism cooperation zone. As for the railway port, Arxan City seizes the opportunity of building the China-Russia-Mongolia economic corridor and Inner Mongolia Autonomous Region innovating the mechanism of cooperation with Russia, Mongolia and takes the initiative to establish liaison with relevant departments in Inner Mongolia Autonomous Region and “Changchun-Jilin-Tumen” office in Jilin Province. It plans to begin the earlier-stage works of building the “two mountain” railway this year and complete it by 2020 (Hinggan Daily 2015: 2), thus creating conditions for the building of Port Park and the development of import-and-export processing industry and international logistics industry. The kick-off works of building aviation port and water-transport port are also under way.

3. The opportunity in pushing forward the building of China-Mongolia thoroughfare and Inner Mongolia's role in it

Although the building of “two-mountain railway” is at the beginning stage, the establishment of comprehensive strategic partnership between China and Mongolia, the implementation of China’s strategy of “One Belt and One Road” and the execution of the plan for building the China-Russia-Mongolia economic corridor will greatly accelerate the pace of regional cooperation and will provide unprecedented opportunity for the construction of China-Mongolia thoroughfare.

3.1. Opportunities brought by the establishment of the comprehensive strategic partnership between China and Mongolia

In August, 2014 the president of China, Xi Jinping, paid a state visit to Mongolia. Leaders of the two countries reached numerous consensus, signed a series of cooperative agreements, issued joint declaration and announced the establishment of comprehensive strategic partnership between China and Mongolia, marking that China-Mongolia relation enters a new stage of development. China and Mongolia pointed out in the joint declaration that the two countries should “accelerate the cooperation between China and Mongolia on industrial investment in infrastructures and large projects of mines and energy resources such as railway, highway, port, coal, electric power, oil, chemical industry, copper ore, iron ore, uranium ore, lead-zinc ore, automobile manufacturing, real estate and light industry, to comprehensively improve the quality and scale of pragmatic cooperation between both sides”. Mongolia is rich in mineral resources.

Only in Eastern Province the total coal reserves of 5 billion tons and oil reserves of 1.5 billion tons have been ascertained (Changchun, Jilin and Tumen Call 2014). Mongolia holds a positive attitude toward developing the market in China, Korea, South Korea and Japan through the “two mountain” railway. In addition, China and Mongolia have a very high degree of complementarity in their cooperation on the development of mineral resources and construction of infrastructures. As a result, the general direction of economic cooperation in the comprehensive strategic partnership between China and Mongolia is: following the principle of “integrating the development of mineral resources, the construction of infrastructures and the financial cooperation to push them forward as a whole”. During the period of president Xi Jinping's visit to Mongolia, China and Mongolia signed 26 cooperative agreements, 19 of which involved the cooperation in economic fields such as financial cooperation, mineral exploitation, trade and transportation, infrastructural construction, offering a brighter prospect for the cooperation between the two countries on the construction of infrastructures.

3.2. Opportunities provided by the implementation of China's strategy of “one belt and one road”

In 2013, China proposed the strategic conception of “One Belt and One Road”. In 2014, the Silk Road Fund was set up and contract was signed to set up the Asian Infrastructure Investment Bank. In 2015, the building of “One Belt and One Road” entered the practical implementation stage. Mongolia was an important node of the “Silk Road on the Prairie” in history and is now one of the more than 60 countries along the “One Belt and One Road”. Its economy is showing an upward trend, thus offering a bright prospect for mutually beneficial cooperation between the two countries. China's State Councilor, Yang Jiechi, announced at the Boao Forum for Asia held in 2014 that in the future 5 years China would import commodities worth \$10 trillion, make investment of more than \$500 billion abroad and have outbound tourists of 0.5 billion person times (Xinhua Net 2015), surrounding countries around China and countries along the Silk Road Economic Belt will take the lead benefiting from these. On March 28th, 2015 the Chinese government authorized the National Development and Reform Commission, the Ministry of Foreign Affairs and the Ministry of Commerce to publish Vision and Proposed Actions Outlined on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road. China will enhance cooperation with countries along the route in eight areas, the first of which is to promote the connectivity between infrastructures. Therefore, as an important neighboring country in north China, Mongolia will certainly benefit from China's strategy of “One Belt

and One Road”, which will also provide an unprecedented opportunity for the acceleration of the construction of “two mountain” railway, which is a key node of China-Mongolia thoroughfare.

