1-2009

PUBLIC ADMINISTRATION

&

REGIONAL STUDIES

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2 nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

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ASYLUM SEEKING AT INTERNATIONAL SCALE AND CHALLENGES TO ROMANIA AS A EU MEMBER STATE[1]

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Abstract.

After its accession to the EU, Romania's characteristics as an immigration country have been more and more emphasized, asylum-seeking becoming a growing phenomenon. This paper addresses the main characteristics of asylum seeking at international scale and in Romania as well, highlighting the challenges that have to be faced for an effective management of this phenomenon.

JEL Classification: F22, K4

1. The situation of refugees at international level

Year 2007 brought significant developments in the international humanitarian assistance as a result of the armed conflicts and of human rights violation. According to the statistics of the UN High Commissioner for Refugees (UNHCR, 2008), the number of the population this organization is responsible went down from 32.9 million persons at the end of 2006 to 31.7 million persons at the end of 2007, which is an absolute decrease of 1.2 million persons, i.e. 3% in relative terms.

In exchange, the number of refugees, which are a very high weight category, has increased during 2007 by 1.5 million persons, reaching an unprecedented level at the end of that year, i.e. 11.4 million persons. Besides refugees, among the UNHCR-assisted persons also count other categories, such as asylum-seekers, internally displaced persons, repatriated refugees, repatriated displaced persons, stateless persons, etc.

The structure according to categories, at the end of 2007, is shown in Table 1 and Figure 1.

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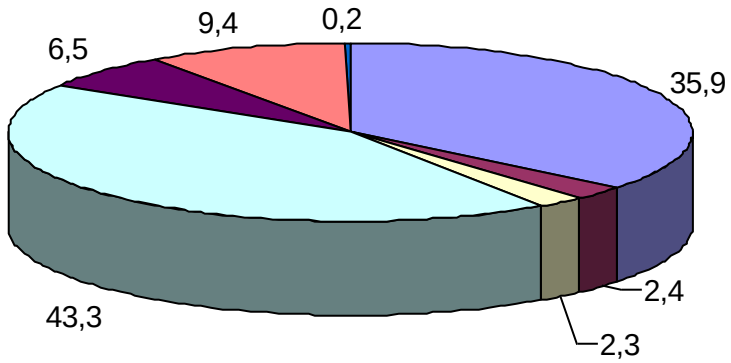
[1] This article is based on a part of the authors' contribution to the study entitled "European Perspectives on Asylum and Migration", SPOS Project 2008 of the European Institute of Romania. The ideas expressed in this article do not represent an official position, but only the authors' own view.

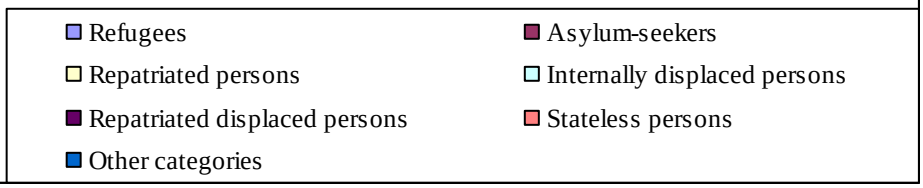
Table 1. Structure of the UNHCR-assisted population at the end of 200 - percentages –

Category	**Share**
Refugees	35.9
Asylum-seekers	2.4
Repatriated refugees	2.3
Internally displaced persons	43.3
Repatriated displaced persons	6.5
Stateless persons	9.4
Other categories	0.2
Total	**100.0**

Source: *2007 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons,* UNHCR, 2008, p.5

Figure 1. Distribution of the UNHCR-assisted population by main categories - percentages





From the total number of refugees at the end of 2007, more than one third originates from Asia and the Pacific region, 80% being Afghans (Table 2). The Middle East and North Africa countries hosted 25% of the total number of refugees, followed by the rest of Africa (20%), Europe (14%), North and South Americas (9%).

Table 2. Refugee population by geographic area at the end of 2007

UNHCR-assisted region	Refugees	Persons living as refugees *	Total number of refugees at the end of year 2007
Central Africa and Great Lakes	1,100,100	-	**1,100,100**
East Africa and Horn of Africa	815,200	-	**815,200**
South Africa	181,200	-	**181,200**
West Africa	174,700	-	**174,700**
Total Africa**	**2,271,200**	-	**2,271,200**
America (North, Central and South)	499,900	487,600	**987,500**
Asia and Pacific region	2,675,900	1,149,100	**3,825,000**
Europe	1,580,200	5,100	**1,585,300**
Middle East and North of Africa	2,645,000	67,600	**2,721,600**
Total	**9,681,200**	**1,709,400**	**11,390,600**

*** Note:** "Persons living as refugees" refers to persons outside their home country or territory and who are subject to the same risks as refugees, but whose status has not been defined – due to practical or other reasons.

** Without the North of Africa

Source: *2007 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons,* UNHCR, 2008, p.7

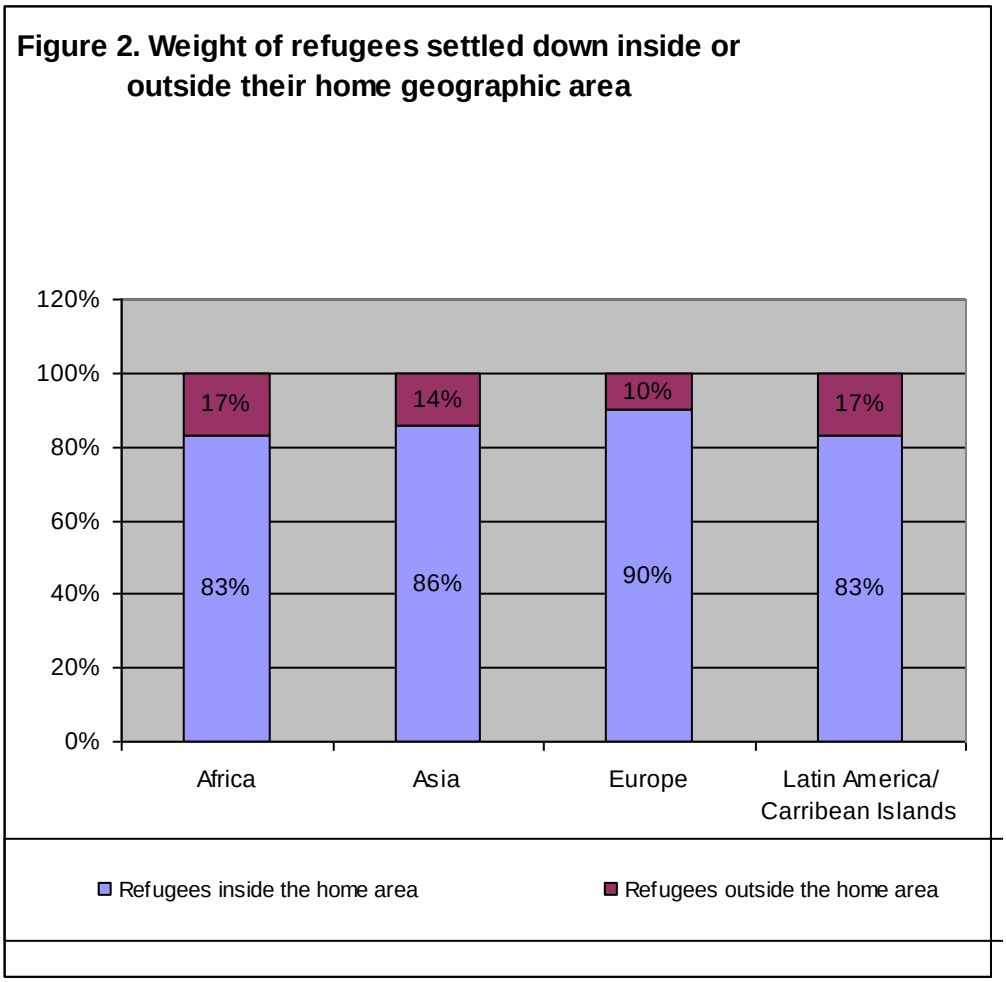
It is important to remark that most of the refugees choose the neighbouring countries, thus remaining in the same geographic area. Table 3 and Figure 2, which show the rate of refugees inside and outside the geographic area they belong to, indicate that conflict-causing areas host between 83% and 90% of "their" refugees. According to the estimations of UNHCR, 1.6 million refugees (i.e. 14% of the total number of 11.4 million) live outside their home region.

Table 3. Weight of refugees established inside or outside the home geographic area

- percentages -

Continent	Refugees inside the home area	Refugees outside the home area
Africa	83	17
Asia	86	14
Europe	90	10
Latin America / Caribbean Islands	83	17

Source: *2007 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, UNHCR, 2008, p.7



Confirming this general situation, the table listing down the top 10 host-countries for refugees in 2007 brings to foreground first of all countries of Asia: Pakistan, Syria, Iran (Table 4 and Figure 3).

Table 4. Host countries with the largest number of refugees at the end of year 2007

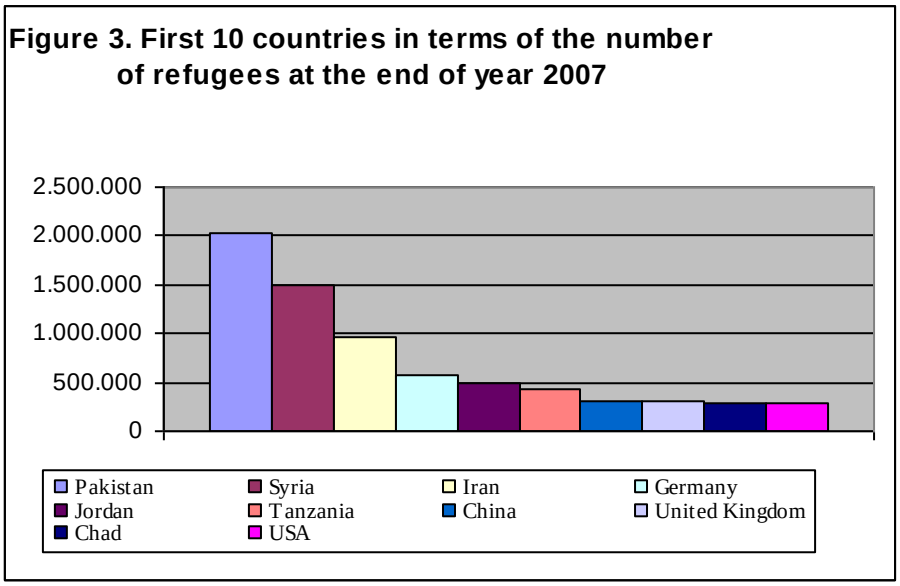
- number of persons -

Country	Number of refugees
Pakistan	2 033 100
Syria	1 503 800

Iran	963 500
Germany	578 900
Jordan	500 300
Tanzania	435 600
China	301 100
United Kingdom	299 700
Chad	294 000
USA	281 200

Source: *2007 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons,* UNHCR, 2008, p.8

Figure 3. First 10 countries in terms of the number of refugees at the end of year 2007



2. Asylum applications in industrialized countries

Until obtaining the statute of refugee or of some other form of protection, the relevant persons are asylum-seekers, a status reflected in most cases in the national legislations according to the provisions of the Geneva Convention of 1951 regarding the statute of refugees.

UNHCR statistics concerning asylum applications have contemplated 43 countries, generically called "industrialized countries"[1,2]. Among these, most countries belong to the EU.

To the possible extent, asylum-seekers are registered only once in each country. However, the total figures overestimate the number of new arrivals because there are persons who lodge asylum applications in more than one country. For example, the Eurodac system has demonstrated that, both in 2005 and in 2006, 17% of the asylum applications were in fact multiple applications.

According to the available statistics at UNHCR level, in 2007 the number of asylum applications increased by 10% compared to 2006. In absolute figures, in 2007, 338,300 asylum applications were lodged, i.e. 32,000 more than in 2006. Nevertheless, the level in 2007 is only half of the number reached in 2001, when 655,000 asylum applications were recorded in 51 countries. Table 5 and Figure 4 show the dynamics of the asylum applications in some areas of the world, between 2006-2007 as compared to 2001-2006.

Table 5. Dynamics of asylum applications in some areas of the world between 2001 and 2006, and between 2007 and 2013

- percentages –

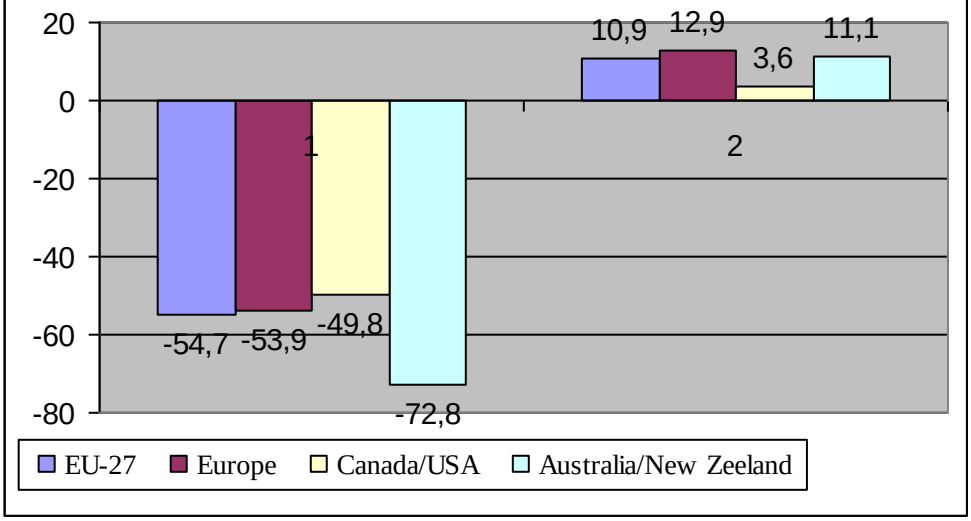
Area	**2001-2006**	**2006-2007**
EU-27	-54.7	10.9
Europe	-53.9	12.9
Canada/USA	-49.8	3.6
Australia/New Zeeland	-72.8	11.1

Source: *Asylum Level and Trends in Industrialized Countries*, UNHCR, 2008, p.4

[1] The 43 include: 26 EU members (without Italy), Albania, Bosnia-Herzegovina, Croatia, Island, Liechtenstein, Montenegro, Norway, Serbia, Swiss, FRI Macedonia, Turkey, as well as Australia, Canada, Japan, New Zeeland, Korea and USA.

[2] Recently, Armenia, Azerbaijan, Belarus, Georgia, Moldova, the Russian Federation and Ukraine have recently joined them, out of statistic reasons. Italy was also included in these statistics starting with 2008.

Figure 4. Dynamics of asylum applications in some areas of the world between 2001-2006 şi 2007-2013 - percentage points



In 2007, out of the total number of 338,300 asylum applications, Europe received 254,200 applications, i.e. 13% more than the previous year.

The changes in the top 10 countries for which asylum applications were lodged between 2004 and 2007 are shown in Table 6.

Table 6. Changes in the hierarchy of the first ten countries for which asylum applications were lodged between 2004 and 2007

Country	Rank in 2004	Rank in 2005	Rank in 2006	Rank in 2007
USA	2	2	1	1
Sweden	7	7	4	2
France	1	1	2	3

Canada	5	6	5	4
United Kingdom	3	3	3	5
Greece	19	12	9	6
Germany	4	4	6	7
Italy	13	11	12	8
Austria	6	5	8	9
Belgium	8	8	10	10

Source: *Asylum Level and Trends in Industrialized Countries*, UNHCR, 2008, p.7

On the European continent, the countries traditionally ranking first in the hierarchy, such as France, Germany, Great Britain, Austria, have recorded a decrease of the number of asylum applications in favour of countries such as Sweden, Greece, Italy. Table 7 shows the first ten countries in terms of the number of asylum applications for 1,000 inhabitants in 2007.

Table 7. Number of asylum applications for 1,000 inhabitants in 2007. Hierarchy of the first 10 countries in which applications were lodged

Rank	**Country**	**Number of asylum applications for 1,000 inhabitants**
1	Cyprus	7,9
2	Sweden	4,0
3	Malta	3,4

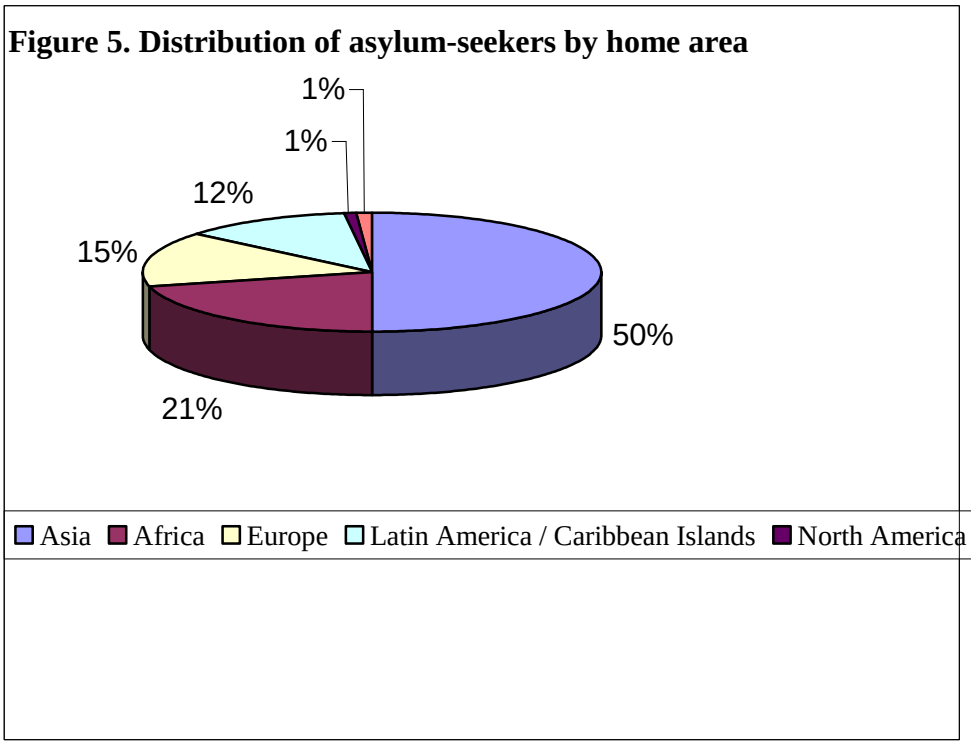
4	Greece	2,3
5	Austria	1,4
6	Norway	1,4
7	Swiss	1,4
8	Belgium	1,1
9	Ireland	0,9
10	Luxembourg	0,9

Source: processed according to *Asylum Level and Trends in Industrialized Countries*, UNHCR, 2008, p.12

In the hierarchy of all the 51 countries in the UNHCR statistics, **Romania** ranks 38th, with less than 0.1 applications for 1,000 inhabitants.

As for the origin of the asylum-seekers, approximately 50% originate from Asia, 21% from Africa, 15% from Europe, 12% from Latin America and Caribbean Islands, 1% from North America (Figure 5).

Figure 5. Distribution of asylum-seekers by home area



Source: processed according to *Asylum Level and Trends in Industrialized Countries*, UNHCR, 2008

Among the main 40 nationalities seeking asylum, 17 witnessed an increase in 2007. Among these, the most important increases were recorded in Iraq (+98%), Pakistan (+87%), Syria (+47%), Somalia (+43%), Mexico (+41).

Among the 23 nationalities that witnessed decreases, the most important decreases were recorded in Azerbaijan (-41%), Sudan (-34%) and Turkey (-22%). Table 8 shows the changes in the hierarchy of the most important ten home countries of asylum-seekers between 2004 and 2007.

Table 8. Changes in the hierarchy of the first ten home countries of asylum-seekers between 2004 and 2007

Home country	**2004**	**2005**	**2006**	**2007**
Iraq	9	4	1	1
Russian Federation	1	2	4	2
China	3	3	2	3
Serbia*	2	1	3	4
Pakistan	8	10	9	5
Somalia	10	11	8	6
Mexico	21	17	11	7
Afghanistan	12	8	7	8
Iran	5	6	5	9
Sri Lanka	19	15	16	10

* **Note:** In 2007, Serbia is recorded jointly with Muntenegru

Source: *Asylum Level and Trends in Industrialized Countries*, UNHCR, 2008, p.10

3. Situation in Romania[1]

Although, in the past, Romania was not among the top countries assaulted by asylum applications, being considered a transit country on the way to the other European countries, after its accession to the EU it is expected to shortly become a target country, with all the implications deriving from the strategic, politic and managerial points of view.

Thus, only in 2007 the number of asylum applications was 605, i.e. 40% more than in 2006, when 381 applications were recorded[2].

As regards the home country, Table 9 shows the situation in 2007 as compared to that in 2006. Serbia's ranking second in 2007 is explained exactly by Romania's becoming member of the EU.

Table 9. Main home countries of asylum-seekers in Romania in 2006 and 2007

Rank	2006 (persons)	2007 (persons)
1	Iraq - 78	Iraq - 223
2	Somalia - 51	Serbia - 183
3	China - 50	Turkey - 35
4	Turkey - 28	Somalia - 28
5	Iran - 21	China - 19

Source: MIRA reports for 2007 and 2008

In 2007, from the total number of asylum-seekers, 268 entered legally, 328 illegally, and 9 are (minor) aliens born in Romania.

For the same year 2007, ORI statistics show that, based on the 605 asylum applications, 314 travel documents were issued, out of which 251 for aliens whose statute of refugee was acknowledged, and 63 for those who were granted subsidiary protection. At the same time, the validity of the travel documents was extended for 161 refugees and 94 subsidiary protection persons.

75 persons lodged applications for a new asylum procedure. Among these applications, 40 (54%) were rejected as unacceptable, and 35 (46%) were accepted.

[1] Based on the data in the MIRA reports of 2007 and 2008.

[2] In fact, in 2006, 464 applications were lodged but, according to the Eurodac system, 83 were multiple applications (filed the second time).

As regards the multiple applications, more than 50% were lodged by Iraqi citizens. More than 95% of the multiple applications were solved in Bucharest, although there are also other courts of law in other cities that receive applications (Timişoara, Galaţi, Rădăuţi).

Complying with its obligations deriving from the EC Directive on the implementation of the Dublin II mechanism, Romania accepted 97 responsibility takeover cases, 13 asylum-seekers being transferred.

At international level, in accordance with the practices supported by the UNHCR, *the possible answers in managing asylum are searched in three directions*: voluntary repatriation to the home country, transfer to another country and finding adequate mechanisms of permanent integration in the asylum country. Between the three forms, there are several differences, such as:

- Voluntary repatriation is seen as a long-lasting solution that satisfies a wide number of refugees.
- Transfer to another country is a protection instrument based on responsibility sharing mechanisms.
- Integration into the society of the host country is a legal, socio-economic and political process by which refugees become members of the society of the host country.

Below, the third direction is analyzed, whereas the other two will be approached in the chapter dedicated to the removal of aliens from the Romanian territory.

The **integration in the society of the host country** is meant not only for aliens who have obtained some form of protection, but to all aliens legally staying on the Romanian territory (Constantin et al., 2008).

In *general terms*, *for the immigrant,t* **integration** means speaking the language (written, spoken) of the host country, access to the education system and labour market in that country, possibilities to increase the professional mobility by raising the education level and professional training, equality before the law, cultural and religious freedom, respect for the laws and traditions of the country they live in. At the same time, *for the host society,* the integration of migrants requires tolerance and open-mindedness, the consent of receiving immigrants, understanding the benefits and challenges of multicultural societies, providing unlimited access to information regarding the benefits of integration, tolerance and intercultural dialogue, respect for and understanding of the condition, traditions and culture of immigrants, respect for immigrants' rights (IOM, World Migration, 2003).

Up to now, refugees have been the main beneficiaries of the integration programmes, namely 77 aliens that were granted some form of protection, out of which 66 entered integration programmes in 2007. Most of them originated from Iraq 36% and Somalia (19.5%).

These programmes contemplated and continue to contemplate the following:

- access to the labour market;
- access to education;
- access to the healthcare national system;
- access to lodging;
- access to the social assistance system and to training services.

To provide an image on the efforts made, we shall rely on the statistic data collected by ORI – MIRA, as well as on the results of the sociological research that the annual reports of MIRA for 2007 and 2008 were based on.

Thus, as regards the **access to the labour market**, 65% of the interviewees had a job, and, among these, men were predominant (approx. 77%). However, the number of refugees recorded by the workforce occupation agencies is quite low (44), out of which only 26 being subject to occupation stimulation measures. Besides, 56.6% of the interviewees answered that they got a job with the help of their friends, and only 0.7% through labour force occupation agencies. 43.8% of the interviewees stated that they did not have any professional training when they arrived in Romania.

Among the persons who obtained some form of protection in Romania, 77.8% stated that they had secondary education (46.6%) and university education (31.2%). 25.2% of them declared that they continued their studies in Romania (6.4% - high school, 14.7% - university, etc.).

The **access to education** is crucially conditioned by **being a speaker of Romanian language**. Generally, this proficiency is directly proportional with the time spent in Romania (48.5% of the refugees have lived in Romania for more than ten years). 32.3% of the interviewees have participated to a Romanian learning course, most of them as students (15.4%). Another part of them signed up for the courses organized by ORI in collaboration with the Ministry of Education and Research and for courses organized by NGOs.

As regards the **healthcare system,** only 46.6% of the interviewed adults had health insurance. However, 81.8% of them stated that they were in a good health condition.

As for the **access to lodging**, 82.3% of the interviewees lived in apartments; 74.4% asserted they were satisfied with the lodging conditions, 12.8% being very satisfied, and 12.8% dissatisfied.

The **access to the social assistance system** is necessary particularly for persons who have not succeeded in finding a job, being incapable of providing for themselves. Among the interviewees, 34.2% benefited from social services, non-repayable aid being the most frequently used (29.1%).

At the end of year 2007, in the records of the National Authority for Child Protection there were 5 **unaccompanied alien children**, out of which 3 from Somalia. They obtained the statute of refugee. The other 2 were from the Republic of Moldova, being repatriated in the meantime.

However, from a wider perspective, integration in the society of the host country also requires **a tolerant attitude of the majority population**, an attitude opposed to discrimination, xenophobia and other forms of migrant rejection. Organizations concerned by refugee rights often notice a subtle rejection of aliens, not only by usual people, but also by public servants taking care of the asylum-seekers' and refugees' problems. They do not always distinguish between a refugee, an immigrant or a trafficker, between migrants having economic reasons and those who are forced to emigrate as a result of dramatic events or persecutions back in their own country (Lăzăroiu, 2003).

As for the **position of the public opinion** towards the immigrants settled in Romania, it is acknowledged that urban population, having a higher level of education, is more tolerant, and that, generally, persons who have had contacts with minority groups, are more tolerant than those who live in homogenous cultural environments. Immigrants are expected to integrate better in the urban environment than in the rural one, and in terms of regional distribution, chances are higher in Bucharest and in the West and South-East areas (opening onto the Black Sea) than in the South and East areas of Romania. Therefore, *specific tolerance areas* have been outlined (Lăzăroiu, 2003), towards which the immigration flows are expected to continue to concentrate in the following years, whereas the access to other environments and areas might be restricted because of the intolerance.

In their turn, **the media** must concentrate more on the systematic analysis of migration in its complete complexity, thus contributing to the *guidance* of migrants in a universe with many risk and uncertainty components, to *preventing and fighting* delinquency, clandestineness, corruption. In many cases, the media have proven to be less preoccupied by elaborating objective reports on migration, by rather concentrating on

adopting some articles from the international media and stereotypes from the Romanian society.

Even if some newspapers and, particularly, some TV stations have lately supported the specialization of journalists in the field of migration, the need to organize courses to train them for the investigation and analysis of this phenomenon continues to exist.

Also, there is a need to **support scientific research** in the field of migration and to include in the university curricula certain disciplines specialized in studying this phenomenon (economics, medicine, law, education sciences, etc.), at the same time making suggestions in order to create a migration research national centre (which is to be created by the Romanian Government in partnership with IOM, UNCHR, and other international organizations) (see, for example, IOM, 2004; Lăzăroiu and Alexandru, 2008). Creating some faculties or cross-disciplinary study sections for migration, so that the necessary expertise may be created in public policies, social assistance, and migration management, is another point of interest[1].

4. Concluding remarks

Although in the past Romania was not one of the top countries assaulted by asylum applications, being considered a transit country on the way to other European countries, after its accession to the EU, it expected to shortly become a target country, with all the deriving implications in terms of strategies, policies and management in the field.

The basic, initial requirement for a rational management in this field is the acceptance of the difference between the two categories – asylum seekers and refugees - and their correlated treatment: numerically, asylum seekers are much less numerous than refugees; in fact, the asylum application is a transitory state towards obtaining the statute of refugee or some other form of protection, which imposes the solution of applications within the legal deadlines and according to the legal procedures, finding the most adequate answer for each separate application, followed by the transposition, through policies and a differentiated management, of the

[1] The master course in migration, organized by the University of Oradea together with OIM, the doctoral dissertations elaborated on this subject (e.g. those from the Babeş-Bolyai University of Cluj-Napoca, West University of Timişoara, etc.), the research projects and the debates, the scientific manifestations organized in Bucharest and in the country, are significant achievements in this respect.

measures suitable for the chosen solution: acceptance/ integration – rejection – repatriation.

In accordance with the practices applied at international level by the UNHCR, *the possible answers in managing asylum are searched in three directions*: voluntary repatriation into the country of origin, transfer to another country and finding suitable mechanism for permanent integration in the asylum country, after acquiring the statute of refugee.

However, the *integration* into the society of the host country is addressed not only to aliens who have obtained some form of protection, but to *all aliens* legally staying on Romanian territory.

