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**DUNĂREA DE JOS UNIVERSITY  
FACULTY OF JURIDICAL, SOCIAL AND  
POLITICAL SCIENCES  
PUBLIC ADMINISTRATION AND REGIONAL  
STUDIES DEPARTMENT**

## **PUBLIC ADMINISTRATION & REGIONAL STUDIES**

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## **GREXIT BETWEEN SPECULATION AND TRUTH**

Ph.D. Romeo-Victor IONESCU<sup>1</sup>

### **Abstract**

*The paper deals with the idea of supporting or not Greece's exit from the Euro area. Four economic indicators are used in the analysis: GDP growth rate, inflation rate, unemployment rate and government gross debt, in order to obtain a scientific conclusion.*

*The comparative analysis between all Euro area countries is followed by regression, which is able to highlight the economic disparities. According to the results of the analysis, Greece faced the same challenges as Cyprus, Spain, Portugal or Italy, for example during 2010-2013. The economic contraction in Greece was followed by a new recovery process started in 2014. The official forecast for 2015 highlights positive trends for all above four indicators, as well.*

*The main conclusion of the paper, using the economic approach, is that Greece does not have to exit from Euro area. Only a political decision can do it.*

*The whole analysis and all conclusions of the paper are supported by the latest official statistical data and pertinent diagrams. Moreover, dedicated forecasting software is used in the paper.*

**Keywords:** economic disparities, economic regression, forecasting procedures, economic contraction, economic recovery.

### **1. General approach**

The global crisis had a powerful impact on the EU economy. The effects of the economic contraction during 2008-2010 were not the last. As a result many socio-economic imbalances are still present across the EU28.

One of the countries which were the most affected by the economic crisis is Greece. It faced great economic contraction during 2010-2013 and high budgetary cuts. A little economic growth in 2014 (0.6%) will be

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followed by an important GDP growth of 2.9% in 2015 (European Commission, 2014).

Other member states, such as Portugal, Italy and Spain faced the same negative trends. As a result, these four countries were named PIGS countries, under a pejorative approach (Vernet 1997).

More specialists consider that the huge public debt and loans from IMF, World Bank and European Central Bank will force Greece to be the first to exit from the Euro area. This idea was doubled by a portmanteau combining the words Greek and exit as Grexit. The term was implemented by Citigroup's Chief Analysts, Willem H. Buiter and EbrahimRahbari (Buiter 2012).

At the beginning of 2015, the political elections in Greece led to a new government which wants to relax the economic restrictions in the economy and to pay the price to return to national currency (Drachma).

This is why the exit of Greece from the Euro area is described as inevitable (Greenspan 2015).

## **2. Literature review**

The European Commission concluded in its report that Greek economic reform stabilized the economy and is laying the foundations for sustainable growth and jobs (European Commission, 2014). The Commission was optimistic because Greece returned to economic growth in 2014, after six years of recession. Moreover, Greece achieved huge progress in restoring fiscal sustainability. As a result, Greece exceeded 2013 target with a 1.5 bn. primary surplus (0.8% of GDP).

A less optimistic point of view is that the solution for the Greek debt crisis is fiscal austerity or the exit from the Euro area. "If Greece remains in the euro area while accepting higher bond yields, reflecting its high government deficit, then high interest rates would dampen demand, raise savings and slow the economy. An improved trade performance and less reliance on foreign capital would be the result" (Armitstead L., 2011).

An interesting point of view is that „prolonged austerity will result in a continuous fall in employment, since real GDP cannot grow fast enough to arrest, lethal one reverse, the downward trend in the labour

market.” The authors of this theory used a new macroeconomic model that supports their conclusions (Papadimitriou, Nikiforos & Zezza 2013).

The Greek financial crisis was initiated by large and growing external and fiscal imbalances. The main characteristics of the crisis are declines in competitiveness and in public-sector saving and the banking crisis (Provopoulos 2014).

### **3. Research methodology**

The analysis in the paper is focused on pertinent macroeconomic indicators which can support or not the exit of Greece from the Euro area.

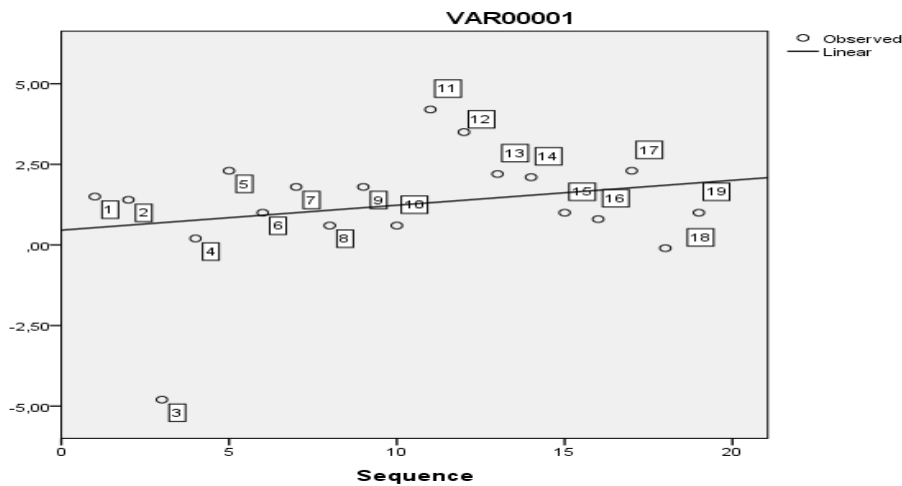
As a result, the macroeconomic performances will be compared to Euro area average.

Regression is used in order to highlight the disparities between Euro area economies. Forecasting procedures support the quantifying of the economic trend. Finally, a cluster approach allows finding solutions for the Greek economy.

### **4. Euro area economy under the impact of the crisis**

The Euro area achieved economic growth in 2014. The forecast is positive for 2015, as well. The inflation rates are lower than in EU average during 2012-2014, while the unemployment rates are higher during the same period.

The GDP growth rate had a sinuous evolution during 2010-2014 in all economies in the Euro area. As a result, there were great disparities in 2014 (see Figure 1).



1 - Austria; 2 - Belgium; 3 -Cyprus; 4 - Finland; 5 - Estonia; 6 - France; 7 - Germany; 8 - Greece; 9 - Ireland; 10 - Italy; 11 - Latvia; 12 - Lithuania; 13 - Luxembourg; 14 - Malta; 15 - Netherlands; 16 - Portugal; 17 - Slovakia; 18 - Slovenia; 19 - Spain.

*Figure 1: GDP growth rate's disparities in the Euro area (%)*

According to Figure 1, with a GDP growth rate of 0.6%, Greece had a better position than Cyprus (-4.8%), Finland (0.2%) and Slovenia (-0.1%) in 2014. As a result, from the GDP growth rate's point of view, Greece has no reason to exit the Euro area.

The unemployment rate varies very much between the Euro area states. The level of the unemployment in 2014 is presented in Figure 2. According to this figure, Greece faced the highest unemployment rate (26.0%), while employment increased by 0.6% in the same year. High unemployment rates were in Spain (25.7%), Portugal (16.8%) and Cyprus (19.2%) as well.

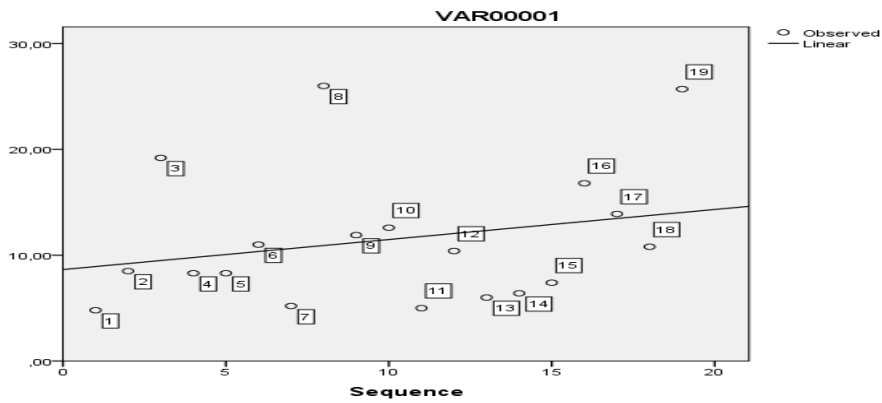


Figure 2: Unemployment rate's disparities in the Euro area (%)

An important economic indicator is inflation rate. After the economic recovery process started almost in all Euro area states in 2010, the inflation level is quantified in Figure 3.

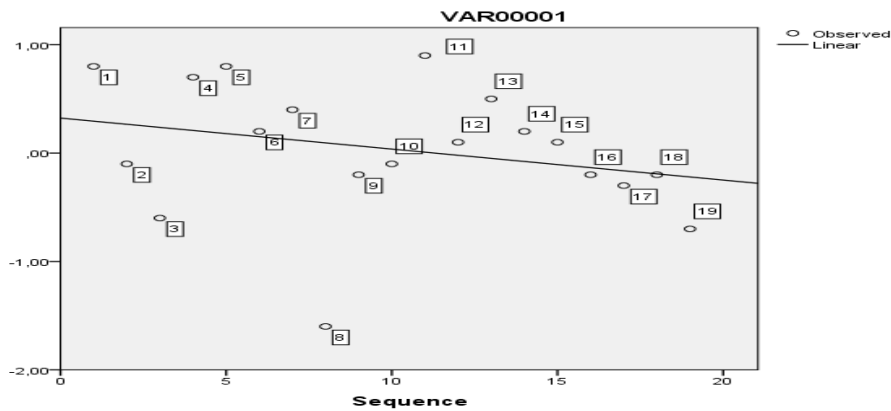


Figure 3: Inflation rate's disparities in the Euro area (%)

Greece achieved the lowest inflation rate in 2014. This rate helped mitigating the decrease in private consumption.

The worst indicator for the Greek economy is the government gross debt, which increased to 177.0% of GDP in 2014. Other states with high government gross debts are: Cyprus (121.5%), Belgium (100.5%), Ireland



(120.3%), Italy (133.7%) and Portugal (126.6%). The disparities connected to this indicator are presented in Figure 4.

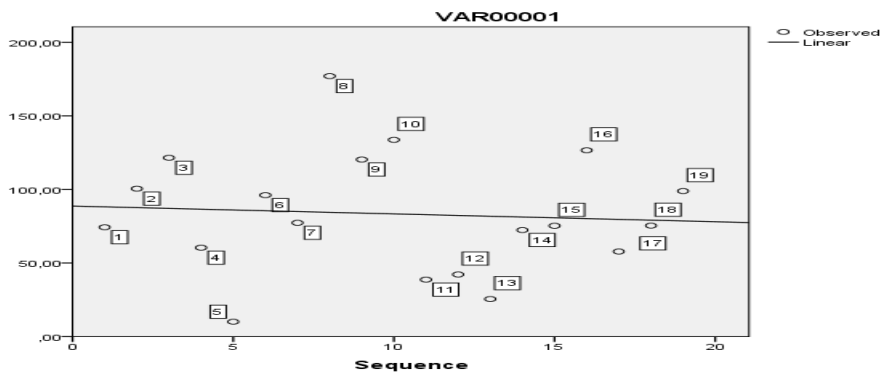


Figure 4: Government gross debt's disparities in the Euro area (% of GDP)

### 5. Greek economy's forecast for 2015

European Commission made an optimistic forecast for Greece in 2015. According to this forecast, the GDP growth rate, private consumption, gross fixed capital formation and employment will increase compared to 2014. On the other hand, unemployment rate will decrease (see Figure 5).

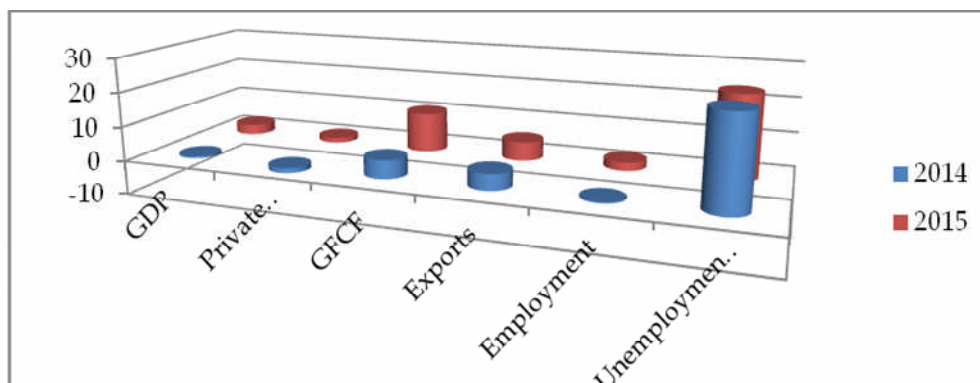


Figure 5: Macroeconomic indicators (5)

Moreover, the government gross debt will decrease from 177.0% of GDP in 2014 to 171.9% of GDP in 2015.

All these positive economic trends would be the result of the economic reform implemented before in Greece. The question is if the new Greek government wants to assume stopping the painful but necessary economic reform and to abandon the foreign loans?

In order to answer this question, a comparison between Greek economy and the Euro area average is useful.

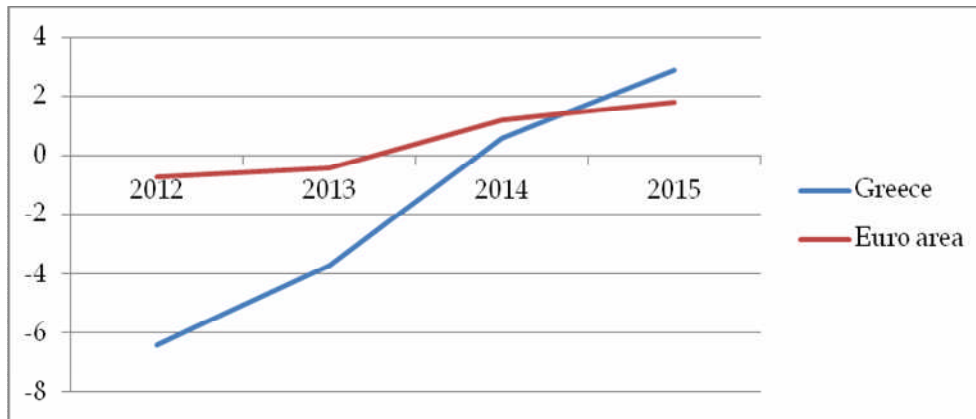


Figure 6: GDP growth rate in Greece and the Euro area average (%)

According to Figure 6, the economic growth rate in Greece will exceed the average in 2015 by 1.1%. This represents the start of a new recovery process able to bring the Greek economy closer to the other economies from the Euro area.

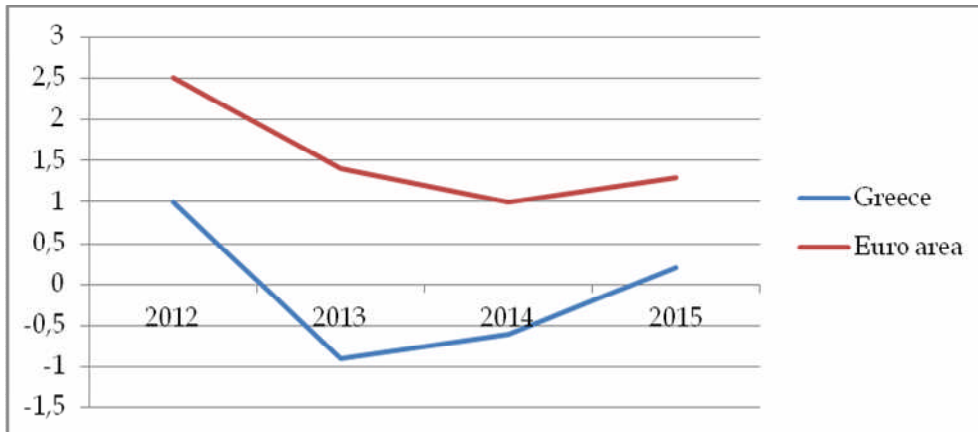


Figure 7: Inflation rate in Greece and the Euro area average (%)

The inflation rate was lower than the Euro area average during 2010-2014 and will continue this trend in 2015. This represents the second positive element for the Greek economy.

The unemployment rate will be a great challenge for Greece in 2015, even if it decreases by 2.0% compared to 2014 (see Figure 8).

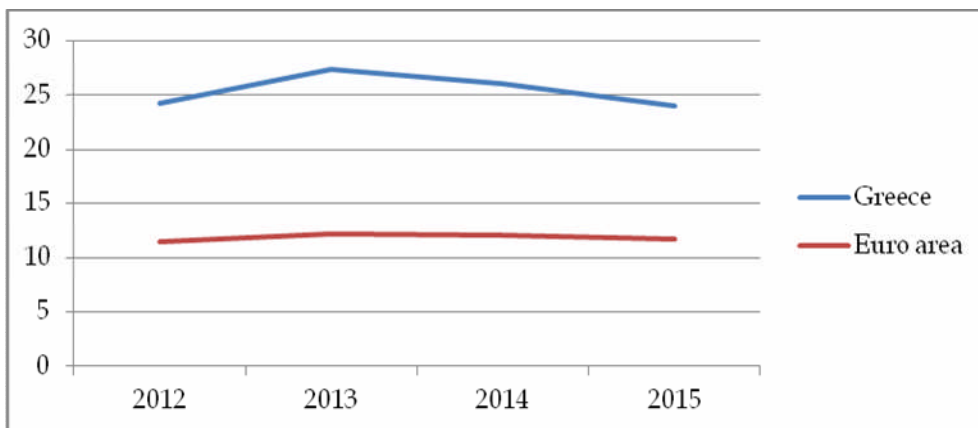


Figure 8: Unemployment rate in Greece and the Euro area average (%)

Since 2014, Greece has succeeded in decreasing its governmental gross debt. Even if this decrease is higher than the Euro area average, the distance is still big (see Figure 9).

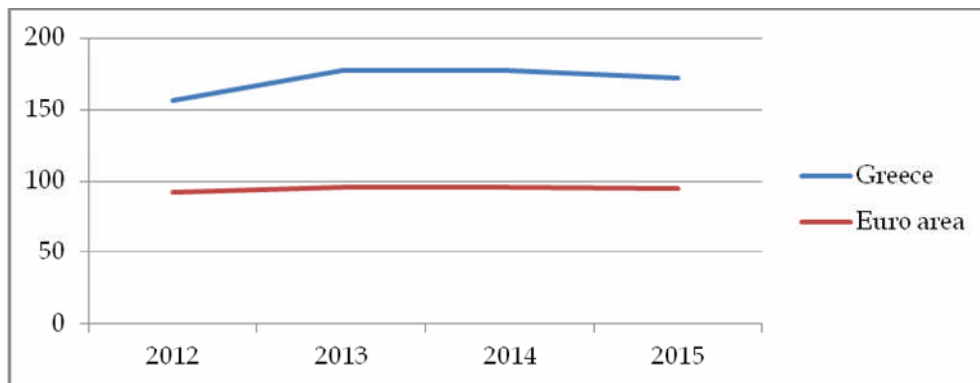


Figure 9: Government gross debt in Greece and the Euro area average (%)

### Conclusions

The above economic analysis is far from supporting the idea of Greece's exit from the Euro area. The huge economic contraction seems to be defeated and Greece started a new recovery process in 2014.

On the other hand, there are other countries, such as Cyprus, Spain, Portugal or Italy, with similar challenges.

The social costs of the economic reform's implementation are still high in Greece, but the results are positive. Greece does not have to exit from the Euro area.

Moreover, a potential exit will represent a weakness of the European regional organization, which will affect not only its image but also the future enlargement process.

Basically, there is a political game between Greece and EU, where Greece made the first winning move.

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RÉFLEXIONS SUR LES DÉFIS OUR LE "VIVRE ENSEMBLE"  
EUROPEEN. L'INTÉGRATION DE LA TURQUIE DANS L'UNION  
EUROPÉENNE COMME NECESSITÉ<sup>1</sup>

Pierre CHABAL<sup>2</sup>

La question de savoir si l'intégration de la Turquie dans l'Europe<sup>3</sup> de l'Union Européenne représenterait un défi pour le 'vivre ensemble' européen est stimulante et utile. Elle est pourtant mieux formulée pour un débat public ou médiatique, qu'elle permet de conclure par un 'non franc et massif',<sup>4</sup> que pour une véritable analyse de fond. D'autres questions sont d'ailleurs mal posées, comme par exemple : la Turquie a-t-elle vocation à entrer dans l'Union européenne ?

A l'inverse, une question plus pertinente semblerait être: l'Union Européenne n'a-t-elle pas vocation à intégrer la Turquie au regard de son projet géopolitique originel de 1950 ?

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<sup>1</sup>. Ce texte a été pour la première fois présenté à la conférence "Libéralisation commerciale et dynamique des inégalités", Université Mohamed VI - Chaire OMC, Rabat, 27-29 octobre 2011, sous le titre Reflecting upon the challenges to the European 'living-togetherness': the case of the Turkish entry into the EU.

<sup>2</sup>. Maître de Conférences (hc cnu) en Science politique, Université du Havre; chargé de cours du campus Europe-Asie de Sciences-po; professeur invité des universités Marmara et Yeditepe (Istanbul), Al Farabi (Almaty, Kazakhstan), UMED (Tashkent, Ouzbékistan) et NUM (Oulan-Bator, Mongolie).