3.3. Opportunities in building “prairie road” by Mongolia

Mongolia gives positive response to the initiative of “One Belt and One Road” proposed by China. Based on the geographical advantage of being situated between Europe and Asia and combined with its own national conditions, Mongolia come up with the plan of “prairie road”, whose aim is to revitalize Mongolia's economy through transit trade. The “prairie road” plan consists of 5 projects that require a total investment of about \$50 billion, specifically including building 997 kilometers of expressway and 1100 kilometers of electrical line which link China and Russia, expanding the railway, natural-gas pipeline and petroleum pipeline across Mongolia. The Mongolian government believes that the implementation of this plan will bring the country more investments and drive the upgrading of its industries, and thereby Mongolia's energy and mineral industry will be promoted to a new level as well. According to its estimation, Mongolia will receive an income of 200 billion MNT by 2020 by operating the transit transport of natural gas and oil between China and Russia (World Wide Web 2014). Therefore it can be seen that the national development strategies of China and Mongolia are connected closely and have a very high degree of complementarity. Mongolia has a strong demand for infrastructures, whereas China has the advantages of vast foreign exchange reserves, advanced technologies and high-quality construction teams. If they are connected very well, the economic development in both countries will benefit a lot from that.

4. Opportunities for construction of China-Mongolia-Russia economic corridor

The cooperation between China and Mongolia in different fields is not enough just between the two countries, it needs three-party cooperation among China, Mongolia and Russia or multi-lateral cooperation. This is the inevitable trend of international economic cooperation. On September 11, 2014, Chinese President Xi Jinping held a China-Russia-Mongolia Summit Meeting with Russian President Vladimir Putin and Mongolian President Elbegdorg in Dushanbe. Xi Jinping put forward the suggestion of building China-Mongolia-Russia Economic Corridor. On July 9, 2015, the heads of the three countries of China, Russia and Mongolia held a meeting again in Ufa City of Russia. President Xi Jinping stressed: In economy, each country should connect to its own development strategy and promote the process

of regional economic cooperation. This fully reflects that the countries attach great importance to the development of regional economic development. The heads of the three countries approved "Mid-term Route Map for the Three-party Cooperation of China-Russia-Mongolia Development." The relevant departments of the three countries signed "Memorandum of Understanding on Compiling the Planning Outline for Construction of China-Russia-Mongolia Economic Corridor", "Cooperation Framework Agreement on Creating Convenient Conditions to Promote the Trade Development among China, Russia and Mongolia", "Framework Agreement on Development of Field Cooperation in the Ports along the Boundaries of China, Russia and Mongolia" respectively. President Xi's speech and the signing of these important documents have far-reaching significance to the close cooperation between the three parties of China, Russia and Mongolia. Due to the influence of historical factors, Russia holds almost half of the shares in Mongolian railway departments, and considering that Russia owns part of the road rights of Mongolian railway, it is the most feasible method to cooperate in constructing and operating the Two Mountains Railway among China, Mongolia and Russia. Therefore, it is a good opportunity once in a blue moon to build "Two Mountain" Railway within the framework of China-Russia-Mongolia Economic Corridor and then build China-Mongolia thoroughfare.

The above opportunity creates good chance for further deepening China-Russia-Mongolia economic and trade cooperation, realizing the construction of China-Russia Economic Corridor, hence to propel Regional Economic Integration in Northeast Asia. As China's important region to participate in the progress of Regional Economic Integration in Northeast Asia, Inner Mongolia should actively seize the opportunity and play the unique role of bridge and ligament in the multilateral cooperation among China, Russia and Mongolia, and do more work in the following aspects.