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

LA JUSTICE SOCIALE OU « SOCIETALE » : CONTRIBUTION A UNE DEFINITION « GROUPALE » BENTLEYIENNE

Pierre CHABAL

Un siècle après la parution de *The Process of Government*, [1] ouvrage aujourd'hui classique d'Arthur F. Bentley, il est temps de se rappeler sous-titre de l'ouvrage : *a study of social pressure*. Dans son étude de la dynamique sociétale, Bentley cherche en effet à dépasser toute analyse statique de la société et des groupes qui la constituent pour mettre en évidence leur mutabilité et leur capacité permanente de recomposition. La méthodologie qu'il met au point est donc celle d'une science sociale comportementaliste avant l'heure en même temps que celle d'une étude des activités humaines qu'il qualifie de « ouvertes » (*overt*) par opposition à « institutionnelles ».

Chercher chez Bentley une contribution à l'approche politologique de la « justice sociale » est donc naturel : l'activité politique pour lui, au sens général de la dynamique des sociétés, est une matière première aussi fondamentale que celle qui inspira les penseurs du gouvernement des hommes, de leur justice et de la séparation des pouvoirs. Chez Bentley, les

1. Publié pour le première fois en 1908 par les Chicago University Press, *The Process of Government* fut à nouveau publié, par les Principia Press (édition revue et complétée) en 1935, 1949 et 1955. Le texte que nous avons utilisé et que nous citons a été tiré à partir des placards originaux remontant à 1908, dans l'édition annotée par Peter Hodegard, de la John Harvard Library, par les Belknap Press des Harvard University Press, Cambridge, Massachussetts, en 1967.

groupes sociaux, les intérêts sociaux et les pressions qui s'exercent sur et contre eux sont trois expressions d'un seul et même phénomène. Cette science politique des débuts, qui devait fortement influencer les sciences sociales nord-américaines des années 1930s et européennes des années 1950s, est une des origines de l'Ecole de Chicago.

Il s'agit aujourd'hui de discuter l'approche bentleyienne des groupes sociaux et des mécanismes de justice qui les relie, de manière aussi objective et libre de valeurs que possible quant au champ politique, malgré la complexification, en un siècle, de nos sociétés politiques. L'auteur tient les interactions entre groupes sociaux pour fondées sur la vie politique et place au second plan les formes institutionnalisées de cette vie politique, notamment les « organes » animant les « pouvoirs ». Selon lui, c'est l'activité de groupes qui déterminent les normes législatives, les activités administratives et les produits de l'activité judiciaire, non l'inverse.

Nous discuterons cette approche idéal-typique d'un « comportementalisme de processus » en rappelant que pour Bentley les mouvements sociaux sont créés par les frottements entre groupes sociaux (I) et donc en remettant en question certaines hypothèses de la gouvernabilité des sociétés contemporaines (II).

I- les mouvements sociaux sont créés par les frottements entre groupes sociaux

L'ouvrage *Le Processus de Gouvernement* se veut, selon son propos préliminaire, une « tentative » pour forger un « instrument »», moyen pour l'auteur d'appréhender le processus politique « dans son ensemble ». C'est dire l'ambition de ce livre, écrit en 1908, en pleine redéfinition des sciences sociales occidentales. On y trouve à la fois une ambition de « description précise » du gouvernement dans un sens « étroit », et une approche « intermédiaire » très originale et parfois humoristique de ce que l'on devrait le mieux résumer sous le terme de « constitution vivante », par opposition à une approche positiviste et juridique de la Constitution.

Pour décrire cette constitution vivante, Bentley fait un large effort de vocabulaire. L'esprit caustique y verra certes un effort perfectible dans la mesure où « processus » et « activité » d'une part, « groupe » et « intérêt » d'autre part semblent valser dans une équivalence quasi-générale. Il reste que Bentley, une fois ses postulats et son canevas de pensée posés en termes précis, creuse en détail sa critique à l'égard des causes erronées, selon lui, du processus d'organisation sociale, causes dont

certains auteurs qu'il critique extensivement se satisfont, toujours selon lui, trop facilement.

Ainsi, le *Processus de Gouvernement* est-il un ouvrage riche et stimulant mais qui présente deux difficultés. D'abord, le fait que, pour Bentley, tout, absolument tout, soit à réduire en termes de groupes et de groupes en perpétuelle mouvance, peut donner au lecteur une désagréable impression d'insaisissabilité. Ensuite, l'insistance que met l'auteur à exposer que seule « l'activité » peut traduire ce qui « est », découragera plus d'un adepte de la dualité sartrienne entre « le faire » et « l'être ». Pour Bentley, rien n'existe jamais vraiment au sens où il serait possible de désigner ce qui demeure – *stare* – dont une institutionnalisation des processus, et personne ne peut vraiment appréhender la substance de l'action au sens de la réification de la substance de cette action en objet d'étude, une « chose » durkheimienne.

Or, nous avons l'habitude, surtout en culture latine, de ne concevoir d'organisation sociale qu'encadrée et réglementée par un texte relativement rigide (surtout dans son élaboration et sa modification), une référence textuelle, notamment constitutionnelle, dont les révisions font entrer en jeu des mécanismes rigoureux, complexes et eux-mêmes encadrés et « surveillés ». Ces mécanismes peuvent être plus ou moins formalisés (de la précision de l'article 89 de la Constitution française aux pratiques constitutionnelles britanniques en matière de révision de la Constitution) mais il n'est pas à notre connaissance un Etat moderne, développé ou non, qui ne mette en avant et en exergue une référence absolue et son mode de changement aux yeux de la démocratie.

Dans ces conditions, la définition de « la Constitution » chez des auteurs que Bentley discute en début d'ouvrage pour amener ses propres vues, surprendra quelque peu en ce qu'elle semble épouser aussi les vues bentleyiennes. Ainsi J. A. Smith, dans son *The Spirit of American Government* (1907), et A. Beard dans son *An Economic Interpretation of the Constitution* (1913), que Bentley ajoute dans d'autres éditions, voient dans l'ouvrage de Bentley « une description systématique et une justification de leur propre méthode d'analyse » (p. 7).[1] La Constitution est, par exemple pour J. A. Smith, « un produit de conflits entre groupes d'intérêts indentifiables », ou encore « essentiellement un document économique, articulé et approuvé par des groupes qui y sont intéressés immédiatement, directement et personnellement et qui en retirent des avantages économiques » (*ibid*).

[1]. Toutes ces citations sont extraites et paginées selon l'ouvrage de Bentley reproduit en 1967.

Ainsi mis au centre de l'aspect le plus formel de la vie politique, il est évident que ces groupes envahissent toute l'organisation sociétale. Par là, la dimension individuelle semble négligée dans le processus de gouvernement, dont Bentley explique qu'il est « une étude du comportement humain, fondé sur les processus de gouvernement en tant que matériaux immédiats » et « conduite dans une intention qui exclura d'autres champs de comportement de façon aussi précise qu'elle inclut le champ du gouvernement » (p. 13).

a) C'est que, et il faut y insister, Bentley distingue fortement entre i) le simple citoyen et ii) l'homme sensibilisé, « mobilisé » au sens le plus fort où la science politique contemporaine emploie ce terme. Le premier, passif, ne prend pas part au processus de gouvernement bentleyien. Tout en plus tentera-t-il mais trop tard d'y élever une opposition maladroite. Au contraire, le second est au cœur de ce processus et ce sont ses mobilisations qui donneront l'impulsion à la formation des groupes. Certes, l'individu iii) réellement « isolé » n'est rien politiquement parlant et Bentley ne conteste cela pas plus que la plupart des auteurs réalistes.

Dans la plupart des cas, le désir que l'individu voudra voir satisfait collectivement, donc son désir « politique », *c'est-à-dire* son « intérêt » bentleyien, rejoindra celui d'autres individus et un groupe sera formé. La formation du groupe correspondra donc à l'émergence d'intérêts partagés, ne serait-ce que par un petit nombre d'individus influents.[1] Cette émergence sera continue et fréquente, et fréquents seront les combats vers la meilleure médiation possible afin que l'intérêt en question soit pris en compte au niveau le plus dense. Les groupes, par leur faculté de réponse rapide et efficace aux intérêts particuliers, aux intérêts « sous-jacents », sont de véritables agents de médiation. L'individu, à condition qu'il soit concret et actif, est pris en compte par ces groupes et par le processus politique qu'ils constituent. Il n'est donc pas négligé totalement.

Il reste qu'une discussion sur la dimension démocratique de l'œuvre de Bentley ne saurait s'arrêter à une discussion de la prise en compte de l'individu. La démocratie est une doctrine et un régime politique qui respectent l'individu, certes, mais qui groupent les individus en « peuple » lequel doit pouvoir exercer sa souveraineté.

C'est pourquoi nous présentons l'œuvre de Bentley (succinctement étant donné le format hautement justifié des contributions à *Public Administration and Regional Studies* en nous efforçant de mettre en avant

[1]. On voit bien poindre ici le bout du nez de l'élitisme (et de la logique des partis de cadre, etc.).

l'existence de ce « peuple » mais aussi sa réductibilité en groupes bentleyiens. Le peuple, tel le corps humain, est une réalité composite, mais chaque groupe ou sous-groupe, chaque organe ou sous-organe de l'anatomie humaine, peut avoir et a souvent des intérêts distincts de ceux des autres groupes ou sous-groupes.

b) Bentley oppose ainsi « processus » et « contenu » : le processus est ce qu'il faut retenir ; le contenu n'est que l'accompli qui, s'il ne se renouvelle pas, devient vite « lettre-morte », y compris la Constitution. L'auteur oppose aussi gouvernement an sens « étroit » et gouvernement au sens « véritable » : il existe certes des institutions permanentes mais elles doivent leur permanence non pas au contenu des textes mais à leur capacité de médiation particulièrement développée. Il fait finalement une synthèse de son analyse en mettant au point une analyse « groupale », qui n'est rien, elle-même, de plus qu'une activité engagée dans le processus de groupe mais qui est tout de même, selon lui, la seule à saisir les facteurs nécessaires à l'intelligence de l'organisation sociétale des hommes. Entre processus, groupes et démocratie, il est ainsi nécessaire avec Bentley de maintenir une perspective intellectuelle large.

Il existe en effet un point de vue « sur » la science politique, partagé par certains juristes, selon lequel la science politique ne s'intéresserait finalement qu'à la prise de décisions. Ce qui est inexact ou du moins inutilement réducteur. La science politique s'intéresse à la régulation sociale en général et, de plus, quant aux décisions, elle s'intéresse autant à la prise de décisions qu'à la prise de décisions nécessaires au maintien des engagements pris par les premières, et à l'activité consistant à éviter de prendre des décisions (les non-décisions). Certes, il s'agira, de façon plus complète, d'une combinaison de ces trois aspects. Surtout, nous y insistons, l'aspect décisionnel n'est qu'une des préoccupations de la démarche politologique. La prise de décision ne constitue qu'un bon « test » de l'organisation démocratique de la société.

Par « prise de décisions », nous entendons, plus que l'acte de votation ou que les modes de scrutin, le lien entre l'organisation d'une société et sa technique d'organisation. Or, très vite, l'on s'aperçoit que le modèle technique mis en avant est celui de la décision majoritaire. Majorité et démocratie ou, plus exactement, *principe* de majorité et *décision* démocratique, apparaissent liés. « Le principe de majorité est la méthode légitime démocratique pour que, d'un groupe divisé, se dégage une décision » ; plus exactement, c'est le modèle selon lequel, « dans un groupe humain préalablement délimité, la décision qui sera considérée comme étant celle du groupe tout entier, est celle qui a l'accord de la fraction la

plus nombreuse du groupe ». Il s'agit encore d'un « modèle de comportement pour dégager une décision collective ».[1]

La complexité de ces questions de décision démocratique a bien été pressentie par Condorcet. Selon lui,[2] au moment où les hommes ont senti le besoin de vivre sous des règles communes et en ont eu la volonté, ils ont vu que ces règles ne pouvaient être l'expression d'une volonté unanime. Il fallait que tous consentissent à céder au vœu de la majorité. Allant plus loin encore, Condorcet ajoute après Rousseau que la convention d'adopter ce vœu de vivre ensemble comme s'il était conforme à la volonté de chacun a dû être la première des lois sociales et a, seule, pu donner à toutes les autres le sceau de l'unanimité.

Entre cette unanimité idéale et la condamnation de l'oligarchie, la majorité apparaît comme méthode d'un moindre mal, celle qui puisse satisfaire le plus grand nombre ou, de manière complémentaire, faire le moins possible d'exclus. Et c'est logiquement sur cet aspect quantitatif, numérique même, que s'appuie le plus souvent la légitimité du groupe gouvernant. Depuis des « génies invisibles » de la cité[3] à l'association légitimité-légalité, ce que nous appelons « organisation démocratique » est devenu un modèle vers lequel il est moralement, politiquement, juridiquement, voire mathématiquement souhaitable de tendre. Certes les décisions qu'il pousse à prendre sont simples, voire brutales (51 = 100 alors que 49 = 0), mais elles présentent le double avantage d'une clarté indiscutable et d'une mise en œuvre instantanée

c) L'on peut donc commencer d'établir le lien entre principe de majorité et décision pour la société groupale bentleyienne à partir d'une définition non spécialiste de la démocratie, à la fois « *doctrine* politique d'après laquelle la souveraineté doit appartenir à l'ensemble des citoyens et *organisation* politique dans laquelle le citoyen exerce cette souveraineté ».[4] Cette définition nous fournit, pour ainsi dire, les trois éléments d'une discussion idoine, à savoir le peuple, sa souveraineté et l'exercice par lui de celle-ci. Il existe certes plusieurs conceptions de la souveraineté : celle du peuple, de la nation, de l'Etat. La plus « démocratique » est à l'évidence la souveraineté populaire mais elle apparaît vite impraticable pour des raisons … quantitatives (démographiques) et débouche sur la nécessaire mise en place d'un système représentatif, origine des … institutions, sauf

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1. Pierre Favre, *Le Principe de majorité*, pp. 13-14.
2. dans *Mathématiques et Société* (1793).
3. Montesquieu, *L'Esprit des Lois*, Pléiade, 1951, tome 2, p. 250.
4. Par exemple tout simplement dans le dictionnaire *Le Petit Robert*.

dans une optique bentleyienne, où les individus, quel que soit leur nombre, peuvent se grouper de manière opérationnelle en autant de groupes que nécessaire et ce aussi souvent que nécessaire.

Ces institutions ont pour rôle de transmettre aux instances les plus « politiques » (au sens d'être les plus décisionnelles ?) les demandes émanant du peuple. Pour ce faire, cependant, des techniques de décisions, plus largement de « choix », sont employées. Or ces techniques ne sont pas sans comporter des failles. Elles seront plus ou moins compétentes pour organiser la discussion. D'après P. Favre, « si le principe de majorité est destiné à permettre à un groupe de parvenir à une décision où il se reconnaisse en tant que groupe, et cela grâce à la participation de chacun au vote et par des aménagements de la procédure décisionnelle, quelle part de détermination de la décision finale est incluse dans les choix nécessaires des procédures ? ».[1] Propice rappel en ces temps de bouleversement de la démocratie interne des universités françaises où des décisions de plus en plus importantes sont appelées à être prises par des conseils d'administration de plus en plus restreints et où la brutalité de la représentation majoritaire est à son comble (la majorité même relative d'une liste lui assurant, dans tel collège électoral, 6 des 7 sièges à pourvoir : ici, x % + 1 = 6/7ème ou plus de 90% des sièges !).

Au total, dans une vision bentleyienne, les institutions n'ont de réalité qu'en tant qu'elles opèrent une médiation efficiente. Puisque tout est une question de choix, les individus rassemblés en groupes cesseront sinon de se servir d'elles, pour adopter d'autres mécanismes politiques d'aboutissement de leurs intérêts. Ici, encore l'actualité sociale française depuis une vingtaine d'années voit bien les citoyens se grouper en dehors des institutions représentatives et légitimes, en créant des « coordinations », en s'auto-octroyant le droit de « bloquer » le fonctionnement normal des structures sociétales et en imposant de brutales manifestations de décisions à une pluralité plus nombreuse (mais moins agissante) qu'eux.

L'analyse bentleyienne a encore de beaux jours devant elle !

II- les nouvelles hypothèses de la gouvernabilité des sociétés contemporaines

Il faut donc beaucoup de naïveté et un peu de prétention pour tenter de relier un principe de majorité et une décision « juste » parce que démocratique. L'insistance qu'il y a chez beaucoup de penseurs politiques à

1. In *e Principe de Majorité*, p. 22.

mettre une technique de décision au service d'un idéal de participation soulève pourtant un intéressant point de théorie : ces deux concepts relèvent plus du mythe que de la réalité. Si la démocratie apparaît au plan théorique comme un concept très riche, à la fois ensemble d'idéaux et principe de gouvernement, sa substance s'effrite, selon Bentley, une fois que le gouvernement, à quelque niveau que ce soit, est constitué.

Le gouvernement démocratique est certes un gouvernement légitime mais il sera aussi un gouvernement légitimant, par ses discours et par l'utilisation qu'il fera de la machinerie politique à sa disposition. Il y aura bien sûr des contrôles périodiques de cette légitimité (élections de personnels représentatifs, choix de programmes réformateurs, crises sociétales à surmonter, etc.) mais il apparaît douteux qu'une organisation sociale, qui semble répondre à l'idéal rousseauiste de spontanéité et d'unanimité, ne s'institutionnalise et donc ne se rigidifie rapidement et ne tende vers un destin oligarchique « michelsien ».[1]

Spontanée, l'organisation de la société semble l'être. La démocratie a des fondements de négociation. L'on sait à ce sujet que, pour Rousseau, la formation du groupe qui va décider repose sur une convention qui, au moins une fois dans l'histoire du groupe, a demandé l'unanimité. Unanimité et spontanéité peuvent certes apparaître mais surtout aux débuts de l'existence du groupe, c'est-à-dire en l'absence de conflits affirmés. Cependant, la spontanéité « sans cause apparente » se satisfait de moins en moins de la vie du groupe, qui fera nécessairement apparaître de tels conflits (toute relation entre groupes sociaux étant, par postulat politologique, conflictuelle), certains d'entre eux à la limite de faire éclater le groupe.

Institutionnalisée, l'organisation spontanée le deviendra car la démocratie a aussi des fondements d'absolutisme. Elle acquiert facilement un poids bureaucratique, au sens post-wébérien du terme. Elle confie alors le pouvoir à une élite largement coupée du support populaire. Cette élite bureaucratique se technocratisera rapidement sous la pression de la technicisation des dossiers mais elle pourra revêtir bien d'autres formes, certaines plus insidieuses, de dérives bureaucratiques délégitimées. Les critiques de la « bruxellisation » non démocratique de la construction européenne trouvent ici leur place.

Or, si la technique de décision démocratique laisse apparaître des failles, dues à cette institutionnalisation même, dans quelle mesure est-elle justifiée à sous-tendre l'idéal de participation ? Il faut bien sûr préciser

[1]. Allusion à la loi « d'airain » de l'oligarchie », de Roberto Michels.

alors ce qu'on entend par groupe participant à la démocratie. Il est une tendance de plus en plus affirmée à faire reposer la démocratie sur l'individu. Pourtant, aussi bien dans les diverses définitions de cette doctrine ou régime politique que chez A. Bentley (*Le Processus de Gouvernement*) et P. Favre (*Le Principe de Majorité*), c'est au peuple qu'il est fait référence.

Pour A. Bentley, le peuple est formé de groupes, chaque groupe représentant et, en ce sens, « étant » un intérêt. Le cheminement de cet intérêt jusqu'aux instances de décision forme le « processus » de gouvernement, concept nécessaire et suffisant pour comprendre l'organisation sociale. Le citoyen isolé et passif n'est rien. Tout repose sur l'individu actif et mobilisé. Ce sont de tels individus qui forment les groupes, le « peuple » au sens bentleyien.

Pour P. Favre, le peuple satisfait son besoin de décisions au moyen du principe de majorité. Ce faisant, il ne prend pas en compte les préférences individuelles mais, au-delà même de l'agrégation de ces préférences, la réalité organique. C'est l'observation des organes décisionnes au cours de successions de prises de décision qui permettront (par exemple à Dahl dans *Who Governs ?*) de mettre en avant (et en évidence) le dynamisme social (et politique).

Groupes et *processus* chez l'un (Bentley), organes décisionnels et *dynamique* démocratique chez l'autre (Favre), on le voit, l'organisation « sociale » existe bien. Dans quelle mesure sera-t-elle une organisation démocratique, c'est-à-dire dans laquelle la recherche d'influence ne lésera personne « injustement », est la question même que nous posons comme centrale à la réflexion. Pour ce faire, il aurait été possible de fondre en un seul corpus les principaux points du *Processus de Gouvernement* et ceux des autres auteurs. Mais en [p]réservant une place de choix à Bentley, nous redonnons au lecteur une matière première moins bien connue en pays latin et pourtant digne d'intérêt intellectuel.

Les principales étapes de l'organisation sociale étudiées à l'aide du processus de gouvernement soulignent que Bentley adopte une approche largement sociologique, d'une grande richesse conceptuelle contrebalancée par un manque de quelques précisions *techniques*, moins disponibles à l'époque. L'auteur néglige ce que nous appelons aujourd'hui sociologie électorale mais il adopte dans **l'espace** un point de vue largement partagé par des auteurs contemporains sur le *rôle* de la majorité, et dans le **temps**, il anticipe les critiques d'oligarchisme qui lui ont été faites : en effet, l'approche décisionnelle permet d'être encore plus optimiste que lui sur

l'organisation démocratique de la société même si le dynamisme démocratique connaît des limites.

Même le citoyen « passif » profite de la démocratie (phénomène bien connu en analyse sociologique du *free riding*).

Sur les traces de l'expression de la justice démocratique à travers la « juste » recherche d'influence, le postulat bentleyien se trouve largement vérifié. Non seulement la propension des individus à se grouper de **façon** adéquate (dans l'espace) et au **moment** opportun (dans le temps) les assure de ne pas voir la médiation de leurs intérêts bloquée par l'inefficience institutionnelle, mais encore la décision majoritaire que les institutions formelles mettent à la disposition de ces individus se révèle souvent démocratique, au sens d'acceptable donc de légitime.

Faut-il en conclure que Bentley voit partout et toujours « de » la démocratie, de la même manière qu'il voit partout et toujours des groupes « en action » ? Sans doute faut-il plutôt nuancer.

D'abord, Bentley ne voit dans ce qu'il appelle le « processus » (le dynamisme majoritaire) qu'une tendance, un idéal-type à la Weber. Groupes de pression, individus influents « tendent » vers un idéal mais aussi et surtout vers l'efficacité d'un mécanisme concret de médiation sans que cela ne signifie qu'ils obtiennent toujours satisfaction. Si le despotisme n'est, dans l'optique bentleyienne, qu'une phase, celle-ci peut être longue. Ainsi, la Monarchie absolue a duré en France plusieurs siècles et a supporté bien des révoltes. Or ces révoltes sont censées être pour Bentley des manifestations « ultimes » de frustration et doivent au moins aboutir et au mieux amener un changement de système (l'auteur serait-il un adepte de la lutte des classes qui, ultimement, met fin aux contradictions systémiques ?). De même, en extrapolant son raisonnement, la décision majoritaire « inefficace », donc injuste, a été en place dans les démocraties populaires pendant plusieurs décennies : lorsqu'un individu ou un parti obtient 95% ou plus des voix dans un scrutin au suffrage « universel », le mécanisme majoritaire a de grandes chances d'avoir été faussé.

Ensuite et même en évitant de donner l'impression de ne critiquer comme peu démocratiques que les régimes communistes car les mêmes critiques peuvent aller aux élitismes libéraux, il faut bien voir que le processus observable et décrit par Bentley, ne recouvre qu'une partie de la réalité. Les individus et les groupes sont plongés au milieu de plus de sollicitations d'une part et de désirs d'autre part qu'il n'est possible d'imaginer et de satisfaire. Qu'une majorité se dégage de temps à autre, majorité quantitative ou qualitative (pluralité), qu'un gouvernement soit plus ou moins représentatif, que la démocratie soit plus ou moins directe,

rien dans tout cela n'empêche aucunement les transactions sous-terraines, totalement « injuste » (antidémocratiques) mais source pourtant d'un contenu substantiel de pouvoir et de ressources pour quelques individus isolés seulement. Bentley a beau nous exposer longuement les vertus de l'autorégulation, il ne convainc pas vraiment ses lecteurs sur ce point.

Enfin, il convient sans doute de voir dans *Le Processus de Gouvernement* à la fois autre chose et plus qu'une théorie ou même qu'un empiricisme systématisé.

Autre chose qu'une théorie, d'une part, car en mettant l'accent sur la description, Bentley touche beaucoup plus de points, notamment les très nombreux exemples qu'il détaille, qu'il n'en reprend dans le mécanisme démocratique lui-même : il explique par exemple que même les esclaves participent à l'organisation démocratique dans la mesure où ils sont liés, tout en étant l'antinomie, aux droits des maîtres, mais on peut se demander alors pourquoi il critique par ailleurs les limites imposées au corps électoral qui n'accordent le droit de suffrage qu'à certains citoyens et non pas à tous.

Plus qu'une théorie, d'autre part, car il s'adresse au lecteur averti afin de l'ébranler dans ses convictions et ses idées reçues ; il peut évoquer chez le néophyte, en conséquence, agacement et impatience et même ses lecteurs avertis devront revenir à plusieurs reprises sur le texte du *Processus de Gouvernement* avant de prétendre en avoir épuisé toutes les potentialités et séparé le grain conceptuel de l'ivraie illustrative.

Ainsi, sur les traces de la « justice sociale », le message « ultime » de Bentley existe-t-il pourtant : partir de l'individu, comme tout bon adepte de l'individualisme méthodologique, tel semble être le conseil général, à la fois méthodologique et conceptuel, à tirer d'une lecture du *Processus de Gouvernement*. Surtout en comparaison avec d'autres approches en sciences sociales, notamment historicistes ou structuralo-déterministes. Ce n'est sans doute pas un hasard si élitistes et pluralistes s'opposent aux marxiens à propos des droits individuels. Alors que ces premiers y voient des droits subjectifs inaliénables que les individus ont conquis *de* l'Etat, ces derniers d'soutiennent que c'est l'Etat qui octroie des droits objectifs aux individus, qui en conséquence n'ont existence que *par* l'Etat. Nous sommes ici à un tout autre niveau que celui où l'on perçoit une convergence entre systèmes ou élitismes libéraux et régimes communistes, « face à » la démocratie. C'est ce niveau qui permet régulièrement à de grandes conférences internationales d'aboutir à des accords sur les droits individuels : il est rarement précisé de quels droits l'on parle.

L'individu est donc la seule réalité constante dont dispose l'observateur. Toute autre observation est partielle et sert surtout à

indiquer ce qu'elle ne parvient pas à découvrir. La démocratie n'a-t-elle pas été véritablement observable, et si oui devra-t-on retendre vers elle, dans les cités-Etats grecques de l'antiquité ? Faut-il bannir à tout jamais toute discussion qui ne débouche pas sur une organisation ? Sans doute pas et ce serait même tomber dans le travers de l'excès inverse par rapport à Bentley. Tout au plus peut-on dire, mais sans doute à l'issue d'une lecture attentive du *Processus de Gouvernement*, qu'il est *préférable* de partir des individus et de *postuler* qu'ils détiennent et conservent une capacité de manœuvre à l'égard des institutions (ce sera d'ailleurs la thèse crozierienne de l'acteur stratégique)[1] que de croire d'emblée (et ne guère changer d'avis ensuite) que les institutions exercent sur les individus une surdétermination qui réduit ces derniers à une obéissance passive, à une passivité craintive, voire à une « frustration » impossible à combattre.

Certains individus demeurent toujours plus actifs que d'autres face aux intérêts et aux processus de réconciliation, soit par nature (notamment les chefs charismatiques), soit par fonction (par exemple les ministres - pour renvoyer à d'autres de nos propres travaux).[2]

Conclusion en forme de définition

Au terme de notre brève promenade « américaine », celle effectuée dans les écrits d'un Nord-Américain au début du 20ème siècle par un Européen au début du 21ème siècle, que pouvons-nous dire de la justice sociale « à la » Bentley ?

D'abord, en donner une définition de synthèse. La « justice sociale », dans une définition bentleyienne, est donc *un système politique dans lequel les dimensions individuelles i) se groupent en action commune par la base et ii) constituent, par ce groupage même, un système institutionnel de gouvernement en permanente recomposition*. Ce ne saurait être une construction *top-down* inspirée de principes philosophiques déductifs et instaurée par un Etat, fût-il de droit, faisant du droit octroyé à la justice une concession de dominant (et de la démocratie ainsi conçue une forme éclairée de despotisme ?).

Ensuite, justifier notre ambition modérée : rien de plus que de rappeler les travaux d'un individualiste méthodologique qui, sans en avoir l'air, manie avec autant de facilité à la fois une approche wébérienne (partir

1. M. Crozier et E. Friedberg, *L'acteur et le Système*.
2. P. Chabal, *De l'efficacité du travail ministériel dans le changement de politiques publiques*, thèse de doctorat

de l'individu), une approche durkheimienne (réifiant les groupes sociaux en « particules élémentaires »), un refondateur des sciences sociales se gardant à la fois des déterminismes historiques (il n'est pas, en « dernière analyse », marxien : les frottements entre groupes sont régulés sans « blocage », ni contradictions en lutte irréductible) et des simplismes anti-démocratiques élitistes. Bentley tomberait, s'il fallait forcer le trait – mais pourquoi le faudrait-il ? -, dans le camp des élitistes à la Stuart Mill, mais ce serait s'aveugler sur toutes ses analyses clairement pluralistes, qui semblent préfigurer, cinquante-cinq ans avant Robert Dahl et *Who Governs ?*, l'analyse pluraliste sur la mobilisation des ressources décisionnelles, des alliances circonstancielles changeantes et fluctuantes selon les enjeux, etc.