<sup>3</sup>. 'Europe' au lieu de 'Union Européenne' par simplification et conviction que la Turquie appartient à l'Europe, qu'elle devrait entrer dans l'UE; que sans la Turquie l'Europe géopolitique, communautaire ou non, a moins de sens - ni sans quelques pays retrouvés depuis le démantèlement de l'URSS et encore incertains quant à leur ancrage soit à l'Ouest (Europe), soit à l'Est (Asie): Biélorussie, Ukraine, Moldavie, Géorgie, Azerbaïdjan ...

<sup>4</sup>. Lors des *Premières rencontres internationales du 'vivre ensemble' : l'Europe, un modèle de vivre ensemble* (Association COJEP, Strasbourg, 27/10/2005), furent présentées les prémisses de la réflexion contenue dans le présent texte sous le titre *L'intégration de la Turquie : un défi pour le vivre ensemble européen ? Non!*

Cette intégration est moins un défi qu'une *nécessité* logique.<sup>5</sup> Si le débat pouvait 'se contenter' de la Turquie, il serait d'ailleurs assez simple : la Turquie fera partie de l'Union Européenne ou bien l'Union serait victime de ses peurs et se dissoudrait. L'Europe a en effet eu peur d'autres pays : de la France entre 1789 et 1815,<sup>6</sup> de l'Allemagne en 1870, 1914 et 1939, de l'Italie dans les années 1930 et 1940 ... bref d'un peu tout le monde. Doit-elle alors 'trembler' devant la Turquie qui s'est 'éveillée', comme le monde devant la Chine selon la formule de Napoléon reprise par A. Peyrefitte, bref l'Europe doit-elle craindre tout le monde ? Ou même se craindre elle-même en ne sachant pas faire face au défi d'un islamisme radical ?

Il est temps sans doute, et possible sans nul doute, de calmer les esprits et de laisser cours à ce à quoi en principe contribue la raison humaine : la part des choses. Le 'vivre ensemble' européen n'a jamais existé, pas plus entre les Européens qu'entre les Capulets et les Montagus de Shakespeare. Et pourtant, les Six, les Neuf, les Dix, les Douze, les Quinze, les Vingt-Cinq, les Vingt-Sept et aujourd'hui les Vingt-Huit 'vivent' ensemble. Ce qui a surtout existé, en Europe, à intervalles réguliers, c'est une prise de conscience pionnière que le *statu quo* était impossible. De même, aujourd'hui encore, un 'vivre ensemble' figé, béat, protégé, (re)fermé sur lui-même, serait un non-sens. Il convient donc de parler d'autre chose que de défi envers un tel 'vivre ensemble' ou alors de parler d'un défi pour autre chose : d'un défi pour le projet européen lui-même.

La question centrale relève de la nature profonde de la géopolitique européenne (I) et, plus précisément encore, d'une géopolitique de l'intégration des peurs déjà ancienne (II).

## I - L'Europe comme un 'vivre ensemble' géopolitique

L'intégration de la Turquie ne saurait être un défi dans la mesure où la construction européenne est une construction géopolitique et que la

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<sup>5</sup>. Voir notre *Intégrer la Turquie dans l'Union Européenne: une nécessité*, *Futuribles*, n° 387 - juillet-août 2012, pages 99-112 ; et notre *Le dialogue géopolitique régional entre l'Europe et la Turquie*, in P. Chabal et alius (dirs.), *Les Chemins de la Turquie vers l'Europe*, Artois Presses Université, 2002, pp. 85-118.

<sup>6</sup>. Et même au-delà de 1815, d'où le succès de la Sainte Alliance, succès durable au 19<sup>ème</sup> siècle.

Turquie y correspond. C'est en effet une construction essentiellement<sup>7</sup> géopolitique. Il suffit pour s'en convaincre d'examiner sans digression le processus européen depuis les années 50 et d'approfondir tout simplement le fait que si la construction européenne a été possible c'est parce qu'elle a procédé à plusieurs ruptures, notamment d'avec l'histoire et la géographie, dont elle n'est plus prisonnière de nos jours. La tendance aujourd'hui, de nature très paradoxalement centripète - la fermeture en un club *malgré* l'élargissement -, est donc une tendance dommageable au processus européen lui-même. L'on mettra ainsi en parallèle les arguments géopolitiques, géographiques, historiques, économiques et culturels qui s'entremêlent.

### **1. La construction européenne relève d'une analyse géopolitique**

La construction européenne comme construction géopolitique renvoie à la prise de conscience, en 1945, d'un besoin existentiel. Soit les Européens trouveraient un moyen de dépasser leurs affrontements séculaires et meurtriers, sur le sol européen comme sur le sol colonial, terre d'exportations des guerres, ou bien ils disparaîtraient face aux défis nouveaux de l'après-deuxième Guerre mondiale. Il s'est agi d'une prise de conscience, guère d'un choix, ou plutôt d'une prise de conscience qu'il n'y avait pas de choix. Au même moment où disparaissaient les richesses issues des colonies - lesquelles, il est vrai, coûtaient plus cher depuis les années 1920 en maintien de l'ordre anti-indépendantiste qu'elles ne 'rapportaient' réellement -, apparaissaient des besoins de richesses et de moyens matériels accrus pour financer les systèmes de sécurité sociale un peu partout en Europe, notamment chez deux anciennes grandes puissances coloniales, la France et l'Angleterre.

Devant cet impératif de 'nouvelle société' et cette absence d'alternative finalement, bref devant le fait géopolitique accompli - trouver une *solution* -, des opportunités d'un genre nouveau se font jour, différentes des solutions formelles du passé : alliances, traités, accords. Parmi ces opportunités, il y a bien sûr l'invention d'une communauté à trois pays, le BENELUX en 1948 et ses embryons de monnaie unique, mais il y a surtout

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<sup>7</sup>. Voir le concept de la dimension essentielle d'un phénomène, son essence, comme pour le phénomène de pouvoir analysé de manière 'radicale' (Lukes, 1976).



une exigence étatsunienne tout à fait paradoxale. L'insistance étatsunienne selon laquelle l'aide à répartir dans le cadre du plan Marshall soit distribuée à travers une organisation européenne, qui sera l'Organisation européenne de Coopération et de développement, l'OECD, créée en 1948, ce qui achève de lancer la dynamique communautaire en Europe, et à terme la concurrence géopolitique aujourd'hui des Européens d'après la Guerre froide vis-à-vis des Etats-Unis. Bref, les Européens découvrent une dimension nouvelle de leurs interactions historiques houleuses : il y a sans doute plus d'avantages à retirer pour tous de la gestion commune, y compris supranationale, de leurs besoins, ce que l'OECD, puis la CECA et sa Haute Autorité, feront accepter dans la culture européenne nouvelle, celle de la 'construction' communautaire intégrante ou 'intégrative'.

L'Europe est ainsi clairement une construction géopolitique sous forme de projet de (re)constitution de puissance par des moyens nouveaux. Ce n'est pas autre chose dans le sens où les dimensions classiques de la géographie, de l'histoire, de l'économie, voire de la culture, classiquement abordées sont de fausses pistes, celles de la géographie qui homogénéiserait, de l'histoire qui rationaliserait, de l'économie qui fournirait et de la culture qui rassemblerait. En réalité, la géographie sert souvent à justifier des tensions, l'histoire n'a guère de sens qu'en dehors des continuités, l'économie ne peut que nourrir un projet politique et la culture devrait être une dimension populaire et généralisée.

## **2. la construction européenne n'est pas une dynamique géographique**

Une raison en est que la construction européenne a été une innovation de paix alors que, d'un point de vue de géopolitique contemporaine et d'après la formule connue du 'nouveau géographe' Yves Lacoste, 'la géographie, ça sert à faire la guerre'.<sup>8</sup> C'est-à-dire que le regard géographique que l'on balaye sur le monde est tout sauf descriptif et neutre. Il est au contraire porteur de biais, de partis-pris et de tentations permanentes de mobilisation pour ou contre un objectif politique. On

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<sup>8</sup>. La pensée lacostienne (Yves Lacoste) de 'la nouvelle géographie' voit dans celle-ci une synthèse et une justification. L'interprétation des faits géographiques compte plus que les faits eux-mêmes.

remarque d'ailleurs que les usages de la géographie en matière européenne ne sont pas 'universels', au sens d'emprunts à toutes les branches de la géographie mais plutôt spatiaux. Or le raisonnement spatial se révèle, en matière de construction européenne, biaisé au mieux et, le plus souvent, spécieux, voire tout simplement faux.

Le raisonnement géographique spatial est souvent spécieux. Il lui est en effet difficile d'échapper *in fine* à certaines des dérives conceptuelles de la première géopolitique, celle des auteurs saxons, à commencer par Ratzel. À force de croire et de laisser croire que l'espace européen 'vital' doit croître sauf à prendre du retard, bref à privilégier l'élargissement sur l'approfondissement, mais qu'il doit croître tout en se protégeant des dangers qui le guettent, notamment l'entrée de membres qui ne seraient pas éligibles au nom de critères mis en avant, comme on le fait pour filtrer l'entrée d'un 'club', on tombe dans la vision d'un espace-vital dont il faudrait, pour des raisons elles aussi 'vitales', protéger l'homogénéité. Le raisonnement est spécieux parce que la construction européenne, dans la version originelle de son projet fondateur, ne vise pas à constituer un espace pour lui-même mais à structurer des relations d'un type nouveau entre partenaires localisés dans une posture de voisins continentaux. Le territoire est ici la conséquence et non le but comme - par analogie 'pararatzélienne' - il faut être vivant pour se nourrir mais se nourrir n'est pas conditionné par le choix de partager son repas avec tel ou tel.

Spécieux, le raisonnement géographique spatial est même souvent faux, notamment lorsqu'il se pique de défendre, en matière de construction européenne, le concept d'une communauté de contiguïté territoriale. Il est étrange que les tenants de la thèse de la contiguïté territoriale, mise en avant pour s'opposer encore à l'entrée de la Turquie, survolent très allègrement le fait que la Grèce n'était pas, en 1981, un territoire contigu au reste de celui de la Communauté européenne - elle n'en est contiguë que depuis 2007 avec l'entrée de la Bulgarie et de la Roumanie dans l'Union européenne - alors même qu'elle appartient bien à l'Union et que la Turquie, elle, est contiguë à la Grèce et donc désormais à toute l'Europe d'après 2007. Le propos ici, tout au contraire de nier l'euroanéité de la Grèce, est de souligner que les raisons pour lesquelles celle-ci entre dans la construction européenne en 1981 ne sont pas d'abord territoriales. Pourquoi ces raisons auraient-elles été et seraient-elles aujourd'hui

territoriales pour la Turquie, sauf à ce que la géographie 'ça ser[ve] à faire la guerre' contre les partisans de l'entrée de la Turquie, qui eux ne s'appuient que sur des arguments juridiques et géopolitiques pour justifier de cette entrée ? Le raisonnement est faux parce qu'il génère de l'exclusion : la création du concept du 'non-Membre'<sup>9</sup> au nom d'arguments physiques erronés, alors que la construction est un fait *politique* intégrateur et fédérateur.

Il suffit pour s'en convaincre de réfléchir au nom même de l'Europe et, à ceux qui s'efforcent d'expliquer que la Turquie n'appartient pas à l'Europe, de répondre que l'Europe pourrait s'appeler l'Eurasie de l'Ouest, ce qu'elle est de toute façon. Du coup, l'espace européen prend son sens 'face' à d'autres espaces, comme ceux de l'Asie centrale, de l'ASEAN, de l'Organisation de coopération de Shanghai, un sens géopolitique. Un changement de nom peut faire toute la différence. Les treize nouveaux membres de 2004 et 2007 n'étaient pas dans la construction européenne avant 2004 et 2007, non qu'ils n'aient pas été européens au sens géographique - ils le sont de toute éternité spatiale - mais parce qu'ils ne relevaient tout simplement pas encore de la *politique* d'élargissement.

### **3. la construction européenne n'est pas une dynamique historique**

En matière d'histoire, l'Europe est une terre d'affrontements et de guerres. Elle n'est pas une terre de coopération, ni de construction. Depuis le 17<sup>ème</sup> siècle au moins, elle a été aussi une terre d'alliances entre puissances mais d'alliances toujours fragiles, souvent trahies, et de toute façon éphémères. En matière de construction européenne, la dimension historique n'a réellement de sens que par rapport au concept de 'rupture(s)'. L'histoire de l'Europe est non seulement celle des guerres européennes mais, de plus, de guerres longues, destructrices et - semblait-il - appelées à se répéter. De 1618 à 1648, les Européens se déchirent pendant une période - trente ans - qui les laisse exsangues et faibles. Le système de paix inventé en 1648, celui dit 'de Westphalie', doit alors leur assurer la

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<sup>9</sup>. Le vocabulaire européen tend à distinguer les pays du monde entre membres de l'UE et non membres de l'UE, voir par exemple la terminologie du programme Erasmus Mundus, qui distingue entre les partenaires européens du programme et les partenaires non-européens ...

paix grâce aux concepts de souveraineté égale des territoires étatiques, surtout de souveraineté territoriale, embryons prometteurs du droit international, mais ce système échoue. En trois siècles, de 1648 à 1945, 160 guerres et 17 batailles décisives remettent en cause les frontières westphaliennes et déchirent la paix.<sup>10</sup>

La seule dimension historique de la construction européenne est donc la volonté de renoncer à l'histoire, de la fuir, de la rejeter pour ce qu'elle a été, et donc de la réinventer. La rupture dont il s'agit n'est donc pas la reprise de solutions déjà tentées dans le passé et par leur simple amélioration, par exemple des alliances militaires, ce que les Européens ne sont pas parvenus à faire : échec de la Communauté européenne de Défense (CED) en 1954 mais surtout de l'Union de l'Europe occidentale (UEO) depuis 1948 et sa suppléance à travers l'OTAN, sans que la Politique extérieure et de Sécurité commune (PESC) et la Politique européenne de Sécurité et de défense (PESD) n'en soient pour l'instant un substitut complet. Or, une rupture de cette magnitude ne s'improvise ni ne se découvre. Elle n'est possible que si, d'une part, elle repose que un socle préexistant, celui en principe de la capacité à vouloir se pardonner et tourner la page historique et si, d'autre part, elle dispose de motivations prometteuses, notamment l'ambition d'être à nouveau la première région du monde (mais certes sans répéter les erreurs du passé - vouloir dominer le monde -) et au contraire d'entrer dans des complémentarités mondiales qui soient les extensions des complémentarités inventées entre Européens depuis 1950.

Le sens historique de la construction européenne relève en effet de cette capacité d'invention, d'anticipation, d'innovation, bref d'avoir un 'temps d'avancé'. L'histoire de la construction européenne, c'est celle du futur, à la différence de celle de l'Europe, qui est celle du passé. Que les historiens ne s'offusquent pas qu'on leur 'force' ici un peu la main. On 's'efforce' aussi d'expliquer clairement ce dont il s'agit : dans quelques décennies, avec le recul nécessaire, l'analyse historique 'classique' et l'analyse de 'l'histoire se faisant' se rejoindront en ce que la construction européenne s'expliquera par la vision puis la capacité des Européens à

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<sup>10</sup>. Voir M. Foucher, *Fragments d'Europe-Atlas de l'Europe Médiane et Orientale*, 260 cartes, Fayard, 1993

vouloir anticiper sur les évolutions des autres régions du monde. Pour deux raisons : d'abord pour disposer de la puissance d'échelle qui leur fait cruellement défaut par rapport à toutes les autres régions du monde ; ensuite pour devenir, au-delà du commerce, exportateurs de modèles institutionnels qui leur assurent des partenariats partagés autrement durables que des empires imposés aux colonisés.

#### **4. la construction européenne n'est pas une dynamique économique**

La dimension économique de la construction européenne, souvent mise en avant comme la dimension essentielle voire unique - celle d'un grand marché du même nom, puis d'une union économique et monétaire -, n'est qu'un aspect d'un projet politique autrement fondamental, aux dimensions existentielles et géopolitique abondamment soulignées ici. Notre postulat est que la clairvoyance impose de nier que le projet européen depuis 1950 soit d'abord un projet économique ou commercial, c'est-à-dire un projet dont les dimensions économiques et commerciales soient à la fois les buts et les critères. C'est pour nous, sinon au contraire, du moins bien plutôt un projet politique doté de deux caractéristiques nouvelles : d'une part être encadré par une vision institutionnelle nouvelle plus durable que le militaire ; et d'autre part se doter d'un contenu commode, le commerce, plus pratique que la politique.

Mais notre postulat est clairement que le volet matériel - production, libre-circulation, libre-échange ... - n'est qu'un contenu. C'est un contenu favorable dans la mesure où il est plus facile pour des Etats de s'entendre sur des questions de production, de distribution et de tarifs douaniers - où, après tout, un intérêt commun existe réellement, celui de contribuer ensemble à une production de richesse dont tous profitent -, que de s'entendre sur des questions politiques d'intégration, de prises de décision et de supra-souveraineté. Et ce, alors même que plusieurs de ces questions matérielles touchent aux arrangements de souveraineté, voire les bouleversent. Ainsi, la production de charbon et d'acier, dans la CECA, sont-elles décidées par une Haute autorité dotée du pouvoir de contraindre les Etats. Ainsi, les droits de douanes du Tarif extérieur commun sont-ils versés dans un budget commun et échappent-ils aux Etats.

C'est pourtant un contenu à ce jour largement irréalisé. Du principe de libre-circulation des hommes, des marchandises et des capitaux, seuls les deux derniers sont en voie d'achèvement: les marchandises circulent dans un marché unique et les capitaux s'échangent en euros sans commission sur presque tout le territoire. Pourtant, de même que la zone Euro s'arrête aux frontières de la Grande-Bretagne, de l'Irlande et du Danemark ainsi que de très nombreux<sup>11</sup> nouveaux membres entrés dans l'EU entre 2004 et 2013, il n'existe pas dans l'Union Européenne aujourd'hui de complète libre-circulation socio-économique des personnes. Les travailleurs européens rencontrent encore de réelles difficultés pour, par exemple, constituer leurs droits à retraite en cas de périodes d'emploi courtes et fractionnées entre plusieurs pays européens.<sup>12</sup> La libéralisation des échanges est en retard par rapport à - tout simplement ! - sa dimension humaine. Il est à peine besoin de mentionner ici la très grande difficulté, parfois l'impossibilité - sans procédure complexe de reconnaissance et d'équivalence - de travailler dans un autre pays européen que celui dans lequel un diplôme a été obtenu, faute de système clair et ouvert de reconnaissance des diplômes. Or, les travailleurs diplômés contribuent aussi à la dynamique économique de l'Union Européenne.

#### **5. la construction européenne n'est même pas vraiment une dynamique culturelle**

Une culture européenne qui serait porteuse d'une dimension populaire et, de plus, généralisée n'existe comme telle pas vraiment. Sans doute est-ce pour la raison que la construction européenne a été et est essentiellement politique. Sans doute est-ce aussi pour la raison que toute dimension culturelle puise à l'histoire et au passé commun, et que cette histoire et ce passé européens sont conflictuels. Mais c'est plus sûrement pour la raison qu'il n'y a pas en Europe de construction d'une communauté culturelle. Cette perception s'est imposée à nous lors d'une table-ronde à Paris (quelques jours avant la rencontre de Strasbourg en 2005, dont ce

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<sup>11</sup>. Treize en tout (10 + 2 + 1), soit presque un doublement (de 15 à 28), ce qui suggère de parler d'une Union Européenne N° 2 à partir de 2004.

<sup>12</sup>. Comme le montre S. Barbou des Places dans *Les Chemins de la Turquie vers l'Europe*, Ouvrage collectif, *op. cit.*

texte s'inspire) avec des collègues d'Asie de l'Est, donc en provenance d'une tout autre 'aire culturelle', impliqués dans une recherche sur la construction d'une communauté culturelle en Asie de l'Est.<sup>13</sup> À les écouter expliquer comment l'Asie cherche à 'se trouver' d'abord au plan culturel avant que de s'institutionnaliser en tant que région, nous avons perçu de manière brusquement très claire la différence avec l'Europe. Cette impression s'est confirmée lors de la participation en Corée à un Forum des étudiants d'Asie de l'Est.<sup>14</sup>

Il n'y a pas en Europe de construction d'une vraie communauté culturelle. Tout au plus y a-t-il une construction politique de culture gouvernementale d'union. S'il existe quelque chose en Europe que l'on pourrait malgré tout appeler 'construction culturelle', il s'agit plutôt d'une construction gouvernementale et non populaire. C'est logique : en Europe, la culture dépend de projets politiques ; elle leur fait suite ; elle est précédée par eux. Cela a été vrai de la construction des Etats-Nations, de celle des nationalismes, etc. Alors qu'en Asie, la culture n'a d'autre choix que d'exister *avant* les constructions régionales, étant donné qu'il n'y a pas de précédent régional en Asie. Les Asiatiques ne pouvant pas commencer comme les Européens post-westphaliens par l'affinage/rupture de leurs tentatives passées de coopération/alliance, qui n'ont pas vraiment existé, à part l'ASEAN. Ils doivent commencer par ce qui apparaît - peut-être à tort - comme moins délicat : le dialogue continu et multiforme.

Quant à savoir ce que pourrait être la culture européenne sous forme d'identité européenne, nous serions bien en peine de le dire. L'identité européenne n'existe pas ou alors, comme l'on vient de le voir, elle est un reflet de la construction intergouvernementale, laquelle a été et est concentrique. La culture européenne des Six, c'est leur vision commune des Trois autres avec lesquels ils vont faire les Neuf. De même, la culture européenne des Neuf, c'est leur vision commune du dixième, avec lequel ils vont faire les Dix, puis les Douze. Et ainsi de suite, jusqu'à la culture européenne des Vingt-Huit, qui devrait être leur vision commune des 29<sup>ème</sup>,

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<sup>13</sup>. Séminaire franco-coréen organisé par l'IRIS, Paris, et l'Université Yonsei sur le concept de Communauté Culturelle, octobre 2005.

