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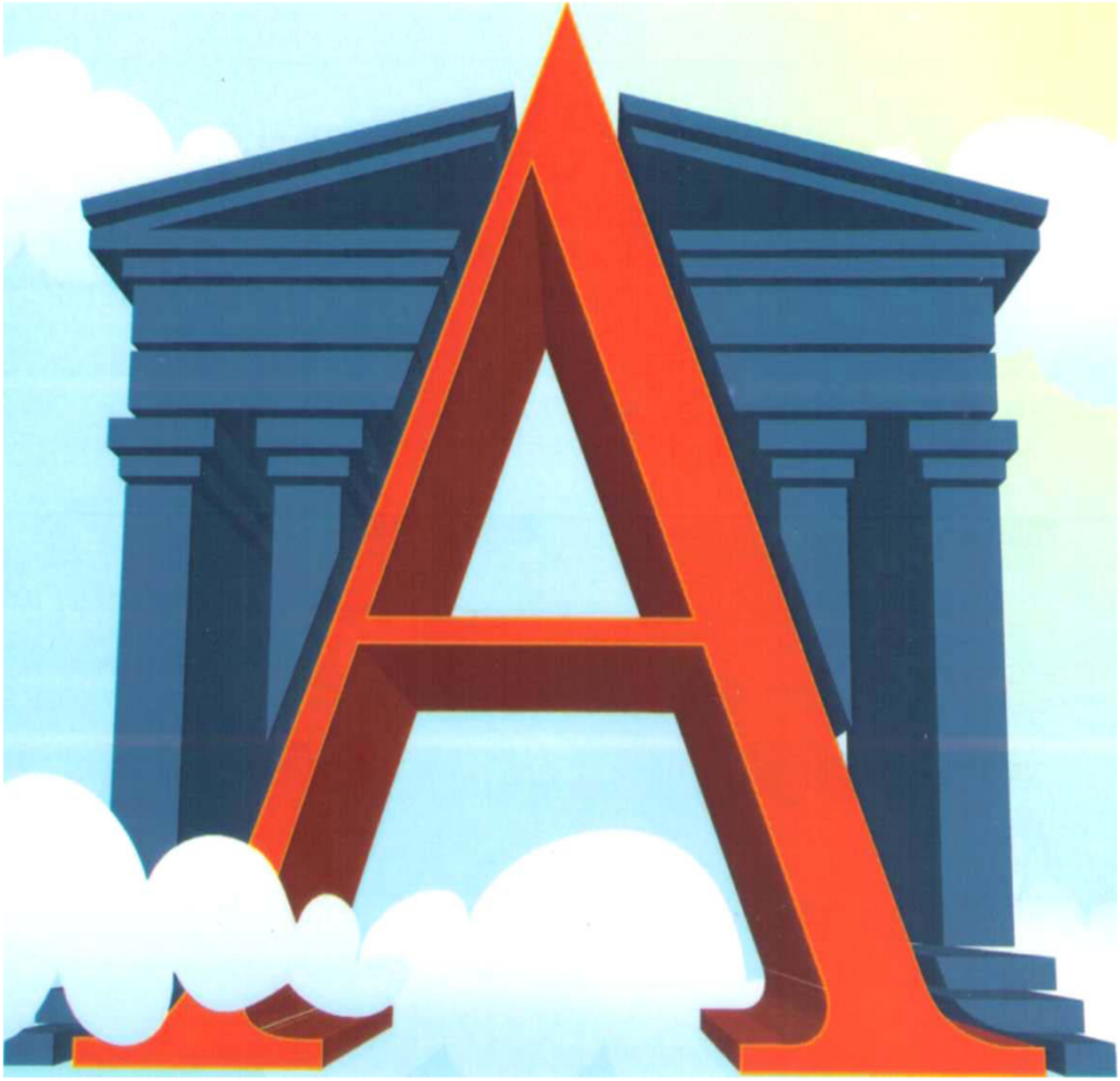

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OWNERSHIP STRUCTURE, PERFORMANCE AND CAPITAL STRUCTURE OF ROMANIAN FIRMS

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Abstract

This paper investigates how ownership concentration affects the performance and capital structure of Romanian listed firms during the period 2007 - 2011. We find that ownership concentration has no effect on firms' performance, but has a positive effect on firms' capital structure, when these firms have adjustment behaviour to the target capital structure. In addition, we found that debt ratio and firms' size are the determinants of firms' performance and firms' performance, assets tangibility and ownership concentration are the determinants of firms' capital structure.