Bref, il s'agit, pour finir, de réactualiser Bentley, un auteur en apparence moins pertinent que les analyses jurisprudentielles savantes des juristes présents dans les colloques quant aux avancées de la justice sociale dans l'après-guerre froide mais qui pourtant suscite l'intérêt du lecteur et sa motivation à comprendre les dynamiques du pouvoir groupal dans les sociétés humaines depuis de longues décennies.

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

STRUCTURAL AND DOCTRINAL GROUNDS FOR WEIGHING UP THE ADMINISTRATIVE COST BY ADMINISTRATIVE AND JUDICIAL DECISIONS

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Abstract

It is possible to include the administrative cost of administrative and judicial procedures among the criteria which the particular implementer of law provisions takes into account to pronounce the necessity of decisions by an application of the proportionality principle and, accordingly, to correspond the administrative and judicial efficiency/economy to necessity. Necessity cannot only be developed as a benchmark of the proportionality test by the "classic" model of restrictions of individual rights. An administrative decision or a judgement that overloads the citizen, but brings him an important economic advantage concerning the enjoyment of equivalent rights, can be considered as compatible with proportionality. At the same time, it is suggested in order to

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optimize the links between necessity and efficiency/economy, that the space of the application of the traditional economic Kaldor-Hicks criterion should be enlarged.

"Economizing" of Administrative Law and the Organisation of Public Administration

Empirical and normative Prerequisites

The term of "economizing" of state, administration, administrative law and administrative jurisdiction is used for situations, in which only economic standards and structures flow such as efficiency, effectiveness, market, competition, price, goods scarceness or individual need satisfaction into administrative and administrative considerations. [1] The economic crisis of State and the relating crisis of "regulating" Administrative Law, that is characterized by deficits during the application of certain branches of it, for instance as the Environmental Law[2], give nowadays the main impulse for the discussion about the modernisation of Public Administration. And this, in connection with a transformation from a liberal into a interventionist state, particularly with regard to the prevention of risks and the changing perception of the operations and the duties of State towards its citizens[3] respective the growing demands of the societies for the guarantee of infrastructure[4]. These conditions are prompt to the formulation of expedient normative and organisational terms, via which administrative activities might serve the public interest with as slight consumption of resources as possible[5]. This understanding of the changing role of the modern State, using words as allocation of responsibility[6], efficiency, or regulated auto-regulation[7], aspires to contribute towards bridging the gap between theory and praxis in the areas of Administrative Sciences and Administrative Law. A normative requirement of the economics, especially the New Institutional Economics, is on the other hand emerged to develop instructions regarding the legal order by analyzing first whether law and the jurisdiction achieve the

[1] LOEFFLER (2003), pp. 19 ff.
[2] PREHN (2006).
[3] See for example GRÖPL (2001), pp. 329 ff.
[4] APPEL (2005).
[5] MARTINI (2008), pp. 199 f.
[6] HOFFMANN-RIEM (2001a), pp. 47 ff.
[7] SCHMIDT-AßMANN (2001), pp. 253 ff.

politically given goals with the available means[1], so that they aim at pursuing for the change of legal rules, which are not considered to be able to contribute to this maximization.[2] In addition, the possible self-interest must be understood extensive, by not be related to only economic interests.

For the integration of Economics approach to law the framework which can be presupposed is present, at which its necessary democratic authentication is to be measured.[3] The contribution of the constitutional economics to incorporate fundamental constitutional principles like democracy and fundamental rights and their distribution within the economics. It focuses in the consent of the citizens as legitimating criterion and thus created one with the theory of public law (even if only partial) common basis.[4]

1.2 Methodological Prerequisites

The above mentioned tendencies are encouraged by the diagnosed possibility of an interdisciplinary cooperation between empirical and theoretical sciences, and particularly of a - even if by many law scholars disputed it compatibility between the methodological models of Law and Economics[5]. The references of Public Law to empirical sciences are not unknown in the theory and methodology of Public Law in European countries, affected by the legal system of the U.S.A. and its structural openness for social science approaches[6]. That speaks decisively in favour of the opinion, that some contents of certain economic principles could be compatible with the methodological perception of Public Law.[7] In general, in the Public Law prevails today methodological pluralism that is intensified by modern tendencies as the so called "Constitutionalisation"[8], "Europeanisation" [9], and "Internationalisation" [1] of the legal order and the Economic Theory of the Constitution as well[2], as well. [3]

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[1] So for instance TAUPITZ (1996), 114/122; LADEUR (2000), pp. 60/93.
[2] FELDMANN (1999); KIRCHNER (1988), pp. 192 ff.
[3] TONTRUP (1998), pp. 41 ff..
[4]Vgl. VAN AAKEN/PRESERVING MAN (2002), P. 28/43.
[5] POSNER (1987), pp. 761 ff. ·
[6] See LEPSIUS (1999), pp. 429 ff., KIRCHNER (1991), pp. 277 ff.
[7] LINDNER (2008), pp. 957 ff.
[8] SCHUPPERT/BUMKE (2000).
[9] See the contributions of RERNICE, LÜBBE-WOLFF και GRABENWARTER (2003), pp. 148 ff., respective 194 ff. and 290 ff.; concerning administrative law and administrative science VON DANWITZ (1996); RUFFERT (2003), pp. 293 ff.

1.3 Implementation Cases

In the environment of concretisation of the above mentioned radical changes of the public sector, an economical rationality steps in the place of a primarily judicial-political rationality by the administrative decisions. It concerns the efficient organization of the public administration including efficient employment of the personnel[4], the efficient organization of the administrative proceedings and court trials[5] and the efficiency of the material administrative decisions[6]. In the administrative procedure and other regimes of economic regulation, legislatures establish legal commands that engage the public administration to promote economic efficiency[7].

Possibilities of administrative obligations to save resources have been established in the administrative proceedings of the E.U. members since the beginnings of 1990's, as according to German Administrative Proceedings Law/Verwaltungsverfahrensgesetz it *"shall not be tied to specific forms when no legal provisions exist which specifically govern procedural form. It shall be simple and appropriate"* (section 10); burden of the participants of cooperating „in ascertaining the facts of the case" (section 26 paragraph 2); infringements of the regulations governing procedure or form can be ignored by additional correction of the proceedings (section 45). An obviously high administrative cost can be the reason for the authorities to deny access to administrative information (section 1 paragraph 2 sentence 3 of the German Law concerning Freedom of Information Law/Informationsfreiheitsgesetz). In the administrative trial, the role of judicial economy by judge-made law can be sometimes crucial. If an administrative act has ceased to exist before the trial ends, then, on application, the court shall pronounce through judgment that the administrative act was unlawful if the plaintiff is legitimate in such a

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[1] UERPMANN (2001), 565 ff. · KOKOTT und VESTING (2004), pp. 7 ff. respective pp. 41 ff. · concerning Administrative Law OHLER (2007), pp. 1083 ff.
[2]KIRCHGÄSSNER (2006), pp. 75 pp.; critical GRZESZICK (2003), pp. 649/652 f.
[3]Βλ. ROSE-ACKERMANN (1994), 53 ff.; concerning the meeting of law and economics in the various fields of public law ENGEL/MORLOK (1998); especially for the administrative trial MÖLLERS (2000), pp. 667 ff.
[4] KÖNIG (1997), pp. 265 ff.
[5] HOFFMANN-RIEM (2001b).
[6] FEHLING (2004), pp. 443 ff.
[7] See VOSSKUHLE (2001), pp. 349 ff., WEISE (1999), pp. 47/56 ff.

declaration (section 113 paragraph 1 sentence 4 of the German Code of Administrative Procedure/Verwaltungsgerichtsordnung). Although such an interest is basically recognized if the plaintiff is intended to raise a lawsuit for litigation in order not to let the "fruit" from the past procedure fall, this is acceptable according to some courts and some representatives of the , if the procedure of taking evidence can be carried out only under further, relatively high cost expenditure.[1]

2. The correspondence of the consideration of Administrative Cost in the Proportionality Test

2.1 Proportionality as the dogmatic Gateway for Taking into Account Concepts of Efficiency in Administrative Law

Economics as a comprehensive term nowadays is used for the multiplicity of the approaches, which aim to analyzing social institutions and concomitantly law and politics as phenomena of rational behavior of individuals. In addition, the administration should achieve political goals by reason of the budgetary economical principle[2] (that is being implemented by the Courts of Audit in most of the E.U. member states) at as small an expenditure of budgetary appropriations as possible to obtain the optimum result with a certain employment of means.[3] The proportionality test, mainly applied to check a case of infringement upon fundamental rights, is a suitable conceptual surface to create in dependence on constitutional law a *modified efficiency term*, particularly since it exhibits a rational structure of decision-taking (it requires a rationalized weighing up principles in goals-means relations = optimization of the relationship between costs and goals and thus reduction of the limitations of liberty) and remains open for the admission of models from economics. The principles of the suitability and the necessity as facets and yardsticks of the proportionality requirement turn off to the actual possibilities of the realization of the balancing principles.[4] Both efficiency and the

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[1] Supreme Administration Court of Baden-Württemberg, Judgement of 8.6.1993, Verwaltungsblätter für Baden- Württemberg 1994, pp. 24/27; CHRISTONAKIS (2002), pp. 390 ff. opposite to Federal Administration Court, Judgement of 27.3.1998, Neue Zeitschrift für Verwaltungsrecht 1998, pp. 1295 ff.=Baurecht 1998, pp. 999

[2] See ORTMANN (2007), pp. 565 ff.

[3] MARTINI (op. cit. note 5 above), p. 203.

[4]Regarding a doctrinal introduction JAKOBS (1985), pp. 59 ff., 66 ff.; VON ARNAULD (2000), 276/279; concerning the proportionality in the jurisdiction of the European Court of Justice KOCH (2003).

proportionality are *methods* for the solution of competing goals[1]. The aspect of efficiency can be consulted thus even with a balancing among different criteria which can be established to optimize to weigh those legal goods, the valid of which the criteria serve. The reasonable relation between means and goals required by the proportionality appears as a further case connected with the task of efficiency, to split up barely sufficient means into competing alternatives, so that the greatest possible use can be drawn from it. Optimization would be called then with regard to *legal and actual aspects of a realization of possible* principle contents in a concrete competing situation - depending upon kind, extent and modality of the respective goods. If such fundamental rights compete with other fundamental rights or come into conflict with constitutional principles, it has to be decided about the prevailing principle. Constitution of several European states (like Germany) is filled with concepts, which have to be carried out by an optimal resource allocation by weighing up legal goods as well.[2] One could express this quite differently: Economical and constitutional approach can be brought into accord to that extent, whereas the individual use can be aggregated in principles of constitutional law. Principles could be treated as criteria to achieve goals for tying to an economic approach.[3] The resort on the social use in the sense of the economics theory is actually not possible in constitutional (and administrative) law (at least in the same extent), but upon the principle of the effectiveness of the in each case respective fundamental rights, also the same fundamental rights of others. To that extent also competing fundamental rights assume a social use. The problem, which it finally concerns, is optimizing the fulfillment of the colliding principles, on optimal distribution of liberty. Balancing principles in favor of efficiency of administrative proceedings or of the judicial economy support consequently the guarantee of access to courts, especially the effectiveness of the judicial protection as an institution.[4]

The comparison of two right goods (or legally protected interests) always involves a valuation, which cannot be reduced to a cost-benefit calculation, nevertheless can in some cases agree with the economical valuation. It orients itself not the actual price of certain goods or on towards visual market prices, but at the rank, which a right property possesses holds unit within the legal order. Because prices reflect

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[1] LACHMAYER (2004), pp. 135/144; BIZER (2000); FÜHR (2002), pp. 113.
[2] WUERTENBERGER (1999), pp. 139/149 f., 154.
[3] VAN AAKEN, (2003a), Berlin p. 89/107; same (2003b), pp. 315 ff.
[4] ZUCKERMAN (1995), pp. 155 ff.; PIERAS (1986), pp. 943 ff.

shortage in markets, while the rank of a legal good/principle depends on legal and political importance for the community.[1]

Necessity as Platform for consulting of Efficiency Considerations

It is to be analyzed whether costs in the sense of the recourse to of national resources as argument debited to and/or to favor of alternative means and revealed in the argumentation can be used. Who ever wants to reach economy, may not be restrained to minimize the social costs (use is given) but consider possible alternative cost-benefit combinations and maximize the positive difference of benefits and costs.[2]

Necessity as a facet and standard of the proportionality requirements does not guarantee an optimization of the benefits, but a reduction alone of the expenditure for this goal to be achieved. As long as one keeps the benefits constant, possible improvements remain unconsidered, which can result in changes to the extent of the goals (and the costs). A certain situation is considered as Pareto-optimal, a means as necessary, if with application of all alternative means someone' s position is possibly worsened. The necessity corresponds to that extent to the economy principle only partly by covering only its first component, the minimum principle in form of the "slightest infringement of rights" without consideration for "cost as slight as possible".[3] Since such measures don't seem to be compatible with the economy principle if part of the costs applied for the reaching of the announced goal were not necessary, the necessity could not be related to efficiency, could necessity not be regarded from another perspective, this of the non-infringement upon rights. The general balancing principles rule that the fulfilment value of a principle which can be realized by the weighing is maximum, if it is more considerable than the value of the default of another, withdrawing principle, to which the fulfilment of the former leads,[4] can be reformulated for instance in second our implementation field in such a way: *The default of the legal protection guarantee in the cases of economically motivated judge-made law in favor of judicial economy causes an Pareto-improvement regarding work the courts, if its fulfilment possibly implies substantial costs for the operability of the justice and the goods that it protects.* If one wants to develop this thought further, a means applies as *necessary* in an Pareto-optimal state, if *an*

[1] EIDENMÜLLER (1995), p. 469.
[2] v. ARNIM (1988), p. 55.
[3] GERSDORF (2000), pp. 421 f., 445.
[4] ALEXY (2002), especially pp. 100 ff.

improvement of the position of disadvantaged groups (avoidance of infringements) deterioration of the level of reaching the goal or the degree of burden of the position of others; or if alternative means suppress the fundamental rights involved more than the applied means. A means is in reverse not necessary, if an improvement is possible, i.e. if by the execution of an alternative means, the aggrieved parties incoming goods in their fundamental rights slightly infringed and nobody worse situated, since the alternative means is at least as suitable as the former. Nobody becomes to that extent worse situated[1], the execution of the alternative means would be for all involved parties capable to achieve compliance. Procedure preferences would be thus in demand, which are so pronounced that the citizens would be willing to approve of the consideration of these preferences costs as for instance costs of the guarantee of constitutional State under the rule of law.[2]

With good arguments it is partly represented anyway that necessity does not unfold a special direction towards a protection just in favor of the citizens.[3] The choice of the necessary means should be - in view of the scarceness of goods such as time and financial means - a requirement of the economic reasoning.[4] The guarantee of an inalienable core of constitutional rights is also relevant to restrictions of the core range, in which a minimum of bringing competing constitutional principles into accord is being implemented.[5] If their special weight is sufficiently considered, then the possibility of a means more burdensome for the citizen but however more beneficial to the public may result in not regarding the original measure as necessary[6]. Necessity can also be determined regarding secondary goals lying outside the infringement situation.[7] At least optimality would then be called; a goal is up to the point of being realized, as the advantages of the fulfilment by other applications of means, is to be traded off at least against the social costs (side effects of the decision alternatives).

All this should apply to the following restriction: The significance to avoid the administration expense is to be determined more concretely. The decision of the democratically legitimized legislator over the expensive means and its preponderance regarding household problems has always

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[1] CLÉRICO (2001).
[2] GROSSEKETTLER (op. cit. note 23 above), pp. 31/38.
[3] DECHSLING (1989), pp. 70 ff.
[4] RUEHL (1998), p. 390.
[5] SCHERZBERG (1989), p. 209.
[6] Comp. DECHSLING (op. cit. note 38 above), p. 63.
[7] See CLÉRICO, (op. cit. note 36 above), p. 122.

priority. Success regarding the aimed target must depend on a higher realization of the avoidance of the administration expense. In addition, importance of the infringed subjective right in concreto for the realization of the self-determination of the person concerned, the social life or the democracy must be relatively slight.[1]

2.3 The Kaldor-Hicks Criterion as Counterpart of Necessity

Having noticed so far that decisions of institutional bodies of the State are to be based also on such alternatives that do not favorite liberty, but however are more favourable to the public[2] Thus a slight infringement of the subjective right to general freedom to do as one pleases should require less resources for the assistance and *compensation* to those[3] who are not able to exercise their rights to organization and procedure in time. This rule is nothing but an application of the criterion *Kaldor-Hicks* of economics. Compensation means in this context nothing else but deciding among possibilities with their respective pros and cons to be weighed[4], which represents the modified Kaldor-Hicks criterion.[5] All (the negative) consequences of a decision, to which two (under the aspect of suitability) equivalent measures are applicable, cause infringement to fundamental rights, in other words result in the statement that the disadvantages of the decision which can be preferred should be more considerable than the consequences of another decision[6].

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[1] Rules by CLÉRICO (op. cit. note 36 above), p. 132.
[2] So DECHSLING (op. cit. note 38 above), p. 74.
[3] CLÉRICO (op. cit. note 36 above), p. 125.
[4] DECHSLING (op. cit. note 38 above), p. 74.
[5] In addition only VAN AAKEN (op. cit. note 30 above), pp. 217 ff.; but comp. ADLER/POSNER (2000), pp. 1105 f.
[6] "*If those that gain into principle compensate those that have been ‚harmed' and still be better of*", VELJANOVSKI (1984), 12/20; GENZ (1968), p. 1604. The term of the compensation analyzes VOßKUHLE (1999).

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

INSECURITE ET CRIMINALITE ETRANGERE A MAROUA (CAMEROUN)

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Résumé

La migration, phénomène ancien, est aujourd'hui au cœur de l'actualité dans le monde entier. Elle intéresse les décideurs gouvernementaux, les organisations non gouvernementales et les hommes de science. Au cours de ce siècle, elle a pris des proportions inquiétantes. Phénomène complexe, la migration implique des avantages et des inconvénients pour la zone d'accueil. Confrontée à une immigration souvent ressentie comme incontrôlée, les zones d'accueil sont en proie à plusieurs maux parmi lesquels les problèmes de sécurité. Ainsi, l'immigration est perçue comme un facteur criminogène. La criminalité étrangère est toutes formes de violences qui portent atteinte à l'intégrité humaine perpétrées par les étrangers dans un espace donné. Les crises écologiques et les conflits expliquent les départs d'important flux de populations, si même d'autres mobiles existent. A notre époque, les métropoles provinciales du Nord-Cameroun en général et la ville de Maroua en particulier, à cause de sa proximité frontalière, accueille bon nombre de migrants de nationalité diverses : Tchadiens, Nigérians, Centrafricains, etc. Cette venue des étrangers, surtout, ceux ayant fuit les guerres civiles, n'est pas sans conséquence sur la stabilité sécuritaire de la ville. La population a doublé et l'insécurité devient monnaie courante. Le présent thème met en corrélation le flux des étrangers dans la ville de Maroua et l'insécurité devenue ambiante. Le problème fondamental consiste à montrer en quoi la migration des étrangers dans une ville comme celle de Maroua pose le problème de l'insécurité humaine.

Mots clés : *criminalité, étranger, migration, problèmes de sécurité, Maroua.*

Introduction

Maroua, capitale provinciale de l'Extrême-Nord, est l'une des villes les plus importantes de la partie septentrionale du Cameroun. Commerce florissant dû à la position frontalière de la ville entre le Nigeria d'une part et le Tchad d'autre part, agriculture, élevage et développement industriel font de Maroua la ville la plus active et attractive du Nord-Cameroun.

Depuis quelques décennies, la ville a connu un important boom démographique. Cette expansion démographique s'explique par les crises écologiques récurrentes et le phénomène de guerre civile devenue endémique dans certains états voisins avec leur corollaire de migration. Les migrations liées aux guerres civiles, souvent incontrôlées par l'Etat camerounais, sont à l'origine de la dissémination des armes à feu dans la province de l'Extrême-Nord. La capitale de l'Extrême-Nord qui est au centre de cette réflexion abrite des Tchadiens, Centrafricains, Nigérians. Nombre des migrants étrangers sont considérés comme des délinquants sans foi, hors loi. Les populations vivent tous les jours un sentiment général d'insécurité : criminalité violente, criminalité à col blanc et trafic des stupéfiants.

Cette réflexion se propose de comprendre le problème de l'insécurité et montrer en quoi la migration étrangère est perçue comme un facteur de recrudescence de l'insécurité ambiante et de la criminalité dans la ville de Maroua. La rédaction de ce corpus est l'œuvre d'une enquête de terrain réalisée à Maroua du 22 décembre au 03 janvier 2007 auprès de certains responsables de la sécurité, de la population d'une part et d'autre part de l'exploitation des archives de la prison centrale et de certains documents écrits. En outre, nous ressortons tour à tour les facteurs, acteurs et état de l'insécurité à Maroua, l'immigration étrangère, son impact sur l'insécurité urbaine et le processus de maintien de l'ordre et de la répression de la criminalité.

Facteurs, acteurs et état de l'insécurité urbaine à Maroua.

Le problème de l'insécurité d'une manière générale n'est pas récent à Maroua. Pratique séculaire, le phénomène a pris des proportions inquiétantes dans le chef lieu de la Province de l'Extrême-Nord du Cameroun. La période de 1990 à nos jours s'est caractérisée par une recrudescence et un sentiment général d'insécurité. Braquages, assassinats, petites et grandes délinquances, vols à main armée font exploser les statistiques de la criminalité ordinaire et défraie la chronique. Facteurs et acteurs se conjuguent pour expliquer ce mal redouté de tous.

Les facteurs, c'est-à-dire les causes de la délinquance et de la violence, par delà de l'insécurité, sont légions. De prime abord, l'insécurité urbaine à Maroua a des causes économiques et sociales. La pauvreté apparaît comme le lot quotidien de la majorité des populations de l'Afrique subsaharienne en générale et celle de Maroua en particulier auxquelles il faut ajouter les contraintes environnementales. La petite et grande délinquance est due essentiellement au contexte économique perturbé.

Depuis la crise économique et les effets de l'ajustement structurel des années 1980, on assiste à un relâchement de l'encadrement familial, l'affaiblissement de l'autorité parentale incapable de subvenir aux besoins alimentaires, santé et de scolarisation.[1] D'où de nombreux enfants vagabondent dans les centres commerciaux de Maroua, errant en longueur des journées et sont responsables des vols notamment les sacs à main des femmes et des portables, ces enfants entrent à l'école du crime, où ils sont entraînés par des criminels endurcis. Il convient de le signaler qu'ils viennent de toute la région du bassin tchadien et des zones rurales de la province de l'Extrême- Nord. Ce sont des grands consommateurs de drogues : chanvre indien, canabis et aspirateurs de dissolution et différents autres comprimés droguants en vente dans les pharmacies de la rue**.** Le lieu de retrouvaille de ces délinquants à l'effet de se droguer est généralement les abords des différents cours d'eau de la ville.[2]

Sur le volet social, l'autre indicateur de l'insécurité urbaine à Maroua est la croissance démographique de la ville. Maroua est passée de 18.000 habitants en 1950 à 70.000 habitants en 1979[3], à plus d'un million d'habitants en 2000, cette expansion démographique n'est pas sans conséquence sur le climat social dans une ville cosmopolite où cohabitent plusieurs nationalités, avec une démographie mal maîtrisée par les pouvoirs publics, où les gens évoluent dans l'anonymat, vivent dans la promiscuité. Au nombre des facteurs sus évoqués, on peut ajouter le chômage résultant de la compression des personnels et parfois de la fermeture de certaines industries. En effet, beaucoup de jeunes sans emploi sont aujourd'hui des vecteurs de la violence et de l'insécurité urbaine.[4] Dans la ville de Maroua, ces toxicomanes et alcooliques bien que se recrutent parmi les motos taximens, ceux-ci sont également victimes de ces braquages. Les statistiques à ce sujet sont éloquentes dans les commissariats de la ville.

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[1] Nga Ndongo,V. 2000, « violence, délinquance et insécurité à Yaoundé » information générale, p 8

[2] Le Mayo Kaliao et Mayo Makabaye sont des cours d'eau qui traversent la ville de Maroua de part et d'autres. Ces cours d'eau inondent pendant la saison des pluies grâce aux eaux provenant des massifs montagneux des Mandara. Pendant la saison sèche, ces cours d'eau font place aux bancs de sable qui servent de lieu de retrouvaille.

[3] Mohamadou, E. 1989, « Islam et urbanisation dans le soudan central au XIXe siècle :la cité de Maroua (Nord Cameroun), in The Proceedings of International Conference on Urbanism in Islam », ICUIT ,Tokyo ,Japan.

[4] Nga Ndongo, V. 2000, p. 8

Une perspective globale d'appréhension du phénomène de l'insécurité dans la province de l'Extrême-Nord, laisse percevoir que celui-ci est entretenu par un certain nombre d'acteurs.

Il y a d'abord des acteurs criminels transnationaux qui opèrent sous la forme des réseaux de grand banditisme et qui sévit dans les provinces septentrionales du Cameroun communément connu sous le terme de « coupeurs de route »[1]. Ensuite nous avons des acteurs nationaux, mieux, régionaux, c'est-à-dire des natifs de la province. Bien plus, certaines élites entretiennent des relations particulières avec des groupes des gangs. D'autres groupes sociaux sont également liés à l'insécurité (petite délinquance). Il s'agit des jeunes en difficulté qui recourent à la violence ou délinquance comme solution à leur situation (jeunes désœuvrés, sans emplois, enfants de la rue).

Du fait du caractère ancien de l'insécurité à Maroua, une brève rétrospective de ce phénomène permet de comprendre que celui ci sévit depuis des décennies. L'exemple de Haman Yero, voleur des troupeaux dans la plaine du Diamaré, décapité en 1961, les actes de Boukar Batinda dans les années 1970[2] sont illustratifs de ce point de vue. L'archéologie du phénomène à Maroua montre que celui-ci intègre la criminalité violente (atteinte à la fortune d'autrui, à l'intégrité corporelle et à la tranquillité), la criminalité à col blanc (escroquerie, abus de confiance, faux et usage de faux, faux monnayage) et le trafic de stupéfiants. Tous ces faits sont en pleine expansion. Ceci a fait dire à Yves Chouala[3] parlant de l'insécurité qui touche les grandes agglomérations, que celle-ci s'avère préoccupante dans l'Extrême-Nord du pays, théâtre d'une situation conflictuelle.

Au lendemain du discours de la Baule en 1990 ouvrant la voie à la démocratisation de l'Afrique en général et du Cameroun en particulier. Dans ce contexte, on assiste à la création de plusieurs autres partis politiques outre que celui au pouvoir. Les partis d'opposition notamment le SDF, l'UNDP, l'UDC, animant l'opposition Camerounaise ont marqué leur détermination à obliger le gouvernement à la tenue d'une conférence

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[1] Chouala, Y. A. 2001, « Conjoncture sécuritaire, champ étatique et ordre politique au Cameroun : éléments d'analyse anthropo-politiste d'une crise de l'encadrement sécuritaire et d'un encadrement sécuritaire de crise » in Polis/RCSP/CPSR vol. 8, numéro spécial, p.6

[2] Saïbou, I. 20006, « La répression du grand banditisme au Cameroun : entre pragmatisme et éthique » in la revue électronique internationale publiée par la FLASH (Faculté des Lettres, Arts et Sciences Humaines) de l'Université de Bamako, p. 3.

[3] Chouala, Y. A. 2001, p. 6.

nationale souveraine. Le refus de la conférence ou tout au moins l'hésitation du pouvoir et la détermination de l'opposition ont crée un climat d'insécurité généralisé sur l'ensemble du territoire national. Les grandes villes ont été le théâtre des manifestations populaires aux conséquences sociales importantes. Dans la ville de Maroua, l'insécurité s'est illustrée par des actes de pillage et de vandalisme privant les citoyens à vaquer à leurs occupations. Ces actes entretenus par des acteurs politiques locaux se caractérisent par les barricades, l'incinération des pneus et/ou des véhicules sur les voies publiques. Aussi, l'insécurité a été marquée par une série d'actes violents, spectaculaires que Saïbou Issa résume en ces mots « un couple qu'une balle soudaine sépare ; un brave homme devant assister au viol collectif de sa femme, une famille obligée d'assister à l'assassinat de celui qui en est le pilier »[1] etc. En effet, l'état des lieux de l'insécurité et de la criminalité à Maroua n'est qu'une suite de litanie des faits macabres.

Assassinats et viols en coaction dans les quartiers ; braquage avec tentative d'assassinat en 1998 d'un expatrié européen par un citoyen de la ville connu sous le nom de Habib ayant quitté le service de la douane où il exerçait en qualité d'adjudant de douane, depuis lors président d'un club de football notamment Olympic de Maroua, également connu dans le milieu politique local. La même année, il y eut vol du véhicule de marque Peugeot 504 du proviseur du Lycée Bilingue de Maroua. Les mêmes scénarios de vol de véhicule 4x4 sont perpétrés à la Délégation Provinciale de l'Agriculture en 1999, à l'ex-Condition Féminine en 2002 et à la Délégation des Travaux Publics en 2005, sans compter les véhicules des particuliers.

Ces cas de forfaits sont légions dans la ville. En fait, la liste ne saurait être exhaustive et montre que l'insécurité est ambiante à Maroua et ne relève point de l'anecdote ou d'un fait divers mais d'une réalité.

La petite délinquance est caractéristique des voleurs qui vagabondent dans les marchés, les lieux publics ou les endroits de forte fréquentation humaine. Ils commettent des larcins pour simple objectif d'obtenir quelques moyens de subsistances.[2] Petits ou grands criminels, tous sont à la recherche d'accumulation de biens ou à défaut de moyen de subsistance. Ainsi, la criminalité en tant que fait social redouté, est un itinéraire d'accumulation des biens pour les bandits.