1. To play due role in deepening China-Mongolia comprehensive strategic partnership

The establishment of China-Mongolia comprehensive strategic partnership makes the relationship of the two countries come onto a new step. Although there are frequent high-level visits between the two countries, political relations have reached the best level in history, civil exchanges lags behind relatively, and mutual trust is still the greatest resistance to the cooperation between the two countries. As for the construction of "Belt and Road Initiative" put forward by China, there exist both expectance and misgivings from the reaction of domestic media of Mongolia. As the area with unique advantage in geography, humanity, port and other aspects similar to Mongolia, Inner Mongolia should do more

work in dispelling doubt and confusion and enhancing mutual trust, and make good preparation for the future "Two Mountains" Railway construction.

2. To play a role in upgrading the level of economic and trade cooperation

For China, it is in the middle and later periods of industrialization, the process of urbanization has not completed, and has booming demand for energy and resources in economic development. Mongolia is rich in mineral resources and has a supporting role in the development of China's economy in the future. For Mongolia, it needs external force in exploring mineral resources, especially lacks necessary funds for infrastructure, while Inner Mongolia not only has accumulated lot of experience in the construction of infrastructure but also has plenty of funds, therefore it should play an active role in upgrading the level of China-Mongolia economic cooperation. Mongolia has passed the construction plan for using the standard rail in two feeding lines of the railway line, and this not only brings convenience for the cooperation in the construction of infrastructure and exploration and transportation of mineral resources, but also has demonstrative effect in "Two Mountains" Railway construction. Currently, when Mongolian economy is in the difficult period, as a close neighbor, Inner Mongolia should take more responsibility and try to lend a helping hand and lay a good foundation for deepening bilateral economic and trade cooperation.

3. To give full play to its own advantages in the China-Mongolia-Russia cooperation

Although China-Mongolia and Russia has reached consensus on the construction of "China-Mongolia-Russia Economic Corridor", but it needs to go a long way from the start to the substance cooperation of the three parties. The trade scale of the countries along "Belt and Road Initiative" is enlarging constantly, but it also faces the problems of customs clearance, poor logistics, more barrier and so on. It needs the common effort from the people and governments to get through the barriers and channels among the three parties and form mutually beneficial and win-win cooperation. Inner Mongolia has accumulated extensive experience in economic and trade cooperation with Mongolia and Russia. It should make full use of the geographical, humanistic and port advantages and play a role in guiding internally and collaborating externally, thus making contributions to the construction of China-Mongolia thoroughfare.

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Cost of Urbanization

Narantuya Danzan²⁷

Abstract

We-human being exercise different rights and duties depending on our ages, not to mention all our status and experience. Likewise some rights cannot be fully applicable to certain countries at certain time due to their limited economical, physical and/or other capacities. Based on analyses of statistical yearbooks and survey reports on internal migration produced in the 2000s in Mongolia, the paper investigates consequences of the rural-urban migration and explains why migration should be controlled internally. Main argument is that any actions of a state, society or individual should be taken within the Law with the consideration of Human Rights rather than they should be ruled by the Rights and Freedoms.

Keywords: Mongolia, internal migration, urbanization, freedom, human rights

Introduction

Mongolia has a territory of 1.564 thousand square kilometers and extends for 2392 kilometers from west to east, and 1259 kilometers from north to south. The country has five geographical regions: west, *khangai*, central, east, and Ulaanbaatar. Administratively, Mongolia comprises of 21 *aimags*²⁸ and the capital city, Ulaanbaatar. Aimags are divided into 330 *soums*²⁹ and Ulaanbaatar is divided into 9 districts. Urban population in Mongolia is defined as population residing in Ulaanbaatar, *aimag* centers and towns. In 2016 urban population in the country was estimated at 68 percent of total 3.1 million people.