<sup>14</sup>. Voir notre *On the concept of (regional) Cultural Community*, Northeast Asian Network forum, Yonsei University, Seoul, février 2006

30<sup>ème</sup> membres ... Bref, cette culture, c'est celle, très politique et très volontariste<sup>15</sup> de 'l'autre' et de l'expansion du projet.

Le lecteur attentif aura remarqué que nous ne disons pas ici que cette culture des Vingt-Huit 'doive' être celle de l'intégration de la Turquie ; et que la Turquie n'est finalement pas même principalement en jeu. Ce qui est en jeu, c'est la culture européenne de l'ambition d'expansion sous forme de l'élargissement comme but. Tout renoncement à cet élargissement vis-à-vis de pays qui sont candidats après avoir rempli toutes les conditions préalables est donc une négation du projet européen à travers la remise en cause de sa culture. Cette culture, c'est finalement celle de la conviction du besoin et de la capacité historique à intégrer les peurs géopolitiques de l'Europe (II).

## **II - La géopolitique européenne comme intégration des peurs**

L'intégration de la Turquie n'est pas un défi mais un atout pour la géopolitique de l'Europe. La construction européenne correspond, géopolitiquement parlant, à une logique cristalline : elle a toujours consisté en ce que les Etats fondateurs, puis les nouveaux Etats-membres avec eux, y intègrent leurs peurs. La Turquie semble, pour de mauvaises raisons, représenter une peur nouvelle pour l'Europe: l'islamisme. Mais, dès lors, la perspective européo-turque devient une évidence renforcée. Plus elle fait 'peur' et plus la Turquie est intégrable ! Il y a deux lectures possibles de ce mécanisme, qui sont *complémentaires*. L'une de ces lectures est propre aux peurs européennes et à leur neutralisation (A). L'autre découle du contexte international auquel la construction européenne réagit toujours (B).

### **A. Réagir aux peurs en les intégrant afin de les neutraliser**

On examinera la géopolitique européenne comme un processus d'intégration des peurs tout au long de ses étapes, depuis les peurs originelles de la fin des années 1940 jusqu'aux peurs principales de chacun

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<sup>15</sup>. Au point d'en être - culturellement - artificielle.



des groupes de membres à mesure que leur nombre augmente au fil des décennies.

### **1- la peur originelle des Européens de 1950: disparaître**

La peur originelle des Européens 'nouveaux', issus de l'affrontement des années 39-45, encore une fois destructeur, c'est celle de disparaître du registre de l'influence internationale. Cette peur est celle des futur Six. Elle les motive, de 1950 et 1957, à *lancer* le processus de l'Europe communautaire. Mais elle est aussi, dès 1947, sous une autre forme, celle qui pousse la Belgique, les Pays Bas et le Luxembourg - pays parmi lesquels est vivace la conscience d'avoir subi de plein fouet les violences européennes sur son sol et dans sa chair - à *devancer* même la future CEE en fondant le BENELUX. Face à la peur de la disparition, donc, une invention : l'idée et la dynamique de l'intégration.

La logique de l'intégration est par ailleurs celle de la neutralisation des peurs. Puisque la peur de la disparition vient de la situation créée par l'affrontement, à trois reprises, entre deux pays européens, en particulier l'Allemagne et la France dès 1870 - même si ces pays sont dépassés par les entraînements mondiaux de 1914 et 1939 -, il s'agit d'intégrer d'abord les anciens belligérants, surtout la France et l'Allemagne, logique étendue aux pays du BENELUX, qui ont le plus souffert des agressions, et aux auteurs de ces agressions, l'Allemagne et l'Italie, qui ont été débarrassées des régimes fascistes, nazi et mussolinien, des années 30-40. Logiquement d'ailleurs, les futurs membres de 1972, la Grande-Bretagne, l'Irlande et le Danemark, seront eux aussi des pays résistants de la deuxième Guerre mondiale, résistants contre 'l'Axe' de l'offensive germano-italienne. Cette logique est claire et simple. Elle comporte le risque, aujourd'hui très vivace, d'avoir inventé un corollaire de l'intégration et d'*Etat-membre* : le concept de non-intégration (ou d'exclusion) du *non-membre*, puis du *presque-membre*, du *pas-tout-à-fait-membre*, voire du *jamais-membre* ou *impossible-membre* 'contre-critérisé', etc, invention continue jusqu'en 2005/2007 et au-delà.

### **2- la peur régionale des Six de 1957 à 1972: subir**

La peur qui suit cette période pionnière est celle de subir la dimension atlantique. Cette peur est logique dans la mesure où les Européens ont lancé la dynamique communautaire sous l'impulsion de

l'organisation de distribution de l'aide Marshall rappelée *supra*, l'Organisation européenne de Coopération et de développement (OECD, créée en 1948), puis sont tombés, en 1949, dans la seule réelle dimension sécuritaire possible - à l'époque -, celle de l'OTAN et donc dans la dépendance envers sinon les seuls Etats-Unis, du moins celle du transatlantisme, c'est-à-dire d'une dimension extra-européenne. L'Europe n'était-elle appelée à n'exister que par cette dimension, comme encore et toujours au-delà d'elle-même ? Ou avait-elle alors déjà et a-t-elle encore aujourd'hui le destin d'exister pour elle-même ?

Pour intégrer cette peur de subir, l'idée logique est celle de l'élargissement. Le lien entre intégration et élargissement n'est pas le seul possible mais il est le seul logique dans la démarche de sécurisation géopolitique, qui est bien au cœur de la construction européenne. Pour répondre à cette peur de la dépendance, quoi de plus logique que d'intégrer le partenaire atlantique par excellence, la Grande-Bretagne et, avec elle, deux pays aux choix politiques très proches d'elle, l'Irlande pour compléter l'option des *British Isles* et le Danemark pour ancrer ce royaume de Hamlet, prince d'Helsingør ? Or, cette intégration est bien plus une rupture qu'il n'y paraît. Elle semble en effet n'être qu'un simple ajout, selon la vieille antienne qui veut que 'l'union' fasse 'la force', alors qu'en fait elle revient à intégrer dans l'Europe surtout des problèmes à venir et notamment le problème d'une Europe sinon à deux vitesses du moins à deux logiques. À deux logiques et à quatre réticences au moins : réticence budgétaire avec les exigences britanniques dès la fin des années 70, réticence politique avec les 'Non !' danois notamment au Traité de Maastricht en 1992,<sup>16</sup> réticence sociale avec le conservatisme social irlandais, réticence monétaire enfin puisque ces trois pays refusent d'entrer dans la zone Euro.

### **3. la peur des Neuf de 1972 à 1981: l'autoritarisme militaire**

La peur qui marque l'Europe, une fois acquise sa masse critique de membres assez nombreux et répartis à l'ouest et au nord-ouest, est celle des

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<sup>16</sup>. L'attitude communautaire est critiquable, qui consista à faire pression sur le Danemark pour qu'il 'revote' sur ce Traité et finisse par l'adopter. La construction européenne a tout à gagner de s'entourer du plus possible de démocratie et du respect des urnes.

régimes autoritaires. Elle se manifeste d'ailleurs à deux reprises (Cf. ce 3. et *infra* 4). C'est la peur de voir les voisins revenir ou dériver vers des régimes autoritaires. C'est la première fois que l'Europe construit de façon pionnière une attitude commune *au sens de relever d'une culture régionale consciente* (en 1950, il s'agit plus de réflexe de survie) face à une opportunité de faire bénéficier une situation *nationale* (grecque) d'un effet d'entraînement politique européen (en 1950, il s'agit de poser des garde-fous face à des dérives *régionales*). Cette dose d'innovation tâtonnante explique peut-être l'imperfection de la solution choisie.

La Grèce est ainsi intégrée à l'Europe pour éviter qu'elle ne dérive à *nouveau* vers le régime autoritaire qu'elle a connu de 1967 à 1974, mais ... pas la Turquie, qui aurait pu être intégrée pour éviter qu'elle ne ... dérive *ensuite* vers un régime autoritaire, qu'elle connaîtra d'ailleurs de 1980 à 1983. C'est-à-dire que, à 'sur-réagir' quant à la situation grecque, l'Europe 'sous-réagit' quant à la situation turque, ce qui est d'autant moins logique que, en 1981, existe depuis presque vingt ans un geste européen fort et d'ailleurs officiel : le traité d'Association de la Turquie à l'Europe, le Traité d'Ankara de 1963.<sup>17</sup> C'est une occasion manquée par l'Europe envers son flanc sud-est, dont le rattrapage n'interviendra, au mieux, qu'en 2015 (?), soit plus d'un demi-siècle après l'association de la Turquie en 1963 ! ... Quant à l'intégration de la Grèce en 1981, elle revient également, comme celle de la Grande-Bretagne, de l'Irlande et du Danemark en 1972, à intégrer des problèmes, notamment ceux du retard économique du pays, comme d'ailleurs en 1986 le retard de l'Espagne et du Portugal. La Grèce est loin en 1981 d'être à la hauteur des critères économiques et des critères politiques consolidés exigés aujourd'hui des nouveaux candidats, dont la Turquie, mais encore inachevés pour nombre de nouveaux membres de 2004, 2007, 2013. Loin semble être l'évidence, pourtant simple, que l'intégration à l'Europe est parfois un moyen de consolidation *ex-post* de nouveaux membres.

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<sup>17</sup>. Cette analyse de 'l'occasion manquée', en 1981, d'intégrer en même temps la Grèce et la Turquie, était chère à Alfred Cahen, ancien secrétaire général de l'UEO. Cette double intégration aurait évité bien des atermoiements et des hésitations nuisibles tant à la sécurité européenne qu'à sa crédibilité laïque.

#### 4. la peur des Dix de 1981 à 1986: l'autoritarisme politique

La peur des Etats-membres après l'accession de la Grèce en 1981 se reporte sur l'Espagne et le Portugal tout au long des années 1980, deux voisins et futurs partenaires libérés des régimes autoritaires en 1975. Cette peur, c'est celle de laisser revenir ces voisins vers l'autoritarisme. Comment est-elle maîtrisée ? Par l'admission, comme pour la Grèce, de deux pays anciennement sous le joug d'un régime autoritaire. Se manifestant pour la deuxième fois (*cf. supra* 3), cette peur est mieux maîtrisée et donne lieu à une solution plus affinée. Se manifestant en effet dans une période où l'Europe commence de bien fonctionner grâce aux mécanismes de la solidarité régionale, la solution consistant à intégrer l'Espagne et le Portugal suggère aussi de s'apprêter à faire jouer pleinement et directement les soutiens à leur développement économique et social dont ces deux pays ont bien besoin.

L'intégration de l'Espagne et du Portugal, logique du point de vue des peurs européennes, n'est pas logique du point de vue des critères actuels de satisfaction *préalable* à des critères d'exigence que l'on voudrait aujourd'hui appliquer à la Turquie alors qu'on les a moins appliqués à d'autres pour les élargissements de 2004, 2007, 2013. Il est clair en 1986 que l'Europe intègre l'Espagne et le Portugal *afin* qu'ils se développent, comme l'Europe le fera vingt ans plus tard, en 2007, *pour* la Roumanie et la Bulgarie par exemple, ou pour la Croatie en 2013. L'Espagne et le Portugal sont même loin de la situation des autres pays européens déjà membres et leur intégration est réalisée pour le futur de la stabilité politique à *venir* de l'Europe, pas au nom de son homogénéité économique *du moment*. Bref, l'Espagne et le Portugal sont intégrés sans critère préalable de réussite, alors même qu'ils ne sont pas à la hauteur des critères économiques, ni des critères politiques consolidés aujourd'hui nécessaires aux candidats. Ici encore, le pari qui est fait, et dont on sait aujourd'hui qu'il sera réussi, c'est la volonté que, dix ou vingt ans après l'accession de partenaires plus faibles, ces partenaires auront refait leur retard et que le différentiel du départ ne correspondra plus qu'à une parenthèse historique, parenthèse d'ajustement ou d'harmonisation sans laquelle le différentiel n'aurait fait que s'aggraver au détriment de la sécurité européenne.

### **5. la peur des Douze de 1986 à 1995: manquer de ressources**

La peur de l'Europe des Douze, après son élargissement au sud-ouest, c'est celle qui découle d'une vision réaliste et matérielle de sa gestion communautaire. Elle découle donc de ses efforts nécessaires consentis pour aider les membres les plus pauvres - Irlande, Grèce, Espagne et Portugal - depuis leur accession. Comment est intégrée cette peur de manquer de moyens matériels dans le contexte nouveau de l'après-guerre froide, où il s'agit de se préparer à marquer un grand coup en intégrant dès que possible tous les pays européens anciennement engoncés dans le camp communiste, du moins dix d'entre eux ? Cette peur est intégrée par l'élargissement fondamental à trois voisins prospères et stables, l'Autriche, la Suède et la Finlande, cette dernière étant la plus récemment stabilisée et le partenaire aux performances macro-économiques encore à améliorer.

La question des critères se pose certes ici d'autant plus que ces nouveaux partenaires ne sont pas du tout dans une situation comparable aux nouveaux membres de 1981 ou 1986, situation où l'application de critères de niveau économique ou de consolidation politique aurait sans doute conduit à leur rejet ! Pourtant, ces intégrations reviennent à intégrer, comme dans le cas de 1972, des problèmes à venir, même s'ils sont d'un autre ordre. L'intégration de la Grande-Bretagne et du Danemark en 1972 avait correspondu à l'intégration de problèmes et de réticences (*cf. supra* 2.). L'intégration de l'Autriche, de la Suède et de la Finlande en 1995 correspond à l'intégration de la prospérité et de ses dérives possibles : l'obsession de soi, parfois porteuse de l'intolérance. C'est vrai surtout de l'Autriche, dont les dirigeants élus peu après ont multiplié les déclarations hostiles à une certaine forme d'Europe, à tel point que c'est en pensant à ces dérives que les rédacteurs du 'Traité constitutionnel' de 2005 y ont prévu des clauses d'exclusion, laquelle est pudiquement appelée 'retrait'. La Finlande et la Suède aujourd'hui semblent également tentées par une intolérance relayée par les partis politiques. On retrouve ces questions d'intolérance, sur un registre religieux-culturel, par rapport auquel

certaines Membres, comme la Pologne<sup>18</sup> ou la Roumanie, entretiennent un rapport historique particulier de résistance.<sup>19</sup>

**6. la peur des Quinze après 1995 (des 27 après 2007, 28 après 2013):  
l'islamisme**

La peur des membres de l'Union européenne depuis 1995 est d'ailleurs, comme depuis 2004, 2007 et 2013, la peur de pays en repli culturel, peur tout à fait paradoxale. Qu'il s'agisse de culture historique ou de culture communautaire, le paradoxe est le même. D'une part en effet, l'Europe est historiquement un creuset, un réceptacle et nul ne peut nier ce fait - sauf à refaire l'histoire et s'auto-proclamer 'club chrétien', à l'instar de l'ancien Chancelier allemand, Helmut Kohl. D'autre part, vis-à-vis de ses peurs, y compris culturelles, l'Europe communautaire - c'est tout l'objet de notre démonstration - s'est démarquée du reste du monde, a devancé toutes les autres formes de dynamisme régional en procédant à leur intégration progressive.

Le paradoxe semble même extrême. Il ne s'agit plus de comportements en partie contradictoires et, en un sens, 'pour la bonne cause' : intégrer des partenaires difficiles comme la Grande-Bretagne et le Danemark parce que, au-delà des problèmes à venir, existe une dimension spatiale et économique réelle. Il s'agit de la triple négation du projet européen même, négation logique - si l'on craint l'Islamisme, alors il faut un membre musulman modéré pour en démontrer l'évidente modération - ; négation géopolitique car le flanc sud-est mérite tout autant que les trois autres - nord-ouest en 1972, sud-ouest en 1986, nord-est en 1995 - d'être renforcé ; et négation juridique car après tout il serait temps d'honorer le traité d'Association avec la Turquie de 1963 *en ce qu'il prévoit l'adhésion à terme*. Finalement, le paradoxe tient surtout à ce que la réponse à la question 'comment intégrer la peur de l'islamisme' est presque plus simple que pour les autres peurs. Et pourtant, la perspective de cette réponse par

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<sup>18</sup>. Dans un registre proche, on notera l'analyse selon laquelle 'le pouvoir polonais s'allie à l'extrême-droite' (Le Monde du 4 février 2006), *suivie* d'un rappel sur 'les procédures de sanction de l'Union Européenne - *ibidem*).

<sup>19</sup>. De nombreux pays européens connaissent ces mouvements europhobes se qualifiant de souverainistes, dont la France, où le débat clive le pays et même les partis politiques en leur sein.

l'intégration de la Turquie recule chaque jour un peu plus car, au lieu d'y procéder dans les années 60, 70, 80 ou 90, on la repousse à chaque fois qu'elle devrait être examinée *tout en faisant passer avant elle d'autres intégrations*, ce qui est pour le coup non seulement paradoxal mais bien peu diplomatique.<sup>20</sup>

L'explication de ces paradoxes est peut-être à chercher dans un autre registre, parallèle au registre européen, c'est-à-dire le registre mondial ou contexte international. Ce contexte est depuis 1991 celui d'une 'hyperpuissance' qui dicterait les modes géopolitiques et depuis 2001, quant à l'islamisme, celui d'une obsession d'amalgames, par exemple entre l'insécurité due au rattrapage sud-nord post-colonial et un quelconque choix entre les religions, qui franchement ont mieux à faire que de s'affronter car elles sont de vraies spiritualités. L'Europe a également toujours réagi au contexte international, plus que cela n'est mis en avant, comme il convient de le démontrer maintenant (B).

### **B. Réagir au contexte international en se servant de lui**

La géopolitique européenne consiste également en une utilisation du contexte mondial, extérieur, tout autour de l'Europe, utilisation qui lui rend en retour ce contexte plus aisé à maîtriser. L'Europe s'est, surtout depuis la deuxième Guerre mondiale, souvent engouffrée dans les interstices du contrôle désormais exercé sur le monde par d'autres qu'elle. On examinera ainsi à chaque fois une caractéristique de la dynamique mondiale en évolution, puis sa conséquence pour l'Europe et sa construction.

#### **1. 1950 (de 0 à 3 + 3 ou 6): la Guerre froide engendre le réalisme unitaire**

Aux débuts des années 50 et tout au long des années 60, la caractéristique principale de la géopolitique mondiale est la dynamique de division et d'antagonisme qui se met en place entre les USA et l'URSS, les deux grands vainqueurs de la deuxième Guerre mondiale, et que l'on va

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<sup>20</sup>. Il est de plus probable que les décisions européennes (2014) consistant à armer les Kurdes (d'Irak) - dans le contexte des événements de Syrie - hypothèquent un peu plus les relations entre la Turquie et les pays européens.

appeler la guerre froide. Plus exactement, cette période est celle de la *mise en place* de la Guerre froide, dont les caractéristiques sont au départ mal cernées. Cette mise en place se fait à deux niveaux à partir de 1947, d'une part par le refus de l'Aide Marshall par l'URSS pour elle-même *et pour ses nouveaux satellites d'Europe de l'Est*, et d'autre part par les crises gouvernementales dans trois pays européens, la France, l'Italie et la Belgique, où les ministres communistes sont sommés de quitter les exécutifs (Cf. *supra* II A 1). Certes, la géopolitique mondiale a déjà connu auparavant des périodes de tensions et de divisions des régions du monde, notamment à travers les grands empires coloniaux, mais il s'agit cette fois d'une division dichotomique, binaire, brutale, et à l'échelle mondiale.

Cette caractéristique de division joue pour l'Europe, dont la peur originelle est de 'disparaître' à la suite de ses divisions internes des siècles passés (Cf. II A 1). Elle joue d'autant plus que l'Europe est *de facto* prise en tenaille dans un jeu qui la dépasse. L'Europe réagit dès lors en valorisant la foi dans l'unité, au-delà même du besoin existentiel d'unité face à ce risque de disparition analysé *supra*. Le contexte de la division *internationale* engendre donc le concept même de l'unité *régionale*, qui est déjà d'emblée une forme d'élargissement, dès 1950, depuis les Trois du Benelux jusqu'aux Six des premières Communautés européennes. Le concept d'unité dont il s'agit n'est pas seulement le corollaire de la paix. Il est un concept de transcendance, de 'paix-dépassement', d'entente créatrice d'un 'sur-ordre', bref d'une invention d'une autre Europe,<sup>21</sup> appelée à devenir une dimension, que toutes les parties du monde mettent en œuvre cinquante ans plus tard: la *construction* régionale.

## **2. 1972 (de 6 à 9): la Détente donne conscience de l'occasion de s'élargir**

Aux débuts des années 70, la caractéristique principale de la géopolitique mondiale est le recul du caractère absolu de la division du monde en deux blocs, que l'on appelle la Détente, qui d'ailleurs revêt d'emblée une double dimension, mondiale par le rapprochement entre les deux Grands et européenne par l'*Ospolitik* de l'Allemagne de l'Ouest envers

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<sup>21</sup>. Comme l'Asie, depuis la dynamique de Shanghai est une autre Asie, l'Asie 'innovée' (Chabal 2011) de l'Organisation de Coopération de Shanghai (membres et associés)



l'Allemagne de l'Est. On pourrait ici élargir la perspective en rappelant que c'est le moment où la rupture de l'alignement chinois sur l'URSS (1956) conduit à un rapprochement sino-étatsunien (1972), lequel fait pénétrer un sérieux coin supplémentaire dans la logique binaire des blocs mondiaux. Tout en restant sur le théâtre européen, il est possible avec le bénéfice du recul de voir comment ce rapprochement interallemand a généré un rapprochement entre l'Europe de l'Ouest et l'Europe de l'Est, puis rendu possible le processus d'Helsinki et la CSCE, autant d'étapes vers la fin de la Guerre froide.