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[1] Saïbou, I. 2006, p. 2.
[2] Nga Ndongo, V. 2000, p.5

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

L'immigration étrangère et son impact sur la sécurité urbaine à Maroua

Les débats sur l'immigration dans le monde s'appréhendent de deux manières. Il s'agit soit du débat portant sur migration et développement économique, soit migration et criminalité. Le dernier qui nous intéresse fait l'objet en occident d'un traitement médiatique, les discours publics établissent des corrélations entre les diverses formes de criminalité et l'immigré. Le phénomène du terrorisme en pleine expansion et son impact sur la sécurité des hommes et biens, a érigé l'immigré au rang de véritable menace pour la sécurité intérieure des pays occidentaux. Dès lors, la figure de « l'immigré délinquant » s'est construite et s'est également imposée comme une évidence. L'occident a ses problèmes de sécurité, l'Afrique a les siens mais les deux à des échelles différentes. Parfois, la mondialisation de l'insécurité a contaminé l'Afrique avec la transnationalité des phénomènes tels que la violence, la circulation des armes[1], etc. Le phénomène de coupeurs de route qui sévit à l'Extrême-Nord du Cameroun est convainquant de ce point de vue**.**

Comme nous l'avons signalé ci haut, la ville de Maroua abrite plusieurs étrangers de nationalités différentes qui vivent dans l'anonymat, et la position frontalière l'expose aux forfaits de certains étrangers qui agissent en terre camerounaise et rentrent chez eux.

La guerre civile au Tchad depuis 1978, en RCA, le gigantisme démographique et économique du Nigeria sont à l'origine de la dissémination dans la partie septentrionale du Cameroun des armes légères avec lesquelles les bandits abattent leur proie « humaine ». Comme témoigne ce reportage : « En février 2001, plus de 300 armes de guerre ont été saisies par les gendarmes dans le cadre d'une campagne de lutte contre les coupeurs de route »[2]. Parmi ces migrés étrangers se trouvent en bonne place, les anciens militaires nés des programmes de démobilisation et de l'incapacité des armées nationales notamment étrangères à subvenir aux besoins de leurs personnels.[3] Les propos d'un responsable de la sécurité sont convaincants. Pour lui, les acteurs de la grande criminalité sont de plus en plus des militaires originaires des pays voisins, en activités, retraités ou déserteurs n'hésitant pas à tuer.[4] Fort de cela, on constate que le

[1] Ibid, p.5
[2] Jeune Afrique N° 334, P 57.
[3] Roitman, J. 2003, « La garnison entrepôt : une manière de gouverner dans le bassin du Lac Tchad », in critique internationale N° 19, p 94
[4] Entretien avec un responsable de la sécurité, Maroua le 22 décembre 2006.

phénomène de coupeurs de route en nette diminution en zone rurale s'est transposé en milieu urbain, les mêmes causes produisant les mêmes effets.

Ces étrangers, pour se socialiser préfèrent s'installer dans les quartiers chauds, quartiers dans lesquels il y a un fort taux de concentration de la population, quartiers connus à cause des débits de boisson. A titre d'exemple, vient en premier lieu, le quartier « pont vert » reconnu dans la ville pour des cas de nombreuses agressions mortelles. C'est le quartier le plus redouté de la ville avec beaucoup d'étrangers, les boissons locales notamment *bil-bil* et *arki* concurrencent celles gazeuses et fermentées. Ensuite le quartier « *Domayo* », connu pour ses belles de nuits et des bars dancings, le quartier « *Toupouri* » en face de l'hôtel des finances où, des meurtres sont commis chaque fois. Enfin, « *Ouro Tchédé* » et les quartiers situés au flanc des collines. Pour les braqueurs de véhicules, ils viennent toujours en mission commandée et s'installent dans les auberges ou chez des complices nationaux avant de commettre leurs actes criminels.

Beaucoup d'habitants sont complices des bandits soit en les guidant, soit en leur signalant les mouvements des personnes, nous confie un responsable de la police en poste à Maroua. Aujourd'hui, beaucoup d'usagers gardent leurs véhicules à partir de 17 heures, au Commissariat de sécurité de la place et parfois, les bandits menacent d'y entrer vu le nombre important des véhicules surtout ceux recherchés par les voleurs notamment les véhicules 4x4 tout terrain.

Les archives de la Prison Centrale témoignent de la criminalité étrangère à Maroua. L'état nominatif des détenus étrangers laisse apparaître clairement que ces derniers purgent des peines pour des mobiles allant des coactions de meurtre, vol et immigration irrégulière ; détention d'arme et munition ; blessures graves et tentatives d'assassinat ; pillage en bande, détention et port d'arme et assassinat. Tous ces motifs sont des actes commis par des tchadiens dans la ville de Maroua. En effet, sans avoir des statistiques fiables, l'état nominatif des étrangers détenus au 30/09/2006 laisse apparaître que sur un total de 48, on retrouve 41 tchadiens et quelques 07 Nigérians détenus pour faux et usage de faux, trafics des stupéfiants, fausse monnaie, immigration clandestine et escroquerie ; détention illégale d'arme et munitions, blessure grave et tentative d'assassinat.

Le chiffre éloquent des détenus étrangers corrobore avec le point de vue d'un responsable de sécurité qui dit, « En moyenne, nous déferrons 10 personnes par semaine, 8, parfois 15 ».[1]

[1] Ibid.

Au regard de cela, on constate que l'immigration est un facteur criminogène. Le climat ambiant de l'insécurité à Maroua est entretenu par un acteur étranger ayant des ramifications nationales. La crise sécuritaire généralisée sur l'ensemble de la province et sur les réseaux routiers reliant les préfectures au chef lieu de la province a poussé le pouvoir central camerounais à prendre des mesures en vue du maintien de l'ordre.

Le maintien de l'ordre et la répression du banditisme

La sécurité est la raison d'être de l'état, dans le cadre de ses fonctions régaliennes, l'Etat apparaît comme le principal fournisseur des prestations sécuritaires aux individus.[1] Dans les dernières décennies, l'ensemble du triangle national est caractérisé par une crise sécuritaire : grand banditisme et insécurité urbaine dans les grandes villes comme Yaoundé-Douala, insécurité et criminalité dans le grand septentrion dont le phénomène de coupeurs de route a défrayé la chronique. Aux grands maux, les grands remèdes, la réaction du pouvoir central ne s'est pas fait attendre. Dans un contexte où la recrudescence de l'insécurité est un obstacle aux investisseurs étrangers, dans un contexte où l'état camerounais voudrait préserver son image d'îlot de paix dans un océan trouble, la demande pressante de la population excédée par une criminalité exagérée, le gouvernement a pris des mesures visant à assainir le climat social. Alors, le chef de l'Etat Paul Biya, lors d'une visite à Maroua a marqué sa préoccupation pour la sécurité des métropoles. Dans un discours prononcé le 2 octobre 1997 à Maroua, il déclare « Je m'engage à améliorer la sécurité dans nos villes, à réhabiliter la voirie, les adductions d'eau et les systèmes de fourniture d'électricité, à améliorer la salubrité ».[2]

Ainsi, des recrutements spéciaux dans le corps de l'armée ont été organisés. La création et l'implantation du BLI (Bataillon Léger d'Intervention) à Maroua Salak, plus tard devenu BIR (Bataillon d'Intervention Rapide) a eu raison des coupeurs de route. Aujourd'hui, les éléments du BIR ont pour mission de restaurer la sécurité sur les réseaux routiers du Nord-Cameroun et les zones à risques. L'action du Groupement Polyvalent d'Intervention de la Gendarmerie (GPIG) connu également sous le nom « d'anti-gang » n'est qu'une suite de litanie nécrologique. La répression du gouvernement à travers les actions du BLI et du GPIG est proportionnelle aux actes criminels des bandits, parce que ces derniers sont inhumains, n'hésitant pas à vider leurs armes sur leur proie humaine, que personne ne se sentait en sécurité chez soi, la réaction des pouvoirs publics

[1] Chouala, Y. A. 2001, p
[2] Nga Ndongo,V. 2000, p 14.

a trouvé l'adhésion de la masse populaire. Parlant de cette répression réactive, Saïbou Issa écrit : « une liste impressionnante de personnes et de personnalités impliquées dans le trafic de voitures volées, les embuscades sur la chaussée et autres agression à main armée, en 1998, la ville de Maroua s'est vidée de tous ceux qui ont quelque chose à se reprocher ».[1] Ainsi, les actions conjuguées des brigades Anti-gang laissent apparaître que quelques 700 personnes auraient été exécutées.[2]

En effet, les actions de grande envergure et musclées déclenchées par les pouvoirs contre les « hors lois et sans foi » ont permis de rétablir la confiance entre l'Etat et la population souffrant des actes de brigandage.

Outre ces actions, on peut également mentionner les opérations de dissuasion menées par les forces de police, parfois il s'agit des opérations mixtes (Police-Gendarmerie). Ces opérations consistent à quadriller sécuritairement la ville à travers des rafles quotidiennes dans les quartiers spontanés et chauds de la ville. Ces rafles font comprendre aux délinquants criminels que la police, les forces de l'ordre malgré les reproches populaires, veillent sur la sécurité des personnes et des biens. Aussi, la multiplication des commissariats d'arrondissement répond à cette préoccupation sécuritaire.

Les populations locales s'organisent aussi en groupe de vigiles sous l'autorité du chef du quartier reconnu par le chef traditionnel lui-même auxiliaire de l'administration. En effet, chaque quartier de Maroua a son comité de vigilance qui dans la tombée de la nuit mène les opérations de sécurité autour du quartier. Tous les suspects sont conduits chez le chef, ce dernier à son tour saisit le commissariat de sécurité ou d'arrondissement.

Toutefois, la lutte contre la criminalité, les acteurs du phénomène élaborent de nouvelles stratégies d'attaque. Les nouvelles formes d'attaques sont les prises d'otage des commerçants et surtout des grands éleveurs de bétails.

Conclusion

En définitive, le climat d'insécurité à Maroua bénéficie de l'apport d'un acteur étranger résultant du phénomène de la migration illégale souvent incontrôlée par les pouvoirs publics, à l'origine de la dissémination des armes à feu dans les agglomérations septentrionales. Cet acteur étranger est en complicité avec certains nationaux qui trouvent leur gain à travers la pratique de la criminalité. La politique répressive, punitive et

[1] Saïbou , I., 2006, P 4.
[2] Ibid, P5.

préventive contre les bandits dans l'Extrême-Nord, a permis à Maroua de retrouver une accalmie sécuritaire qui n'est pas synonyme d'éradication. En effet, les braqueurs de 4x4, en mission commandée, continuent de rechercher le précieux sésame. Population, force de l'ordre redoublent de vigilance sur ce phénomène récurrent, d'où l'appel de l'administration aux populations de coopérer avec les forces de l'ordre en dénonçant tout suspect.

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

COMMUNITY FOREST EXPLOITATION AND POVERTY REDUCTION IN THE LOMIÉ REGION, CAMEROON

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Abstract

This article aims at analysing the economic impacts of the community exploitation of timber on the riparian populations. Data were obtained from field survey which we carried out on 200 individuals in the Lomié area, East Cameroon. Using the tests of comparison of means, we observed that community forest exploitation is a provider of many small employments, not necessarily qualified, and that from those activities the incomes of villagers and their social expenditures have increased significantly.

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

Key words: traditional exploitation, community forest, environment, monetary poverty.

1. Introduction

It is generally accepted that the industrial exploitation of timber in most African countries, though it has contributed to the growth of their respective Gross Domestic Products (GDPs), has practically not brought any benefit to the riparian populations of the zones of exploitation of the resource. This led Cameroon to adopt new forest legislation in 1994 in which the concept of Community Forest (CF) is put forward. Its main objective is to first of all benefit the local rural populations concerned through their participation in the conservation and management of their forest.

The forest is central to the life of the population of the East Province of Cameroon. The population lives in a natural dependence and even organic relationship with the forest through the exercise of their "rights of usage" on the forest resources.

The forest is among the largest renewable timber and non-timber natural resources of Cameroon. It occupies 60% of the national territory, being about 22 million hectares. Concerning timber resources, the national forest sector already contributed for 15% of international trade in 1995, which represented 6% of GDP (Fao, 1997). In the year 2000, forest exploitations in the country rose to 25% of exports, representing 7% of GDP (Fomete, 2001). On the fiscal side, from 2 billions in 1993, revenues from the forestry sector increased to 40 billion CFA F in 2001/2002, representing a growth of 95%.

Law n° 94/01 of 20th January 1994, regulating forest, wildlife and fishery in Cameroon, made provisions starting January 1999, for the stoppage of the exportation of timber of certain species called "traditional". These species are those that are highly demanded. Also, there exist a less popular "intermediate" species and whose exploitation is in progression. The last category is that of "promotion" species which are not well known and that need advertising. In August of the same year, an Ordinance from the President of the Republic stated that 70% of timber will henceforth be transformed locally, for a period of 5 years, i.e. up to 2004. An exception is given to "promotion" species that can still be exported for five years after 2004, that is, normally up to 2009. Above this date, all species must then be transformed locally at 100%.

Traditional exploitation of timber in a community framework was therefore authorised parallel to classical industrial exploitation in order to respond to this exigency of domestic transformation.

1. Problem statement

Up to 1994, the date of promulgation of the new forest law and its decree of application (Decree n° 95/531/PM of 23rd august 1995), timber exploitation was essentially in the hands of industrial exploiters using heavy and expensive machinery. According to Nemb (1999), the search for profit made them practically destroy the resource by anarchically cutting the most demanded species while destroying on their way the less profitable ones. "The industrial exploitation of timber is based on the logic of profit maximisation linked to the exploitation of the timber resource which is in direct opposition with participative management and especially with the equitable redistribution of revenue" (Auzel and al., 2001). This rises at least one problem: that of the weak contribution of the exploitation of the resource to local development.

Actually, « the people living in forest zones are among the most marginalised groups in the Cameroonian society despite a favourable biophysical environment. The massive exploitation of their timber has brought little to them in terms of the amelioration of their living conditions. About 66% of Cameroonians resident in forest areas live below the poverty line…. » (Brown and al., 2002). Therefore, there exists a sort of paradox between the ecological wealth of the state and the economic poverty of dense forest populations (Buttoud, 1994).

In addition, most studies on the importance of the forest sector have been carried out in the macroeconomic view point. As such, they have always been satisfied with the contribution of the sector to economic growth. Nevertheless, due to the "unicity of accounts principle" in public finance, zones of forest exploitation and their populations do not always sufficiently benefit from development programmes of public authorities and forest exploiters during the redistribution of national wealth (Nkengfack, 2008).

To the best of our knowledge, little or no serious study has been carried out in order to analyse the impact of forest exploitation on the daily life of riparian populations, hence the interest of this study which examines the impact of traditional exploitation of timber on the revenue of the local population, on their expenditures on health, education, and feeding.

In Cameroon, in order to promote solidarity and participative development, laws on freedom of association, on cooperative society and Common Initiative Groups (CIG), and on Economic Interest Groups (EIGs) were promulgated in 1990, 1992 and 1993 respectively (Minef, 1998).

The Law[1] and its Decree of application make provisions for the putting in place of community forest defined as « a non permanent forest of the forest domain, managed through a convention between the rural population concerned and the administration in charge of forests. The management of the forest is left in the hands of the concerned local community with technical assistance from forests authorities» (Art.3, al. 11 of the Decree). Community forests can also be seen as a set of dynamic processes aimed at including rural populations in the management of forest resources, in order to contribute to the amelioration of their standards of living and to promote local development (Bigombé Logo, 2002).

Also, to reinforce this Law, it was instituted that community forestry has a right of precedence on forests over industrial forest exploitation. This privilege is called "pre-emptive right". It was issued in 2001 by Arête n° 0518/MINEF/CAB of the Minister of Environment and Forestry and fixes the modalities of attribution, in priority to local riparian populations, of any forest susceptible to be made a community forest. Nevertheless, the first condition of application for the attribution of a community forest is that it should come from a judicial moral entity. The Decree stipulates that "the community must have a moral personality, in the form of an entity provided for in the legislation" (Art. 28, al. 3). According to the laws of 1990, 1992 and 1993, these judicial entities can take the form of an association, cooperative society, CIG or EIG.

2. Objective of the study

The main objective of this study is to investigate the impact of community forest exploitation on the welfare of the local population. Specifically, the study seeks to:

- analyse the impact of community forest exploitation on the activity and employment level of the people;
- analyse the effects of the exploitation activities on poverty indicators such as expenditure on health, education, food, etc.

[1] Each time we will be talking of law n° 94/01 of 20th January 1994, we will simply write « the Law » and « the Decree » whenever we will be talking of decree n° 95/531 PM of 23rd August 1995.

3. Hypothesis

The main hypothesis of the study is that traditional exploitation of timber by rural populations in a community framework is more likely to yield higher financial revenues directly perceived by them compared to classical industrial exploitation.

4. Methodology

To reach our objectives, we intended to identify the causal links that could exist between traditional exploitation of community forests and the level of economic welfare of the local population.

To do this, we elaborated a questionnaire that was administered to 200 households of three villages of the Lomié region of the East Province of Cameroon. The exploitation of the responses led to the construction of a model which reveals among others the preference of the local populations for community forestry.

A factorial analysis of multiple correspondences was done using the SPAD 4.0 software to determine the most discriminating variables that bring pertinent information to the model. Those variables are shown in Table 1. (See table 1).

After that, using the test of the comparison of means, we investigated whether revenues received by agents during the phase of exploitation of the community forest and their social expenses (health, education, nutrition) were significantly different from those received before. The test carried out was the following:

- Null hypothesis (H_o) : mean (variable 1 – variable 2) = 0 against
- Alternative hypothesis (H_a) : mean (variable 1 – variable 2) < 0,

where «variable 1» and «variable 2» represent the studied variable respectively before and after the beginning of the exploitation of the community forest. The data was analysed using Stata 8.0 software.

5. Results

The analysis consisted in comparing the amount of revenue generated by the different activities performed by the populations before

(marked by index 1) and after the phase of exploitation of the community forest (marked by index 2) and in testing if they are statistically different. It is carried out both on the global amount of revenues generated by the different activities and on each activity considered individually.

Concerning global revenues, the results of the tests on the means are summarized in table 2.

(See table 2).

From the table 2, we notice that on average, global revenues received with the exploitation of the community forest were significantly higher than those received before the putting in place of the community forest. Actually, a resident of the Lomié region received on average a monthly revenue of 31 254.25 CFA F before the setting up of the community forest against 44 041.6 CFA F after, representing a growth rate of 40.91%.

(See table 3).

As concerns the different activities taken individually, we notice that revenues earned from the cultivation of cash crops such as coffee and cocoa witnessed a slight drop. Actually, the fact that the population is engaged in community forestry activities and therefore has the possibility to earn higher revenue at all moments, coupled with the fall in the world prices of these products, discourages them from the production of these products. The same holds for hunting and fishing activities, and for « other activities » that witnessed a drop. On the contrary, revenues from the cultivation of food crops noticed an exponential growth. Reasons for this situation include the fact that the local population did not put in the same time for the production of cash crops with the advent of the community forest, revenues increased due to the expensiveness of these products which became insufficient to meet demand. In addition, the exploitation of the forest led to the construction of roads for the transportation of timber to points of transformation and as such also facilitated the movement of food crops towards urban centres.

The development of petty businesses like the sales of food and local drinks was also observed. With the aim of maximising income from community forests activities, villagers work until late in the evening and go back home exhausted. For breakfast and lunch, they prefer road side restaurants. Revenues from the production of « moabi » oil, the drying of mango seeds, the gathering of medicinal plants, etc., are more and more important. All these results are summarized in table 4.

(See table 4).

Incomes from classical activities (coffee and cocoa, hunting and fishing, food crop cultivation, gathering, petty trade, and other activities) hence forth produce a wage bill twice bigger; 2 735 293 CFA F against 1 358 019 CFA F.

Concerning activities directly linked to the community forest, we notice from table 5 that the profession of « Sawyer » generates a much higher average monthly revenue of 7 400 CFA F. It is a specialised activity and employs only a limited number of people.

(See table 5).

Unlike "Sawyer", the profession of "Carriers" (transportation of sawed up timber on human backs), though generates a lesser revenue (6 779 CFA F), is a labour intensive activity. In effect, it's the only one that does not require training. This is also why all alike, youths, men, women and old people carry out this activity each according to his physical aptitudes. It is through this activity that the population receives the highest amount of direct revenues generated by the community forest.

Another important result has been to note that the average monthly revenues of 33 658 CFA F generated by classical activities are still higher than those generated by activities directly linked to the exploitation of the CF, that is 27 932 CFA. This is due to the fact that the wage bill generated by timber exploitation activities is only 746 697 CFA F against 2 735 293 CFA F giving a contribution of only 21.45% of the global wage bill generated by the two types of activities.

(See table 6).

- A resident of the Lomié region received on average a monthly income of 31 567.57 CFA F before the putting in place of the CF against 61 589.99 after; representing an increase in revenue of 95.10% with respect to the initial period.
- The AMR emanating from classical activities before the CF of 33 657.98 CFA F still remain higher than those generated by activities linked to the exploitation of the community forest, that is 27 932 CFA F.

(See chart 1).

From the chart below, the first lessons drawn are that food crop cultivation remains the main activity of the populations. Sales from the products of food crop cultivation constitute 27% of revenues before the CF and 18% after. This makes of this activity the main one of the community, be it before or after the CF. Activities of the community forestry are not carried out throughout the year, they are carried out at irregular intervals. There is work when the timber has been sawed up; and considering the rudimentary tools often used, the exploitation is slow.

Activities of hunting and fishing also occupy an important place. It's the second activity in terms of importance with a 24% and 11% contribution to AMR before and after the community forest respectively. These results confirm the ancestral habits of the inhabitants of the Lomié region, which should be recalled, to live essentially of hunting and gathering. At last, despite the unfavourable international economic environment, revenues from the growing of cocoa and coffee constitute a non negligible source of income, with participation to revenue of 16 and 8 % before and after the CF respectively.

All these results allow us to state that all in all, the putting in place of the community forest has contributed to the amelioration of the revenues of the population of the Lomié region.

If we now turn to social expenditures made by individuals, we find out that they have also increased significantly suggesting to a certain extent the amelioration in their level of welfare.

(See table 7).

Table 7 summarises the results of the tests on means carried out for the main social expenditures (health expenditure, school expenditure on children and food expenditure). This table shows that these expenditures were higher with the advent of the CF. In details, expenditures on health, schooling of children and nutrition witnessed respective growth rates of 70.45; 29.82 and 56.21%.

6. Conclusions

Community forestry creates many small employments not necessarily skilled in addition to classical activities. Due to these activities, the revenues of villagers have increased and the average monthly wage bill was three times higher. With the introduction of the CF, revenues from the sales of cash crops reduced. On the contrary, those from the sales of food crops became more important. Also, despite the advent of the CF, the main source of revenues is still from classical activities notably from food crop cultivation. Finally, and in a global manner, even if the putting in place of the concept of community forestry faced management constraints, due notably to the lack of training of the population, the experience is to be encouraged.

Acknowledgements

The authors thank the financial support from the "Eugen Ionescu Postdoctoral Scholarship Programme" put in place by the Romanian government through "Agence Universitaire de la Francophonie" (AUF).

They also thank Prof. Univ. Dr. Daniela Sarpe and Ph. D. Assistant Professor Violeta Puscasu, all from the "Dunarea de Jos" University of Galati, Romania.

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List of tables.

Table 1: Discriminating variables.

Variables	Signification
Rev_1 and Rev_2	Global revenue earned from all the activities before and after community forestry
Cofco_1 and Cofco_2	Revenue earned from coffee and cocoa cultivation before and after community forestry
Fishunt_1 and Fishunt_2	Revenue earned from fishing and hunting activities before and after community forestry
Gath_1 and Gath_2	Revenue earned from gathering activities before and after community forestry
Foodcrop_1 and Foodcrop_2	Revenue earned from the selling of food crops before and after community forestry
Petract_1 and Petract_2	Revenue earned from petty trade activities before and after the community forestry
Otheract_1 and Otheract_2	Revenue earned from other activities before and after the community forestry
Healthexp_1 and Healthexp_2	Health expenditures before and after the community forestry activities
Schollexp_1 and Schollexp_2	Scholl expenditures before and after the community forestry activities
Foodexp_1 and Foodexp_2	Food expenditures before and after the community forestry activities

Source: The authors.

Table 2: Tests of comparison of means for global revenues.

Variables	Number of observations	Mean in CFA F	Standard deviation	[95% Conf. Interval]	t-student	Level of significance
Rev_1	200	31254.25	35974.49	[26 238.03 - 36270.47]		
Rev_2	200	44041.6	37730.63	[38 780.5 – 49302.7]	-5.8145	***
Difference	-	-12787.35	31 101.63	[-17 124.11 – 8 450.5891]	-	-

Source: Own calculations based on our survey dataset.
***: $p<0.01$.

Table 3: Tests of comparison of means for individual activities.

Variables	Number of observations	Mean in CFA F	Standard deviation	[95% Conf. Interval]	t-student	Level of significance
Cofco_1	200	62 210	135 955.7	[43 252.56 – 81 167.441]	1.8145	**
Cofco_2	200	58 275	132 350.8	[39 820.22 – 76 729.78]		
Difference	-	3 935	30 602.18	[-332.118 – 8 202.118]	-	-
Fishunt_1	200	7 605.875	16 926.37	[5 245.689 – 9 966.061]	1.0340	**
Fishunt_2	200	6 915.858	14 448.6	[4 901.168 – 8 930.548]		
Difference	-	690.0167	9 437.446	[-625.9254 – 2005.959]	-	-
Gath_1	200	2 460.867	8 808.76	[1 232.587 – 3 689.146]	-1.1316	***
Gath_2	200	2 712.517	9 069.31	[1 447.907 – 3 977.127]		
Difference	-	- 251.65	3 145.426	[-690.2431 – 186.9431]	-	-
Foodcrop_1	200	8 273.333	14 729.63	[6 219.457 – 10 327.21]	-4.1344	***
Foodcrop_2	200	11 011.67	16 460.24	[8 716.476 – 13 303.85]		
Difference	-	- 2 738.332	9 366.793	[-4 044.422 – 1 432.241]	-	-
Petrad_1	200	1 650	6 477.25	[746.8227 – 2 553.177]	-4.2810	***
Petard_2	200	4 535	11.752.48	[2 896.253 – 6 173.747]		
Difference	-	- 2 885	9 530.468	[-4 213.913 – 1 556.087]	-	-
Otheract_1	200	6 393.33	26 010.82	[2 766.427 – 10 020.24]	1.8784	*
Otheract_2	200	3 626.687	19 384.57	[923.7338 – 6 329.64]		
Difference	-	2 766.647	20 829.86	[-137.8357 – 5 671.129]	-	-

Source: Own calculations based on our survey dataset.
***: p<0.01.
**: p<0.05.
*: p>0.05. .

Table 4: Average Monthly Revenues (AMR) generated by different classical activities before and after the putting in place of the community forest.

Revenues Activities	AMR before the CF	Number of people in the activity	Wage bill before the CF	AMR after the CF	Num-ber of people in the active-ty	Wage bill after the CF
Coffee and cocoa	5 184.16	63	326 602.08	4 856.25	59	286 518.75
Fishing and hunting	8 273.33	94	714 952.25	6 915.858	97	670 838.226
Food crop cultivation	8 273.333	105	868 699.965	11 011.67	120	1 321 400.4
Gathering	2 460.867	67	164 878.089	2 712.517	67	181 736.639
Other activities	6 393.333	17	108 686.61	3 626.687	17	61 653.679
Sub-total 1	31 567.57	-	1 358 019.03	33 657.98	-	2 735 292.69

Source: Own calculations based on our survey dataset.

Table 5: Average Monthly Revenues (AMR) generated by activities directly linked with the exploitation of the CF.

Revenues Activities	AMR generated by the CF	Number of people in the activity	Wage bill generated by the CF
Sawed up timber carriers	6 779	91	616 889
Sawyer	7 400	3	22 200
Assistant machine operator	4 775	8	38 200
Prospector	2 791.338	16	44 661.408
Track maker	3 880	4	15 520
Cube metering	2 306.67	4	9226.68
Sub-total 2	27 932	126	746 697.088

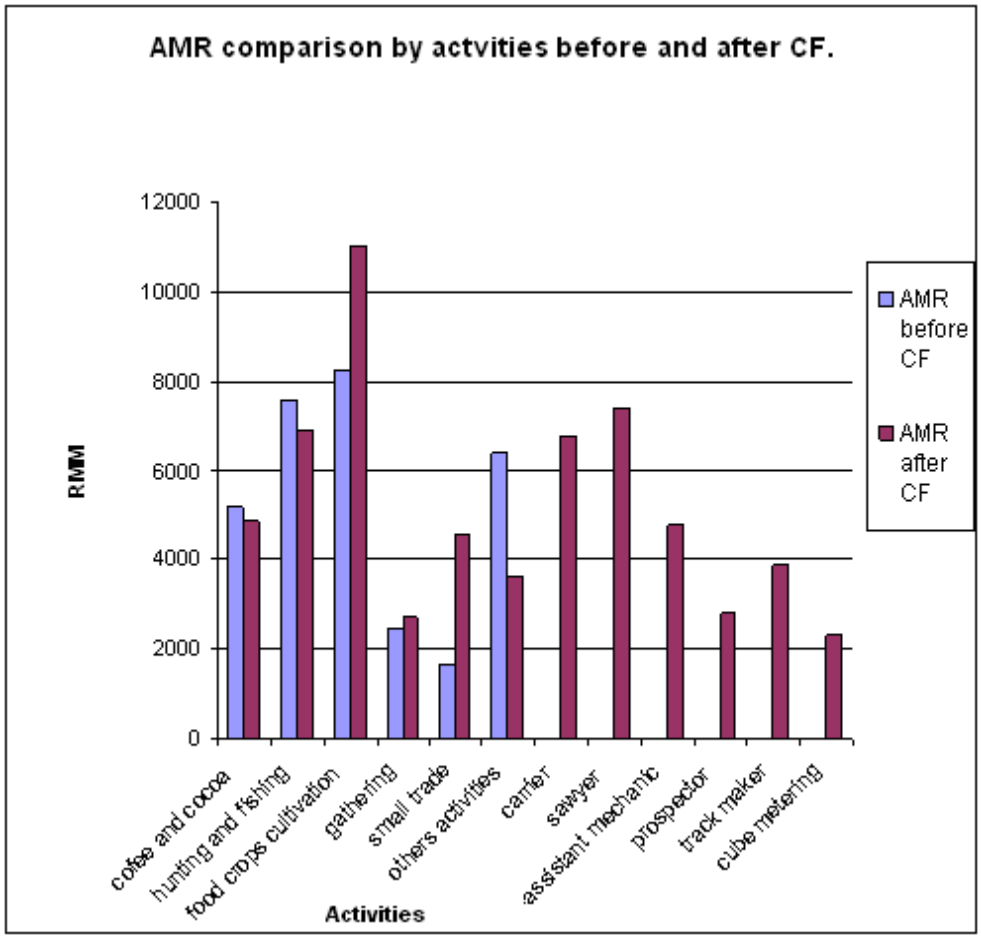
Source: Own calculations based on our survey dataset.