The citizens of Mongolia have gained freedoms and rights with democratic changes which took place in the 1990s, particularly, they have enjoyed civil and political rights, which had been extremely limited under the communist regime. A new Constitution, which came into force in January 1992 and the National Human Rights Action Program of Mongolia (2003) stipulate human rights and freedoms, including the right to freedom of movement, to travel or reside abroad, and to return to your home

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28 Aimag- largest rural administrative unit

29 Soum- secondary rural administrative unit

country. At the same time the fees and taxes required under current regulations of citizens moving to other *aimags, soums*, and the capital city for temporary or permanent residence was abolished (6: pp.97-98). The Government undertook these actions to demonstrate how Mongolia has progressively moved towards a democratic country, however, it poorly analyzed what the future would bring if each person pursues his/her own best interest. The paper questions whether the migration verses freedom or not based on desk studies and analyses of statistical yearbooks, survey reports on internal migration and other relevant documents produced from 2000 onwards in Mongolia.

Findings

Migration is defined as any permanent change in residence. Migrants in Mongolia are persons who move from one place to another to live for six and more months. According to the latest statistics, one tenth of the total population in Mongolia has migrated and eight out every ten migrants have moved to the capital city and the central region.

According to the 1956 census, Ulaanbaatar's population estimated at only 14 percent of the total population of the country and it increased by over 8 percent in 1969 and reached 22.3 percent. However, the number of Ulaanbaatar's citizens had little change in the following 12 years and its fraction in the total population was 25.8 percent in 1981 (13: p.78). Stable Ulaanbaatar's population of this period despite intensive economic development of the 1970s can be explained by the founding of a new industrial city-Erdenet in 1976 in addition to the second largest city-Darkhan (established in 1962), regulations of internal migration by the Government and centrally planned rural and regional developments.

With democratic changes of the 1990s fees and taxes required under the current regulations of citizens moving to other *aimags, soums*, and the capital city for temporary or permanent residence was abolished. Rural population nevertheless, who presumably had not much realized a new for them social and economic system, did not extensively change their permanent residences up to the end of the 1990s. Internal migration in Mongolia had intensified since the second half of the 1990s, especially after 1998 or when herders suffered harsh winters. Net migration rates of

Ulaanbaatar show sharp increase in the number of immigrants in the period of 2000-2010.

Net migration rate (NMR), Ulaanbaatar, 1990-2014

Year	NMR
1990	5.38
1995	12.56
2000	24.99
2005	29.32
2010	22.18
2014	16.54

Sources: <http://www.ubstat.mn/statistics>

Report on Internal Migration and Settlements of the National Statistical Office of Mongolia based on the 2010 census demonstrate most internal migration is rural to urban and occurs in steps. Rural migrants usually move to *aimag* centers first, then to the central region and finally head for the capital city. Nowadays 22.8 percent of the urban population lives in *aimag* centers and towns, 4.5 percent of the total urban population lives in Erdenet and 4.2 percent - in Darkhan, and 68.5 percent lives in in the capital city of Ulaanbaatar.

In 2016 1.4 million out of total 3.1 million (45 percent) population lives in Ulaanbaatar only. In other words, almost a half of the citizens currently live in Ulaanbaatar, whose territory consists of only 0.3 percent of the vast territory of the country. Population density in the capital city reaches 306 people per 1 square kilometer, which is 150 times more than the national average (15: p14).

According to findings of migration surveys done in the last decade (3, 4, 5, 7, 8, 10 and 11), major reasons for moving for households were to find job, to give children better education, and to get closer to services and information. Unlike rural-to-urban migrants in other countries Mongolian internal migrants move to a city with their *gers*, the collapsible and stable felt tent, and settle in vacated places at the outskirts of the city since the hitherto non-existing land fee is not strongly endorsed nationwide. Simple!

However, migrant families face problems of separation, poverty, discrimination, and limited access to services in cities. Half of migrants are

not registered, and unemployment rate is much higher among migrants than permanent rural residents. The majority of them reside in *ger* areas, where they use fuel for their heating and sometimes for cooking. Urban residents have access to all sorts of fuel, but due to shortage of money the poor burn any available things including discarded tires. Paradoxically, jobless people, the disabled and those with many young children use more fuel in the winter time because they are limited to their homes all day. As a result, according to the findings of Environmental Research Center, air pollution is two to three times in outskirts districts than in other areas. As a whole, air pollution of Ulaanbaatar is five times more than the accepted norm and it has led to a two-fold increase of respiratory diseases among its citizens between 2000-2002 and 2002-2004 or in peak migration years. To make matters worse, voluntary settlement of migrants almost in any outskirts area of the city without registration disables provision of emergency medical service to them. Thirty per cent of migrant families feel that their life improved a little, but a greater number report it worsened.