Cette caractéristique joue pour l'Europe des Six, dont la peur de 1957 à 1972 est de subir la dépendance, au sein du bloc de l'Ouest, vis-à-vis des Etats-Unis (Cf. II A 2). L'Europe saisit la chance offerte par la Détente, qui 'désengage' l'attention des grands.<sup>22</sup> Cette chance saisie conduit naturellement à appliquer plus avant le concept d'unité-élargissement, d'unité dynamique. L'unité européenne, apparue comme une contre-dynamique face au risque de disparition, est logiquement une unité active et même activiste. Elle tend naturellement vers l'accroissement du nombre de ses Membres *en fonction* de ce qu'ils lui apportent face aux défis *du moment*. Aux débuts des années 70, l'occasion est offerte d'intégrer trois pays européens indispensables à la mise en place d'une région qui ne soit pas seulement la portion congrue d'elle-même, dont la Grande-Bretagne *en tant que tête de pont des Etats-Unis*. Le but est double : prendre acte du recul de la dépendance vis-à-vis des Etats-Unis dès lors que la tension de la Guerre froide recule et le faire *sans perdre un instant*.<sup>23</sup>

### **3. 1981 (de 9 à 10): la relance de la Guerre froide engendre le repli sur soi**

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<sup>22</sup>. Lesquels depuis 1945 déterminaient le monde et décidaient pour lui

<sup>23</sup>. Notamment avant que les Etats-Unis ne réalisent à quel point l'Europe unie devient un concurrent à la puissance hégémonique des Etats-Unis en Occident, même si du point de vue des Etats-Unis cela permet aussi de faire rentrer dans l'Europe un relais très commode (la Grande-Bretagne et ses exigences à venir vis-à-vis de l'Europe, qui seront à l'occasion des exigences affaiblissant l'Europe et l'empêchant de devenir trop puissance par rapport aux ... États-Unis).

Ce dépassement du noyau dur originel de l'Europe des Six se poursuit aux débuts des années 80 malgré les limites inhérentes au contexte. La caractéristique principale de la géopolitique mondiale est, en effet, à nouveau la rigidification de la division. Il s'agit d'une relance de la Guerre froide malgré tout, d'une période de tension d'ailleurs plutôt unilatérale créée par la diabolisation de l'URSS par le nouveau Président des Etats-Unis et du camp 'républicain' qui le soutient, non de l'imposition d'un ordre mondial inédit et potentiellement cataclysmique et nucléaire comme à la fin des années 40. Le contexte est donc celui d'une tension renouvelée mais d'une tension dont on sait désormais - depuis 1972 - qu'elle peut reculer, et non d'une tension terrifiante et totalisante. D'ailleurs, peu s'en est fallu que l'Europe ne saisisse la chance historique d'intégrer en 1981, en même temps que la Grèce, la Turquie, qui aurait été ainsi le premier Membre limitrophe de l'URSS.

Cette caractéristique joue donc de manière nuancée pour l'Europe des Neuf, dont la 'peur' de 1972 à 1981 est l'autoritarisme militaire (Cf. II A 3). Elle n'empêche pas la poursuite de sa dynamique - élargissement - avec la Grèce et la préparation des adhésions de l'Espagne et du Portugal, trois pays sortis des régimes militaires, qui ont été au pouvoir quelques années pour deux d'entre eux et pendant plusieurs décennies pour l'Espagne. Mais elle engendre malgré tout une suspension de cette dynamique ou du moins une tendance au repli sur soi, sorte d'attentisme afin de voir venir, de voir comment va évoluer le facteur reaganien dans les relations soviéto-étatsuniennes. Il est vrai que, de plus, depuis 1979, le partenaire britannique a introduit une rigidité thatchérienne dans le fonctionnement de l'Europe et que l'approfondissement de ce fonctionnement passe avant. On ne sait pas en 1981 que, quatre ans après à peine, le pouvoir soviétique va amorcer, sous l'égide de son nouveau secrétaire général, Mikhaïl Gorbatchev, des réformes profondes mais dès que ce sera le cas, en 1985, l'Europe s'élargira à nouveau, en 1986.

#### **4. 1986 (de 10 à 12): l'effet Gorbatchev relance l'élargissement**

À partir du milieu des années 80, la caractéristique principale de la géopolitique mondiale est celle de l'effacement de la division, définitivement dépassée par l'implosion de l'URSS fin 1991. Les réformes lancées dès 1985 par le nouveau Secrétaire général du PC-URSS - la

restructuration des institutions du pouvoir jusqu'à la suppression du monopartisme (*perestroïka*); et la transparence des réseaux de prise et d'application des décisions (*glasnost*)-, vont en effet brusquement révéler les faiblesses du système politico-administrativo-industrialo-logistique de l'URSS. Ce système-symbole puissant de l'autoritarisme politique ne correspond brusquement plus à partir de 1985-1986 à l'image simpliste relancée par l'analyse simple du Président des Etats-Unis depuis 1981. Au contraire, les tournées en Europe de Mikhaïl Gorbatchev et la 'gorbimania' qui les accompagnait ont normalisé et banalisé l'URSS même avant la fin, en 1991, de la vaste fédération mise en place en 1924 et forte de quinze républiques.

Cette caractéristique joue pour l'Europe des Dix, dont la 'peur' de 1981 à 1986 est l'autoritarisme politique (Cf. II A 4), en lui donnant la force de la conviction. L'évolution du monde est marquée par le recul des tensions dues aux différences de régime politique. L'Europe poursuit donc la logique qui est la sienne depuis les années 50 mais qui, du coup, est épousée par la dynamique mondiale, selon laquelle les affrontements de régimes et d'idéologies qui les soutiennent doivent être dépassés par des complémentarités matérielles et culturelles. Le scénario grec de 1981 joue donc pour l'Espagne et le Portugal sans qu'il soit besoin d'y beaucoup réfléchir. À y trop réfléchir d'ailleurs, on se serait aperçu qu'il eût dû jouer pour la Turquie également en 1981. L'utilisation du contexte international est une constante de la dynamique européenne, non pas un effet d'opportunisme. Elle consiste à se tenir prêt et à agir le moment venu.

#### **5. 1995 (de 12 à 15): l'AGF permet à l'Europe de dépasser l'adaptation**

À partir de la mise en place, dans les années 90, de l'après-guerre froide, la caractéristique principale de la géopolitique mondiale est le flottement ou l'ambivalence quant aux dynamiques à venir après une période d'inévitable transition. Le monde est donc relâché,<sup>24</sup> essentiellement incertain de lui-même, loin de l'image de la 'victoire' d'un

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<sup>24</sup>. Comme l'a très bien analysé Zaki Laïdi (dir.) dès 1993 in *L'ordre mondial relâché: sens et puissance après la guerre froide*, Paris, Presses de la Fondation nationale des sciences politiques, 263 pages.

camp sur l'autre, comme l'ont cru les âmes simples, à l'instar du Président des Etats-Unis en 1988-1992. L'apparence de cohérence est conférée par le discours victorieux de certains néo-réalistes étatsuniens et l'occasion qui leur est offerte par Saddam Hussein d'intervenir tous azimuts, à commencer par le Koweït. Pourtant, à y réfléchir sereinement, le monde manque d'ordre nouveau, ce qui explique en partie la floraison de thèses sur la 'fin' de l'histoire (Fukuyama)<sup>25</sup> ou le nouveau 'choc' des civilisations (Huntington)<sup>26</sup>, comme en compensation et en recherche de nouvel ordonnancement du globe.

Cette caractéristique joue pour l'Europe des Douze, dont la peur de 1986 à 1995 est de 'manquer des ressources' de sa croissance géopolitique (Cf. II A 5), en la poussant à se prendre en mains, pour la première fois peut-être, pleinement ; c'est-à-dire à prendre son véritable départ mondial. L'Europe est en effet née de la Guerre froide - Cf. *supra* I-1 le rappel du rôle joué par l'OECD dans la distribution de l'aide du plan Marshall, qui rend concrète la conscience européenne d'unité. L'Europe 'se construisant' est donc liée à l'évolution de la Guerre froide. Cette dernière une fois dépassée, l'Europe est donc en position de poser ses priorités, et ce dans deux directions correspondant à deux buts. D'abord en direction du monde 'tel qu'il devient', de régional à interrégional, avec le lancement dès 1996, à peine passée de Douze à Quinze, du dialogue coopératif avec l'Asie ou ASEM.<sup>27</sup> Ensuite en direction d'elle-même en envisageant, au-delà même de son élargissement prévu à vingt-huit ou vingt-neuf, des ouvertures en direction de '«futurs»-membres', c'est-à-dire de membres dont *dépend* son avenir : la Biélorussie, l'Ukraine, etc. Ceci afin d'atteindre dès que possible la taille critique de la Grande Europe de l'Ouest aux portes de l'Eurasie et de l'Asie centrale.<sup>28</sup>

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<sup>25</sup>. Francis Fukuyama, *La Fin de l'histoire et le dernier homme*, Paris, Flammarion, collection. Histoire, 1992, 452 pages

<sup>26</sup>. Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order*, New York, Simon & Schuster, 1996 (à l'origine l'article dans *Foreign Affairs* en 1993).

<sup>27</sup>. L'année même où est lancée la dynamique de Shanghai, qui rapproche Chine et Russie et trois Républiques d'Asie Centrale (Kazakhstan, Kirghizstan, Tadjikistan)

<sup>28</sup>. Le Groupe des Cinq de Shanghai (1996) devient l'Organisation de Coopération de Shanghai à Six en 2001, puis s'étoffe d'observateurs en 2004, 2005 et 2012, et de partenaires de dialogue en 2009 et 2012.

**6. 2004 et 2007 (de 15 à 27): l'interrégionalisme permet à l'Europe de se dépasser**

L'Europe libérée de la dépendance géopolitique de la Guerre froide semble - et c'est très paradoxal - retomber dans une autre forme de dépendance idéologique. Cette nouvelle forme d'idéologie - l'anti-islamisme comme avatar de la prise au sérieux imméritée de la suggestion que les civilisations sont entrées en 'confrontation' - *clash* - n'a pas son origine en Europe mais aux Etats-Unis.<sup>29</sup> Elle est pourtant reprise en Europe notamment à travers l'aberration d'un 'club' européen qui serait 'chrétien'.<sup>30</sup> Comme si, le monde occidental-étatsunien devenant antimusulman au point d'en être presque islamophobe, l'Europe faisait preuve de comportement *logique* en se fermant à la Turquie.

Sur un autre registre pourtant, après 1995, la caractéristique principale de la géopolitique mondiale tient à l'organisation des régions du monde entier vers leur propre dynamisme et leurs relations réciproques. L'ASEM lancé en 1996 ne fait en un sens que suivre le dialogue entre l'Amérique Latine et l'Union Européenne à partir de 1995, lui-même ne faisant que tenter de prendre un temps d'avance sur les dynamiques régionales, puis de la Communauté de développement de l'Afrique australe (SADC) à l'Association sud-asiatique de Coopération régionale (SAARC), toutes deux relancées en 1992, à l'ALENA entré en vigueur en 1993 et au Groupe de Shanghai lancé en 1996.

Ces caractéristiques multiples jouent pour l'Europe des Quinze, dont la peur après 1995 - et celle des Vingt-Huit après 2007 ?) - est 'l'islamisme' (Cf. II A 6), dans des directions contradictoires. D'une part, elle se lie à l'Asie à travers un 'multilatéralisme interrégional'<sup>31</sup> tout à fait original et prend de ce fait de l'avance sur la marche du monde. D'autre part, elle s'enlise dans un raidissement 'antitirc' dont elle ne se rend pas compte qu'il équivaut à une négation de ce qu'elle est, géopolitiquement parlant, une capacité à intégrer ses peurs! La première dimension, la dimension interrégionale, est la plus porteuse pourtant et celle qui entraîne

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<sup>29</sup> . Samuel Huntington, 199xxx, *op. cit.*

<sup>30</sup> . Citation du Chancelier allemand, Helmut Kohl, avril 1997

<sup>31</sup> . Sun-Hee Park, Les Relations politiques Asie-Europe et le rôle de l'interrégionalisme : le rôle de l'Asean dans l'ASEM, Thèse de Science Politique, Université Paris 8, juillet 2006.

l'autre et balaie les faux arguments. Cette première dimension est celle des succès des dix Sommets ASEM: Bangkok 1996, Londres 1998, Séoul 2000, Copenhague 2002, Hanoi 2004, Helsinki 2006, Beijing 2008, Bruxelles 2010, Vientiane-Laos 2012 et Milan 2014. C'est la dimension de la réalisation de la Grande Eurasie de l'Ouest, seule dimension capable de faire de l'Europe un partenaire à la hauteur de la Grande Asie de l'Est, du Centre et du Sud, toutes trois en pleine émergence (ASEAN + Organisation de Coopération de Shanghai).

### **Conclusion - de l'Europe à la Turquie en passant par l'Europe**

Parti à la recherche d'une réponse à la question de savoir si l'intégration de la Turquie dans l'Union Européenne poserait un défi - insoluble?- au 'vouloir vivre ensemble européen', nous avons résolument infléchi la question, tout en y répondant par la négative, vers celle du sens même de la construction européenne d'un point de vue géopolitique. Nous voulions et voulons toujours mettre l'accent sur le caractère qui est construit et anticipatif de l'intégration européenne, c'est-à-dire le contraire d'un caractère qui serait réactif et incohérent. 'Construit' même si en partie 'réactif', c'est-à-dire un travail continu permettant d'être prêt, géopolitiquement, le moment venu - d'un ou de plusieurs élargissements. Et 'anticipatif' par rapport au contexte, non pas passif et subissant ce contexte mais cherchant à anticiper sur la prochaine forme d'innovation disponible, par exemple la forme interrégionale après la grande étape de construction régionale, bref le 'sur-régional' même alors que le régional n'est pas achevé. Surtout, qu'il s'agisse d'être réactif ou anticipatif, l'Europe ne saurait se contenter d'être une arène de critérisation. La construction européenne n'est pas un processus « critérisable » ou alors les critères-repoussoirs sont l'aveu que l'Europe aurait cédé au repli sur soi.

Tout au long de cette réflexion, nous avons voulu résister à la tentation de l'évidence. Cette évidence, la lectrice et le lecteur la connaissent: la question de l'adhésion de la Turquie à l'Europe communautaire - la seule question qui vaille pour la sécurité géopolitique de l'Europe - est une question de retard. D'une part, l'accord d'Association de 1963 *prévoit l'intégration en ce qu'il la prépare*. D'autre part, l'Union douanière entre l'Union Européenne et la Turquie de 1995, confirmée en

2004, poursuit la préparation de l'intégration de la Turquie en ce qu'elle la rend concrète.

Il est moins aisé en conclusion de résister davantage à une autre tentation. La résistance a ses limites : la 'chair' intellectuelle est faible ! La question de l'intégration ... de la Turquie, mais plus généralement la question du devenir de l'Europe, est une question moins reliée à la Turquie que renvoyant à ... l'Europe. Qu'est-ce que l'Europe, finalement, à part un sursaut géopolitique après 1945 ? En quoi consiste sa politique (sécuritaire) à part son intégration des peurs, et non une obsession de club ? Quelle est la bonne analyse de la concurrence venant d'autres régions géopolitiques, par exemple l'Asie centrale, déjà dans la dynamique de Shanghai et un jour rejointe par une Turquie<sup>32</sup> 'dés-européanisée' ?

La place manque pour développer davantage ces interrogations. De toute façon, le débat peut continuer et nous sommes prêt à y prendre part. Il a commencé ailleurs et nous avons eu l'occasion de nous exprimer clairement sur nos positions, notamment en 2002 dans *Le dialogue géopolitique régional entre l'Europe et la Turquie*,<sup>33</sup> en 2004 dans *L'élargissement de l'Europe au sud-est : pour quelle politique ?*,<sup>34</sup> et en 2012 dans *Intégrer la Turquie dans l'Union Européenne : une nécessité logique*.<sup>35</sup> Il s'agissait et il s'agit toujours pour nous de surtout clarifier une fois de plus - ou de dénoncer - les mélanges des genres en Europe dès lors qu'il s'agit de réfléchir sur la Turquie. Comme si la chance turque pour l'Europe était plus complexe que la chance pour l'Europe d'avoir déjà intégré, depuis 1950, tant de diversité et de s'apprêter sans doute à en intégrer encore. (Pierre Chabal - texte revu à l'automne 2014)

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<sup>32</sup>. En juin 2012, la Turquie est devenue partenaire de dialogue de l'Organisation de coopération de Shanghai, premier pays de monde péri-européen à obtenir ce statut.

<sup>33</sup>. In Pierre Chabal et alius (dirs.), *Les Chemins de la Turquie vers l'Europe*, Artois Presses Université, 2002, pages 85 à 118.

<sup>34</sup>. In D. Şarpe et alii (dirs.) *L'élargissement de l'Union européenne et la Roumanie*, Presses de l'Université de Rouen, 2004, pages 97 à 114.

<sup>35</sup>. *Intégrer la Turquie dans l'Union Européenne: une nécessité*, in *Futuribles*, n° 387 - juillet-août 2012, pages 99-112, *Forum* - avec réponse de Jean-François Revet.

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**TRANSNATIONAL CRIME - A THREAT TO REGIONAL ECONOMIC SECURITY**

Ph.D. Professor Florin TUDOR<sup>1</sup>

**Abstract:**

*Transnational organized crime has become a key issue in international affairs and, unfortunately, one of the most important aspects of the global economy. Experts highlight the fact that organized crime - with all its undesirable consequences on competitiveness, or such other negative effects like counterfeiting or environmental damage - has the capability to undermine the rule of law and good governance. In this regard it is absolutely necessary to find ways of fighting against organized crime at international level. In order to respond effectively against the threats of organized crime, a series of regional and thematic transnational assessment is required. This is all the more beneficial since these assessments can contribute to economic security in the region. Although progress has been made in this area by international bodies and the European institutions, the present article proposes an analysis at regional level, based on current threats of organized crime in South-eastern and Central Europe.*

**Keywords:** organized crime; economic security; international strategies.

**1. Introduction**

It is a known fact that the European community favours economic stability and the growth of trade ties through increased confidence based on collective security. Economic globalization implies an unprecedented opening of specific markets in commerce, IT and finance. Unfortunately, economic growth has created unexpected opportunities in business for organized crime, which tends to become a threat to economic security, especially for poor countries that are ravaged by conflict. It has new values, it is more diversified, it can even be said that it has reached macroeconomic proportions, intercontinental.

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Studies of international institutions and relatively recent reports authored by public institutions argue that the extent of this phenomenon undermines governance<sup>2</sup> and prevent development. Organized crime is often the source for financing systemic corruption or even terrorist actions.<sup>3</sup> Drug cartels feed corruption, cyber terrorism threatens state security and very often identity or personal data are stolen and all sorts of frauds, especially of a banking nature, are committed. Fake products threaten jobs and social security, whereas illegal trade of such products is life-threatening.

United Nations Security Council has decided to get involved in the case of specific threats and when organized crime has reached alarming levels, but unfortunately these threats still persist. Organized crime has wide sweeping effects creating great difficulties for public government at both national and regional levels and negatively affecting many countries. The impact is all the more felt in countries situated at geo-strategic confluence and that are under armed conflict, one of the most unfortunate consequences being the lack of economic security.

The present article has as starting point the geopolitical context of Central and South Eastern and Baltic countries, dominated by the conflict between Russia and Ukraine, as well as the political instability in Moldova, a context that is analysed in close connection with the consequences of the activities of transnational criminal groups that undermine good governance in the region. In this sense, a wide range of statistical data from public sources has been consulted, such as: "International Statistics on Crime and Justice" developed by the European Institute for United Nations, Office on Drugs and Crime (UNODOC), affiliated with the United Nations (HEUNI) and OECD Statistics Brief, June 2014 No.18, but the main documents studied are "The globalization of crime a transnational organized crime threat assessment" developed by the United Nations Office on Drugs and Crime, Vienna, ISBN: 978-92-1-130295-0; Frontier Economics, *Estimating the*

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<sup>2</sup> Heribert Dieterab, Changing patterns of regional governance: from security to political economy? *The Pacific Review*, Volume 22, Issue 1, 2009, pages 73-90; Helen E. S. Nesaduraira, Introduction: economic security, globalization and governance, *The Pacific Review*, Volume 17, Issue 4, 20014 pages 459-484.

<sup>3</sup> See, Asian fuel terrorism, looting of natural resources.

*global economic and social impacts of counterfeiting and piracy*, February, 2011;  
*Eastern European Outlook, Economic Research*, March 2015.