Table 6: Global revenues generated by the different activities before and after the putting in place of the CF.

Revenues **Activities**	**AMR before the CF (in F CFA)**	**Wage bill before the CF (in F CFA)**	**AMR after the CF (in F CFA)**	**Wage bill before the CF (in F CFA)**
Sub-total 1 (Phase 1)	31 567.57	1 358 019.03	33 657.98	2 735 292.69
Sub-total 2 (Phase 2)	0	0	27 932	746 697.088
Grand total (1+2)	31 567.57	1 358 019.03	61 589.98	3 481 989.778

Source: Own calculations based on our survey dataset.

Chart 1: Comparison of AMR before and after the CF.



Source: Authors.

Table 7: Test on the means of social expenditures.

Variables	Number of observations	Mean (in CFA F)	Standard deviations	[95% Conf. Interval]	t-Student	Level of significance
Healthexp_1	200	9 535.5	22 834,47	[6 351.499 – 12 719.5]	-	***
Healthexp_2	200	16 253.5	37 587.91	[11 012.3 – 21 494.7]	3.2040	
Difference	-	- 6 718	29 652.82	[-10 852.74 – -2 853.259]	-	-
Schollexp_1	200	19 625	56 764.07	[11 709.91 – 27 540.09]	-	***
Schollexp_2	200	25 477.75	65 656.93	[16 322.65 – 34 632.85]	2.2569	
Difference	-	- 5 852.75	36 674.26	[-10 966.55 – -738.9505]	-	-
Foodexp_1	200	2 900	5 752.832	[2 097.834 – 3 702.166]	-	***
Foodexp_2	200	4 530.35	6 922.048	[3 565.151 – 5 495.549]	4.3763	
Difference	-	- 1 630.35	5 268.557	[-2 364.989 – -895.711]	-	-

Source: Own calculations based on our survey dataset.
***: $p<0.01$.

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

THE THOROUGHGOING VERSUS THE ENLARGEMENT OF THE EUROPEAN UNION UNDER THE NEW APPROACH OF THE EUROPEAN CONSTITUTION

1. The evolution of the European integration- historical marks.
2. The consolidation of the E.U. and its enlargement.
3. The definition and the analysis of the European Constitution: to know what we reject.
4. The rejection of the constitution. The post-rejection evaluation.

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Abstract

The project of the new European constitution was rejected in 2005. We consider that a great part of the European citizens voted without a good understanding of this project or voted as a response to the socio-economic problems from their countries, not to the administrative stipulation of the new constitution.

So, we consider that we must understand the project of constitution and, only after this, to reject it, if it is necessary. On the other hand, the paper deals with the Lisbon Treaty as a solution of progress on this way.

The problem of the European constitution existence may be a problem of the E.U.'s future existence, as well.

1. The history of the E.U. is based on the chronology of the most important fulfilments of the Union and its institutions.

The European integration had a sinuous and non-uniform route which was determined by the dialectic debate of the fundamental

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phenomena: the thoroughgoing and the enlargement. The elements which support this idea are: the Schuman's statement from 1950, the earliest adhering processes from the 70's and 80's, the implementation of the Single Market in 1993, the Euro launch in 1999, the finalisation of the negotiations for a new European Constitution in 2004, and the latest two enlargements, as well.

The main historical events on the thoroughgoing versus the enlargement processes are the following:

- ✓ 9th of May 1950: the ministry of foreign affairs, Robert Shuman, proposed a plan for a European Coal and Steel Community (ECSC). Shuman was inspired by Jean Monnet;
- ✓ 18th of April 1951: the Paris Treaty was signed by Belgium, France, Germany, Italy, Luxembourg and Netherland;
- ✓ 10th of February 1953: the ECSC started to work. The founder members eliminated the custom barriers and the quantitative restrictions to the rare materials mentioned above;
- ✓ 30th of August 1954: the project of the European Politic Community missed as a result of the French Parliament rejection of the European Defeat Community;
- ✓ 25th of March 1957: were signed the EUROATOM Treaty and the European Economic Community Treaty by the same six states. These treaties are known as the Rome Treaties and they were implemented on the 1st of January 1958;
- ✓ 1st of July 1967: was implemented the Treaty which supported a single Commission and a single Council of the European Community;
- ✓ 1st of July 1987: was adopted the Single European Act, which added the political cooperation to the economic one;
- ✓ 1st of November 1993: was implemented the Treaty of the European Union. The ECSC, EUROATOM and EEC, the Common Foreign and Security Policy and the Justice and the Internal Affairs became the pylons of the E.U.;
- ✓ 16th of July 1997: was adopted the Agenda 2000, which treated the institutional reform of the E.U., presented the vision of the enlargement and the Commission's opinions about the adhering requests of the 10 Central European countries;
- ✓ 4th of November 1998: the first annual Reports on adhering progresses;

- ✓ 1st of January 1999: the implementation of the Euro in France, Germany, Netherlands, Belgium, Luxembourg, Austria, Italy, Spain, Portugal, Finland and Ireland;
- ✓ 1st of May 1999: was implemented the Amsterdam Treaty;
- ✓ 14th of February 2000: began the intergovernmental conference from Brussels about the institutional reform of the E.U.;
- ✓ 11th of December 2000: the political accord connected to the Nice Treaty;
- ✓ 2nd of January 2001: Greece became the 12th member of the Euro zone;
- ✓ 26th of February 2001: the Nice Treaty was adopted by the governments of the Member States;
- ✓ 13th of November 2001: the European Commission adopted the annual reports on the progresses of the candidate countries;
- ✓ 1st of January 2002: the Euro was implemented in the Euro zone;
- ✓ 1st of May 2004: Cyprus, Estonia, Latvia, Lithuania, Malta, Poland, Czech Republic, Slovakia, Slovenia and Hungary became Member States of the E.U.;
- ✓ 18th of June 2004: the Intergovernmental Conference adopted the Treaty proposal for a European Constitution;
- ✓ May and June 2005: the rejection of the Constitution by French and Dutch voters;
- ✓ 1st of January 2007: Bulgaria and Romania adhered to the E.U.;
- ✓ 1st of January 2007: Slovenia adhered to the Euro zone;
- ✓ June 2007: the start of the negotiations on a Reform Treaty, as a replacement, known as the Lisbon Treaty;
- ✓ 1st of January 2008: Cyprus and Malta adhered to the Euro zone;
- ✓ 1st of January 2009: Slovakia adhered to the Euro zone.

2. The European integration was supported by the European nucleus France-Germany the beginning till nowadays. The other tendency of enlargement was supported by the free market. There was a permanent conflict between these two tendencies which influenced the evolution of the European integration.

The first result was the delimitation between the euro-optimists and euro-sceptics. This process was accompanied by some specific concepts, like the following:

- ✓ Europe of the tough nucleon: it was a concept supported by those who considered that France and Germany represent the locomotive of the European integration;
- ✓ Europe of the concentric circles: it was an extension of the tough nucleon concept which considered that the European integration needs a geographic gradation of its profundity. The concept was criticised because it was considered as an old centre-periphery relationship which proved to have tragic historic consequences;
- ✓ Europe with more speeds: it was considered as a compromise between the need of integration and enlargement for the countries which have different economic and institutional development degrees. This concept could have a negative impact on the European cohesion;
- ✓ Europe with variable geometry: it was focused on different geographic areas of the E.U. and on different domains of the integration. The concept was applied as exception and as transitory stage connected to the monetary union or the Schengen space;
- ✓ Europe a la carte: it was applied especially in the U.K., in order to use opt out clause which allowed it to obtain the derogation from adopting the Euro.

The interesting approach of these concepts is that they were criticised. The winner was the idea of a coherent and unique European Union, in which the Member States have the same political status and the decision process reflects the weight of every country within the Community.

As a result, the Treaty of the European Union (1993) marked out the positive effects of the single market, the Euro currency and the convergence of the Member States' macroeconomic policies. On the other hand, the E.U. has to obtain an authentic political dimension, in order to answer to its internal needs and to develop a powerful presence on the international arena.

We can resume that a single powerful currency, which represents a main element of the federalisation, asks for a powerful socio-political identity, as well.

The principle of enlargement was consacrated in Copenhagen (1993), when it was adopted the decision to open the E.U. to the new democracies. This principle was consolidated in Essen (1994), when the pre-adhering strategy was adopted. In Cannes and Madrid (1995), was established a concrete plan of integration on the Single Market and was defined the principle of the equality of chances for all the candidates.

Later, in Luxembourg (1997), was started the enlargement process under the principle of the non-discrimination difference.

The new elements of the latest two enlargements were:

- ✓ the short lag between the begining and the ending of these two processes;
- ✓ the dimension of the new E.U., which became more complex and more heterogeneous. As a result, some voices talk about the risk of the E.U.'s dilution if the number of the Member States will be greater than 30. In order to prevent this, the E.U. has to operate changes of its mechanisms before new enlargements.

An optimistic point of view about the future integration and enlargement in the E.U. implies an adequate institutional system in order to maintain and to improve the performance of the enlarged E.U. Moreover, the E.U. has to be globally acknowledged and to get closer to the community citizen. The main present challenges for the E.U.'s enlargement are:

- ✓ the fearless approach of the direct effects of the enlargement on the working of European institutions;
- ✓ the need to decrease the importance of the decisions which are adopted by unanimity when the number of Member States grows;
- ✓ the institutionalisation of a flexibility which is able to allow the E.U. to progress even if some Member States are slower.

The institutional reform of the E.U. is necessary, and the future enlargements ask for it immediately.

3. On 18th of June 2004, the Intergovernmental Conference adopted the proposal "Treaty for a European Constitution". This constitution had to replace the three pylons of the E.U. Treaty and offer juridical personality to the E.U. The first part of this document defines the goal and the main elements of the European Constitution. The second part covers the Chart of the Fundamental Rights and the third part defines the activities of the European institutions. The last part of the Constitution covers the final and general provisions. In the preamble of the Constitution, it is analysed the cultural, religious and humanist European heritage and in the annex, there are some protocols and statements.

The Constitution defines the role of every European institution and organism and regulates the interrelationship mechanisms between these institutions.

The European Parliament (EP), together with the Ministries Council, adopts the European legislation and has budgetary, politic control and consulting functions, as well.

The EP selects the President of the European Commission and the composition of this commission.

The number of the EP has to be less than 750. The European Constitution didn't stipulate a manner of allocation to the Members of Parliament on Member States but it talked about the decreasing proportionality of the European citizens. As a result, the maximum representative level was dimensioned between 6 and 96 members for every country.

The new design of the European Parliament was adapted to the enlargement process and to the decrease of the democratic deficit, as in figure 1.

The European Council (EC) was defined as an institution with absolute abilities. As a result, it was proposed the elimination of the rotation in presidency and the adoption of a permanent presidency, with limited powers, which can be voted for 2.5 years and which can be once revoted.

The general rule in adopting decisions by the European Council is the consensus. The European Council had to promote the politic priorities of the E.U. and it didn't have legislative capacities, as in figure 2.

The Council of Ministers of the E.U. was proposed by the European Constitution and it had to be led by the Ministry of Foreign Affairs of the E.U. The meetings of the different components of the Council should be dedicated to ensure the transparency of the legislative and non-legislative debates. The impact of this council is presented in figure 3.

Under the Intergovernmental Conference, the component of the Council is adopted using the qualified majority. As a result, the minimum limit grew to 55% from all the Member States. It represents at least 15 Member States or 65% of the whole population. On the other hand, the Intergovernmental Conference stipulated the manner to block a decision by a minority of at least 4 Member States or 35% of the whole population.

The exception is the situation in which it isn't necessary o proposal from the European Commission. In this case, the qualified majority growths to 72% from all Member States or 65% of the whole population.

The Minister of Foreign Affairs has to lead the European foreign and security policies (proposes the foreign policy, represents the E.U.) and to chairman the Council of the Foreign Affairs. Moreover, it has the role of the vice-president of the European Commission. The activity of the Minister of Foreign Affairs will be supported by the European Service for Foreign Action.

The European Commission has to initiate the European legislation. Until 2014, the European Commission is made up of one Commissar for every Member State. After 2014, the number of the commissars will decrease to 2/3 from the number of the Member States. These commissars will be selected by rotation, in order to ensure the equal participation and representation of all Member States.

The political role of the President of the European Commission will increase. He/she will be elected by the Parliament and will nominate the commissars, the portfolios and will have the prerogative to require the demission of the commissars, as well.

The composition of the European Commission is presented in figure 4.

The Court of Justice will have larger competences connected to the liberties, security, justice and some aspects of the foreign policy. There are some stipulations about the citizens' access to the Court judgement.

The project of the Constitution defines the fundamental principles of the E.U.:

- ✓ the principles which supports the allocation of the E.U.'s powers between different institutions;
- ✓ the way of creating the European legislation under the subsidiary and the proportionality principles;
- ✓ the priority of the European legislation regarding the national legislation;
- ✓ the obligation for all Member States to implement the European legislation.

There are three power categories under the E.U.'s competence system: the domains under the exclusive E.U.'s competence, the domains with competences which are divided between the E.U. and the Member States, and the domains in which the E.U. should have actions in order to support the national competences.

On the other hand, there are special situations (the foreign policy, the common security policy, the coordination of the economic policy and the labour policy) which can't be introduced under the general classification (Articles no. 14 and 15).

The flexibility of the system is guaranteed by a stipulation which talks about the possibility to adopt the necessary measures in order to achieve the objectives of the constitution.

Moreover, the stipulation connected to the competences is completed by an Applying Protocol for the Subsidiary and the Proportionality Principles, which mentions the existence of an early pointed out system which offers to the national parliaments the possibility to monitor the way of implementation subsidiary principles.

The constitution would function using a hierarchy of the normative acts, which defines them based on the way in which they are used by the institutions, the manner in which they are adopted and the use of the E.U's powers, as well. Under this context, the legislative acts can be: obligatory legislative acts (laws, frame laws, regulations and decisions) and non-obligatory legislative acts (recommendations and notices).

The European Commission has the power to initiate the legislative acts, excepting those situations in which the Commission needs ¼ from the Member States in order to co-initiate the legislative acts.

The third part of the project of new constitution covered the European foreign and internal policies. The main changes were the creation of the function of Minister of the Foreign Affairs and the greater role of the European Parliament connected to the trade policy and to the adopting of international accords.

The implementation of the Foreign Policy and Common Security had to be done under unanimity within the European Council. The decisions of the Foreign Policy and Common Security aren't object of the ordinary legislative procedure. The new element of the constitution was the Parliament's consultation in adopting these decisions.

Moreover, there were created new juridical backgrounds as the solidarity clause under a terrorist attack or a natural disaster and the international agreements with the neighbour countries.

The security policy will be improved using:

- ✓ the restructuration of the Petersberg capacities: the missions to disarm, the military cooperation, the post-conflict stabilization, the fight against terrorism, the actions on the other states' territories;
- ✓ the new forms of flexible defence cooperation;
- ✓ the creation of the European Agency for armament, research and military capacities: the European Defence Agency;

- ✓ the definition of a quick access procedure to the European budget's dedicated funds.

Under the new constitution, the trade policy framework was enlarged with service exchanges and intellectual property rights. The European Parliament has a fundamental role in order to define and to implement the common trade policy. The negotiations under the international agreements have to be reported to the Parliament and to be carried out only with the Parliament's assent.

On the other hand, the new constitution created the conditions to integrate the European Development Fund into the European budget. Moreover, the constitution created the juridical base for the human help, which created the Voluntary Corp for Human Help.

The most important internal policies which had to be changed by the new constitution were those connected to liberties, security and justice.

The new constitution defined the political objectives of the E.U.: access to justice, legislative harmonisation, immigration and home policy, fight against the criminality.

In order to increase the confidence in the new constitution, was introduced the emergency brake. This is a procedure to ask for a law's re-evaluation by the European Council, if a Member State considers that this law brings prejudices to its own juridical system.

Moreover, the new constitution wanted to create a European Office of the Procurer, which had to be focused on the elimination of the financial criminality across the E.U. and which had the capacity to judge these contraventions.

On the other hand, the decisions had to be adopted under qualified majority for the sector policies. It had to be aware of the difference between legislative and non-legislative acts. As a result, were created new juridical bases for energetic policy, sport, civil protection against natural and human disasters, and for the administrative cooperation in order to implement the European legislation.

According to the economic and monetary policies, the new constitution brought some significant changes connected to the statute of the European Central Bank, the direct connection between the economic and labour policies and the statute of the Euro zone's countries.

The third part of the new constitution introduced a horizontal clause which stipulated that the E.U. had to promote a high employment level and a greater social protection, in order to eliminate the social

exclusion, to obtain a high education and training and to protect human health.

The Common Agricultural Policy focused on the common managements of agricultural markets, of price level calculation, the financial support, the quantitative limitations and the fishing capacities, as well.

The new constitution added a new section about the European spatial policy. The framework of this specific program had to become a European law which had to be adopted by qualified majority. As a result, the European Space Program had to be defined by a law or a frame law.

The new constitution had a more democratic character because:

- ✓ the citizens can initiate projects of European laws using the referendum and they would benefit from greater judge guarantie as a result of the Court of Justice competences' growth;
- ✓ the national parliaments would have a greater impact on the European democratic system under the early alert clause;
- ✓ the budgetary and legislative power of the European Parliament would be consolidated;
- ✓ the future use of the convention as a revision method for the constitution, under a standard practice.

4. The result of a difficult work was the new constitution which had more than 440 pages and which was signed. The start of the referendums about the constitution ratification was a good one: Austria, Germany, Greece, Hungary, Italy, Lithuania, Slovakia, Slovenia and Spain ratified the new constitution until 29th of May 2005.

But France (29th of May 2005) and Netherlands (1st of June 2005) rejected the constitution by referendum. This represented a cold shower for the supporters of the new constitution. Moreover, the French citizens rejected a constitution which was elaborated under Valery Giscard d'Estaing's idea.

Those who said no to the new constitution motivated their answer more by internal reasons than by the administrative stipulations from the constitution (Junckers J.C., 2005).

Moreover, other idea is that the French government was responsible for the French referendum fiasco (d'Estaing V.G., 2005).

On the other hand, the structure of the votes represented an occupational reaction (most of the labour voted NO) and one between the generations (the citizens older than 65 voted YES for the new constitution).

Under a domino effect, the Netherlands voted NO, as well. The rejection of the Constitution by French and Dutch voters in May and June 2005, called the future of the Constitution into question. In light of these developments, three member states, Finland, Germany and Slovakia, abandoned their partially complete ratification procedures and a further seven member states indefinitely postponed consideration.

Following the period of reflection, the European Council meeting in June 2007 decided to start negotiations on a Reform Treaty as a replacement. Known as the Lisbon Treaty, it was put into question too when the Republic of Ireland failed to ratify it in a referendum.

The Lisbon Treaty was originally meant to be ratified by all member states by the end of 2008, so it could come into force before the 2009 European elections. However, the rejection of the Treaty on 12th of June 2008 by Irish voters means that the treaty cannot currently come into force. As of February 2009, 23 of the total 27 member states have ratified the Treaty.

Table 1 shows the ratification progress in specific countries of the European Union. Note that the assent of the Head of State represents the approval of the parliamentary procedure, while the deposition of the Treaty refers to the last step of ratification, which may require a separate consent. For the discussion of the specific legal situation in countries which have not deposited the Treaty with the Government of Italy, see relevant section below the table.

The European Constitution is an important step in the construction of Europe. It is designed to meet the challenges of a changing world, of a Union which goes through its biggest enlargement and, last but not least, of a United Europe with more than 450 million inhabitants. It has to provide an environment of democracy, freedom and transparency, an efficient Europe working closer to each and every citizen.

The European Constitution coexists with the national Constitutions and institutions of the European countries, it does not replace them. It ensures the legal continuity of the Communities, by simplifying thus the legal instruments and by adapting the decision making process to present challenges.

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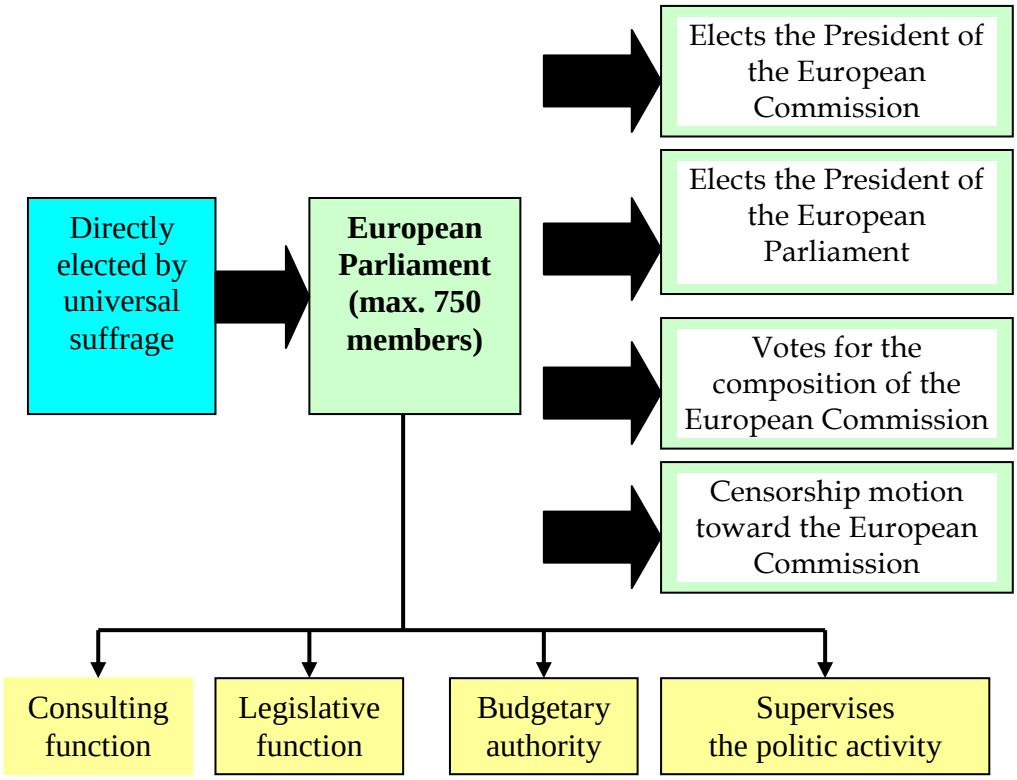

Figure 1: The impact of the European Parliament

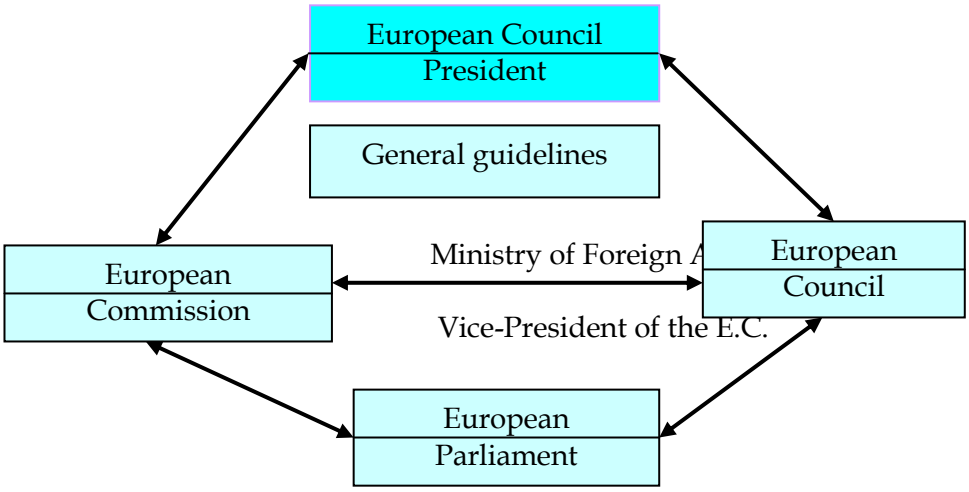

Figure 2: The impact of the European Council

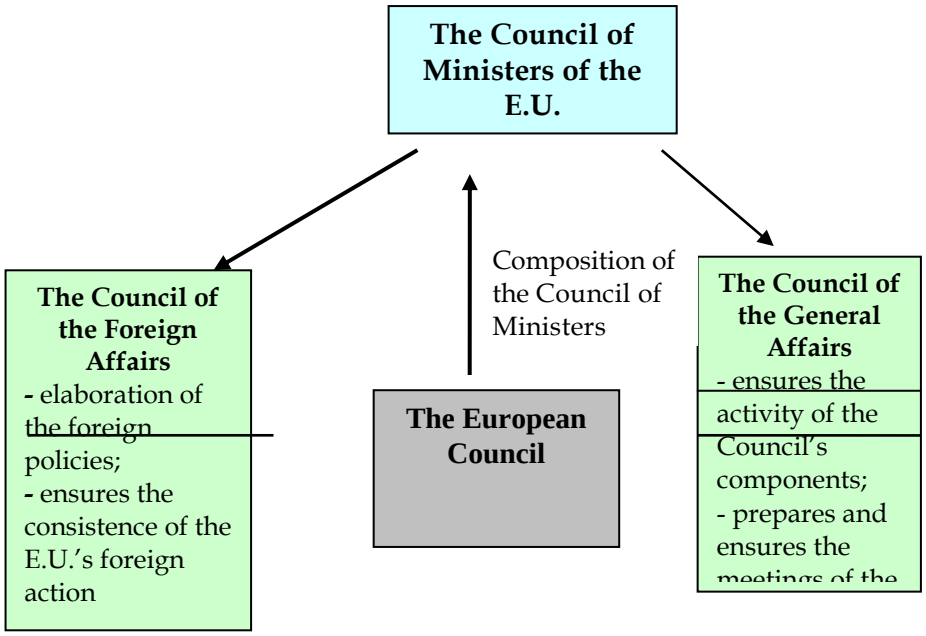

Figure 3: The impact of the Council of Ministers of the E.U.