The second main reason why people move to cities is providing better education to their children. Statistics of the last ten years show that 30% of migrants coming to Ulaanbaatar are school-aged children. However, city schools had no capacity to accommodate that many children. As a result of additional burden, two dozen urban schools have to organize the classes in three shifts with up to 60 pupils. School-aged migrant children more than three times are likely to be out of school than children of long-term residents. According to the 2005 survey report "Children on the Move", 33.3 percent of migrant children have dropped out of their schools mainly due to registration problems, discrimination at school, and the poor economic situation of their family. This situation not only contradicts expectations of some migrants, who came to the city to get their children educated, but also negatively affects the quality of education in both areas of origin and destination. Due to overload at urban schools, teachers are encouraged to provide additional paid courses to their pupils and it develops 'shadow education system' particularly in Ulaanbaatar (10, 11)

If rural schools have in average 36 pupils per class, the rural ones have less than 20 children per class. As the normative costs per child began to be differentiated, the amount of educational expenses per capita of some remote and densely populated *aimags* began to be set below the national average. Freedom of movement matched with insufficient local budget has

led to out-flow of professionals much needed in local development. Currently, the lack of professional teachers has become a problem in rural schools. High quality education could not be given to children and youth without good teachers, sound policies and sufficient resources in the educational sector.

According to the latest survey on migration (4: pp. 16-17), from 17 to 31 percent of respondents in rural areas have intentions to migrate in the future, and over half of them are planning to live in the capital city. It is interesting to note young females move to Ulaanbaatar to study, while young males goes to the city for earnings (3, 11). Work and children's future have been reported as main reasons.

Migration is not a trip. Even for a short trip we tend to have a map or guide in order to save our time and nerves, and hire a guide to make a trip pleasant. After whatever trip- a short or a long one we come back where we live. But migration is defined as any permanent change in residence. It covers many aspects of human life: separation, un/employment, settlement, adaptation, education and in/security etc. Consequently, a physical map is not sufficient for a migrant. Therefore, the Government should have a role of a guide for migration in order to make their citizens' life sensible. Policy-makers and scholars in Mongolia have recommended many solutions as regulations of internal migration such as to relocate the capital city, to limit the entry, to redirect the flow, to prevent it and so forth.

The best way to regulate migration in Mongolia, which has vast territory with a small population, is to develop regional centres with advanced infrastructure and social services. At the same time Ulaanbaatar can be expanded by building new districts in the extensive open space areas for instance, between Ulaanbaatar and its satellite district (110 km. away from the city) in the east. Otherwise, a certain limit to in-migration should be sanctioned depending on the capacity of the recipient. As early as in 1941 Franklin D. Roosevelt, the President of the United States remarked, "We have to have a clear realization of the fact that true individual freedom cannot exist without economic security and independence" (9: p.243).

We-human being exercise different rights and duties depending on our ages, not to mention other factors. For instance, despite the earlier age of puberty of their population, most societies do not permit the marriage of people under the age of 18, considering their full maturity and capacity to act. Likewise some rights can not be fully applicable to certain countries at

certain time due to their limited economical, physical and/or other capacities. In fact, the term of Rule of Law is commonly heard yet not Rule of Human Rights. It could be interpreted that any actions of state, society or individuals should be taken within the Law with the consideration of Human Rights rather than they should be ruled by the Rights and Freedoms. Otherwise, freedom in a commons without security, to borrow Garrett Hardin's statement (1: p.1244), might bring ruin to all. Indeed, would rights to freedom of movement be universal, all countries would have not required visas.

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