## **2. The impact of the conflict in Ukraine and EU's economic sanctions against Russia**

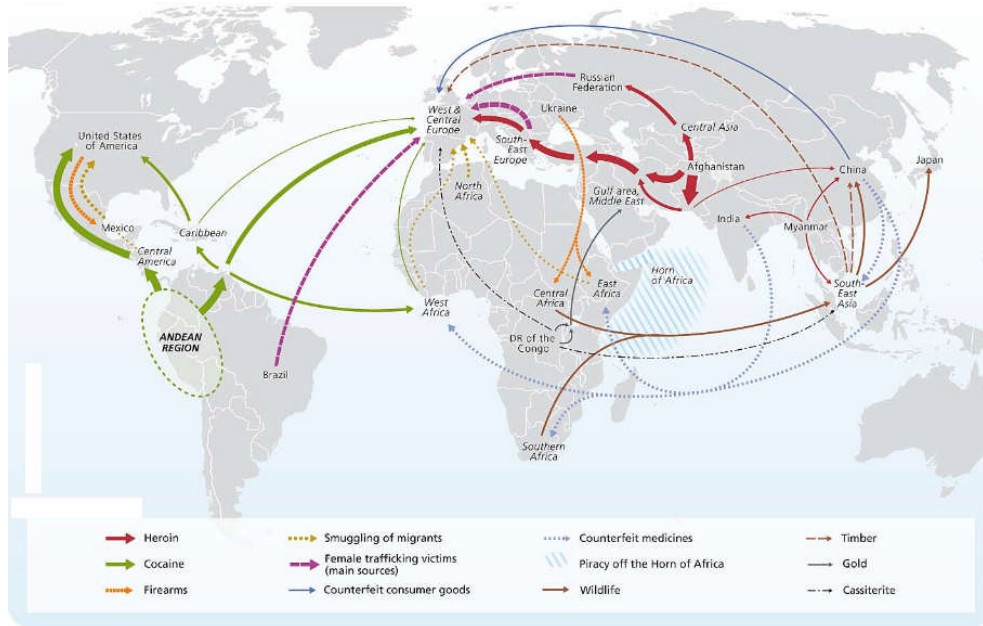
According to data published on March 25 in the publication 'Eastern European Outlook', the Baltic and Central Europe have identified measures to counteract the drop in trade in the area due to the conflict in Ukraine, although as a trend for the coming years, the growth rates overall will be relatively modest for the relationship Russia. The regional conflict is likely to decrease Russian investments in the area even if Germany provides considerable support, especially for the Baltic countries.

The economic growth in Eastern Europe was actually a good way to resist to the crisis in Ukraine, Russian demand was weak, both on the component regarding the export as well as the import, the transactions being relatively small. The increase in capital expenditure decreased being hampered by geopolitical approaches.

It is anticipated that the conflict in the region will go on and the international sanctions will be hardened. The labour market will be affected and migration will become even more visible in this part of the world. The inflation shock, a large GDP decline in Russia and the decrease of the oil market will entail major structural problems. Ukraine is ruined by an unprecedented economic crisis, bank reserves are limited and as a forecast says the GDP will decline in 2016.

On one hand, a huge rise in trade volume is taking place against this background, with Russia becoming a route used only partially. On the other hand, this phenomenon reflects the extent to which organized crime has become indissolubly linked to global economy, and vice versa, through illicit trade of products. Even worse is that the map of traffic routes emphasizes illicit flows which move to and/or from great economic powers.

Table no.1: Main global transnational organized crime flows



Source: „*The globalization of crime a transnational organized crime threat assessment*“ developed by the United Nations Office on Drugs and Crime, Vienna, ISBN: 978-92-1-130295-0, p.2

The bottom line is that there should be a different approach of the ways of combating transnational organized crime, as long as it has a global dimension. Perhaps the answers should be found at a regional and international level, the national ones being totally inappropriate in the given context.

### 3. Economic security a regional and international priority

In terms of public international law, states are responsible for injuries and damage to other states or individuals. But the reaction of national states through their representatives is regulated and limited by their national jurisdiction. Thus, bilateral and regional cooperation is possible and recommended but within the limits of the legal framework

ruled by the United Nations because transnational organized crime issues are of international level and the strategies are required to be uniform and comprehensive.

To protect their own sovereignty, states must analyse objectively the situation beyond their borders. In other words, cross-border cooperation in law enforcement (especially in criminal matters) and a more effective exchange of information are two binding goals to be considered in the regional plan.

Another aspect to be taken into consideration is that transnational crime is largely caused by the strength of markets where they operate. In countries with insecure borders and with minimal resistance, corroded by corruption and a lack of predictability in financial, tax and criminal matters, the activities of traffickers can be carried on with much more ease. Regional conflicts bring about the growth of the organized crime and effective strategies should be conceived and applied in order to fight against it. Among the most efficient measures to be taken, we consider the following: strengthening the rule of law and taking measures to combat all the aspects of economic security including halting unofficial money transfers; further risk analysis to allow the traceability of financial flows that make possible money laundering; reducing the incentives granted in free zones to encourage the production of goods and commercial operations; elimination of risks of counterfeiting<sup>4</sup>.

The statistics indicate that the scourge of counterfeiting has lately reached values that are extremely hard to believe from the perspective of two decades ago. Counterfeit products are found in almost all sectors of the global economy. An assessment of the level of counterfeiting varies from year to year, but all forecasts indicate that counterfeiting is an integral part

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<sup>4</sup> For details, see, S. Glaz'ev, *The Basis for Economic Security: An Alternative Reform Policy*, Problems of Economic Transition Journal, Volume 40, Issue 3, 1997, pages 54-79; Alexandra Homolar, *The political economy of national security*, Review of International Political Economy, Volume 17, Issue 2, 2010, pages 410-423; A Illarionov, *The Criteria of Economic Security*, Problems of Economic Transition Journal, Volume 41, Issue 12, 1999; Brück Tilman, *Defence and Peace Economics*, An Economic Analysis of Security Policies Journal, Volume 16, Issue 5, 2005, pages 375-389

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of transnational organized crime with an underground economy of several hundred billion dollars annually. According to OECD figures, the extent of counterfeiting is up to 650 billion dollars each year.

Table no.2 . The Complete Picture. Estimate of the total value of counterfeit and pirated products in 2008 and 2015, and impacts on the broader economy and employment

OECD Category	Estimate in \$ billions (2008)	Estimate in \$ billions (2015)
Internationally traded counterfeit and pirated products	285 - 360	770 - 960
Domestically produced and consumed counterfeit and pirated products	140 - 215	370 - 570
Digitally pirated products	30 - 75	80 - 240
sub total	455 - 650	1220 - 1770
Broader economy wide effects	125	125 +
Employment losses	2.5 million	2.5 million +

Source: Frontier Economics

### Conclusions

The perspective proposed by this article is intended to encourage reflection on new regional strategies to combat transnational organized crime. The threats to economic security are embodied by factors that break rules, norms and institutions<sup>5</sup> meant to ensure this security. As long as crime has reached global proportions, in order to be legitimate, the international decisions should be included in official documents of the United Nations.

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<sup>5</sup> For details, see, Mirela Atanasiu, *Vulnerabilities, global, regional and national risks and threats. Preventing and mitigating them in a globalized world*, Strategic Colloquium No. 10, October 2007, Centre of Defense and Security Strategic Studies, National Defense University "Carol I"



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**GOVERNANCE: A DEMOCRATIC RESPONSE TO CURRENT  
CHALLENGES**

Ph.D. Professor Luminita Gabriela POPESCU<sup>1</sup>

**Abstract**

*The present article proposes an analysis of the current situation in Romania concerning the capacity of the political system in Romania, as well as of the entire society to accept the transformations imposed by reality of the necessity of adopting a new governance system. The conclusions of this study provide a theme of reflection concerning the gap between what means a new approach for the governance process and the degree of its acceptance in Romania.*

**Keywords:** governance, good governance, transparency, participation, efficiency and effectiveness, coherence, responsibility.

**1. Introduction**

The current interest in governance originated, first of all, in the public management reform, started in the beginning of the 80s. The new governance concept refers to creating markets and networks. There are countless ways through which informal authorities of the markets and networks replace or complement formal governmental authorities. These aspects influence citizens expressing different points of view on authority and the relationships with civil society.

Roderick Rhodes pinpoints that the governance concept in contemporary social sciences has at least six different meanings: minimal state, corporatist governance, new public management, good governance, cyber social systems and self-organized networks. The terms of governance and good governance are to be found more often in the specialized literature. The governance concept represents the decision making process

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and the process through which decisions are implemented (or not). Governance can be used in certain concepts such as corporate governance, international, national and local governance.

The new governance can be interpreted as a political strategy whose appeal is based on: (1) creating a favorable framework for the involvement of private actors in providing public services under serious budgetary restrictions; (2) a better understanding of the need to cut down expenditures, by new participative arrangements leading not only to cooperation but also to citizen awareness.

If the governance is the decision making and implementing process, the governance analysis involves focusing upon formal and informal structures that have to be taken into account in order to reach a decision and to implement it. The number of actors is large enough at the national level, every one of them being able to play an active role either in taking a decision or in influencing the decision making process. In the situation in which informal structures are favored at national level for decision making, this is the result of corruption practices or can lead to "corrupted practices".

## **2. Good governance principles**

The White Book of European Governance (2001) includes a set of proposals approaching the need of participation intensity, improvement of policy effectiveness and the need to redefine the role of EU institutions.

The White Book provides five principles of good governance: participation, transparency, responsibility, effectiveness and coherence - all of them additional to the principles of subsidiary and proportionality, already set up in the treaties.

Satisfying these exigencies means taking into consideration the need to revise both the horizontal dimension (relationships between institutions and citizens, as well as relationships built along sectorial policies) as well as the vertical dimension (relationships between the levels of policies) within the decisional and European policies implementation process.

A "deeper involvement" means, under these circumstances, communicating with citizens at a regional and local level and under a

democratic framework. This undertaking involves a major responsibility on the "general policies' coherence" assumed by the territorial impact of the EU policies in fields like transportation, energy or media. These policies should be part of a coherent construction. It is necessary to avoid fragmenting specific sectors. Local and regional decisions should likewise be coherent with a broader set of principles referring to the sustainable and balanced territorial development at the EU level.

### **2.1. Participation**

Participation is a real touchstone for the good governance. It manifests either directly or by means of legitimizing mediator or representative institutions. It is important to mention that representative democracy does not necessarily involve taking into account the most vulnerable voices of the society in the decision making process. Participation involves being informed and organized. This manifests in the freedom of association and of expression, on one hand, and on the other in the organization of the civil society.

The adoption of a model centered on the citizen in policy making is a manifestation of the fundamental commitment to enroll citizens into the governing process - a characteristic of any democratic political system. From a broader perspective, the commitment reflects in the efforts of activists and theoreticians to promote what has been labeled as "deliberative", "direct democracy" or "participative democracy". At a much tighter level, the commitment reflects in local initiatives through which various governments aimed at involving citizens in the decision making process for the decisions that directly affect them.

Public participation can be interpreted as an opportunity to strengthen representative processes but also as an "antidote" for national political elites or technocrats (European Institute for Public Participation in Europe: An International Perspective, 2009).

From an etymological and conceptual point of view, participation has an active component; it refers to "being part of" or "taking part in".

The wisdom, knowledge and expertise of citizens offer reasons in favor of the previous statement. Both the increase in decision quality and

the achievement of better regulations are based on this hypothesis (Surowiecki, 2004)

Moreover, as a result of diminishing the resistance to change, resources used in the implementation process could be fewer.

According to the European Institute for Public Participation (EIPP), there are four conditions for a successful public participation:

- clearly defined constitutional framework for public participation;
- an increase in the degree of trust and public participation can be reached only by an explicit agreement accepted by politicians and citizens, and this will lead to realizing the democratization potential;
- systematic approach of public participation methods that will help organizers of public participation processes to choose the most appropriate and effective methods;
- strict evaluation of public participation in view of developing a participative culture and systematizing participative methods (European Institute for Public Participation, 2009).

Citizens can be more or less open to public involvement, function of a variety of reasons such as the urgency of preoccupations, issue relevance, nature of previous participation experiences (if case).

Citizens, as participants, should ideally be informed in order for the public dialogue to really take place and for the motivation to exist. They need the courage to articulate and defend their own points of view (and to change them when appropriate), politeness to listen to the reasons of other participants and to take into account adverse opinions, as well as the ability to appreciate the obvious and evaluate "losses". They should be able to postpone their immediate needs or personal preferences in the interest of long-term benefits or of public well-being.

Even if the network center has initially reigned supreme, it gradually releases control over to other actors within the network. The government gets, under these conditions, a special significance, because it includes the cooperation efforts of all actors within the network (Popescu, 2011). Network political systems can be seen, like within organizations, as mixed structures of vertical and horizontal interdependence.

One advantage of the network system is that it can be used to divert attention to a structure with a higher degree of independence. Instead of supposing that influences manifest through direct and visible interactions (such as personal relationships or relationships between representatives of institutional interests), the network structure approach facilitates the examination of the way in which a structure influences the behavior of individuals, the content of decisions and the public policies' implementation efforts.

The functions of the governance network differ from the ones of other network types. Dominant functions, within companies'-created networks, are transactional and cooperative. Coordination and regulation functions within policies' networks are significant; horizontal interdependency is much more important than the vertical one, as in the bureaucratic vision.

Pragmatically, the achievement of such a structure involves taking into consideration a multitude of changes.

## 2.2. Transparency

Transparency means decision making is done in such a way so that rules and regulations are observed, information be available and directly accessible for those to be affected by the decisions, and so that a large enough and easy to comprehend volume of information be provided to those affected.

The difficulties of the period we are crossing represent a major challenge for citizens, who are extremely worried about the current crisis and also about the potential economic comeback solutions adopted within the EU and within the country. This state of uncertainty also illustrates a relative lack of trust in the main democratic institution of the state.

Table 1 illustrates a percentage representation of these values in five European states.

*Table 1. Citizens' trust in national institutions within certain European states*

	June 2009	June 2010	May 2011
Citizens trust			

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Sweden	Government	57%	57%	65%
	Parliament	64%	66%	73%
Germany	Government	45%	32%	40%
	Parliament	46%	39%	46%
Portugal	Government	28%	20%	20%
	Parliament	36%	28%	26%
Austria	Government	58%	54%	54%
	Parliament	58%	52%	64%
Latvia	Government	10%	13%	13%
	Parliament	6%	6%	11%

Source: European Commission, Public Opinion analysis – Euro barometer Interactive Search Surveys, [http://ec.europa.eu/public\\_opinion/cf/step1.cfm](http://ec.europa.eu/public_opinion/cf/step1.cfm)

Figure 1 presents the dynamic of Romanian citizens' trust in the representative democratic institutions between 2009 and 2011.

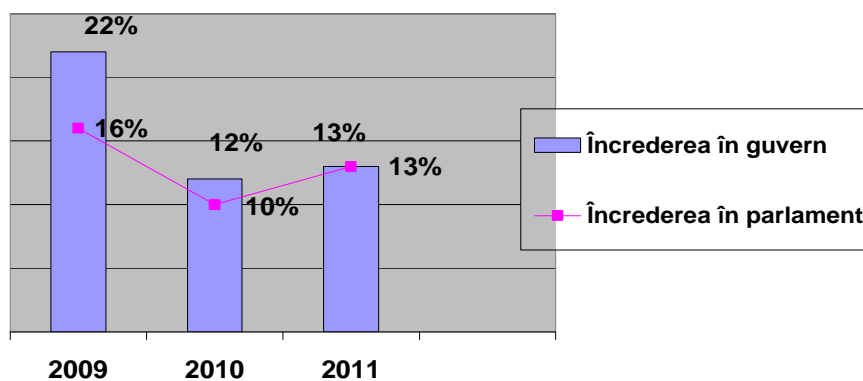


Figure 1. Dynamic of Romanian citizens' trust in the government and parliament

This profound lack of trust manifested by citizens is the expression of their refusal to accept public policies made behind closed doors, practice

by which decisions are not transparent and without public consultation (Popescu, 2011).

In an ideal world, elected officials are making all decisions on public policies. In fact, the border between administration and politics is pretty difficult to note so that cases when bureaucrats get involved in political decisions or when politicians cross this border are pretty frequent.

The administration is directly involved in the development of the whole process of public policies. In certain cases, this can even be a source of new public policies proposals, thanks to the links it has with the ministerial agencies and departments responsible with policy implementation. In other words, the success or failure of a policy is determined by the actions of administrative structures responsible for the implementation of the respective policy, by the knowledge and expertise of the administration, absolutely indispensable to the implementation of any specific policy (Popescu, 2011).

The power of bureaucracy derives therefore from the knowledge, expertise and discretionary authority it holds. This power can be strengthened by gaining support from the interest groups involved in the development of a certain policy - for instance parents, students, teachers (in case of educational policies), farmers (in case of agricultural policies), etc. These groups are capable of exercise considerable influence in support of the policies of any interest to them.

The pressure exerted by these groups in view of directing budget resources to certain fields of activity can lead to compromising governmental investment programs, especially during difficult periods such as the current one.

Moreover, the existence of these groups is a significant capital for certain administrative structures to which they resort when they want for a new program (not specified in the parliament-approved budget) to be financed or to increase the financing of already running programs. This is a method to involve these groups in various political disputes, leading to the decredibilization of their participation in the public policies process and to the decrease of public trust in the institutions responsible for the policies' process management.



It is imperatively necessary to adopt the principles of decisional transparency within the current context of the total mistrust of citizens in the state institutions, in order to increase participation and public trust.

In other words, decisional transparency is an answer to citizens' and stakeholders' pressure to achieve better regulations that should contribute to giving back citizens their trust.

According to Romanian Law 52/2003 on decisional transparency, citizens and organizations will be able to express their opinions and interests on elaborating normative regulations and on administrative decisions. The instruments that Law 52/2003 provides citizens are: being consulted by public authorities on draft laws and participating in the public meetings of these authorities.

The lack of decisional transparency, together with other deficiencies of the regulatory activity, leads to a low degree of trust in the force and importance of legislation. The lack of consultation leads to norms being frequently modified or replaced, fact that determines a strong legislative instability and does not offer the necessary security to the already existing Romanian legislative framework.

A real implementation of the transparency principle leads to a higher degree of trust in legislation and regulations, since they were adopted with the consultation of all interested parties. Trust in the legislative framework will result in a higher degree of law observance and positive consequences on the development of economy and on maintaining cooperation between government and the citizens.

The transparency can lead, under certain conditions, to a policy vacuum (Powell and Leiss in R., Lofstedt, 2004, p. 10).

An example of policy vacuum is the state of confusion, negatively perceived by those directly interested by the result of these negotiations, generated by contradictory pieces of "almost certain" news sent out to the public all during a negotiation process.

We present below a 2010 study based on a questionnaire addressed to 296 public servants from 67 municipalities.

Question 1. Are you familiar with Law nr. 544/2001 on the free access to information of public interest?

85% of the answers were affirmative, 9% negative, 3% answered "do not know" and 3% did not answer.

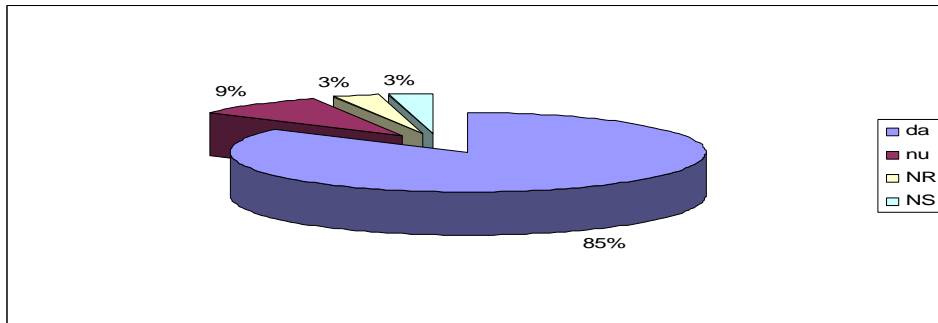


Figure 2. Investigation on Law nr. 544/2001 on the free access to information of public interest

Question 2. Are you familiar with Law 52/2003 on decisional transparency? 76% of the answers were affirmative, 19% negative, 3% answered "do not know" and 2% did not answer.

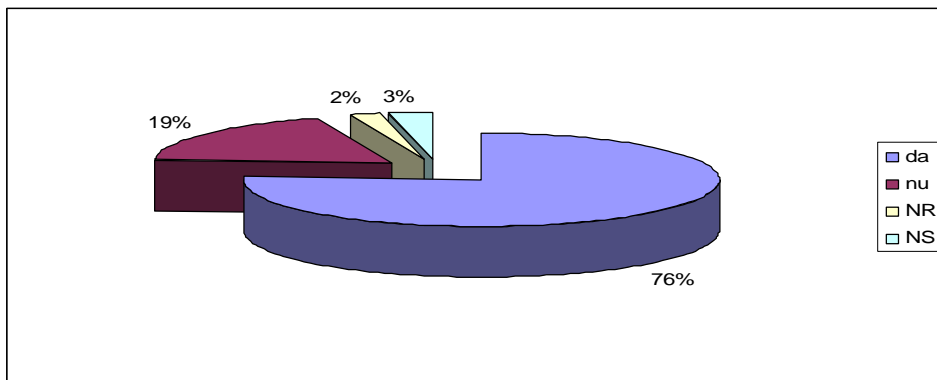


Figure 3. Investigation on Law nr. 52/2003 on decisional transparency

Only 76% of the questioned have heard about Law nr. 52/2003 on decisional transparency. Law nr. 544/2001 is much more known by public servants. The study revealed that 85% of the respondents are informed about the existence of this law. Therefore, despite the clear benefits

transparency brings, Romanian authorities' efforts are, at least until now, insufficient.

From the point of view of citizens' interest in getting involved in the process of public interest, the answer is also unsatisfactory.