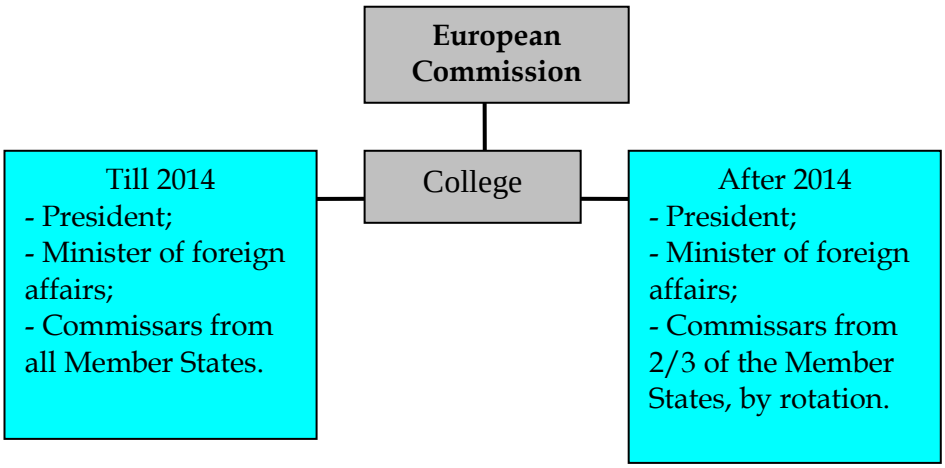

Figure 4: The structure of the European Commission

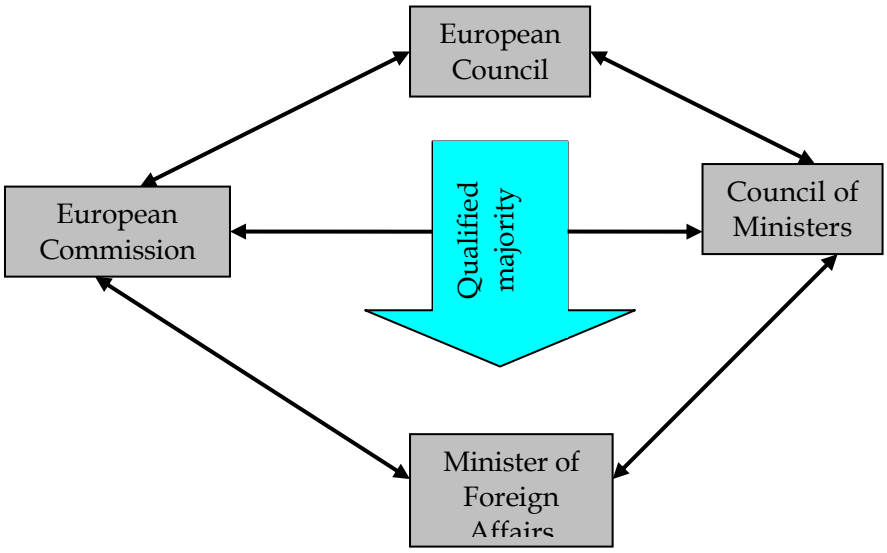

Figure 5: The mechanisms of the Foreign Policy and Common Security

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Table 1: The ratification process of the Lisbon Treaty

Signatory	Conclusion date	Chamber	👍	👎	AB	Deposited
Austria	9 April 2008	National Council	151	27	5	13 May 2008
	24 April 2008	Federal Council	58	4	0	
	28 April 2008	Presidential Assent	Granted			
Belgium	6 March 2008	Senate	48	8	1	15 October 2008
	10 April 2008	Chamber of Representatives	116	11	7	
	19 June 2008	Royal Assent	Granted			
	14 May 2008	Walloon Parliament (regional) (community matters)	56	2	4	
	14 May 2008		53	3	2	
	19 May 2008	German-speaking Community	22	2	1	
	20 May 2008	French Community	67	0	3	
	27 June 2008	Brussels Regional Parliament	65	10	1	
	27 June 2008	Brussels United Assembly	66	10	0	
	10 July 2008	Flemish Parliament (regional) (community matters)	76	21	2	
			78	22	3	
	11 July	COCOF	52	5	0	

	2008	Assembly				
Bulgaria	21 March 2008	National Assembly	195	15	30	28 April 2008
Cyprus	3 July 2008	House of Representatives	31	17	1	26 August 2008
	Unknown	Presidential Assent	Granted			
Czech Republic	18 February 2009	Chamber of Deputies	125	61	11	
	6 May 2009	Senate	54	20	5	
	TBD	Presidential Assent				
Denmark	24 April 2008	Parliament	90	25	0	29 May 2008
	30 April 2008	Royal Assent	Granted			
Estonia	11 June 2008	Parliament	91	1	9	23 September 2008
	19 June 2008	Presidential Assent	Granted			
Finland	11 June 2008	Parliament	151	27	21	30 September 2008
	12 September 2008	Presidential Assent	Granted			
France	7 February 2008	National Assembly	336	52	22	14 February 2008
	7 February 2008	Senate	265	42	13	
	13 February 2008	Presidential Assent	Granted			
Germany	24 April 2008	Federal Diet	515	58	1	
	23 May	Federal	65	0	4	

	2008	Council				
	8 October 2008	Presidential Assent	Granted			
Greece	11 June 2008	Parliament	250	42	8	12 August 2008
Hungary	17 December 2007	National Assembly	325	5	14	6 February 2008
	20 December 2007	Presidential Assent	Granted			
Ireland	29 April 2008	Dáil Éireann (1st ref. bill)	Passed			
	9 May 2008	Seanad Éireann (1st ref. bill)	Passed			
	12 June 2008	Referendum*	46%*	53%*	N/A*	
	TBD	Dáil Éireann (2nd ref. bill)				
	TBD	Seanad Éireann (2nd ref. bill)				
	October 2009	Second Referendum				
	TBD	Presidential Assent				
	TBD	Dáil Éireann (statute bill)				
	TBD	Seanad Éireann (statute bill)				
	TBD	Presidential Assent				
Italy	23 July 2008	Senate of the Republic	286	0	0	8 August 2008
	31 July 2008	Chamber of Deputies	551	0	0	
	2 August	Presidential	Granted			

	2008	Assent				
Latvia	8 May 2008	Parliament	70	3	1	16 June 2008
	28 May 2008	Presidential Assent	Granted			
Lithuania	8 May 2008	Parliament	83	5	23	26 August 2008
	14 May 2008	Presidential Assent	Granted			
Luxembourg	29 May 2008	Chamber of Deputies	47	1	3	21 July 2008
	3 July 2008	Ducal Assent	Granted			
Malta	29 January 2008	House of Representatives	65	0	0	6 February 2008
Netherlands	5 June 2008	House of Representatives	111	39	0	11 September 2008
	8 July 2008	Senate	60	15	0	
	10 July 2008	Royal Assent	Granted			
Poland	1 April 2008	House of Representatives	384	56	12	
	2 April 2008	Senate	74	17	6	
	9 April 2008	Presidential Assent	Granted			
Portugal	23 April 2008	Assembly of the Republic	208	21	0	17 June 2008
	9 May 2008	Presidential Assent	Granted			
Romania	4 February 2008	Parliament	387	1	1	11 March 2008
	7 February 2008	Presidential Assent	Granted			
Slovakia	10 April 2008	National Council	103	5	1	24 June 2008
	12 May	Presidential	Granted			

	2008	Assent				
Slovenia	29 January 2008	National Assembly	74	6	0	24 April 2008
	7 February 2008	Presidential Assent	Granted			
Spain	26 June 2008	Congress of Deputies	322	6	2	8 October 2008
	15 July 2008	Senate	232	6	2	
	30 July 2008	Royal Assent	Granted			
Sweden	20 November 2008	Parliament	243	39	13	10 December 2008
United Kingdom	11 March 2008	House of Commons	346	206	81	16 July 2008
	18 June 2008	House of Lords	Approved[90]			
	19 June 2008	Royal Assent	Granted			

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

THE REGIONAL POLICY APPROACH DURING THE PRESENT FINANCIAL PERSPECTIVE

1. The fundamental elements of the regional policy.
2. The key moments.
3. The European Institutions which implement the regional policy.
4. The instruments of the regional policy.

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Abstract

The paper deals with the importance of the regional policy during the present financial perspective 2007-2013. For the beginning, we define and analyse the fundamental elements of the European Regional policy and provide a history of the European policy's evolution.

A distinct part of the paper deals with the European Institutions which define and influence the regional policy and the analysis of the regional policy instruments.

The main conclusion of the paper is that the regional development policy represents a challenge for the E.U.27.

1. The regional policy is focused on the implementation of the idea of the European identity, of membership in the European area.

The stipulation of such an idea isn't enough, because the latest European evolutions lead to contradictory conclusions. We refer to the growth of the intra and inter-states disparities as a result of the latest two enlargements of the E.U.

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On the other hand, the importance of the regional elements into the present socio-economic policies is very big.

The growth of the regional policy's importance is supported by two main phenomena. First, we assist to a powerful economic restructuration of the regions from the most development E.U.'s countries as a consequence of the competition growth under globalisation. On the other hand, the new Member States from Central and Eastern Europe have immature market economies and some disequilibrium and dysfunctions occured after the moment of the adhering to the E.U.

As a common element of these two processes, we can speak about the great efforts for the achievement of political and economic integration across the E.U. This objective implies a pertinent regional policy.

The quintessence of the European regional policy is the solidarity connected to the decrease in the regional development disparities and the welfare of the European citizens. A real economic, social and territorial cohesion across the E.U. implies adequate regional policy measures which have to be able to support the solving of the problems of the present E.U.: the industrial and agricultural areas in decline, the disadvantaged urban areas, the unemployment, the criminality and the massive immigration.

E.U. assigns 1/3 of its budget to the decrease of the disparities connected to the regional development and the citizens' welfare. This financial allocation became permanent after 1998, as a result of the growth of regional development disparities. These disparities reflect the differences in the regional revenues differences (which can achieve a rate of 3:1) and the differences in the regionally realised investments (with the same rate), which is worse.

The implementation of regional policy is realised under the European, the national and the regional context. Practically, the common regional policy has to be implemented by each Member State using its specific instruments and ways. Moreover, the regions which represent the targets of the regional policy have to be stimulated in order to cooperate and to potent the material and financial efforts which are made to achieve these objectives.

On the other hand, the regional policy endorses some extra-community objectives and regions, the developing countries, the candidate and the potential candidate states to the adhering, as well.

The long term regional economic disparities affect the national efficiency. Moreover, these disparities have important social and political effects. The most significant effects of this phenomenon are the following:

- a dissatisfaction and a resentment connected to the regional welfare disparities. This situation affects those persons who have their life standards lower than the national average level;
- socio-economic effects. The national economy will obtain positive effects if it is able to decrease the unemployment in the area with high unemployment rate, without loss of jobs in the regions with low unemployment rate. A low unemployment rate implies a low criminality and less social difficulties;
- high economic costs for those regions which want to obtain a fast development as a result of the demand excess for the social capital. The airports, the buildings, the roads and the rail roads in these regions are under a continuous pressure, for example;
- the decrease in the regional disparities connected to the labour demand excess can create benefits for the whole economy by decreasing the inflation pressure.

The purpose of the regional policy is to obtain a high efficiency and/or an equitable interregional economic distribution. The objective of the regional policy can be measured and quantified. The decrease in the average unemployment rate, for example, represents a quantifiable political objective.

The political perception of need and importance of the regional policy represents the subject of a significant variation during the latest decades.

During 60's – 70's, the general objective of the policy was to create more new jobs. During the 80's, the direction was the growth of the government expenditures for the same objective. Nevertheless, the conflict between the macroeconomic governmental policy and the regional policy can't be eliminated.

The connection between these two levels of spatial aggregation depends on:

- the growth of the resources which can be moved from a level of development to an another;
- the results of the regional policy connected to the decrease in the inflation pressure's territorial disparities;

- the find of those political instruments which are able to support the achievement of the regional objectives (there are more political objectives than instruments at the regional level).

The individual policies are interdependent by their effects. The primary effects and their implementation instruments can be well delimitated. The secondary effects point out that the successful regional policies have to be complementary, not conflicting.

A supplementary difficulty connected to the implementation of the regional policies is the high losses at the regional and the national levels as a result of the multiplication effects. The regional multipliers have less values that the national ones. This means a decrease in the regional expenditures comparing to the same expenditures at the national level.

The analysis of the regional policy is based on the premises of this policy:

- the investments determined the growth of the firms' profit;
- the profit determines the growth of the expenditures for the firms' inputs. These expenditures remain inside the analysed region. The region will not be able to obtain supplementary advantages if the extra revenue is paid outside the region;
- the extra revenue has to be used to finance the supplementary regional expenditures. The region will lose the positive multiplication effects if it spends its supplementary revenue on the imports.

The major objective of the regional policy is to create the real possibilities to an efficient use of regional inputs. As a result, the policy instruments like the investments will not be influenced by the effective cost of achieving this objective.

This means that the effects of the regional policy consist in the diversification of the existing economic activities more than in the creation of additional economic activities.

An important part of the regional policy's expenditures are focused on the minimization of location costs of the firms' economic operations. Under extreme situations, the firms implemented their branches using governmental financing, and then they closed and moved them when the financial assistance for that region decreased. The result consisted in a greater economic instability and a decrease in the employment in that region on long term.

A real disadvantage of the territorial placement of the production capacities is their cyclic vulnerability. A firm can use governmental funds in order to develop and to place an additional production capacity

during the boom. But during the recession, all these production capacities become vulnerably and can be closed with direct impact on the regional labour.

The little local firms are more efficient if they place their production capacities in their residence regions. These local firms will not be so interested in replacing their production capacities even if the regional financial policy changes.

We can conclude that the disadvantages felt by the branches of the corporations (which dominate the regional economy) from the cyclical fluctuations will be minimised by pertinent measures of the regional policy. On the other hand, the government policy depends on the current political priorities.

A specific aspect of the government policy is similarly reflected by other government policies. The regional policy isn't separated or independent from any other aspect of the government macroeconomic policy, for example.

The regional policies can influence other government policies and the regional policies can be influenced by these government policies, as well.

A national deflationist strategy can disclaim the local and regional political measures adopted in order to support the development of the local economy which is scarce. A policy for high interests in order to control the macroeconomic monetary expansion, for example, can affect the little firms from a low developed local economy.

Such conflicts can be minimised, but the politicians have to understand that the election of the political instruments used in order to achieve a specific level of economic spatial aggregation has to be done very carefully.

The effective spatial policies need the same repartition of the political instruments according to the objectives of the local/urban, regional and national policies. This implies the pertinence of the economic policies.

But, there are not enough political instruments to allocate them one by one to every political objective at every relevant level of the economic spatial hierarchy.

2. The definition and the implementation of a reliable regional policy represent a complex, dynamic and sometimes contradictory process which followed the E.U.'s creation and enlargement, as in table 1 (Fujita M, Krugman P., Venables A.J., 1999).

The first important changes in the European regional policy were made during 2000-2006. These changes were connected to the management decentralisation, the growth of the partnership between the actors of the regional policy and the concentration of those areas which benefited from financial assistance.

The European Commission monitors the implementation of the regional assistance programs and the Member States and the local and the regional authorities cooperate for defining and implementing the development strategies.

During the present programming period (2007-2013), the main objective of the regional policy is competiveness, in order to achieve the development parameters established by the Lisbon Strategy. Moreover, the cohesion policy has to be better integrated into the national and regional development programs from the Member States together with the growth of the ownership.

The number of structural instruments has decreased to three. There was implemented a new proportionality principle and the number of the programming documents has decreased to two, in order to reduce bureaucracy.

On the other hand, the Member States' responsibility in managing the European Funds will grow by applying the national regulation connected to the expenditures' eligibility, in order to promote ownership.

The sinuous evolution of the regional policy was at the confluence between the powerful national interests and the needs of a greater organisation as the E.U. During the 60's-70's, the compromise was purely internal. The policy of the structural transfers was conditioned by the achieving of the specific advantages, like the harmonisation of the social legislation (asked by the French employers) or the creation of a single market (asked by the German business environment), for example.

The lessons of the past are a good indicator of the next possible evolutions. We can forecast that the regional policy will remain at the convergence between the integration and the national determiners. The latest enlargement is such an example. First, this enlargement reiterated the interest in the Structural Funds' reorganisation, because 51 regions (from all 53) from Central and Eastern Europe have a GDP/capita less than 75% of the European average and have to benefit from the regional support.

The Agenda 2000 and the CAP's reform from 2003 initiated changes which will ensure the role of the regional policy on the long term. The structural policies will be focused on the rural development

using the production subventions and the concentration of the structural funds on the priority objectives.

The principles which govern the management of the structural funds were modified in 1999. These principles are presented in table 2.

The European Commission gives the fundamental directions of the regional policy for every programming period. Using these directions, the regions and the Member States elaborate regional development multiannual programs in order to obtain the financial assistance under the structural instruments (IMF, 2005).

The budget of the Structural Funds is focused on presetting specific objectives, as in figure 1.

The Objective 1 covers regions with 22% from the whole E.U.27 population and it will receive 70% of the Structural Funds budget.

The Objective 2 covers 12.3% of the whole E.U.27 population and will benefit from 11.5% of the Structural Funds budget. These financial allocations support the socio-economic reconversion of those areas with structural difficulties.

A particular importance is given to the labour, its training and its access on the labour market (Objective 3). This objective will benefit of 12.3% of the Structural Funds budget.

Other objectives and activities which affect the regional policy cover 5.19% of the same budget. These objectives cover: the trans-border, transnational and interregional cooperation (Interreg IV), the urban sustainable development against the decline of the urban areas (Urban II), the rural development under the local initiatives (Leader +) and the elimination of the labour market access discrimination (Equal). All these objectives are stipulated into the Community Initiatives (Eurostat, 2008).

There are two special allocations, as well. The first one covers the fishing structures adjustment in the regions which are not covered by the Objective 1 and will benefit from 0.5% from the Structural Funds budget. The second promotes the innovative and the technical assistance actions, in order to promote new development ideas. It will benefit from 0.51% of the Structural Funds budget.

The development initiatives which are financed by the Structural Funds have to respect the specific needs identified in the regions and in the Member States.

The regional development policy ensures the environment policy and the chances equity. The implementation is decentralised and the responsibility gets back to the regional and the national authorities.

3. The definition and the implementation of the common regional policy imply the active participation of a great number of European, national, regional and local institutions and organisations. We present them in figure 2.

The European Commission represents the essential actor which defines, monitor and implements the European regional policy. The European Commission has some General Directorates for Regional Policy, which must ensure the assistance for the implementation of regional policy into the Member States and administrate the financial resources from the ERDF, the Cohesion Fund and the ISPA instrument.

The European Parliament has a Committee for Regional policy, transport and tourism, which controls the implementation and the realisation of the regional policy. Moreover, the European Parliament cooperates with the European Investment Bank using its specific committee.

The European Council analyses and coordinates the economic policies of the Member States, including those policies which are focused on the regional development.

In 1991, was created the Committee of the Regions, which is a consultative organism on the regional development. It is made up of representatives of the regional and local authorities which reflect the politic, geographic, regional and local equilibrium from every Member State. The activities of this committee cover socio-economic cohesion, trans-European infrastructure networks, health, education and culture, employment, social and environmental problems, labour training and transports, as well.

The European Investment Bank finances the common regional policy and monitors the implementation of this policy in the Member States. The bank gives credits and guarantees with low interest to the Member States in order to finance their economies. The bank supports the common regional development policy, the objectives of the Structural Funds and of the Structural Instruments, as well.

4. It is interesting to notice which instruments of the macroeconomic policy can be used at regional level. The monetary policy, for example, is an attribute of the macroeconomic policy and it doesn't have a significant variation of the interest rates at regional level. As a result, the region can be assimilated to a price-taker in its relationships with the financial capital supply.

The monetary market isn't an active environment for the regional policy implementation. There are opinions that consider a good

monetary policy as insignificant at regional level. They consider that the markets can self-regulate and that process doesn't need any political intervention.

The regional policies were initiated more as fiscal policies than monetary policies. The monetary market isn't a main objective for the regional policy, comparing to the goods or the input markets. We consider that the input markets represent the key of understanding the traditional regional policies.

The regional policies try to influent the limits of the spatial activities using the input markets and to encourage the socio-economic activities in those regions which have a real need for assistance. As a result, the regional policies present elements which influent both the demand and the supply. The need of inputs in these regions can be increased using the investments for new capital. In the same time, the quality of the labour supply grew as a result of the programs of training and retraining which were implemented.

On the other hand, some macroeconomic policies have a direct impact on the regional development. The fiscal policy, for example, has different regional effects which are connected to the structure of unemployment, infrastructure and health expenditures. Other macroeconomic policies affect indirectly the regional development using the planning. The supply control using the plan restrictions can have a negative impact at regional level connected to the location of economic activities.

The policies of employment affect the regional stock of knowledge and culture. As a result, the regional distribution of the university and post university education expenditures is very varied.

All these examples point out that the government macroeconomic policies together with the direct regional policies can have different effects at regional and interregional levels.

The regional policies are influenced by specific instruments. These instruments can be classified in different manners and they influent the firms and households location decisions or the change of the revenues and the expenditures in different areas.

These elements represent a symbiosis between the micro and the macroeconomic instruments, as in figure 3 (Armstrong H., Taylor J., 1993).

The instruments of the microeconomic policy influent the capital and the labour allocation between industries and regions. The

instruments of the macroeconomic policy modify the regional revenues and expenditures.

It is possible to introduce a regional dimension inside the macroeconomic policies in order to create different changes of the output and labour. A decrease in the exchange rate, for example, will favour the regions which depend on the international trade. The imports control will favour the regions which produce substituent for those imported goods.

The coordination of the government policies represents other politic option which influences the regional policies. The effective implementation of a regional policy asks for a very good coordination procedure.

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Table no 1: The evolution of the European regional policy

Year	The instrument of the regional policy	The objectives achieved
1957	The adoption of the Rome Treaty	The decrease in the regional disparities and the support for the less developed regions from the six Member States: Belgium, France, Germany, Italy, Luxembourg and Netherlands.
1958	The implementation of the European Social Fund (ESF)	The optimisation of the common social policy, using the unemployment reconversion and the improvement of labour market mechanisms.
960	The effective implementation of the European Social Fund (ESF)	The achievement of the common social policy objectives in the Member States.
962	The creation of the European Fund for Orientation and Agriculture Guarantee, (FEOGA)	The finance of the Common Agricultural Policy (CAP), the development of the rural regions, the optimisation of the surfaces and of the vegetal and animal outputs
975	The creation of the European Regional Development Fund (ERDF)	The elimination of the regional disparities using the contributions of the Member States to the common budget. These contributions support the co-finance of the productive and infrastructure investments in order to ensure a sustainable development.
985	The implementation of the Mediterranean Integrate Program	The support for the development of the poorest regions from Greece and Italy. France benefited from the same fund as a compensation for its positive vote for the enlargements from 1981 and 1986. The regional problems increased after the Greece (1981), Spain and Portugal (1986) adhering to the E.U. Practically, there were two Member States categories: the developed Member States (the founder states, excepting Italy) and the Member States which had a development lower than the European average (the states which adhered in 1981 and 1986).
986	The adoption of the Single European Act	The achieving of the socio-economic cohesion by the decrease in the regional disparities in the latest Member States and by supporting their integration on the Single European Market.
988	The transformation of the existing Solidarity Funds into Structural	The elimination of the regional disparities across the E.U. by growing the financial support from the common budget and by the reorganisation of

	Funds and the growth of their weigh into the common budget (The European Council in Brussels)	the function of these funds.
989	The creation of the PHARE	The financial assistance for Poland and Hungary in order to support the socio-economic reforms in these countries and to put them into practice in the market economy.
993	The ratification of the E.U. Treaty The creation of the Cohesion Fund	The new European Treaty focused on three fundamental objectives: the Single Market, the Economic and Monetary Union (EMU) and the socio-economic cohesion under a sustainable regional development. The Cohesion Fund financed the infrastructure and environment projects in the less developed Member States (Greece, Spain, Portugal and Ireland).
994	The creation of the Financial Instrument for Fisheries Guidance (FIFG)	The development and the support for fishery and pisciculture in the Member States. The common fishery policy became necessary because almost all Member States wanted a revitalisation of this sector and a new repartition of the fishing quotes. Moreover, there was the certitude that Finland and Sweden would adhere in 1995 and these two states had important fishery sectors.
995	The implementation of the Committee of the Regions	It is a consultative organism which was initiated by the Maastricht Treaty, in order to give opinions and to support the European Commission in its actions connected to the regional development.
997	The ratification of the Amsterdam Treaty The implementation of the European Investment Fund (EIF) The reorganization of	This treaty confirms the importance of the socio-economic cohesion policy and of the decrease in the standard life disparities between the European regions. It accentuates the need for a corroborated action in order to decrease the unemployment and emphasises the obligation to use adequate policies in order to decrease the social and economic disequilibrium. EIF covers the environment and infrastructure development programs in the Member States which are financed by the European Investment Bank (EIB).

	the Cohesion Fund	The Cohesion Fund had, as its main objective, the financial support for the Member States in order to achieve the convergence criteria established at Maastricht.
999	The reform of the Structural Funds (the European Council from Berlin)	The reform was focused on the growth of the common assistance using these funds, on the simplification and decentralisation of their management. The new element of this reform was the completion of the PHARE programme with other two pre-adhering instruments – SPI (the Structural Pre-adhering Instrument) and SPARD (the Special Program for Agriculture and Rural Development), which promote the economic and social development of the candidate countries from Central and Eastern Europe.
000	The revision of the PHARE content	The extension of the PHARE application to all candidate countries.
002	The creation of a Solidarity Instrument for the Member States from Central Europe	This instrument has to become active under the major natural disasters which have powerful effects on the life conditions, the environment and the economy in the affected regions. It was created in order to attenuate the effects of the great flooding from Central Europe in 2002.
005	The adoption of the common development strategy (the European Council in Lisbon)	This strategy has, as main instrument, the cohesion policy and it operates on the efficiency and output growth using the knowledge, the innovation and the human capital development.

Table no 2: The principles of the Structural Funds

Principle	Content	Characteristics
1.concentration	It is the director principle of the reform, even if it is not explicit nowadays.	During 1994-1999, the operational principles were: partnership, programming and internal coherence (or the external coherence) and concentration. Under Agenda 2000, these principles became: programming, partnership, additionally and the monitoring, control and evaluation.
2. programming	It is connected to the multiannual	The programming has two steps: - the substantiation of the national

	development plan preparation, which is guided by the partnership between the Member States which was realised in successive steps.	development and conversion plans, based on national and regional priorities, which contain: the detailed description of the present situation in a specific region/country, the description of the adequate strategy for the achieving of the specific objectives and the specification of the Structural Funds' form and contribution. These plans have to be approved by the European Commission; - the presentation of the Framework Documents for Community Support by the Member States. Then, they are translated into the Operational Programs (OP) and the Unique Programming Documents (UPD).
3. partnership	The cooperation between the European Commission and the national, regional and local authorities in order to elaborate and to approve the development plans and their implementation and monitoring.	This principle points out the decentralisation degree which characterises the regional policy and its subsidiary applicability.
4. additionality	The complement of the community assistance using the national finance.	The European Funds don't replace the national funds in order to develop a specific sector. They must complete the national funds.
5. monitoring, evaluation and control	They represent the new element brought by the reform of the Structural Funds in 1999.	The Member States have administrative attributions and have to designate the national authority which has to correspond to every Structural Fund and the monitoring committees. The responsibility of the national authorities covers the implementation, the correct administration and the efficiency of every program: the collection of the statistic and financial information, the preparation and the

		transmission of the reports to the European Commission, the organisation of the intermediary evaluations. The monitoring committees are led by a representative of the national implementation authority and ensure the quality and the efficiency of the structural measures implementation.

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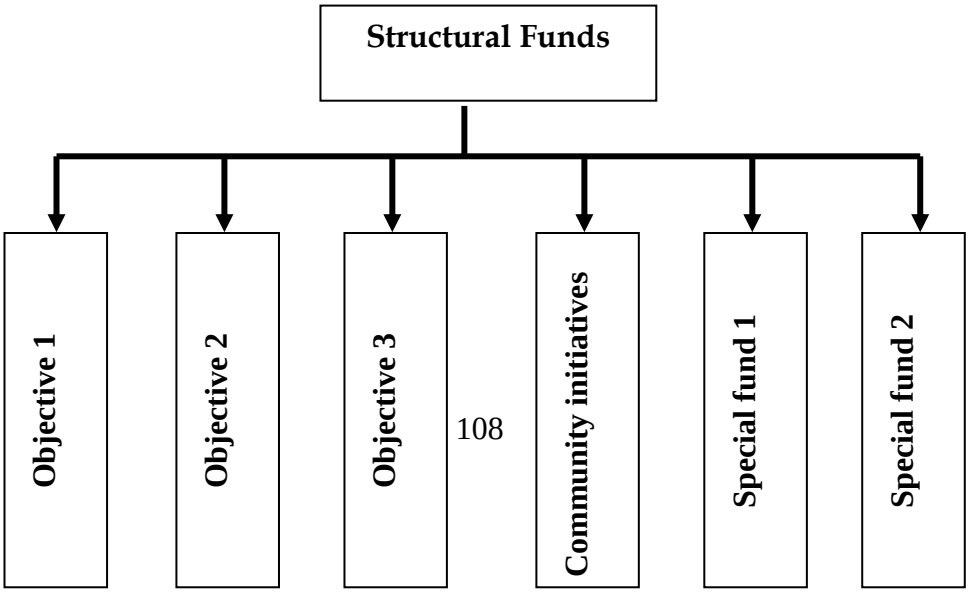

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Galati University Press, ISSN 2065 -1759

Figure no. 1: The destinations of the Structural Funds during 2007-2013

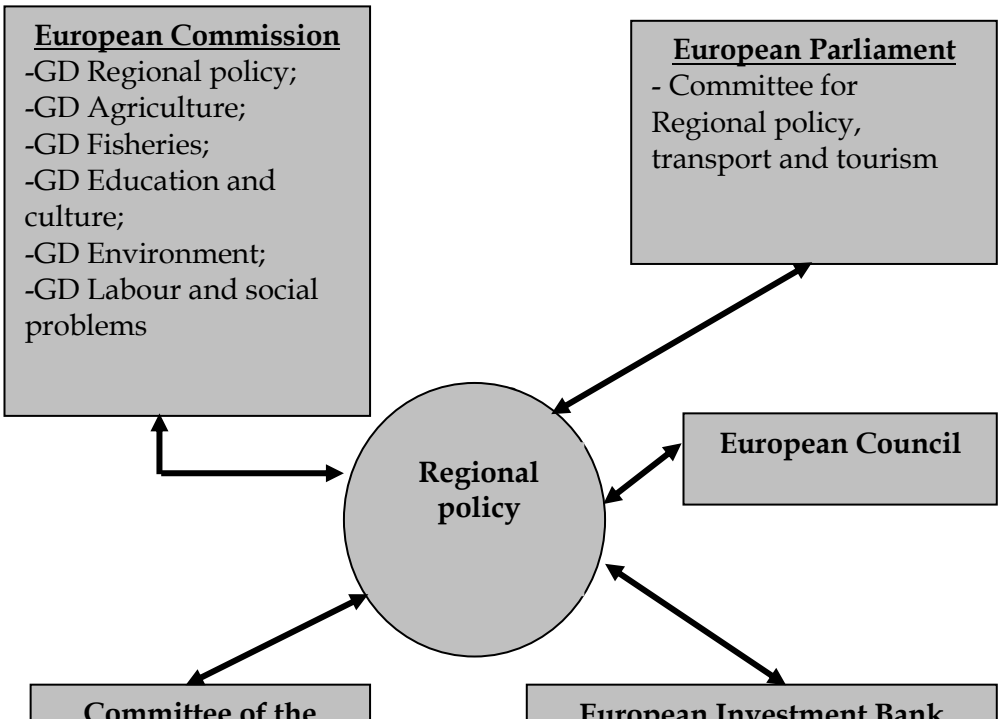

Figure no. 2: The actors of the European regional policy

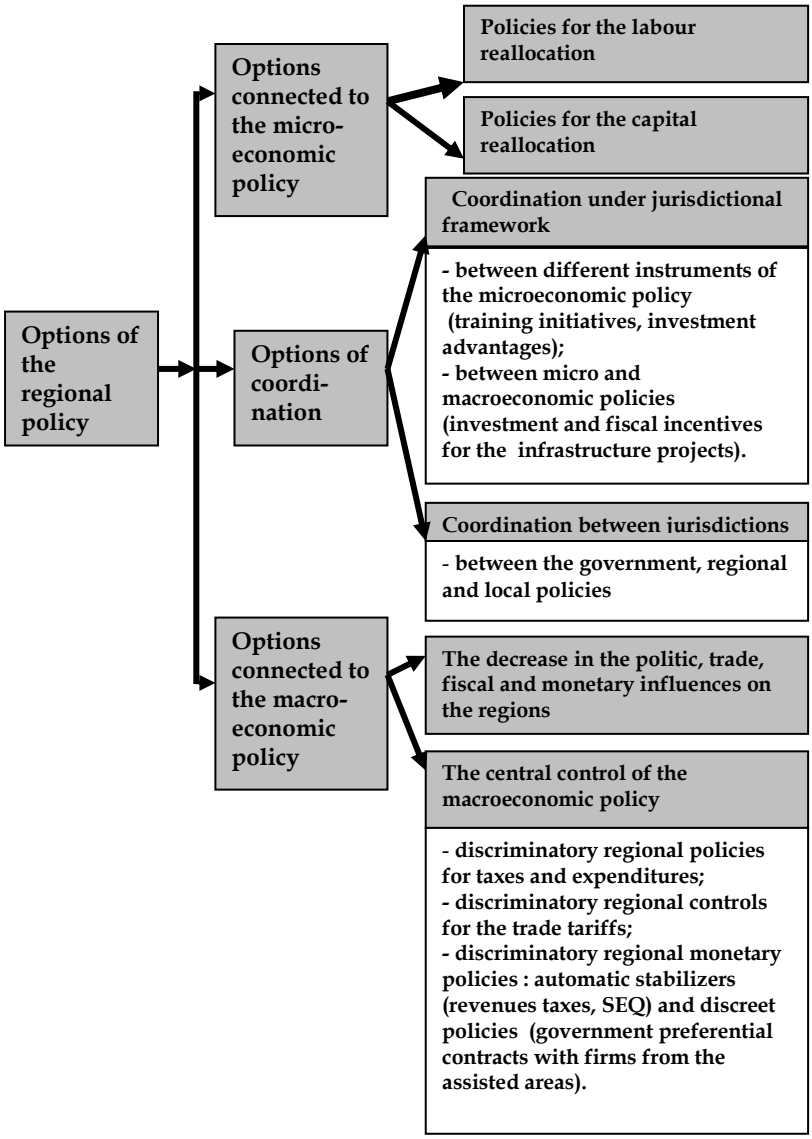

Figure no. 3: The options of the regional policy

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

LEGAL SYSTEM OF INDIVIDUAL ENTERPRISE

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Abstract

The Governmental Emergency Ordinance no. 44/2008 regulates the economic activities developed by the authorized natural persons, the individual enterprises and family enterprises.

The present study wants to present the modifications brought to the legal system of the trader as natural person by the OUG 44/2008, by creating the legal institution of the individual enterprise.

A special attention will be given to the comparison between the legal status of individual enterprise and the status of trade fund (sect. 2), comparison with the unipersonal SRL (sect. 3) and the legal status of the authorized natural person (sect. 4.) We will also present the accounting obligations and due taxation/duties.

1. The owner entrepreneur of an individual enterprise

Starting from the legal provisions in force, respectively art. 4 letter b of OUG no. 44/2008, according to which a natural person can develop an economic activity "as owner entrepreneur of an individual enterprise" and of art. 2 letter g of the same normative act, according to which the individual enterprise should be understood as "economic enterprise, without legal entity, organized by a natural person entrepreneur", we can discuss the situation according to which the practice situation we follow would correspond to this institution and by which it is different from the existent legal institutions.

2. The owner entrepreneur of an individual enterprise versus the trade fund

The trade fund represents the legal universality **in fact** constituted from the totality of fixed assets, the tangible and intangible assets which a trader uses in exercising its activities.

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By this formulation we understand that the trade fund does not have legal personality (except patrimony, which is constituted by the totality of rights and obligations of a law subject and is a legal universality **in fact**) and can not be legally protected, unlike the regulation of French law.

If until the OUG 44/2008 the Romanian regulation in the matter of the trade fund, adopted the theory of the French doctrines, according to which the trade fund is a universality in fact and each element will maintain its own individuality (marks, export authorization, labour agreements and all tangible fixed assets), being able to transmit separately the trade fund, we consider that after the regulation of OUG 44/2008 will be brought a new conception.

Starting from the theory of patrimony of affectation, we assist to the concentration of assets into a different trade patrimony, represented by trade law.

Of legal protections benefits the debtor – trader who can invoke the existence of a civil patrimony ("nest egg", constituted with the assets which are not used in trade activity) and a different trade patrimony, respectively the trade fund / individual enterprise.

This explication is argued by art. 26 of OUG 44/2008, which institutes the liability of the owner for the individual enterprise with the patrimony of affectation, in case this was instituted and with the entire patrimony, in addition. The formula chosen by lawgiver is perfectible.

From the interpretation of art. 26 we can conclude that the natural person could be liable with the entire fortune. If that is so, why would chose for a person this legal status, when there is already the one of authorized natural person?

On the other side, because the covering of the trade fund from the ideological definition present at the beginning of the present section and the notion of patrimony of affectation, we consider that we assist to a notional juxtaposition between the individual enterprise and the trade fund, where we can induce the notion of employed labour force.

3. The individual enterprise versus unipersonal– SRL

According to art. 3, paragraph 3 of Law 31/1990 regarding trade companies, the associates of a SRL answer only until the concurrence of the registered equity. In case of incorporation through the act of will of one single person it is concluded as Articles of Association as Status. (art. 5 paragraph 2).

Corroborating these provisions with those contained in art. 1 paragraph 2 and namely that the trade companies with headquarter in Romania are Romanian legal persons, we can see that a first advantage in choosing a unipersonal SRL is that of self legal entity, which the individual enterprise doesn't have. Even if the associate is a natural person, the person who concludes the agreements, assuming his rights and obligations and who has the capacity of employer, of contributor, etc. is the unipersonal SRL, meaning the legal person.

Having an equity capital, the unipersonal SRL can decide its putting-up to increase the credibility of the thirds and to develop the business range, meaning the profit.

The accountant registration of the SRL will be developed in "double batch", each trade operation having a double registration, while for the individual enterprise the accountancy will be realized in "simple batch" (according to Accounting Act no. 82/1991). Therefore the accounting registration of the unipersonal SRL is more rigorous.

An advantage which cannot be ignored by the entrepreneur is the taxation one. The unipersonal SRL benefits taxation facilities and from exemptions, the individual enterprise not having these benefits (assessment income, deductions, etc.).

Also, the legal system is favorable for the unipersonal SRL regarding the issuance to thirds. The assignment of the shares is allowed at any moment, on the duration of the trade company (for example, by transformation of unipersonal SRL in pluripersonal), while in case of individual enterprise any assignation of rights and obligations would have the form of an assignment with universal title between alive people, forbidden under the conditions of Romanian Civil Code.

Of course, the patrimony can not be transferred "mortis causa" in case of the individual enterprise, but this modality of transfer is allowed for the unipersonal SRL as well.

According to OUG 44/2008, the heritors of the natural person entrepreneur, owner of an individual enterprise can carry on with the enterprise in case of death of the owner, if they manifest their will accordinaly by an authentic declaration, in term of 6 months after the succession has been opened. If there are many heritors it can be chosen the continuation of the activities under the form of a family enterprise (acc. to art. 27).

From the perspective of the capacity as employer, both the unipersonal SRL and the individual enterprise can conclude labour contracts, but the owner of the obligation of the payment of the assessment

of the incomes resulted from salaries is in the first case the legal person (SRL) and in the second case the entrepreneur owner of the enterprise.

Regarding the insolvency procedure regulated by Law 85/2006, in case of individual enterprise it is applied the simplified procedure, the for debtor being liable with the patrimony of affectation or with the entire patrimony (acc. Art. 26 of OUG 44/2008). Again, the situation of the SRL is more profitable, the liability of the debtor – trade company being limited to its patrimony and not of the sole associate.

4. The individual enterprise versus authorized natural person (P.F.A.)

The difference between these two institutions results form the possibility / impossibility of employing remunerated personnel.

Pursuant to art. 17 of OUG 44/20098, the PFA can not hire with labour agreement thirds for the activity for which it is authorized.

This provision has to be corroborated, on one side, with the definition of PFA, as person who develops an activity using primarily its labour force (acc. To art 2, letter i) with the provisions of art 16, according to which the PFA can collaborate, in its activity for which it was authorized, with natural and legal persons, but with art. 17 paragraph 2, according to which the PFA can cumulate this capacity with the one of employee of a third person.

On the other side, the PFA is assured in the public system of pensions, benefiting from rights of social insurance and the right to be assured in the system of the social insurances for health, unemployment, meaning that it fulfills the conditions of a self employee, how it was regulated by Law 300/2004, currently abrogated by OUG 44/2008.

If the entrepreneur owner of an individual enterprise, like the PFA, can be employee of a third person, along with the status of self employee (name which the OUG 44/2004 does not use anymore) we observe that the rest of the provisions of OUG 44/2008 makes the difference between the individual enterprise and PFA.

Therefore, the entrepreneur, owner of an individual enterprise can hire third persons with individual labor agreement (art. 24).

An article which should be specially analyzed is art. 19 paragraph 1 of OUG 44/2008, according to which the PFA can not cumulate also the quality of a natural person entrepreneur, owner of an individual enterprise.

The arguments that can support this regulation are believed to be:

- on one side, the fact that the lawgiver makes differences between the legal system of the both institutions;
- on the other side, the fact that, during the liability, it can not be guarantee with the same patrimony for two different activities.

We consider that it is interesting to further analyse the provisions, in the context of art. 23, according to which the entrepreneur, owner of an individual enterprise, is **a natural trade person from the date of registration in the Trade Register**.

Using the extensive interpretation of OUG 44/2008 it seems that at least two conclusions can be formulated:

- if the PFA cannot be the owner of an individual enterprise, the conversion is valid; the entrepreneur, owner of an individual enterprise is PFA;
- while the individual enterprise aims always the activity of a trader, the PFA can be also a non-trader, because, pursuant to art. 20 paragraph 2, the creditors execute their claims according to common law, case when the PFA does not have the capacity of a trader.

The gradation of these conclusions is obligatory and brings a restrictive interpretation of the text of OUG 44/2008.

Therefore, if the provision regarding the validity of the conversion is allowed because the owner of an individual enterprise benefits thus from the status (above the rights) conferred by PFA, regarding the moment of attaining the capacity of trader, supplementary specifications are necessary.

It is not about the trader's capacity as a natural person, because in this meaning the solution was consacrated by the Romanian doctrine previously in the OUG 44/2008 and remained valid until nowadays. The registration at the Trade Register has a declarative effect for the natural trader person, and not constitutive, like in the German law.

The second conclusion is that the extension of the PFA notion, outside the sphere of trade law is not possible because:

- the economic activity itself formulated in art. 2 of OUG 44/2008 refers to the risk of entrepreneur, as risk correspondent to the trading activities;
- the regulation of the patrimony of affectation (art. 2 letter j and art. 20 and 26) allows the balancing between the civil and commercial patrimony both for PFA and the individual enterprise;
- the OUG 44/2008 abrogates the provisions of Law 300/2004 which regulates the trading activity developed previously both individually and under the form of family associations.

5. Accountancy and taxation issues for the family enterprise activity

The first advantage which reaches our attention is the simplified procedure of registration and authorization of this form of development of the trading activity, and also the reduced number of requested documents. Therefore, the documentation for the individual enterprise is made up of;

A. The registration application – original

B. The proof of verification of the availability and reservation of the mark (original);

C. The identity card or the passport of the owners of the individual enterprise (holograph photocopy certified by the owner regarding the conformity to the original);

D. Documents that certify the use rights over the professional headquarter / working points (certified copy);

E. The signature specimen of the entrepreneur natural person owner of the individual enterprise (original);

F. Form declaration on its own responsibility which certifies the fulfillment of the legal conditions for functioning, provisioned by the special legislation of the sanitary, sanitary-veterinary, environment protection and labour safety fields;

G. By case:

6.specification from which results that the owner of the property right understands to influence the use of the space in order to settle the professional headquarter of the individual enterprise;

7.proving documents for the patrimony of affectation (declaration of good standing);

8.documents that certify the professional experience (holograph certified copies);

9.documents that certify the professional experience (holograph certified copies);

H. In case of the natural persons who develop economic authorized activities acknowledged in a member state of EU or of the European Economic Space, the documentation which certifies their legal functioning, obtained in the other state (photocopy or translation in Romanian language holography certified)

I. The proofs regarding the payment of the legal taxes / charges: register taxes.

Also, the applied taxation system for individual enterprises is more advantageous from the taxation perspective. Hence, based on the specific of

the developed activity, it is possible to choose the normal tax on income (b) or for taxation in real system (a). In addition, the income realized as a result of the development of an economic activity can be directly found in the patrimony of the owner of the enterprise, so a possible taxation similar to the taxation on dividends from the trading companies is excluded.

Like the authorized natural person, the owner of the individual enterprise can choose, as it was mentioned above, between the taxation of the real income (a) and the taxation based on the income norms (b).

a) The member of the family enterprise charged on the real income (calculated as difference between the gross income and the deductible expenses) has to estimate the incomes and expenses of the year and to pay the taxes in advance.

The payment of the taxation will be realized based on the declaration submitted to the financial administration (in term of 15 days or until January 31 included, for those who developed activities for the precedent year also). Based on the declaration submitted, it will be issued a fiscal decision through which will be settled the payments in advance and the payment terms. By rule, the payment will be realized quarterly, respectively on March 15, June 15, September 15 and December 15. At the end of the year will be realized an accountancy, after the submission of the declaration on the realized income, so the contributors have to pay or to recover amounts from the state.

b) For a person to choose the taxation on income norms is necessary that the aimed activity to be found on the list published by the Ministry of Economy and Finances for this purpose. In this case, the contributor does not have to keep any accountant register, and he is not forced to keep the accountancy in the simple batch (it is noticed here a contradiction between the Taxation Code and OUG 44/2008). In this case, the tax will be paid quarterly (the payment will be realized by applying the 16% contingent for the fixed amount settled by the local authorities, no matter the real income obtained by the contributor).

If the activity is developed for a period shorter than the calendar year, the income norm will be calculated based on the correspondent period of time.

Like in the case of the real income it will be submitted a declaration on income, based on which it will be calculated how much the contributor has to pay or what he has to receive.

The owner of the individual enterprise can choose between the quality of VAT payer or not. If he doesn't want to register as VAT payer it has to be known the turnover which does not have to exceed 35.000 Euros.

In case he chooses the quality of VAT payer, he has to submit the VAT declaration to the fiscal authorities from the locality where he has the professional headquarter, but he has the advantages of deductions and reimbursements of VAT.

The accounting registration is again favorable for the individual enterprise. Therefore, according to the legislation in force, this form of organization keeps the accountancy in simple batch. This means that it is not necessary the leading of the accounting activity by a specialist, meaning an accountant / expert accountant, this thing being able to be executed by the trader. The accounting registration can be kept through the agency if a register of collections and the cash payments and by banking transfer, chronologically. The inventory register is used and the enterprise in case purchased inventory goods, registering them also chronologically.

The lower costs of the registration and of the development activity are not negligible.

Also, as an advantage, there is the possibility to extend the business by employment of thirds, who would develop an authorized activity, for which will have to pay the tax on salaries.

Regarding the method of termination of the activity, if the entrepreneur wants, this thing can be realized by simple obliteration from the Trade Register, the shortest procedure with lower costs, while a trading company is obliterated at the associates' initiative only by realizing the dissolution procedure.

From the list of advantages, we remember the fact that for developing the proposed activity is necessary that the owner of the individual enterprise should have a qualification in the respective field, qualification which has to be proved with a study document or the degree of qualification.

The owner of the individual enterprise is liable for thirds both for the patrimony of affectation (if it was incorporated) and, in addition, for the owned patrimony in case the first one is not enough. The individual enterprise does not have legal character, this thing explaining the personal responsibility of the owner of the individual enterprise.

6. Conclusions

The entrepreneur is a natural person who organizes an economic enterprise where an economic activity is developed, organized, permanently and systematically, combining the financial resources, the

labour force, the row materials, the logistic means and the data, at the risk of entrepreneur; in this context, the notion of individual enterprise can be understood as economic enterprise, without legal character, organized by a natural person authorized to develop any form of economic activity allowed by law, using mainly its labour force.

The necessities of limitation of the natural person entrepreneur by the other categories of persons who perform trading activities (facts) result from at least three regulations namely:

10. the Romanian Penal Code, according to which "there are traders those who develop trading activities, having the trade as a normal profession and the trading companies" (art. 7), from which we can conclude the dichotomy natural trader/ legal trader;

11. Law no. 26/1990, with the ulterior modifications and amendments, regarding the Trade Register, according to which "the traders are natural persons and the family associations who develop normally trading acts, trading companies, national companies and societies, the autonomous departments, the groups of economic interest with trading character, the European groups of economic interest and the cooperator organizations" (art. 1 paragraph 2), from which we can distinguish, on one side, the natural trader person, and on the other side the trading entities with / without legal character;

12. the emergency Ordinance no. 44/2008, regarding the development of economic activities by the authorized natural persons, the individual enterprises and the family enterprises, according to which, the natural persons can develop economic activities in Romania in the following cases: "a) individually and independently, as authorized natural persons; b) as entrepreneurs, owners of an individual enterprise; c) as members of a family enterprise" art. 4; we distinguish therefore the entrepreneur natural person who develops the activities by himself, as an authorized person or as the owner of an individual enterprise (entity organized by an entrepreneur natural person, without legal character) and finally, as member of a family enterprise.

Because the natural person will choose the legal form which will comply with its particular conditions and with the taxation conditions which it aims at, the practice will prove in time the utility of the newly created legal institution, namely, the individual enterprise.

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

CONSOLIDATION OF FISCAL DECENTRALIZATION AND FINANCING OF LOCAL AUTHORITIES

1. Decentralization and local autonomy
2. Local democratic governance
3. Financial decentralization
4. Strengthening of mobilization and predictability of local governments' resources

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Abstract

The economical and social dynamics of the EU member states demonstrated the fact that there permanently occur important movements with respect to the economical structure of regions. The structural changes, established by the real economical life, of market, rise problems regarding the regional and local development; integration strategies in the regional and trans-border development programs; economical re-conversion of regions and of the labor force, etc. In the case of Romania, being in transition and economical reform for more than 18 years, the dynamics of sector, regional area and local restructuring is much more stressed.

The recognition of predominant role of national and local governments, of the organizations of civil society and of the citizens at national and local level, regarding the administration of decentralization and local governance process, should be a disposition to which we have to tend.

This article welcomes the conclusions expressed by the Commission of Regions (see infra 7) for the coordination of actions and financial support, in favor of the decentralization and local governance process.

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PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

1. Decentralization and local autonomy

The regime of decentralization in the public administration is specific to the state of law and supposes the resolution of local problems by the locally elected authorities, which are not hierarchically subordinated to central authorities, under lawful conditions[1].

In accordance with the constitutionally certified normatives, in Romania, the decentralization concerns, therefore, at organizational and institutional level, the authorities of local public administration elected – the local councils, town halls and county councils, including the public institutions which are subordinated to them – and at functional level, the competences and attributions which are granted by law.

From the point of view of the form in which the two constitutional norms are expressed, it is obvious, on the one hand, that the text deals with, first, the principle of decentralization and then with the local autonomy and, on the other hand, together with the principles, it is also provided another principle – that of the de-concentration of public services.

The public administration of the administrative – territory units is based upon, is organized and operates in accordance with the principle of local autonomy, decentralization of public services, illegibility of local public administration authorities, legality and of the advisory of citizens in the resolution of local problems of special interest.

By local autonomy, it is understood the right and effective capacity of the local public administration to solve and administrate, on the account and in the interest of local groups, it represents, the public matters, under lawful conditions. This right is exercised by the local councils and mayors, as well as by the county councils, local public administration authorities, elected by equal, direct, secrete and freely expressed vote. The analysis of contents and of the comprising sphere of the local autonomy concept supposes the surprising of legal establishment of it, included in the clauses of the Law of local public administration[2].

There are distinguished three elements of local autonomy, which define at a logical level the contents of the concept: organization element, functional element and administrating elements.

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[1] Gaudemet, P.M., Molinier, J., Finances Publiques, Budget/Tresor, Tome 1, 6e edition, Ed. Montcherestien, Paris, 1992, p.201

[2] Law no 215/2001 of local public administration, published in Official Gazette no 204 from 23rd of April 2001, modified by Law 286/ 2006

The notion of decentralization has a large and a restrained sense. In a large sense, by decentralization it is understood any transfer of attributions from the central plan into the local plan, irrespective by the procedure used[1].In a restrained sense, the decentralization is connected of the procedure of its issuance.

An already analyzed procedure refers to the transfer of attributions to the administrative – territory units (territory decentralization). The second procedure of decentralization refers to the public service, when it is performed the detachment of public services from the central or local competence and it is granted the legal personality. This principle of decentralization on services was initially provided both by Law no. 15/1990, which organized the autonomous rules and trading companies which developed public services, and by Law no. 69/1991, regarding the local public administration.

Dealing with administrative organization, in the case of decentralized organization, the state does not assume by itself the charge of administration, but it divides it, in certain quotes, with other categories of persons, like the local groups. To the decentralized organization, it is specific the notion of local business, the local collectivities having the possibility to solve the problems that interest the citizens of community. The presence of public law legal persons, having an autonomous organization and chosen organs, is another characteristic of decentralized organization. The system of decentralization replaces the hierarchical power, which is specific to centralization, with the legal administrative control.

2. Local democratic governance

By local democratic Governance, we understand the process of taking the decisions regarding the public policies and of putting into operation these policies, which encourage the participation, together with local governments (chosen in the context of decentralization), of all the interested parties in a territory (village, civil society, private sector). This process consolidates the responsibility towards citizens and receptivity to the social exigencies, for general interest[2].

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[1] Dana Apostol Tofan, Administrative law, vol. I, Publishing house All Beck, Bucharest, 2003

[2] Taken-up from the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European

The democratic, local governance and decentralization constitute a favorable frame to the fight against poorness and injustices, which allows the fulfillment of the Millennium Development Objectives, and observance of the human rights.

The local democratic governance, by implication of all interested actors in the issuance, putting into work and evaluation of local policies, encourages a receptive development to rights and exigencies of population, especially of the most vulnerable groups.

The local authorities chosen to play the role of catalyze agents of the local governance and of the local development, in the virtue of their democratic legitimacy, of their proximity of citizens and of their capacity to mobilize the local actors. In the context of decentralization policies and in accordance with the principle of subsidiarity, it is important to consolidate the local self-government by putting to the disposition of local authorities the competences of necessary resources.

There is no important aspect of the development that could be approached unilaterally. The interaction between territorial levels (sub-national, national and global) is essential for assuring the cohesion of the public politics.

The politics of decentralization and of local democratic governance constitute parts of the state institutional frame; they bring their contribution at its reformation and legitimate consolidation of public actions[1].

According to the conclusions enounced by the Regions Committee[2], it is considered that the democratic governance constitutes the basis for accomplishment of the development objectives of the millennium and it must be applied to it an ample approach, and a better governance represents the key of a successful development politic. The key element of good governance is the recognition that the best decisions are taken at the level of the closest citizen.

Also, the governance supposes, for all the power levels of one country, ways of government inspired by the principles of transparency, public participation and respect of subsidiary.

Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}.

[1] Idem

[2] The Approval of the Regions' Committee regarding the governance from the European consensus regarding development (2007/C 197/09) – JOUE C 197/52

The Regions Committee draws the attention over the financial support that the governance deserves at local level: the maximum percentage of 15% budgetary allowance which, according to The 10th financial Regulation of the Development European Fund, may be reserved for supporting the civil society, technical cooperation and governance (if this is not granted for the main concentration departments) is obviously considered to be insufficient; this level should be incremented to at least 25% in order to cover both local and national dimensions[1]. The situation on certain indicators may be analyzed also based on Graphics 1 and 2.

According to the objectives of Cooperation Agreement for development of decentralized cooperation, the European Commission must give technical and financial support and to collaborate with the Committee for the implementation of a scholarship of decentralized cooperation, in order to ease and to coordinate in a more efficient manner the development of a decentralized cooperation actions, performed by EU local and regional authorities and their homologues from the development states.

3. Financial decentralization

The financial autonomy of the sub-governmental levels may be analyzed by reporting it to several of its essential elements: the possibility to constitute and collect local taxes and rate; the possibility to assume the local public expenses; the possibility to appeal to public loan in order to obtain supplementary financial sources[2] .

From the total of fiscal incomes retrievable in each state of the European Union, there is a different quantum of the resources allocated to the sub-governmental levels.

Though ten years ago Germany allocated 32.5 % from the total of incomes to local communities, France 45.5% and the other member states were receiving more then a half from the incomes (Ireland 83%), according to a recent study[3], nowadays, about 59% from the incomes are allocated to the central government, about 29% to social security institutions and organizations, 11% to local authorities and the rest of 1% to the institutions

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[1] It should be also seen the Decision of the Council regarding the financial contributions that must be paid by the member states, that contribute the European Fund of Development from Bruxelles, 8.10.2008 COM(2008) 624 final.

[2] It should be seen Douat, E., *Finances publiques*, Presses Universitaires de France, Paris, 1999, p.439

[3] Minea, M.St, Costas, C.F., *Law of public finances, volume 1, financial law*, Edition Wolters Kluwer, Bucharest, 2008, p. 205

of European Institutions. Thus, the following percentages are allocated to non-governmental structures: 1% in Greece, 16% in Italy, 17% in Latvia, 18% in Austria, 29% in Belgium and Germany, 31% in Spain and 32% in Denmark and Sweden.

According to the same study, in 2005 in Romania, about 54% from the fiscal incomes were allocated to central Government, 36% to social security organizations and the rest of 10% to local authorities.

The effect of the laws governing the local public administration area was felt more on the part of duty transfer, and less on the part of financial resources transfer.

A real reform of local administration cannot be resumed only to delegation of the liability to local authorities. Without a more serious approach of the fiscal decentralization sector, that must assure the financial resources needed for a performing decision of the administration, we cannot talk about reforms.

A developing community is a community that depends more and more on its own managed decisions and resources and less on external help.

If the decisions and management of the resources are not taken inside the community, this will become dependant of institutions and organizations controlled directly more or less by the community[1]. The institutions which are not controlled directly by the citizen are institutions less transparent, less efficient.

As result, the local community is the one that must administrate its resources, values and mechanisms. Though, it feels the need of the financial decentralization.

4. The strengthening of the mobilization and predictability of local governments resources

In order to respond to the important financial needs of local authorities, it is necessary to elaborate specific financial plans, adapted to their situations, for them to exercise their competencies assumed through the decentralization laws. There were identified as follows[2]:

[1] Gaudement, P.M., Molinier, J., *op.cit*, p. 201.

[2] Taken up from the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}

4.1 Strengthening of the mobilization and predictability of local governments resources:

I. Encouragement of durable mobilization of own resources by the local authorities, regarding the relevant services. The encouragement of the development and realization of a viable and flexible fiscal system, using different types of resources, applied to territorial specifications and the new economic realities, coherent with the national fiscal system;

II. Consolidation of the capacity of local governments to negotiate external resources: development projects, involvment in area programs and access to financial market.

Within the elaboration of local budget, integration of the project supporting provisions offered by all the development partners.

III. Contributing for assuring the financial transfer mechanisms from the state to sub-national governments, in a regular, transparent and predictable manner and supporting the equalizing manners that have the purpose to strength the balance and solidarity between territories.

4.2 Consolidation of local financial governance in order to ensure a higher transparency regarding the managing of local resources.

I. Supporting the capacities of local governments in order to establish the expenses of priorities, based on information and dialogue between the local performers.

II. Consolidation of a transparent mechanism regarding the methods of payment for the commitments and expenses by local authorities; they must establish some accounting systems and develop the competencies of a qualified personnel.

The European partners for development have to harmonize and to coordinate the interventions, respecting the specificity of the instrument of each performer.

They involve the local authorities from the partner states in each stage of the support process for local development (elaboration, planning, supervising and evaluation). The purpose is to ensure the coherency between their ordinary methods of intervention and the national strategies and systems, and also with the budgetary and programming capacity of the

local authorities involved. The European partners commit themselves to perform the followings[1]:

I. to straighten the cooperation actions in order to support the local governance and the decentralization;

II. if the judicial frame permits this, they will encourage durable partnerships between the European local authorities and the south local authorities, and also between the local authorities from the south area. This method may bring forward the changes and the development of capacities in the domain of local governance. To encourage the partnerships for cooperation between local authorities from more European member states, in order to intensify the partition of resources;

III. to encourage the sensitization and training of the public on themes regarding the development.

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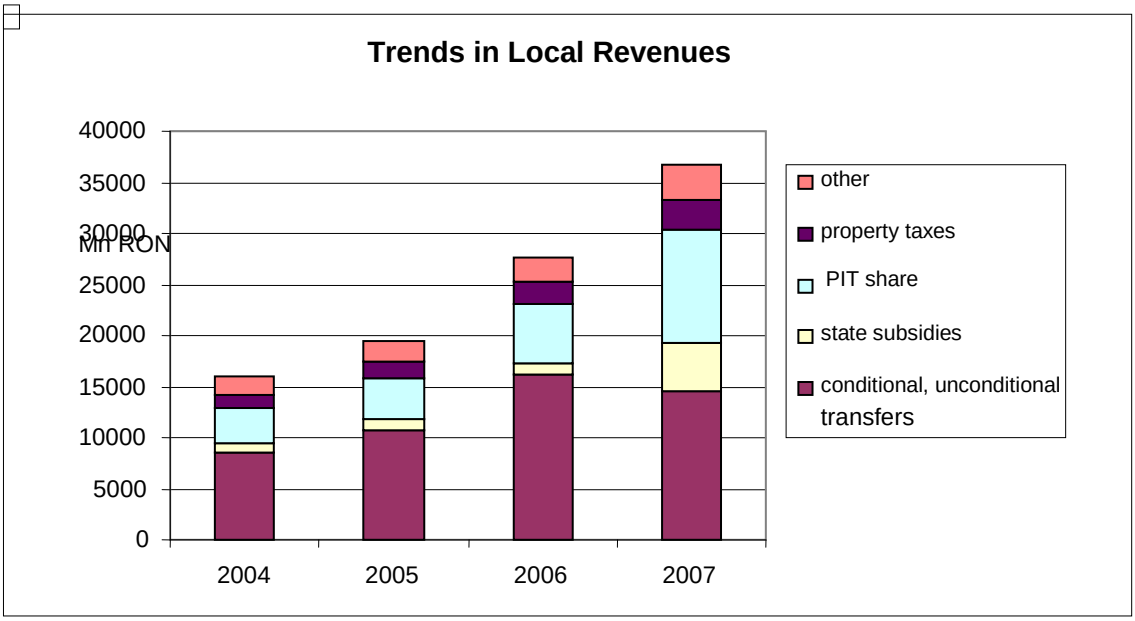
xxx the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}.

xxx The Approval of the Regions' Committee regarding the governance from the European consensus regarding development (2007/C 197/09) – JOUE C 197/52

xxx Law no 215/2001 of local public administration, published in Official Gazette no 204 from 23rd of April 2001, modified by Law 286/ 2006.