Empiric analysis also signals the presence of another negative factor: low citizen participation in initiatives and projects aiming at helping the community's general interest. We are presenting below a series of relevant figures, according to the information received from the Agency for Governmental Strategies.

In the first study, subjects had to answer whether they have been involved during 2010, voluntarily contributing with workforce or money, in solving local issues.

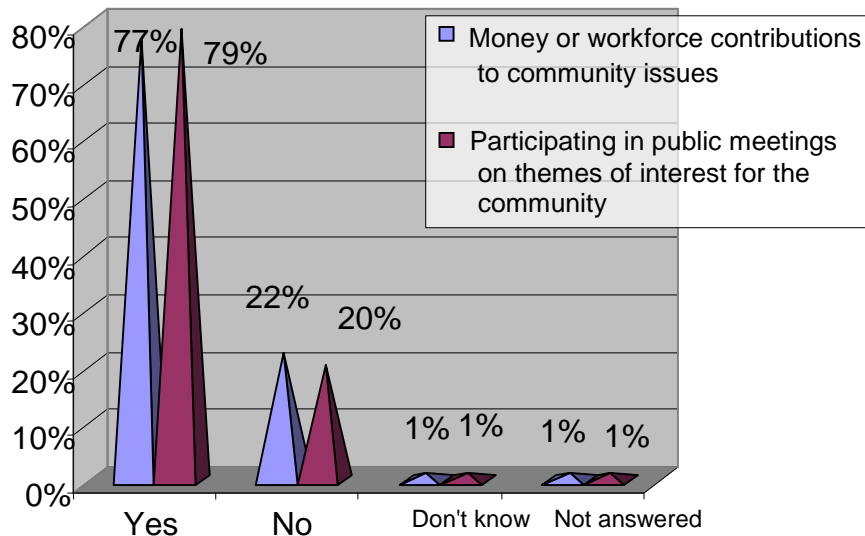


Figure 4. Study on the involvement in solving issues of interest for the community.

Secondly, subjects had to answer whether they performed any activity to influence public policy decisions that either affects them or the whole community.

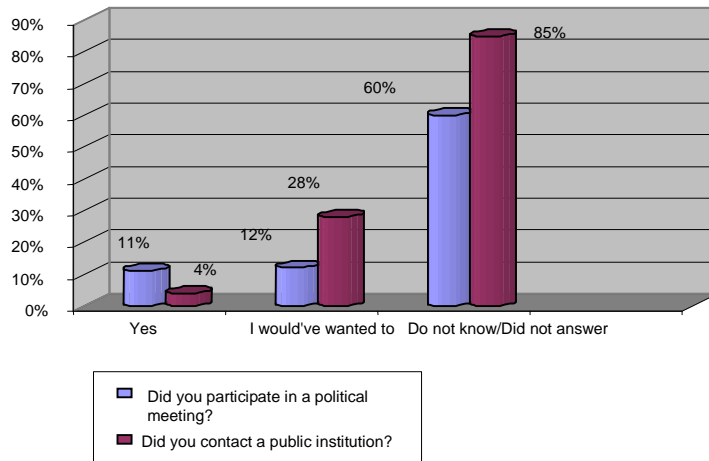


Figure 5. Study on the participation in view of influencing public policies' decisions

The main difficulties in implementing Law nr. 544/2001 can be grouped as follows:

**Institutional issues:** organizational deficiencies in providing free access to information within public institutions Solutions adequate to this type of difficulties have to be looked for first of all at the management level, by improving work procedures within institutions and by increasing the professional training of the public servants involved. One can also take into account the clarifications and additions, by Government Decision, of the methodological norms for the implementation of Law nr. 544/2001.

**Issues related to justice functioning:** difficulties especially related to the enforcement of court rulings in favor of information requestors and to the possibility of sanctions. Although courts rule more and more often in favor of people whose right to free access information has been breached by public institutions, real access to the information requested can still be obstructed by the information holder. Possibilities to enforce sanctions or to grant repairs by the courts have to be taken into account.

**Issues of a legal nature:** difficulties tied to insufficiencies of the Law nr. 544/2001 or faulty correlation with other legislative texts Practice gathered

in more than three years of implementation indicate that Law nr. 544/2001 should also cover other entities using public funds. On the other hand, a legislative modification effort does not only concern the framework law but also other normative documents restricting free access.

Changing the legislative framework of access to information has to be done in a careful and prudent manner. A good part of the identified issues and difficulties can be solved by internal management solutions and by a better functioning of justice. Any possible changes of Law nr. 544/2001 has to exclusively take into account widening the scope of providing free access to public interest information.

Such a step should have the approval of all interested parties and should not be unilaterally forced as long as the approval is not obtained. The risk of law being changed by the Parliament of Romania has to be evaluated and minimized through a coherent lobby effort which needs time, careful planning and coordination of efforts from all parties involved.

### **2.3. Efficiency and effectiveness**

Good governance means processes and institutions producing results which correspond to the needs of the society while available resources are best distributed.

The concept of effectiveness, within the context of good governance, also refers to the sustainable usage of natural resources and environment protection.

Focusing on resources (inputs) necessary to a ministry/department says very little (or nothing) about how that ministry/department intends to use the assigned resources. This input-based approach represents a substantial threat both to the parliament, who controls the government, and to the policy makers, who should know how well a certain ministry/department works. It is difficult enough to appreciate how well resources have been spent.

A second option is where the budgetary distribution is done in such a way as to provide more information about the outputs either produced or acquired with the resources assigned.

The outputs represent products/services of an institution according to its own objectives, for which the institution is fully responsible.

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In case of a university, for instance, concentrating on inputs involves taking into consideration amounts necessary for personnel payments, building maintenance and logistics acquisitions. In the second example, that of focusing on outputs, budgetary issues concern the number of students who can be admitted every year, the annual number of graduates, the number of programs that can be introduced.

The output-based approach provides the parliament or the decision factors (policy makers) consistent information on how well did the government use public funding. Yet the output-based approach generates a series of controversies.

For instance, although the parliament or the policy makers have clear information on the number of graduates of a certain university, they cannot judge whether they all deserved their diplomas, whether all major subjects really are necessary on the labor market or whether public funds assigned by the government could have been better spent in other fields of activity. The necessity to get answers to such questions determined a shift in attention from outputs to outcomes.

Outcomes represent changes/benefits produced in economical, social or cultural environments. These benefits are preceded by outputs within a certain timeframe. For instance, just a certain percentage out of the total number of graduates (outputs) manages to get employed in the field of activity they studied for within 12 months since graduating. This is the result (outcome) expressing the fact that funding has indeed been effectively used.

Current talks on outcomes state that what matters in the analysis made by the policy-makers or citizens are first the outcomes and then the inputs and outputs.

Governments create public policies in order to change something within the society. Inputs and outputs are just the necessary means to achieve the expected change; the change is defined by its outcomes.

Configuration this link between outcomes and resources is a necessary step in the results-oriented management (MBR) approach. It leads to a better management of resources, a greater degree of responsibility and it offers the government a possibility to consolidate its horizontal coordination efforts.

## **2.4. Responsibility**

Responsibility is a key requirement of good governance. Governmental institutions, the private sector and also the civil society organization have to be held accountable by the public and by all actors interested.

An organization or institution is generally held responsible by those affected by the decisions taken or by actions initiated. Responsibility cannot be assumed without transparency or without the rule of law.

By presenting the principles of good governance, one can see that this is an ideal and hard to achieve model. Very few countries and companies got close to achieving good governance in its integrality. Responsibility can be seen as policy acting upon bureaucracy from the outside. The objectives of this accountability policy (customer and customer interests' identification) are vaguely defined and the pressure towards accountability places the administration in front of a major battle.

A series of well-known models, including managerial approach models, have been abandoned upon wide citizen request, whose exigencies are increasing in number and complexity. This is, for instance, the case with the objectives-based management (MBO), dropped in favor of the MBR.

Within a hierarchical bureaucracy, activities are performed as per general rules and previously established norms. The main objective of the leadership and control structures is to ensure the observance of these rules and norms. In such a system, the improvement of effectiveness and efficiency involves the adoption of changes in legislation.

Knowledge of the objectives and measurement of results represent two imperatives of the change type public managers should focus on, proving they are capable of effectively organizing and using resources (including informational resources), of getting involved in achieving objectives and in identifying ways to motivate employees.

In other words, a different focused managerial approach is needed that should focus on defining and accepting performance. The configuration of a new MBR constitutive context involves first of all the need of designing new models for developing relationships between central and local administration, between administrations and citizens from

local and regional communities, between administrations and various citizen groups.

Secondly, there is an imperative demand for a structural reform at the level of central and local administrative structures, in view of streamlining them (so that they become compatible with network-type flexible structures) but also of increasing their decision making capability by involving citizens and community-representative interest groups in this process.

Pragmatically, the achievement of such a structure involves overcoming a variety of changes. On one hand, are citizens aware of the importance of their engagement? Are they really motivated to get actively involved in such a structure?

On the other hand, how prepared are the representatives of public and political authorities to accept to cooperate with various categories of citizens? One has to first of all emphasize the quality of civic culture necessary for the achievement of such construction. Secondly, it is about responsibility proven by political factors and public authorities in what concerns focusing their efforts to the development of a civic culture meant to change this structure into a functional form.

## **2.5. Coherence**

There is an important number of actors and a multitude of viewpoints within a certain society. Good governance involves mediating various interests within society both to reach a consensus on what is the interest of the whole community and on the ways in which it can be achieved.

Good governance also needs a much broader perspective on the long term on what is necessary for a sustained human development and for the way in which it can be achieved. These aims need the understanding of the historical, cultural and social context of a society/community.

The holistic approach on public policies If one is to focus on results, this involves major changes in the public policy making, in the sense of stressing on the importance of results. Within the national approach, for instance, the health policy involves concentrated efforts on curing diseases. The new changes bring a radical change of the way efforts and, of course,



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resources are distributed. The new policy shifts focus from curing disease to maintaining the health/well-being.

The wellness represents the result of a well implemented and led health policy. A healthy life involves a series of health determinants (diet, stress level, environment factors, relaxation habits etc.) that have to be taken into account in the development of policies to aim at disease prevention and health preservation. This undertaking represents a holistic approach of the health system. Pragmatically, it means integrating the health policy into a complex network of policies.

The holistic approach includes the citizens in the actors category, actively involved in the public policy making process. This is a totally different vision compared to the traditional one in which the citizen was seen as just the beneficiary, or target, of the public policies. Within these new coordinates, the policy makers face challenges resulting from the need to share expertise and information and to work together to solve issues.

In other words, the new challenges bring the demands of strengthening horizontal cooperation, between governmental departments or between governmental levels, the private sector and citizens, in the spotlight.

According to this approach, the responsibility to provide security to vulnerable groups is mainly an issue of the citizens and of the community. The vulnerability of these people is determined by the convergence of certain factors (education level, health issues, and cultural attitude) with social protection policies implemented within the community (policies which have to take into account all these factors). The issues of vulnerable groups cannot be solved by the authorities just by providing some form of support (most often of a financial nature).

The "winning strategy" in case of these policies is that in which the community is being actively involved.

A good health policy means a vision centered at least on maintaining, or even improving, the health state of the community members. This type of vision is supported by a proactive approach, totally opposed to the reactive approach specific to traditional policies centered mainly on treating diseases and providing offset recipes.

Although at first sight preventing a disease seems easier than treating it, issues are far more complicated than that in real life. Maintaining the health state means sport, healthy food, positive thinking, clean environment, entertainment, relaxation and so on.

All these elements should be taken into account in elaborating the health policies. This is possible just under the conditions when a share of the responsibility it brings is transferred towards citizens and the community.

In other words, the implementation of this approach, with the help of the governmental agreements among various society groups means giving up the traditional hierarchical relationships model, established between a governing center and a governed system, in favor of new and complex relationships established between a varieties of interdependent centers.

Solving the issue of homeless people involves, for instance, a complex approach. Social homes building represent just a partial solution. The complete solution has to also approach issues referring to education, health, culture, etc.

This new public policy vision reflects, therefore, the belief that the results policy makers aim at obtaining need a multi-sectorial approach.

In order to reach their objectives, the policy makers need to share expertise and information and work together with other ministries, NGOs, local authorities, and this means putting a strong focus on horizontal cooperation among all these actors.

Moreover, this type of building can take over a series of services that the government cannot provide. For instance, educating citizens on how to maintain good health can probably be better done, in a more effective manner (and maybe with a higher degree of credibility) by other actors than the governmental ones.

Such a multisectorial approach can vary from higher levels of inter-governmental agreements to community level partnerships involving NGOs, associations and groups from the private sector as well as local authorities. Justifying certain choices governments make is easier when citizens affected by the respective choice are involved.

In other words, it is more and more difficult for the governments to enforce top-down choices, especially in the case of controversial policies.

From a strategic point of view, it is more than necessary to get citizens involved, including in the implementation process. An anti-obesity strategy, for instance, can contain requests referring to diet changes and/or sports practicing. The citizens' availability to participate represents an encouragement to take over the personal responsibility for the success of the strategy. Citizens become directly interested in the development of the project and, as a result, they will change their habits; this will essentially contribute to the general effectiveness of the project.

Fourth, citizens' participation is a gain from the point of view of the modern economy based on the creative usage of resources, innovation and learning. The "profit for society" resulted from community involvement is generated by:

transposing the expertise of the community members into innovative solutions for the community issues; solutions can be turned into good practices for solving the issues of other communities;  
the benefits of diversity; in a knowledge-based society, diversity is a major resource, source of new networks and connections with other areas

Therefore, the policy coordination efforts of the central government are important, but they will also be sustainable to the extent they lead to coherent interventions, significantly contributing to the achievement of objectives.

### **Conclusions**

Strengthening the administrative capacity by public administration reform, achieved and structured by the political tiers, namely the governmental one, would finally lead to „good governance“. However, the concept of good governance should be understood in view of the capacity to govern, capacity direct depending on the administrative one, the latter being the pillar for achieving the governmental policies. Thus, in the framework of the democratic state system, a circular relationship is established between citizen/society - administration - governments - the European Union.

Taking into consideration this relational system, we shall notice that the weak development capacity of an actor, element will produce influence on the others and finally on the integration process. A public administration reform should not be developed distinctly, separately; it should be promoted and supported by the entire social system.

For the time being, the political power of the democratic state is limited due to several causes. Firstly, the governments, as expression of political power should respect and take into consideration the bureaucracy of different administrations, as well as the judicial authority, which has the advantage that it lasts longer than governments and knows better „the files“. Then, the governments should agree with the trade leaders and conclude various „social pacts“. Contrary, both bureaucracy and justice or trade unions may hinder the reforms not agreed (fact happening frequently).

Both inside the country and within the foreign relations, the governments are enforced to respect the legislation of international bodies (for example, European Union Member States), as well as the norms embodied in treaties and conventions of international law.

All the above causes reduce the governments' capacity of action, generating a status of self-satisfaction and measures taking, possible to be expressed under the mentioned conditions, so that finally, constrained by time and the possibility to miss another mandate, several times, they renounce to long term structural reforms and manage just the current affairs.

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## HOW DO DESCENTRALIZATION AND ADMINISTRATIVE REFORM TRY TO AVOID MARGINALITY?

PhD Madalina –Elena MIHAILESCU<sup>1</sup>

### Abstract

*Inequalities have various causes and can result in permanent handicaps imposed by geographic remoteness or by recent social and economic changes or perhaps both. In the new UE member states part of this disability is the result legacy of former centralized planned economic systems. The issue represented by the decentralization of public services towards the local communities has been a perennial preoccupation on the agenda and within the programs of the post-communist governments, while its legislative realization and, further, the implementation of such a policy have generated remarkably diverse controversial – outcomes.*

**Key words:** *public administration, public policies, civil society, decentralization, economic disparities, poverty*

### 1. Introduction

The specific activity of public administration is carried out by a complex set of institutional forms whose activity is organized on the basis of a series of principles that vary, depending on the problems that the public administration has to cope with. (Europe Direct 2008: 4). From the latest statistics made of MDRAP it results that one of six Europeans is facing poverty and this scourge is affecting nearly all socio- economic categories. Currently, there is a permanent concern of the EU for reducing poverty and promoting social inclusion (MDRAP 2013: 258). Ever since the first signs of the financial and economic crisis appeared in 2008, the Council of European Municipalities and Regions (CEMR) has been endeavouring to

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analyse its effects on the management of local and regional authorities and it has worked alongside its members to stand up for the principle of local self-government and for the full financial capacity of European local and regional authorities. ([www.ccre.org](http://www.ccre.org), 21. 09.2015, 22:00).

The major challenge in the medium and long term local government is the creation of the mechanisms to support Romania's EU integration to cope with both economic and cultural changes in order to manage EU funds, and in order to put into practice public policies. To avoid marginalization of certain groups or disparities, public administrations should prioritize the following actions: improving the quality of local public services, increasing revenue locally and supporting local capacity to exploit the potential (Profiroiu, Andrei, Dinca, Carp 2005: 3). Several foreign and domestic analysts share the same opinion that although Romania made a lot of efforts in order to improve the social and economic conditions of its populace, something essential must be missing since substantive democracy and prosperity are still pending (Mungiu-Pippidi 2000: 2, Profiroiu, Profiroiu, Mina, Nica 2011: 277-294).

To this respect, there is a growing consensus on what the missing ingredient good governance might be. Some authors consider that the deficit of governance in Romania spans over many aspects of the public life and gets translated into wrong institutional arrangements, lack of political will and missing implementation skills (Mungiu-Pippidi, 2003 : 3; Profiroiu, Profiroiu, Mina, Nica 2011: 277-294).

## **2. Marginality in EU states and Romania**

Starting with 1993, public administration reform focused on changing the relationship between PA and society, meaning that PA must serve the society and not subordinate the society, as well as on the separation between the state and the civil society. It also emphasized the support for increasing the civil society's auto-regulation capacity and for local individual initiatives, a new relationship between citizens and administration, strengthening the role of local public authorities and developing a partnership with the civil society. Other drivers for increasing the pace of PA reform were the need for structural and functional PA

modernization and the EU integration process (Profiroiu, Profiroiu, Mina, Nica 2011: 282).

Several European Commission reports signaled that many of the initially set goals as well as the adopted laws were not effectively respected and implemented and the newly created entities did not manage to entirely fulfill their mission. It is for this reason that the PA reform kept the top of the pre and post EU integration agenda. Taking into account the recommendations made in the European Commission's Report in 2003, the priorities of the PA transformation process focused on the civil service, aimed at creating a professional, stable and politically neutral corps of civil servants, local public administration, by continuing the public services decentralization/deconcentration process and central public administration, by improving the public policy process (Profiroiu, Profiroiu, Mina, Nica 2011: 282).

When dealing with the influence of the political environment on people activity and coverage patterns, it is vital to distinguish between the direct effects of a change in government and the indirect effects of such a change. Direct influences are, for example, favorable statements made by the government officials concerning a particular social group resolutions for development and funding and a shifting of budget towards a particular group at the expense of others. Negative proclamations or discriminatory actions are also considered direct actions. Indirect influences of a change in government on social group coverage patterns can be a side effect of changes in the dominant values across society or of changes in work. In addition it must be kept in mind that the Government does not work alone in promoting or discrediting social groups, because other influential factors might be interest groups, political parties and organizations (Avraham 2003 : 171).

Inequalities have various causes and can result in permanent handicaps imposed by geographic remoteness or by recent social and economic changes or perhaps both. In the new UE member states part of disability is the legacy of former centralized planned economic systems. The impact of these handicaps is often highlighted by social deprivation, mediocre education, high unemployment rate and inadequate infrastructure. We believe that the relationship between globalization and underdevelopment can be described by two assumptions and alternatives:



(1) underdevelopment can be a result of globalization or (2) underdevelopment can be caused by the country's lack of integration into the global economy. We may call the first hypothesis peripheralization hypothesis, while the second hypothesis could be called marginalization. Peripheralization hypothesis states that unequal economic relations between advanced countries and the least advanced ones contribute to the "development of underdevelopment". Marginalization hypothesis states that underdevelopment is in fact one of the causes of the lack of integration in the circuit of world economy avatars and that is because of the autarchy of local economies ([www.socasis.ubbcluj.ro](http://www.socasis.ubbcluj.ro), 22.09.2015, 10: 05).

The subtle items of our society remain relatively invisible and potentially harmful to the well being, self esteem and standard of living of many marginalized groups in society. There are psychological dynamics and impact of micro aggressions on the well being of marginalized groups and will elucidate their role in creating disparities in education employment and healthcare (Derald Wing 2010: 10). In many cases hidden messages may invalidate the group identity or experimental identity of target persons demean them on a personal or group level and may communicate that they are lesser human beings by suggesting they do not belong with the majority group, threaten and invalidate or relegate them to inferior status and treatments (Derald Wing 2010: 3).

The issue of the decentralization of public services towards the local communities has represented a perennial preoccupation on the agenda and within the programs of the post-communist governments, while its legislative realisation and, further, the implementation of such a policy have generated remarkably diverse - here and there, controversial - outcomes: on the one hand, observers and decision-makers praise the benefits of "local autonomy" and independent public policy at the local level, accompanied by a more meaningful citizens' participation, on the other hand, contestations are voiced through the prism of what seemed to be a gradual "impoverishment" of the small-to-medium sized municipalities, in the absence of the financial support provided by the state budget (Marin 2014: 75).