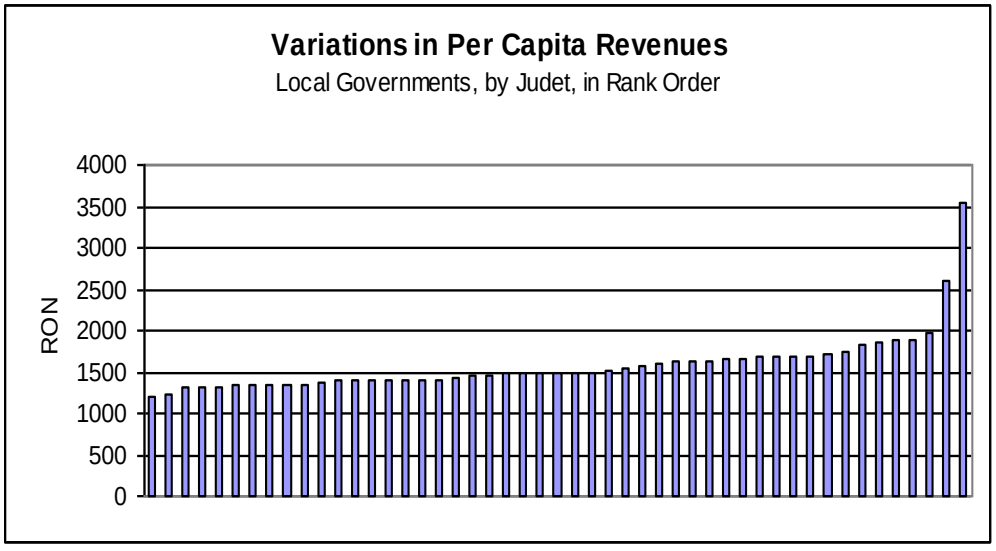
[1] Taken up from the Commission of the European Communities – *Accompanying document*, Communication of the commission toward the Council, European Parliament, European Economic and Social Committee and the Regions' Committee: *Local authorities: performers for development* - {COM(2008) 626 final}

Chart 1



Source: Intrastat, 2008

Chart 2



Source: Intrastat, 2008

PUBLIC ADMINISTRATION & REGIONAL STUDIES
2nd Year, No. 1 – 2009
Galati University Press, ISSN 2065 -1759

EUROPEAN UNION COMMUNICATION STRATEGIES

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1. Communication – a means of closing the gap between EU and its citizens
2. Communication strategies – evolution
3. The Action Plan for Communication
4. Plan D for Democracy, Dialogue, Debate
5. The White Paper on Communication – towards a communication policy

The challenges that the European Union has to face today, especially the question of the democratic and information deficit, the consequences of the enlargement of the Union (with twelve S-E European states, in 2004, and 2007 respectively), the accelerated development and ever growing importance of media, to name but a few, generated serious debates that called attention to a less known topic: communication strategies. The increasing interest of the European Union's institutions in communication is proved by a series of actions put into practice primarily by the Commission. These actions focus on communication as a means of 'closing the gap' between the citizens and the EU, trying hard to regain the citizens' trust and interest in its politics. The present paper aims at analyzing the evolution of the different tools of communication used by the EU with a view to point out that the complex issues the European institutions have to cope with caused them to reconsider and adjust the communication strategies up to the point of transforming it into a policy in itself together with other already consecrated policies of the EU.

At present, communication is closely linked with democracy, since one cannot speak of a real democracy when people have no say and do not take an active part in the decision-making process on problems that deeply concern them and affect their daily lives. The events taking place on the political stage in Europe brought communication under focus. The massive abstention in the European elections of 2004 and the negative vote to the European Constitution project in France and Netherlands in 2005 made the EU officials react. The Commission prepared and applied a program of consultation of European citizens whose main objective was to understand

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their opinions and needs and put them at the core of a new communication policy. Since its creation, the Commission included among its services the European common information service that became an integral part of its administration and it was organized as the Directorate General Communication (DG-Communication). The Commission has thus played from the beginning of its activity 'the roles of initiator, coordinator and manager of Community communication within the European institutional game, deploying its human and financial resource in the service of European politicians and their "partners" mainly the European Parliament'. (Aldrin & Utard 2008: 2)

There is no doubt that the events that affected the political life of the EU and the new tendencies and transformations in the domain of communication strategies can be better understood if we take a look back in time in order to trace the evolution of these strategies along the years. The process of elaboration and application of communication strategies was a complex one and it was set in motion by a series of administrative services whose main purpose was to ensure the necessary flow of information and the relations with the media. Today, the Commission has its own service of communication (if we may call it that way), the Directorate General Communication – DG-Communication and has appointed the vice-president of the Commission, Margaret Wallström, to take charge of the inter-institutional relations and communication strategy.

In the last four decades, the huge endeavor to build up a strong Europe gained new dimensions, changing in scale and nature. Slowly, but surely, communication has become 'a major stake' around which centers the major responsibility of battling abstention during European elections, the EU institutions in general, and the Commission particularly, struggling to bring the EU back to the attention of citizens.

The main actors of the Commission, the college of the commissioners and the senior European civil servants, who are Europe's mouthpieces, were very careful to insist on the importance they bestow to the information flow towards the citizens of the member countries. The growing importance of the communication in and outside EU, changed communication from a 'strategy' into a 'policy' which speaks of the importance it has gained over the years. From the beginning, the communication strategies of the Commission drew from the time-tested techniques of public relations and press relations (Aldrin & Utard, 2008: 4). It was created a mass communication system that was integrated into the package in the late 1980s. The priority was given to the increase of the access of the public to the EU institutions and their activities. In the 1950s,

press and information departments organized in Brussels sponsored the first opinion polls trying to establish the attitudes towards Europe of the citizens of the founding states. Back then, the Commission was interested in developing contacts within two areas: first, the media, and second the so-called 'return information', which consisted of media monitoring and opinion surveys. In time, these units developed, they 'grew up' together with the Commission.

The Single European Act (1986) marked an important stage in the evolution of the Commission's role in relation with the other EU institutions in the sense that it strengthened its influence within the institutional game. The rise in the power of the Commission had as a direct consequence the creation of an efficient 'communication machinery', for opinion studies, media monitoring and campaigns targeted at the general public. In the second half of the 1980's the Commission was the chief organizer or supporter of various events in the domain of sports (European Championships, European Sailing Championship etc.) and culture (the Brisbane Exhibition followed several years later by the Seville Exposition). In 1986, the Commission launched 'specific campaigns' and the years 1986, 1987, 1988 respectively were declared as European Year of Road Safety, Environment and the fight against Cancer. The EU communication actors began to develop more marketing-oriented strategies. (X) Thus in 1989, the Commissioner in charge of the Cultural and Audiovisual Affairs and of Information, gave the communication policy a new orientation by the Priority Information Program. Thus, the Direcorate General Information was able to establish 'information and communication guidelines among the various units concerned', resulting in a better 'coherence of resources' in important matters. The Commission also defined 'the most important and the most appropriate Community issues' and determined the use of resources 'depending on the member states and the targets' (European Commission, Priority Information Program 1989).

The Commission's interest in developing the relations with the media is proved by the numerous (almost one thousand) accredited journalists from all over the world, hosted by the Berlaymont Press Center, located in the headquarters of the Commission. The daily meetings of different representatives of the directorate-generals of the Commission with the journalists are referred to as 'midday rendezvous'. It is also common practice that the Commission invites, at its cost, journalists from the member countries to inform them about the activities of the EU institutions. In each country there is an official representation of the Commission. The Commission has been publishing informative literature

about the evolution and history of the European Union. The Commission's various programs are also made accessible to the public by the concerted action of such institutional partners as the Europe Houses, Chambers of Commerce, Europe Information Centre and public libraries which represent its official relay. In 1999, it was designed a website especially for the European Commission: http://ec.europa.eu/. The concept of this website was renewed in 2003 in order to respond better to the need of information on the part of the Europeans citizens. The Europa website offers easy access to a significant amount of legislative texts, reports, programs, organizational charts, EU annual activity reports. The portal has also interactive systems which offer the Europeans the possibility to directly contact the EU institutions in order to ask questions (the Euro Direct Telephone and electronic contact centre).

The Maastricht Treaty (1992) which was not ratified immediately by the member states (Denmark adopted only at a later date, while in France the treaty was adopted by a tiny margin) opened the way to a heated debate on the democratic deficit of the EU. It was for the first time that Europe was confronted with such an issue. It was within this context that the institutional actors of the EU were urged to act, to establish a series of measures meant to make their work more transparent. This goal was formulated by the inter-institutional declaration of October 1993 on democracy, transparency and subsidiarity.

In June 2001, the Commission established a new framework for cooperation on activities regarding the information and communication policy of the EU. Within this framework, all the other institutions and the member states were called to join the Commission in its efforts to elaborate the Union's information and communication policy. This new enterprise of the Commission pointed out the importance of the role of the member countries in the dissemination of information on EU matters. The next year (March 2002), it was the European Parliament that adopted a report demanding for improved EU information policies and the development of comprehensive communication strategies. Shortly after (July 2002), the Commission issued a communication on a new strategy for its information and communication policy, but, unfortunately, it did not change the tide of declining interest and support on the part of the citizens. The huge abstention during the European Parliament elections of 2004 did nothing but confirm the growing lack of interest in EU politics. But a greater shock was still to come in 2005. The unexpected problem occurred on 29 May 2005 and 1 June 2005 when the draft Constitution was rejected in referenda in France and Netherlands. This was a turning point for the EU

communication policy, because the necessity of direct and two way communication was (at last) acknowledged by EU leaders. Since then informing EU citizens about the politics, decisions and policies of the EU was considered simply not enough. The Union and its citizens needed dialogue in order to solve their problems, to smooth contradictions or conflicts and to make the system into a more democratic one by communication.

The first reaction came from the European Council on 18 June 2005 that opened the so-called 'period of reflection' before taking any other decision. The 'period of reflection' started by adopting a declaration by the heads of state and government. The European Council asked the Commission to play an active part in this respect.

The Commission responded by appointing a new commissioner for communication in the person of Margot Wallström, former environment commissioner. Margot Wallström began her activity as a commissioner for communication with a prolonged phase of consultation developed simultaneously on an internal and external plan. This consultation was called 'putting ears on the Commission'. The next step was made in July 2005 when Wallström presented the first Action Plan for Communication whose main objective was to modernize the communication practices of the commission.

The three main themes of the European Commission Action Plan for Communication presented on 20 July 2005 were: **Listen**, **Communicate**, **Go local**.

By '**Listen**' it is understood that the European citizens will be given the possibility to express their opinions and concerns and that the Commission will treat them with great attention. It ensures people that their voice will be heard in Europe and that they will take part in the democratic process of taking decisions.

'**Communicate**' means that people will be informed on the effects that the decisions taken by EU leaders affect their lives. The EU has to use 'understandable language' to present itself to its citizens. It can make them interested in following up European politics and development.

'**Go local**', the third purpose of the Action Plan, helps to connect citizens and the EU more closely by taking care of their local problems, informing them in the language they understand.

The Action Plan for Communication proposed fifty pragmatic actions aimed at improving its ability to communicate effectively to citizens (and voters). The communication commissioner Wallström planned a better use of the EU resources with:

- a better coordination and planning of the EU communication activities in order to avoid confusion and clashes between policies ;
- a human dimension or a face of the EU: the Commissioners are the 'human face' and main communicators of the Commission. As 'main communicators' they have to act also as 'the most effective communicators'. That is why they must become more and more involved, undertaking frequent study trips in the member states and welcoming visitors groups inside the Commission's building. The commissioners key-role in the domain of communication will improve the dialogue between the EU and its citizens;
- a much better use of the communication tools : an Editor for the Europa website will reform the portal, a TV channel was envisaged ;
- becoming more professional : more simple drafting of Commission proposals, internal training, hiring communication experts ;
- insisting on the role of the representations of the EU within member states to listen to people and communicate the Commission's policies.

On a political level, the pivotal and centralizing role of the Commission was thus significantly strengthened (see Aldrin & Utard, 2008: 20). The commissioners working at the level of the DG-Communication had to play the role of 'ambassadors' and 'spokespersons' with the media and public opinion. At the administrative level, the fight against the constant 'fragmentation of communication activities' (see The Action Plan for Communication, 2005) asked for a considerable reorganization of the communication machinery of the EU. This implied the professionalization of officials in charge of this policy, i.e., their access to specialized information and recruitment of communication specialists. Professionalization also required better coordination of the communication departments of the various DGs. It was therefore proposed that the DG-PRESS take full responsibility for coordination. It was re-named DG-COMM to 'take into account the global character of the new approach to communication' and 'assume the new responsibility' (see The Action Plan for Communication, 2005). This responsibility includes planning and assessment of the EU communication policy, in addition to its traditional roles of analyzing European public opinion and monitoring the media. Under the leadership of the Commissioner in charge of communication, the 'group of Commission members in charge of communication and programming' (see The Action Plan for Communication, 2005) defined common 'priorities' and 'agenda' for communication. Equally in connection with the development of a common message, 'all information

relays financed by the Commission were placed under a limited number of regulatory bodies, sometimes one or two, depending on the target audience, such as companies or the general public' (see The Action Plan for Communication, 2005).

Although of major importance in the evolution of the communication strategies towards a communication policy, the Action Plan for Communication leaves some questions unanswered. For instance:

- according to The Action Plan, 'the role of civil society and their active contribution to European dialogue and debate will be addressed'. But the word 'NGO' never appears neither in the Communication, nor in the Annex and is not allocated a role in the plan.
- The Action plan emphasizes the Commission's commitment to increase the democratic participation of European citizens, but fails to make any links to the role of European Parliament, which is actually directly elected by citizens.
- the 'Listen' and 'Go local' pillars of the strategy will rely mainly on the media which is not always balanced in its coverage of Europe. The Commission intends to listen to public opinion through surveys and by monitoring the media.

Following the activities and objectives stated by The Action Plan for Communication, the Commission initiated Plan D for Dialogue, Democracy and Debate on 13 October 2005. Its purpose was to encourage Member States to organize a broad debate in each member state involving citizens, civil societies, political partners, national parliaments and EU institutions. The main driving force of Plan D was 'listening better', 'explaining better' and 'going local' to engage citizens. Plan D started from the idea that many decisions had moved to the EU level, but the dialogue and debate had not followed suit. Today's common perception of national and European political scenes is that they are separate. Few people are aware that many 'national' political issues which affect their every day life (e.g. the price of agricultural products) or which relate to the great challenges of our times (e.g. climate change) are in fact dealt with at EU level. Few are aware of the crucial role their elected members of the European Parliament play in the EU decision-making process. Even fewer realize that their national government and parliament, the president of their region, their local mayor, trade unionists and employer representatives equally have an important role to play in steering the way for Europe. As a result, most people find it difficult to play an active role in the EU policy making process. This general feeling of lack of influence has possibly contributed to decreased voter turnouts in European election.

These are the main reasons why Plan D fostered a type of consultation on the future of Europe which was complementary to the stakeholder and general public consultations on specific policy proposals. Debate Europe wanted to promote closer cooperation between the EU institutions and greater synergy between existing Commission programs. This was meant to facilitate the emergence of a cross-border European public sphere.

In order to encourage the development of a European public sphere, Plan D sought to promote two-way dialogue, both face to face and virtual, between the EU institutions and the citizens of the Union. This approach proved to be particularly useful in opening up the discussion on the future of Europe following the French and Dutch "No" to the Treaty establishing a Constitution for Europe.

Alongside other programs managed by the Commission and other EU institutions and bodies, Plan D has played a key role in testing innovative ways in which civil society organizations could involve citizens from all walks of life in debates on the future of Europe, combining: 1) virtual and face to face communication, 2) deliberative consultation and polling, 3) country-level, cross-border and pan-European consultations.

Internet debates were conducted on the 'Debate Europe' web site. The Commission Representations and the Europe Direct centers were used intensively. Plan D visits by Members of the Commission played an important role in reaching out to national parliaments, civil society, business and union leaders, regional and local authorities in Member States. This confirmed the importance of personal contacts and of 'putting a human face' on the EU. In particular, civil society projects were co-funded by the Commission as part of Plan D. Citizens were chosen at random and met each other both nationwide and across borders. They were supplied with the relevant information (e.g. documentation on the issues to be debated, vetted by a representative panel of Members of the European Parliament) and with the means to overcome the language barrier so that they could use their mother tongue throughout the consultation process. As a result, they were in a position to engage in substantial discussions with decision-makers and make suggestions for the future of the EU. Overall, approximately 40 000 people took part in the six transnational Plan D projects in person and hundreds of thousands are estimated to have participated virtually via the Internet. The civil society organizations managing the projects served as multipliers and disseminated the views expressed by citizens through their political and media networks, at different stages of the projects.

The Plan D civil society projects showed that participatory democracy can usefully supplement representative democracy. They confirmed the feedback received from other types of citizens' programs, namely that consultation events offer participants both a human and a political experience. In December 2007, the Commission organized a concluding conference for the six Plan D citizens' projects. It was entitled 'The Future of Europe — The Citizens' Agenda'. For the first time, at a pan-European level, citizens who had taken part in a variety of transnational participatory democracy projects had a chance to communicate their views and wishes directly to decision-makers.

These citizens' projects proved that the development of participatory democracy on EU-related issues at local, regional, national and cross-border level is possible, both in terms of quality and logistics. In terms of substance, they showed that there was sometimes a gap between citizens' expectations and the actual domains of EU competence, for example in the field of social affairs, education and diplomacy/defense. By participating in the consultations, people became more familiar with the EU decision-making process. By the end of the process, they had a clearer view of how to challenge decision-makers and narrow the gap between policymakers and citizens in the future.

In its first phase, Plan D focused on the 'debate and dialogue' part of the process. The follow-up to Plan D will take this process one step further and focus on 'D for democracy', further enabling citizens to articulate their wishes directly to decision-makers and making better use of the media in the process. That is why the new phase will be named 'Debate Europe'.

The distinctive feature of the Debate Europe projects is their inter-institutional, political and media dimension — the results of the consultation events organized at regional, national and pan-European level will be an informed, public debate between citizens and decision-makers from member states and from all the EU institutions. The terms of reference of the Debate Europe calls for proposals guarantee that the projects selected take into account the Commission's overall political effort to support active European citizenship, in particular:

- the 'Europe for citizens' program, which promotes active European citizenship by providing support to a whole range of actors (local authorities, civil society, business and consumer organizations, citizens), so that they may act, debate, discuss and network together in a variety of ways, both traditional (town-twinning activities, civil society transnational projects) and innovative (e.g. citizens' panels);

- the European Year of Intercultural Dialogue in 2008, in which all the EU institutions/bodies are involved, and the European Year of Innovation and Creativity in 2009;
- the European political foundations and parties which are striving to raise citizens' awareness of the forthcoming European elections with Community support;
- the European Fund for the Integration of Third-Country Nationals. Integration of immigrants is a process in which close partnerships exist between different levels of government and non-governmental actors such as employers, unions, religious organizations, civil society, migrants' associations, the media and NGOs supporting migrants;
- the e-Participation Preparatory Action, which aims at increasing the involvement of citizens in the legislative and decision-making processes at EU level, using new technologies. A number of trials are already being implemented on new forms of interaction between citizens and the European Institutions.

The actual phase of the Debate Europe has begun in 2008 and continues in 2009. In the wake of the European elections Debate Europe aims to offer an operational framework for acting in partnership. Plan D was elaborated in order to organize a wide debate on EU policies and the decision-making process. However, it was much more ambitious than a series of debates over Europe in the member countries and on the internet. Moreover the Commission described it as 'a long term program aimed at revitalizing European democracy and contributing to the emergence of a European public sphere, within which citizens would receive the information and tools they needed to actively participate in the decision-making process and to appropriate the European Project' (Aldrin & Utard, 2008: 21).

The Commission put in place another piece of its 'communication puzzle' by adopting the document entitled White Paper on a European Communication Policy on 1 February 2006. The White Paper was published at the height of the crisis triggered in the spring of 2005 by the rejection of the Constitution project. In the Introduction of the White Paper it is stated that the EU has been transformed, 'but Europe's communication with its citizens has not kept pace. The gap between the European Union and its citizens is widely recognized. In Eurobarometer opinion polls carried out in recent years, many of the people interviewed say they know little about the EU and feel they have little say in its decision-making process. Communication is essential to a healthy democracy. It is a two way street'

(White Paper on Communication). The Commission's actions, materialized in the Action Plan and Plan D for Democracy, Dialogue and Debate, will be successful if more and more 'actors' will get involved in the communication policies. The White Paper insists on the fact that a partnership approach is essential. It asserts that 'success will depend on the involvement of all the key players – the other EU institutions and bodies; the national, regional and local authorities in the Member States; European political parties; civil society. The main purpose of this White Paper is to propose a way forward and to invite all these players to contribute their ideas on how best we can work together to close the gap. The result will be a forward-looking agenda for better communication to enhance the public debate in Europe' (White Paper on Communication).

The White Paper considers that the emergence of 'a public sphere' is of a major importance in order to bring the EU closer to its citizens. This public sphere within which political life takes place in Europe is largely a national sphere. To the extent that European issues appear on the agenda at all, they are seen by most citizens from a national perspective. The media remain largely national, partly due to language barriers; there are few meeting places where Europeans from different member states can get to know each other and address issues of common interest. Yet many of the policy decisions that affect daily life for people in the EU are taken at European level. 'People feel remote from these decisions, the decision-making process and EU institutions. There is a sense of alienation from 'Brussels', which partly mirrors the disenchantment with politics in general. One reason for this is the inadequate development of a 'European public sphere' where the debate can unfold' (White Paper on communication).

The document establishes five domains for action in partnership with other institutions, governments and civil society:

1. The first concern of the White Paper is to define common principles that lie at the heart of communication. These common principles are: the right to information and freedom of expression, inclusiveness, diversity, participation.

- The right to information is a fundamental human right and it has to starting point for all EU actions. To anchor the right of information in the EU and national institutions, it proposes developing a European Charter or Code of Conduct on Communication. A special website on Europa will invite reactions from citizens on this document.
- Inclusiveness – all citizens should have access in their own language to information about matters of public concern. This means that

information should be made widely available through a wide range of channels, including the mass media and new technologies such as the Internet.

- Diversity – European citizens come from very diverse social and cultural backgrounds and hold a wide variety of political views. EU communication policy must take into account the full range of views in the public debate.
- Participation – citizens should have a right to express their views, be heard and have the opportunity for dialogue with the decision-makers. At EU level, where there is an added risk that institutions are remote from the citizens, this principle is of particular importance.

2. to 'empower citizens' – any successful EU communication policy must centre on citizens' needs. It should therefore focus on providing the tools and facilities – the forums for debate and the channels of public communication – that will give as many people as possible access to information and the opportunity to make their voices heard. The work in this area has to be aimed at three main objectives:

- it proposes to provide tools and instruments to improve civic education (e.g. a network of teachers, digitally connected European libraries),
- connect people to each other (e.g. physical and virtual meeting places). Existing initiatives like *Plan D*, *Youth in Action* and *Culture* have shown how the EU can help set up new meeting places for civic debate.
- strengthen the relationship between citizens and institutions (e.g. minimum standards for consultation). Good two-way communication between the citizens and public institutions is essential in a healthy democracy. The present drive to make the EU institutions more responsive, open and accessible needs to continue to strengthen. The EU institutions are taking important steps forward in this respect. The European Parliament has championed transparency, and the Seville European Council agreed that the Council should meet in public when enacting EU legislation jointly with the European Parliament.

3. the White Paper wants to work better with the media and focus more on new technologies such as the internet, but does not manage to define exactly how. The idea of a special EU news agency (which was in previous versions of the White Paper) has disappeared in the final version but it still talks about "upgrading Europe by Satellite" and "to explore the desirability of having an inter-institutional service operating on the basis of professional standards";

4. understanding European public opinion better: a network of national experts in public opinion research and an independent Observatory for European Public Opinion are two of the ideas mentioned;

5. last but not least, the White Paper underlines the need to 'do the job together' in partnership between EU institutions, member states, regional and local levels, political parties and civil society organizations. (The White Paper is particularly weak in this chapter, not going further than some general, non-controversial recommendations).

From the close analysis of previous communication policies, it results that the White Paper on Communication represents 'a paradigm shift both in terms of designs and practices of the past. The remote hope of the media acting as mediators of a transnational Europe was explicitly jettisoned in favor of direct forms of information based on organizational networks, such as representations and Internet services and portals (Aldrin & Utard, 2008: 22). The Commission gave up 'the old dream' of a European public opinion, proposing instead a pragmatic strategy supposed to shape a 'European public opinion' within local and national spaces. As a matter of form, both the arrangements and the formulas proposed in the White Paper on Communication clearly demonstrate 'a willingness to transpose participatory marketing technologies into political discourse (e.g., quality forums on brand sites, consumer blogs, and 'one-to-one' communication)' (ibidem). This resembles very well the introduction of commercial communication methods in the 1990s, such as organizational marketing methods, preparing and broadcasting messages in the mass media. Although the white paper establishes as one of its main goals the 'improving civic education', it views citizens as consumers. As such, the political supply must relate to their expectations, opinions, and behavior.

The White Paper regards communication as a tool that may solve the contradictions existing at the level of the attitudes towards the EU and its politics: on the one hand, the interest in or positive feelings about the EU, on the other hand the distrust and the increasing lack of interest in the EU. The originality of the White Paper is offered by its new approach of the communication policy which struggles to replace routines with functional arrangements. The White Paper on Communication encouraged public institutions on European, national and local levels to 'supply the media with high quality information and current affairs material' and 'work more closely with broadcast houses and the media', and 'create new links with regional and local communication systems'. In its declared intention to develop the existing communication tools, the White Paper also proposed the 'modernization of Europe by Satellite (EbS)', a service which provides

journalists with free pictures of EU activities, 'with a focus on producing high quality audiovisual content which is user-friendly for the media and relevant to the citizens, and to explore the desirability of having an inter-institutional service operating on the basis of professional standards'. In what represents an essentially new approach, the White Paper asserts: 'a decisive move away from one-way communication to reinforced dialogue, from an institution-centered to a citizen-centered communication". The Commission claims that 'peoples' support for the European Project is a matter of common interest" and states that 'communication should become an EU policy in its own right, at the service of the citizens'.

The dispute between the major EU institutions over the White Paper on Communication predicted the end of agreement concerning the purposes of EU communication policy. By proposing to break with inter-institutional routine and reinforce the common constraint, Mrs. Wallström distanced herself from the habitual transversal role of Commissioners in the institutional triangle in terms of preparing the Commission's proposals (Aldrin & Utard, 2008: 27). The epilogue to this internal EU conflict represents a step backwards in the process of defining a communication policy by the return of European communication to the time-tested model of European consensus.

The Commission's enterprise to make of communication a policy 'in its own right' is made all the more difficult by the challenges that EU communication has to cope with. Among these challenges, major ones are:

- the EU's unique and complex system of decision-making which is hard to understand and there is a lack of attention for it in national education systems;
- the general decrease of interest and trust in politicians and governments in all modern western democracies
- the linguistic barriers which add to the complexity of EU policies
- the role of member states in communicating Europe at national level has always been underestimated
- the national decision makers' tendency to blame the EU when unpopular measures need to be introduced and to take the sole credit for popular EU decisions
- the fact that there are no big EU-wide media and that national media will look at EU policies only within the context of their national political system
- the EU's information and communication strategy has always had more of an institutional and centralized dimension (with

'streamlined' information) than a real citizen-centered 'public sphere' dimension.

The new problems posed by the rejection of the Treaty of Lisbon called again attention to the role of communication. The conflict between the EU institutions on the matter of transforming communication into a policy of the EU leaves this question open. Following the Irish rejection of the Lisbon Treaty by referendum in June, Commission Vice President responsible for communication Margot Wallström once again stressed the necessity for national governments to pursue a strategy of 'listening, explaining, going local' and prioritizing certain topics for communication. 'I will use the little crisis atmosphere we have to the full', she said, claiming that the momentum created by the negative vote 'give us another push'. Stressing the role of new technologies in communicating EU issues, Wallström referred to the situation in France after the failed referendum in 2005, when 'people suddenly realized the importance of the internet'.

European Parliament Vice-President Alejo Vidal-Quadras considers that EU institutions are suffering from a 'serious and endless communication problem'. He says EU communication projects 'look very attractive' but encounter 'practical issues' in their implementation which require the involvement of member states, civil society and the media if they are to be addressed. 'Europe, as a communication issue, is not very exciting. How can we make Europe exciting? That's the problem.' If communication is a policy in its own right in the EU, legislative system depends entirely on how its leaders will know to find new ways 'to make Europe exciting', that is to bring it closer to its citizens, to make it a part of their daily lives.

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ISSN 2065 569X