Addressing marginality is not only a matter for local and central governments but also a task for civil society organization, business and local communities themselves. Public policy assessments refer to

macroeconomical, fiscal and decentralization options to address marginality. How does one reach the extremely poor and marginal groups in countries where local politicians and local officials may have little incentive to provide for them? The instruments that might be involved include a range of options transfer or assistance from higher levels of government (donors), cash support, the provision of public services (particularly health and education, forms of employment support (Von Brown, Gatzweiler 2014 : 12).

Marginality incorporates the understanding that the subjective perceptions of poverty, values and aspiration matter and that all of these are part of calibrating the tools of poverty measurement. Apart from being inclusive and interdisciplinary, the concept of marginality offers an integrated and systemic basis for understanding the interactions between the social and the ecological system. In a world with fewer natural resources it becomes more apparent that the role of access to services and technologies is even more critical for all kinds of linkages and changing patterns between both systems (Von Brown, Gatzweiler 2014: 10).

For example, in our country, recent studies have found that most of the rural areas face acute problems caused by local economic context, but also within their organization. In this respect, we can speak of the existence of internal factors that maintain most of the villages at a low level of development. Among them, the main factors are the condition of local infrastructure and lack of attractiveness for investments of these places. Often, in these situations, one of the major elements that generate these internal factors is the administrative organization .We are talking about places with low effective population aging or isolated villages. To be economically viable and to be managed effectively, it is necessary to increase their interconnectivity within larger and more powerful economically structures and to implement micro-regional projects that go beyond the territorial limits of current existing municipalities (Mihalache, Croitoru 2014 : 68).

Most countries in Central and Eastern Europe are faced with the difficulty of establishing higher levels of self-government. Municipal level, for example, fragmented or not, does not provide adequate coverage areas for more specialized services such as secondary education, hospitals or shelters. There has been a lot of pressure on the part of the EU, particularly

on creating local representative institutions which could lay the grounds for planning economic and social development. However, in most CEE countries there are thousands of communities with municipal status with populations of less than 1,000 people, and reform programs face the inability of these communities to ensure administrative and financial skills, the existence of economies and stratified coverage areas necessary for essential services such as primary education, waste management, hiring qualified staff in the fields of law, engineering or physical planning (Davey 2004: 35-26).

Economic development, in general, is a complex process with different implications from one sector to another or from one region to another, which can be influenced by a number of factors. As far as the regional development is concerned, it might be affected by a number of factors, which will be presented in a synthetic form below. An important factor that may influence the development of regions is the degree of regional specialization.

However, there are opinions that regional specialization contributes to a lesser extent to the occurrence and the emphasizing of economic disparities and, in particular, to those existing per capita income which are determined by differences in productivity and not necessarily by specialization (Antonescu: 9 cited in <http://www.studii-economice.ro>). Another factor contributing to the emergence of regional development disparities between the regions is the nature and type of the analyzed region. In areas where consuming industries are prevalent, it will be seen a decline in income and employment levels as a result of the goals of the national policy.

In Romania, the socialist regime had a contradictory effect on the concept of social solidarity and its value. On the one hand, by the very option to politics, socialism have the objective of strengthening social solidarity. On the other hand, experience degradation social was likely to generate a negative attitude toward mechanical solidarity artificially imposed politically and ideologically. The indiscriminate equalisation policy, in the sense of impoverishing the population without rewarding individual effort and the quality of work, limited the development of the value of solidarity. It rather generated an aspiration towards a

differentiated performance reward system, which consequently led to increased inequalities between social classes. (Zamfir 2012: 127).

Unequal opportunities offered by the transition responded in a way to these expectations. On the one hand, the transition in Romania has led not only to a very good chance for what turned out to be a small minority, but a sharp depletion of an important part of the community. On the other hand, community expect a special social protection to compensate at least partially for the negative effects of transition in recent years; the Romanian government tends to withdraw more and more of social protection functions. The perception of an increase in individualism and feeling of abandonment experienced by those in difficulty characterized more strongly the collective mood (Zamfir 2012: 127).

### **3. EU policies regarding decentralization and avoiding marginalization**

In the current crisis and austerity measures on the background of concerns EU in the protection and welfare go, more than ever, to a comparative analysis of the risk of poverty or social exclusion of countries that are EU States members for proposals for realistic solutions in order to prevent poverty causes. It should be noted that, in recent years, the EU has refined the methodology concerning the calculation of risk of poverty and social exclusion, launching new social indicators able to measure the living conditions of the population which is vulnerable or marginalized from the social point of view (Zamfir 2012: 132).

On the one hand, admittedly, the general trend manifested both nationally and internationally in the period between 1992 -2010 in the evolution of the structure of the active population by economic sector was the decrease in the share of employed population in industry and agriculture, in parallel with the increase of people involved in the services sector, which largely explains the marginal status of agricultural rural poor population. Anyhow, following the developments in the period 1992-2010 of the population structure, the analysis at regional level of the national economy in 2010 identifies the same regions of eastern and south Romania and those in the west and center of the country according to the share of

employment in the economic value of three main activities, respectively in activities such as agriculture, manufacturing and commerce (MDRAP 2013: 23).

On the other hand, in Romanian cities social problems are caused by poverty, unemployment, lack of utilities, accessibility issues that encourage the raising of socio-spatial segregation. Creating inclusive societies that ensure the participation of all sections of the population in the economic, social and cultural development is one of the key priorities envisaged by the EU for the next decade. An indicator of social cohesion is the degree of residential segregation at the neighborhood level in cities, namely the inequality between the average characteristics of the population of the districts. However, people associate depending on the economic, social and cultural background, ethnicity, income, unemployment, lifestyle, and so the evolution of segregation leads to the creation of homogeneous areas in the districts in terms of these characteristics (MDRAP 2013: 231).

Therefore, ineluctably appears the problem of the degree of decentralization propitious to a democratic construct and to an efficient administration, considering undoubtedly different factors (e.g. the traditions and the history, the area and the population of the state, the dispersion degree of the inhabitants, the economic conditions and the political context, etc.); equally dilemmatic remains also the convenient operationalization of the concept of “decentralization”, (Frège 1991: 38, Apostol Tofan 2008: 255). Adverting to the major discrepancies between “administrative decentralization” and “political decentralization” (that is, federalism, “the most profound form of decentralization”, a “major constitutional option, often associated to some exceptional historical circumstances” -from a legal perspective (Marin 2014: 75-76).

In ensuring the decentralization of power and local autonomy the starting point is the prerequisite that local authorities are best placed to answer the needs of communities as they know their problems best and, therefore, can find and identify the most appropriate solutions to solve them. In the same order of ideas, we cannot ignore the fact that local autonomy is expressed in the elective system that allows members of the collectivities in the administrative-territorial units to self-manage through their own bodies, thus having the opportunity to solve the issues that concern them directly. In local public administration, good management

problems and promotion of their interests are the responsibility of local authorities who are meant to provide local public services to meet the needs of the people in the administrative-territorial unit (Zaharia 2011: 288).

Classical theories of democracy belonging to A. de Tocqueville outline these features of decentralization and opportunities that will result from the principle of solving at least some of the economic issues like disparities or marginalization of various social groups (Iancu 2010: 45).

As a result, the real possibilities brought about by social and economic decentralisation are the following: a) a better way to coordinate public actions. This is mainly because the central government helps in reducing misunderstandings/disparities caused by the deliberate distance created between the rulers and the ruled by delegating power locally; b. a mechanism for increasing the accountability of government decision makers to determine an effective fight against corruption at local level, in favour of improving the quality of public services; c. finding/discovering a way to preserve equity and reduce poverty; d. implementing a political stability factor, a prerequisite for social development (Maddick 1963: 3).

Although we previously listed the advantages of decentralization, it should not create a false impression because we cannot state that decentralization is actually a panacea to the legitimate problems appearing in a democratic state, especially because democracy is neither the direct result of decentralization nor it appeared immediately after the birth of the concept of democracy. (Baudin - Culliere 1995 cited in Iancu, 2010: 45).

Decentralization appears to be synonymous to the local interests, territorial reinforcement. For functional bureaucracy it represents the ideal solution to combat social and political economic difficulties of the moment. This process was achieved through redeployment and development tasks typical modern providence status. While redistribution which is made nationwide consists of policies aiming to ensure equal opportunities between different social groups and different geographical regions is exercised through, development activities aimed at supporting and stimulating material progress through an effective orientation (Benz 1987: 555 cited in Apostol Tofan 2006: 117).

In the last two decades, Romania has known a massive increase in the gap development of different areas of the country. By reporting the

indicator gross of domestic product (GDP) per capita of each county, respectively of Bucharest - the value the GDP per capita nationwide obtain an index which allows quantify the relative position of the general level of economic development each territorial administrative units (ATU) - 41 counties and the municipality Bucharest - compared to overall level of economic development of the country (Mărginean 2013: 61, Stănescu 2014 : 172).

From a global perspective it can be ascertained that the process of decentralization contributes to changing the relationships between the state and the local authorities, mainly in terms of operating rules and clarifying the division of powers. In essence, the French doctrine classifies the whole issue of the evolution of decentralization in three main phenomena: the complexity of the links between territorial units of different sizes and levels, the ambiguity of the financial balance of accounts, as well as the activation of the inequality generated, inevitably, by the reduced autonomy of spaces and decision centres (Frege 1991: 38 cited in Apostol Tofan 2006: 117).

There are, also, specialists who support the idea that, in fact, decentralization is an accelerator factor of unequal development of territorial-administrative units of Romania. The cause of this phenomenon depends on the mechanism for the formation of local budgets, reminiscent of the biblical principle "one that hath shall be given, and one that does not, I will take and what he owns". Budgetary allocations *per capita* - level of local budgets - including county councils and local councils - is strongly correlated with GDP *per capita* notwithstanding the need for development of communities and economic inequality (Stănescu 2014: 188).

Income introduces an important divide in education, even though public education is tax free. The costs associated with education (transportation, clothing, meals, textbooks etc) introduce a divide between low income families and the rest of the population in regard to access to school. Income becomes important also when looking at the quality of education. Private tutoring, a widespread model in Romania, supplements low quality education in some schools or disciplines, prepares the children for evaluations and admissions etc. Consequently, those who cannot afford private tutoring and rely on the public education system are disadvantaged in comparison to the others (Precupetu 2012: 251).

Another important divide is the omnipresent rural/urban disparity. While schools in urban areas generally have a better infrastructure, higher qualified staff and provide better opportunities for their students, those in rural areas tend to illustrate the opposite. Participation in education is significantly higher in urban than in rural areas and is especially deep for higher levels of education: upper secondary and tertiary. Participation rates in higher education are more than double in urban (56.3%) than in rural areas (27.2%). Rural residence seems to provide lower educational opportunities to children all along their educational path (Precupetu 2013: 251).

Some authors assume that governance, focused mainly on strategic steering of policy processes committed to empowering a variety of stakeholders and to involving directly the beneficiaries of public policies, would rather compose a policy mix based on more sophisticated tools and involve less the local authorities in the decision making process in favour of direct involvement of the beneficiaries of public policies (Ciolan, Stîngu, Marin 2014: 50).

Such an approach would entail an explicit commitment to participatory democracy and the principle of subsidiarity by empowering local communities and actors by trusting their willingness and competence to co-design and co-act in their own benefit or a reasonable capacity of the central governance in the field of policy-making and strategic steering of policy processes (policy-making, in this case, has a strong degree of professionalization, moving away from the area of improvised and unilateral, top-down decision-making systems)(Ciolan, Stîngu, Marin 2014: 50-51).

So, persons and communities should be trained not only to have capacity for policy implementation, but also for policy formulation, in a movement from consultation to cooperation, as stated in the paragraph below: 'Communities and citizens are more vocal about their belief that government should not decide unilaterally when to consult, on what, with whom, and by what means. Both policy makers and communities have started the work of shifting the policy-making process from traditional consultations to one of citizen engagement – a process characterized by mutual trust and a sharing of power. This shift toward a more collaborative, horizontal approach to policy making encourages all parties



to reflect and learn. It promotes a focus on common ground and recognizes that citizens and communities have important knowledge and experience to add to the debate (Dodd, D.J. and H.M Boyd 2000: 4).

### **Conclusions**

Given all economic and social theories listed above we can conclude that only strong public policies - distributive and redistributive- can change the unequal distribution of opportunities and income that are normal attributes of the functioning of markets, any weakening of these public authorities renders more problematic games in economic and social justice. A quasi Darwinian ideology of survival of the fittest has invaded not only the private business sector but also the public realm. Related to this development is the weakening of the notion of service -to the citizens in general and to the poor in particular - as the ultimate rationale for seeking and exercising political power (Baudot 2000: 33).

The European Union countries, including Romania, must follow a balanced model of economic and social development each being given equal priority at conceptual policy and implementation levels. Whilst regional inequality in Europe is significant, social inequality is also important and it deserves the same level of attention from the policy makers. Such model of development, relying on addressing only the regional inequalities and considering the labour market as the solution to poverty, will fail to address the full nature, scope and extent of social exclusion. The new European social agenda, addressing the issues of poverty and social exclusion, requires that the European Commission be well equipped with instruments for developing the knowledge base, the development policy, partnership, testing innovation and the promotion of effective methods. Ways must be found to test new responses to poverty, be that through the Progress Programme of UE or a new anti poverty programme (Harvey and O' Kelly 2008: 16).

The consolidation of public policy systems, specific to the younger democracies in Central and South-Eastern Europe and beyond, is still an ongoing process. One key indicator of professionalization of policymaking, but also of placing the whole process under the rules of democracy, is the

way central governances use, misuse and sometimes abuse the policy tools at their disposal. The choice and combination of policy tools is influenced by many factors, from policy capacity of the central governance to cultural and social presuppositions, but the first condition for their effective use is to be aware of the diversity of these tools, and of the main functions, advantages and risks they have correlated with the conditions of policy implementation (Ciolan, Stîngu, Marin 2014 : 59).

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STUDENTS WITH DISABILITIES AS A MARGINAL GROUP IN THE  
UNIVERSITY ENVIRONMENT

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**Abstract**

*The paper analyzes the demographic dynamics and structure of a marginal group, represented by students with disabilities, in the University "Dunarea de Jos" of Galati. It was given by the context of the development of a European project which facilitated access to university education for people with disabilities. The processed data cover a period of four years and have revealed several types of relations between the majority and the demographic structure of marginal group. The study took into account both the strictly demographic indicators - sex and age - and the options for study programs chosen by students. The research results show that students with disabilities represent a distinct category in terms of structural features. However, a number of general features of the macro-university system configuration is reflected in the marginal group, according to the principles of part-whole.*

**Keywords:** disability, university, demographic structure

**1. Introduction**

Throughout history, people with disabilities, similarly to other demographic structural categories, such as members of certain races, ethnicities or denominations, have been subjected to forms of discrimination and social exclusion due to the stereotypes, preconceptions and stigmas manifested by the majority of society's members.

Although greatly diminished today, the level of discrimination directed at people with disabilities remains quite frequent and it exists as a result of a double standard, according to which the life of the majority, of the "normal" people, is considered the "normal life". This led to unequal

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<sup>1</sup> "Dunărea de Jos" University of Galați

treatment in public or private places, in terms of services, education and social care for this category of people. Fortunately, there seems to be a change in the general attitude of the community towards its disadvantaged members, even though it is much slower than the dynamics of the society in other areas of social life.

The current article aims at emphasizing the manner in which a policy of opening and support for people with disabilities can reduce their handicap in accessing higher education. The paper includes data gathered during the implementation of the POSDRU/86/1.2/S/63951 project concerning the access of the disabled to higher education at “Dunărea de Jos” University between 2011 and 2014.

In these three years, the proportion of students with disabilities changed considerably within the university.

In terms of methodology, two entities – the group of students with disabilities and the general mass of “Dunărea de Jos” University students – were compared diachronically. The analysis revealed the structural composition of the group of students with disabilities, on the basis of data available in the project, in connection with the general structure and dynamics of the number of university students, according to the annual statistics produced in the university.

## *2. Demographic marginality – a concept with complex social, cultural, as well as political and economic implications*

The attempt to capture marginality in its general form is a delicate enterprise, in the sense of defining the concept, selecting the indicators, the weighting and aggregation methods for the variables and socio-economic importance given to the quantitative results. In any case, it seems as if at every step arbitrary classifications are compulsory, since, although they are based on a conceptual frame and a good empirical knowledge of the phenomenon, they reflect the subjectivity and the ideological orientations. Global analysis usually leads to the formation of a synthetic index whose significance is very difficult and which is often taken for minority. In effect, such a synthetic index has the disadvantage of reducing to a single

numerical value a very complex reality which affects people of the same community (Dugas, 1988).

The issue of marginality was often defined in terms of socio-economy. Marginal is any territory with chronic employment problems, with an activity almost exclusively centred on local resources, with a low standard of living and situated relatively far from any service. From a geographic regional perspective, marginality refers to identifying those situations that are below the value of the national average (NICHOLLS, 1968, Cazalis, 1976).

A similar application seems to characterise the demographic approach, where marginality represents, on the one hand, a low value of a demographic phenomenon, while, on the other hand, designating the identification of those areas where the phenomenon is dominant. Thus, to exemplify, the rate of the advanced age group (over 75) was, for a long time, a marginal aspect, the number of people in this category being extremely low by comparison with the other age groups. The last decades, however, show a tendency towards the numeric increase of this group, at least in the developed regions, which removes it from the marginality area.

Similarly, the demographic classification (structuring) according to language, ethnicity or religion systematically generates minority groups in relation to a national majority, who represent marginal values in a purely quantitative analysis, in large systems of quasi-homogeneous population. Moreover, at a more careful analysis, we will notice that, actually, at any moment in a community there will be majorities and minority groups, namely dominants and marginalities, which is not surprising. Problems appear when marginal categories are also marginalized. And this sometimes happens precisely because of their low number. From this perspective, disabled people are a good case in point for demographic marginality often associated with educational marginalization.

In Romania, approximately 3.5% of the population consists of people with disabilities<sup>1</sup>. The relatively low (marginal) number is one of the reasons why, for a long time, there was a lack of concern on the part of society for these people's needs other than strictly existential or medical. The re-evaluation of the concepts of disability/ handicap clearly

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<sup>1</sup> INSEE, 2013

highlighted the fact that a large number of the disabled people can perform a useful socio-economic activity, in which case the need of education and higher training becomes a natural and implicit reality.

**3. *Demographic characteristics of the marginal group of students with disabilities at “Dunărea de Jos” University of Galați***

Between 2011 and 2014, the project “Development and implementation of an integrated pilot-programme to increase the access to higher education of people with disabilities” was carried out at “Dunărea de Jos” University of Galați. It was a project initiated by the Romanian Ministry of Education and Research and co-financed from the European Social Fund through the Sectoral Operational Programme Human Resources Development 2007-2013. Its major objective was to create a favourable framework (educational mentoring and training in the use of the e-learning platform, supporting scholarships, etc.) for people with difficulties who wanted to attend a higher form of education.

The creation of opportunities for improving access to higher education at undergraduate and graduate levels targeted 300 people with disabilities in three universities, also by the use of ICT.

The main achievements of the project were supporting the access to higher education for over 300 disabled people (in three institutions of higher education from the South Muntenia, Centre and South East regions), providing course materials by means of an eLearning system adapted to the student’s type of disability, so that they should be able to access the resources, implementing a programme of educational mentorship appropriate for the specific needs of the disabled, organizing a professional body of educational mentors to guide the students with disabilities and granting scholarships in support of education to the 300 students.

Throughout the implementation of the POSDRU/86/1.2/S/63951 project, the group of students with disabilities enrolled in one of “Dunărea de Jos” University’s programmes had a series of structural characteristics (tables 1, 2, 3) that provided a basis for the qualitative evaluation of the particularities of this segment of students.



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*Table 1. Structure according to gender and age*

University year	Number of students with disabilities	Femininity index	Mature students (%)
2011-2012	104	1	46,1
2012-2013	107	1,27	47,6
2013-2014	87	0,97	50,5
2014-2015	32	1,90	37,5

*Table 2. Structure on type of disability*

	2011-2012	2012-2013	2013-2014	2014-2015
Total of which:	104	107	87	32
<i>Somatic disability</i>	47	44	34	15
<i>Neuromotor disability</i>	35	41	32	13
<i>Visual disability</i>	14	14	14	3
<i>Psychological disability</i>	4	5	4	1
<i>Auditory disability</i>	4	3	3	-

*Table 3. Structure on areas of study*

	2011-2012		2012-2013		2013-2014		2014-2015	
Total of which:	104	100%	107	100%	87	100%	32	100%
Engineering and exact sciences	25	24,2	25	23,4	20	23	14	43,7
Humanities and arts	12	11,5	17	15,8	19	21,8	8	25
Social sciences	58	55,7	56	52,4	37	42,6	7	22
Medicine and kinesiotherapy	9	8,6	9	8,4	11	12,6	3	9,3

Thus, the first aspect highlighted by the quantitative analysis is connected to the numerical dimension of the analysed group, namely the variation of the number of students with disabilities along the period of time analysed. More exactly, students with disabilities represent less than 0.7% of the total number of students in the university, which accounts for

the classification in the category of marginal demographic group. Moreover, the number recorded in the first two years (2011-2012) becomes significantly lower in the following years, the number declining with the conclusion of the project (0.26% students with disabilities in 2015).

In terms of the relation between the marginal group represented by the people with disabilities and the majority of population, the recorded values entitle us to state that the university, generally speaking, remains an extremely selective and not easily accessible place, if we take into account that people with disabilities at national level (as marginal group) are 3.5% of the population, while the marginal group within the university, even under the conditions of a punctual support, did not exceed 0.7%.

In what concerns the demographic structure, the selected variables were "gender" and "age". Thus, the structure according to gender revealed small variations from one year to another, the values of the femininity index indicating, however, a slight feminization of the group. This reality can be explained in two ways. The first could be provided by gender psychology expressed by means of a more voluntary and determined attitude to overcome limitations in the case of the female gender than in the male. The second explanation could rather be connected to an exogenous factor, namely the structure of the fields of specialization offered by the university, as revealed in what follows.

In terms of the structure according to age, a classification adapted to context was adopted, two age categories being proposed. Considering the fact that, in Romania, the social age for being a student is situated between 18 and 26 years old, specific to the general mass of students, the category of those over this limit<sup>1</sup> was named the category of mature students. In our case, the weight of those over 26 years old was constantly exceptionally high. The fact that among students with disabilities, there is a significant percentage of students older than 26 can be proof of the marginalization experienced by these people when they were at the age of young studentship, when they did not have the opportunity or were not encouraged to attend a higher form of education because of their deficiency.

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<sup>1</sup> Limit established by art.499 of the New Civil Code.

The structure according to type of disability is an ad hoc criterion, adopted for the relevance the type of handicap has in accessing higher education. The numbers reveal an evident majority of those with somatic and neuromotor deficiencies. This is due, on the one hand, to the much higher frequency of these impairments at the general level of the entire population, and, on the other hand, to the fact that they are, to a certain extent, less limitative in the learning process, than the visual, auditory or psychological disabilities.

In terms of the options for the fields of university education, the analysis reveals a major tipping of the scale towards social sciences and humanities. They attracted, in the four years between 2011 and 2014, much more than half of the students with disabilities who chose to enrol in a form of higher education. The lower attractiveness of the exact sciences and engineering could be accounted for by a longer period of undergraduate study, as well as the difficulties raised by the rigors of the exact disciplines, especially in the case of mature students who graduated from secondary school a longer time before.

#### *4. The general and structural evolution of the number of "Dunărea de Jos" University students*

A simple structural analysis of the group of students with disabilities would be of little relevance without its integration in the body of the entire community of students. Thus, applying the same indicators of demographic analysis to the entire university will reveal the extent to which there are certain structural patterns between the majority and the marginality, namely similarities and differences.

A first aspect to be considered is the fact that "Dunărea de Jos" University is an institution of higher education and research whose evolution reflects quite closely the phenomena and processes of the Romanian society, sometimes synchronically, other times with a delay. Thus, the demographic decrease recorded in the last 20 years in the entire population of Romania is noticeable in the general number of university students (table 4).

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In terms of the demographic structure, the university is characterised by a feminine dominant, the index of femininity being greater in all four years analysed.

*Table 4.* The evolution of the number of “Dunărea de Jos” University students

	Total	Masculine	Feminine	Femininity index
2011-2012	15296	6586	8710	1,32
2012-2013	13706	5938	7768	1,30
2013-2014	12840	5715	7125	1,24
2014-2015	12018	5453	6565	1,20

In terms of the structure on age groups, data analysis reveals that the weight of mature students (over 26 years old) remains under 20%. Extrapolating the manner of determining the demographic age of a population according to the weight of the elderly out of its total number, it can be stated that “Dunărea de Jos” University of Galați is a “young” university (table 5). This can have both positive and negative effects. In any case, considering that the current European educational paradigm is oriented towards lifelong learning, it is perfectly possible for the future to bring a significant change in the average age of the students.

*Table 5.* The weight of mature students (over 26 years old) among the “Dunărea de Jos” University students

Year	Students over 26 years of age	% of total
2011-2012	2862	18,7
2012-2013	2395	17,4
2013-2014	2355	18,3
2014-2015	2365	19,6

According to the structure on fields, the numbers of students allow for the identification of the two power axes in the university – engineering, on the one hand, social sciences and humanities, on the other – situated on relatively equal positions.

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Table 6. Structure on fields of study

	2011-2012		2012-2013		2013-2014		2014-2015	
Total of which:	15296	100%	13706	100%	12840	100%	12018	100%
Engineering and exact sciences	6422	42	5765	42	5421	42	5355	44,5
Humanities and arts	1501	10	1442	10,5	1353	10,5	1195	10
Social sciences	5139	33,5	4220	31	3593	28	2967	24,5
Medicine and kinesiotherapy	1701	11	1740	12,5	1788	14	1802	15
Physical education and sport	533	3,5	539	4	685	5,5	699	6

The weights of the two macro-fields are relatively comparable in the first two years under analysis, but the situation changes in the last two years, when engineering registers a slight increase (followed by medicine).

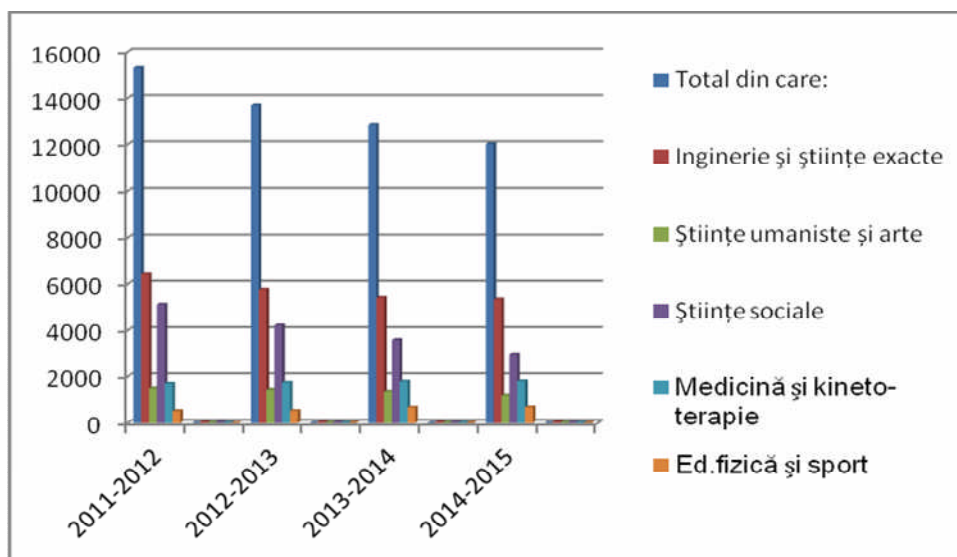


Figure 1. The distribution of the number of students on fields of study

This short radiography highlights the fact that the university has its own characteristics and speeds resulted from the interference of all marginal groups it contains.

### *Conclusions*

In Romania there are over 100.000 un-institutionalized people with disabilities, their age between 18 and 34 years old. Of them, only 8% have access to higher education, mainly because of: the great cost of university studies (in the cases where the student does not fill a place funded from the state budget, but needs to pay tuition fees) by comparison with the pension /social allowance at their disposal, the unavailability of the universities in providing the disabled with appropriate means of assimilating the curriculum, material obstacles (the inability to attend the university in person or to access the course materials in the standard printed format), the lack of qualified personnel to provide educational mentoring to people with disabilities and the lack of appropriate guidance/supervision to ensure a good educational process and for motivation.

The project carried out at “Dunărea de Jos” University revealed the fact that attracting people with disabilities presupposes concerted actions from a material point of view, in terms of logistics, as well as in matters of behaviour. Once included in the higher education system, the majority of the disabled students remain a distinct category with respect to special needs. On the other hand, however, a series of general traits of the academic macro-system is also reflected by the configuration of this marginal group. Above all, the current study reveals the fact that there is a close correspondence between certain structural characteristics of the student community, derived from the principle of the part-whole relation.

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## THE SCOPE OF THE ASSIGNMENT OF CONTRACT

Diana DEACONU-DASCĂLU<sup>1</sup>

### Abstract

*This paper seeks to analyze the scope of the assignment of contract, fixed since the beginning of art.1315 Civil Code, according to which the contract substitution can occur in contracts where benefits have not been fully executed.*

*As a rule, the assignment of contract is applicable to the contracts of successive performance, but the view was expressed that included within the scope of the assignment the contracts with immediate execution, whose effects have not been fully depleted, this opinion being supported by recent reports in the Italian law .*

*Although the Romanian Civil Code does not contain provisions on the transmission of unilateral and bilateral contracts, the rule is that typical assignment is considered a bilateral contract, without excluding the possibility that atypical transfers may be considered unilateral contracts, although this situation is hard to imagine, given mainly because the underlying conclusion of such contracts.*

*An entire legal dispute was created upon the situation of intuitu personae contracts, the authors who have treated the subject claiming that these types of contracts can be transferred by the mechanism of the assignment of contract when it is an "objective intuitu personae".*

**Keywords:** assignment of contract, scope, *intuitu personae*

### 1. Preliminary considerations regarding the sphere of action of the assignment of contract

By domain of action or sphere of applicability of the contract assignment, one may understand the general frame constituted of the typology of contracts that may be the object of the contract assignment and the conditions that a contract must fulfill in order to be assignable.

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Besides legal provisions enforced by articles 1315-1320 of the Civil code within the matter of the assignment of contract, there are also contracts that are declared assignable expressly by the Romanian legislator, known by doctrine as legal contract assignments, such as the lease contract, the farming contract, the insurance contract, etc.

As a general rule, the contract assignment may have as object any type of contract, as long as contractual benefits have not been completely fulfilled and if, by law or party volition, a certain type of contract has not been declared non-assignable yet.

The contract assignment, as a legal autonomous operation, expressly acknowledged by the current Civil Code, supposes the substitution of one of the contractual parties with a third which overtakes the entire legal complex of rights and obligations that are a result of the assigned contract.

Such an operation has been made possible due to an objective visualization of the contract, imposing an accentuated “patrimonial transformation”, without a complete abnegation of the subjective vision, which emphasizes the personal character of the contract, that of relation based on an agreement of will of two or more parties.

Therefore, the acknowledgement of the possibility to assign a contract in its entirety is tied to the agreement that must be given by the assigned party, in order to have a continued contractual report with a third, different from the contractual partner initially chosen (the assignor), in which a certain degree of trust would have been invested and was chosen for the existing contractual relation.

For this reason, specialty doctrine has excluded, as a rule, the *intuitu personae* contracts, from the sphere of applicability of the assignment of contract.

In an opinion presented by the sustainer of the monistic theory, L. Aynes, it is appreciated that generally a contract is assignable with the exception of the situation which would present a non-assignable clause, or a strong *intuitu personae* character (Aynès, 1998).

There have, of course, been different opinions, belonging to authors who were against the idea of reducing a contract to a simple patrimonial element, detached by the persons of its contractors, in the sense that a contract is not just a sum of patrimonial obligations, being withal a promise of efficacious and loyal behaviors. In relation to this statement, we point

out that there are contracts regarded by law as being assignable, such as the lease contract, provisioned by article 1418 of the Civil Code, situation which does not impose any authorization to allow the contract to be assignable (Mestre 1997).

## 2. Domain of applicability of the assignment of contract

Within French law, such as well as within the Romanian one, there are legal provisions acknowledged by doctrine, as legal assignments of contract, as well as types of contracts that are imposed by law as non-assignable.

In what regards the conventional assignment of contract, the domain that may support such an operation has been a vast subject of debate for the French doctrine.

The most important debates started from the suggestion to remove from the sphere of applicability of the conventional assignment the unilateral contracts, contracts with instantaneous execution and the *intuitu personae* contracts.

- a. In what concerns the **unilateral contracts**, French doctrine authors F. Terre, P. Simler, Y. Lequette, seconded by C. Larroumet, argued to remove them from the domain of applicability of the assignment of contract, with the following argument: since unilateral contracts do not suppose mutual claims or debts, the assignment contract may only be a debt assignment or claim assignment, but not a real contract assignment.

Such an assignment of a unilateral contract, often met within legal practice is the assignment of a promise to sell.

The criticism brought to the above theory has been argued based on the idea according to which a unilateral contract is not composed only of rights and obligations, but also of potestative rights, and thus an assignment of a unilateral contract would also assume an assignment of all potestative rights born in connection to that contract.

- b. In what regards **contracts with immediate execution**, doctrine excluded them from the domain of applicability of the assignment, starting from the premise that the specificity of this type of contract is

within the sudden execution of the benefits, and if benefits were executed, the assignment would have no object, thus it could not exist.

Some authors promoted the idea that an assignment of *uno actu* contracts would only be possible if the execution of benefits was delayed, therefore before the main effects of the contract should have been produced.

It has thus been stated that the assignment may have as object, in the above hypothesis, the entire contractual situation of the assignor, “a conglomerate”, formed of the potestative right of option (main purpose of the assignment, for the assignor), the accessory claim and the obligation to pay a fee to immobilize the asset, if required (Goicovici 2007).

c. The **intuitus personae contracts** are the third category of contracts, reticently regarded by the specialty doctrine, whose general tendency is to exclude them from the sphere of applicability of the assignment, based on the fact that their existence is due to considerations of the parties that contracted the assignment.

L. Aynes argued in favor of removal of this type of contract from the sphere of applicability of the assignment of contract, based on the fact that in this specific case the party is confused with the object (example: a painting ordered from a painter can only be painted by that painter) or with the cause of the contract (as is the case with the donation contract).

French jurisprudence<sup>1</sup> allowed this type of assignments in cases as: IT maintenance (Com. 7 janv. 1992 no 90-14.831), concession contracts (Com. 6 juill. 1999, no 96-20.459, RJDA 1999, no 1197), mandate contracts (Civ. 1re, 6 juin 2000, no 97-19.347) etc.

By ruling no. 97-19347 of 6<sup>th</sup> of June 2000 of the French Court of Cassation, the 1<sup>st</sup> Chamber<sup>2</sup>, annulling the ruling of the Bordeaux Court of Appeal nr. 1997-07-07, established that “the fact that a contract has been perfected taking into consideration the party of the contractor does not

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<sup>1</sup> 8/28/2014 Dalloz.fr [http://www.dalloz.fr/documentation/Document?id=ENCY%2fCIV%2fRUB000060%2fPLAN008%2f2010-06&ctxt=0\\_YSR0MT1jZXNzaW9uIGR1IGNvbnRyYXTCp...](http://www.dalloz.fr/documentation/Document?id=ENCY%2fCIV%2fRUB000060%2fPLAN008%2f2010-06&ctxt=0_YSR0MT1jZXNzaW9uIGR1IGNvbnRyYXTCp...) 3/6.

<sup>2</sup> Publication : Bulletin 2000 I N° 173 p. 112 Le Dalloz, 2001-04-26, n° 17 p. 1344, note B. BEIGNIER. Le Dalloz, 2001-04-26, n° 17 p. 1345, note D. KRAJESKI. Décision attaquée : Cour d'appel de Bordeaux, 1997-07-07.

constitute an obstacle to transfer contractual rights and obligations to a third, since the other party involved (n.a. the assigned) consented to it”.

The ruling of the case analyzed the following state of facts: a client, M.V., hired for its legal assistance a lawyer, M.G., member of a professional civil society, the retainer being split into a base fee plus a success honorary. After the mediation session, the hired attorney, M.G., was substituted by another lawyer, an associate of his, who took part in the perfection of the transaction which the client M.V., following the advice from the substituting attorney, signed.

The First court appreciated that the honorary convention is not applicable, since the initial attorney, M.G. did not personally defend his client, and established the retainer according to the common civil law.

The Cassation Court appreciated though that the interpretation given by the Appeal Court of Bordeaux was wrong, since the client, M.V., agreed to be assisted by the substituent lawyer, consenting thus that the co-contractor would be replaced.

French doctrine also decided that a tacit agreement of the assigned should suffice for an *intuitu personae* contract to be assigned.

We appreciate that our legal jurisprudence, considering dispositions of articles 1315-1320 of the Civil Code, will not be able to assume a tacit agreement, but only an express one, may it be given previously, by contractual clause, the assigned being later notified of the assignment, or may it be expressed at the time of the agreement between the assignor and the assignee.

What is, though, an *intuitu personae* contract?

The definition given by *Vocabulaire juridique sous la direction de G. Conue* (Garron 1999) refers to contracts in which “the personality of one party is regarded as essential from the perspective of its particular aptitudes”, including here competencies, qualities of the party that recommend it to become a contractual partner.

In regard to the meanings associated with the notion of *intuitu personae*, the doctrine reached a dilemma: is this an intrinsic element to the contractual clause or a different element, external to the clause?

Could it have gradual limitations or, in a different manner, may there be and absolute *intuitus personae* and a relative one?

In this context discussions dealt with the existence of different stages in regard to how a party would be considered: either the party would not have perfected a contract, should a specific co-contractor have not existed (1), or it have perfected the contract, but would have always chosen the contractual party that fitted best its expectations (2). It has been stated, that phrased like that, the *intuitus personae* element would be nothing else then the cause itself of the convention, at one of the possible levels: consideration of the party – as it determinates and circumscribes the consent to contract – should it be more a characteristic of the contractual cause, than an essential element (Garron 1999).

If the *intuitus personae* element was an intrinsic component of the cause, or even the object of the act, the proposed solution in the case of disappearance during the contract execution would be caducity (Goicovici, 2007).

We appreciate that an **absolute** *intuitus personae* may exist when the contracting party cannot be replaced at all, even with an existing agreement from the assigned party, meaning that any convention of the above type would embrace the form of a new contract.

In this case, we consider that the assignment of contract could not subsist within a contract with a determining *intuitu personae* character, which would constitute the actual cause of the contract.

We might choose as an example the donation contract on behalf of the single son of the donor, appreciating that this contract cannot be assigned, the donation being made with exclusive consideration of the receiver.

Taking into consideration the objective characteristics, usually professional ones, of the contract, the contractor has the possibility to choose the party that he considers most capable to reach the purpose of the contract. As a consequence, we appreciate that a **relative** *intuitus personae* may exist, such a contract enabling an assignment, if an agreement with the party of the assigned contractor has been reached.

In the above sense, doctrine appreciates that a difference may exist between objective and subjective qualities that a party can “search” for when considering the party whom it wishes to contract with.

Thus, the objective qualities regard, *stricto sensu*, the capacity, aptitude of the debtor to execute – alone – the assumed contractual obligation, as is the case of the mandate contract (Goicovici 2007).

The subjective qualities are those that begin out of feelings, passions, friendship or family relationships, based on profound feelings, qualities that are more often, but not exclusively, met within the category of contracts with a free title, liberalities or impersonal acts.

As such qualities suppose the impossibility to change the parties that converge them, respectively the impossibility to switch feelings for one person, with feelings for another, the assignment of a contract perfected upon subjective qualities is impossible.

This should not be the case of an objective *intuitus personae* contract, case in which a “fungibility” of the parties would exist, creating the possibility to continue this type of contracts in case of death, legal incapacity or physical incapacity of obligations by the initial debtor with another party that presents, by hypothesis, the abilities/qualities shown by the first (Goicovici, 2007).

Another difference presented by the already quoted doctrine, between the relative and the objective *intuitus personae*, has in mind the possibility of the court to exercise a certain control upon the agreement consent emitted by the assigned party, control that resides in a censorship applied to the right of choice, an option of the assigned to refuse the party of the assignee, option that would have to be respected only in the case of proven solid motifs.

By contractual clause, parties may limit the field of applicability of a perfected contract assignment, configuring thusly the law of the parties.

The parties may insert within the contract prohibitive clauses, forbidding an assignment, either by denying one of the parties the possibility of substitution, or by prohibiting both parties to substitute.

A clause of the above type may establish an *intuitu personae* character to a contract that regularly would not have involved a personal consideration of the parties.

By such a clause the parties understand to engage into a contractual relation in an exclusive manner, removing the possibility for one or both to continue the legal contractual report with another party, alien at the moment of the perfection.

The parties may phrase the prohibitive clause in an absolute manner, forbidding the assignment of the entire contract, or in a relative manner, nuanced, allowing for a substitution of contractors by other parties, but which should meet certain criteria, set in a common agreement by the original parties.

In virtue of the contractual freedom principle, the parties may choose *agreement clauses*, giving the possibility to the assigned party to only agree to certain types of assignees, identified based on certain criteria even within the original contract, or allowing the assigned to have the choice of a discretionary refusal of agreement.

Such a clause, used by contracting parties with a highly developed contractual sense, in a preventive manner, introduces the possibility of amicable resolve of any litigation that may appear among them, since the limits of the refusal of agreement are expressly drawn, or they may help a court to have a correct ruling, the latter being only held to identify and interpret if the refusal of the assigned party to consent to a third is, or not, a breach of the contractual criteria.

Therefore, by the simple existence of agreement clauses, a much easier path opens in solving the problem of law abuse, problem heavily debated by doctrine.

Thus, French doctrine and some of the Romanian authors (Juanita Goicovici) speak of a potestative right – the right of the assigned to refuse the assignee party, and thus the assignment of contract to the latter – but not of a discretionary right, with possibility of censorship by court, when the judge appreciates that no solid reasons exist for the assigned to refuse the assignment, the latter being culpable of a law abuse.

It is obvious that if the parties have established through the original contract the right of the assigned to refuse in a discretionary manner a substitution of the assignor by a certain assignee, an abuse of law would not exist anymore, even if the reason of the refusal was not be solid, but purely subjective, as, in the end, the law of the parties is the existing contract.

The parties may also stipulate within the contract *resolutory clauses*, which give the possibility to the assigned party to demand an annulment of the contract if it does not agree to the assignee chosen by the assignor.

Also, the parties may expressly stipulate that, in case of death, the contract may not be passed to the rightful successors of a party, but it should cessate.

### **Conclusions**

In conclusion, the parties may resolve, by various stipulations, certain situations of conjuncture and also the means of resolution, avoiding thus long trials, that would imply vast amounts of time and money.

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