Keywords: *capital structure, ownership concentration, firm performance, panel data models*

JEL Classification: *G32, C33*

1. Introduction

The effect of ownership concentration on firms' capital structure and, therefore, on firms' performance was suggested for the first time by the agency theory of capital structure (Jensen & Meckling, 1976; Jensen, 1976). According to this theory, at firm level, there are conflicts of interests between managers and shareholders generating the agency costs (Jensen & Meckling, 1976). More specifically, due to the fact that managers will support all the expenses related to firms' investment projects, but will not hold the entire profit obtained from these projects, they will pursue a series of private benefits such as higher wages than those on the market, additional earnings, job security and, in extreme cases, attracting assets or cash-flows. Shareholders may oversee managers' behavior through various mechanisms of monitoring and control that lead to agency costs. A solution for preventing managers' inappropriate behavior is to contract more debt, because this will limit the amount of money available the managers (Jensen, 1986). A high debt ratio increases firm value by constraining managers to act more in the interest of shareholders (Berger & Bonaccorsi di Patti, 2006).

The lower the agency costs, the less debt ratio has a company, because there is less need for debt to discipline the managers. Low agency costs are associated with high ownership concentration and, thus, the agency theory predicts, on the one side, a negative correlation between debt ratio and ownership concentration. The same result was found for the American firms (Fried & Lang, 1988; Firth, 1995) and more recently for the firms in developing countries (Kocenda and Svejnar, 2003; Nivorozhkin, 2005).

There is in the literature studies that have found a positive correlation between debt ratio and ownership concentration (Cepedes, Gonzales and Molina, 2010; Huang and Song, 2006). Thus, Cepedes et al. (2010) explained this positive correlation for the Latin American firms through the lack of protection of minority shareholders.These firms will prefer debt as financing sources to the detriment of equity, because the issue of new equity means division or loss of firms' control.

Agency theory predicts, on the other side, a positive correlation between firms' performance and ownership concentration. An explanation for this relationship is given by the fact that, in the case of a high ownership concentration, the interests of managers with other shareholders are better aligned and, thus, agency costs are lower and firm value are greater (Jensen & Meckling, 1976). Several studies (Shleifer & Vishny, 1986; Stein, 1989; Thomsen and Pedersen, 2003) have confirmed the positive relationship between ownership concentration and firms' performance.

Some authors (Anderson & Reeb, 2003; Stulz, 1988) founded a negative relationship between ownership concentration and firm performance. An increased ownership concentration raises the firm's cost of capital as a result of decreased market liquidity and, thus, decreases firm performance (Margaritis and Psillaki, 2008). Finally, Demsetz and Lehn (1985) and Demsetz and Villalonga (2001) founded no significant relationship between ownership concentration and firms' performance.

To the best of our knowledge, there is no study that captures the relationship between ownership structure, performance and capital structure for Romanian firms. The aim of the current study was to investigate in what extend ownership concentration of Romanian listed firms has an effect on debt ratio and performance of these firms.

The structure of the rest of this paper is as follows: Section 2 presents the ownership structure characteristics of Romanian listed firms, Section3 presents the empirical analysis and Section 4 concludes.

2. Ownership structure characteristics

In order to study the ownership structure characteristics of Romanian listed firms, we have collected data from all firms listed on the Bucharest Stock Exchange during the period 2007-2011. We eliminated from the sample financial firms (i.e., banks, insurance companies) due to the fact that the balance sheets of those firms are different from those of non-financial companies. The final sample consists of 69 firms.

Following the approach of Brendea (2014), we used as a proxy for ownership concentration the Herfindhal Index (*HI*), calculated as the sum of the squares of the fractions of equity held by each shareholder with more than 5% of the shares. A high ownership concentration means a high level of Herfindhal index (e.g., if the firm has 2 shareholders with 50% ownership each, the *HI* will be 0,5), while a low ownership concentration means a low level of Herfindhal index(e.g., if the firm has 5 shareholders with 20% ownership each, the *HI* will be 0,2: Cepedes et al., 2010).

The mean of the Herfindhal index for Romanian listed firms during the period 2007-2011 is 0,38, which indicates a quite high ownership concentration. Table 1 presents the descriptive statistics of the Herfindhal index.

Table 1: Descriptive statistics of the Herfindhal index during the period 2007-2011

Herfindhal index	2007	2008	2009	2010	2011
Mean	0.37	0.36	0.38	0.39	0.4
Maximum	0.92	0.95	0.95	0.95	0.99
Minimum	0.01	0.01	0	0	0.01

As shown in Table 1 Herfindhal index registered small changes for the analysed period, but there are big differences between minimum and maximum values.

3. Empirical analysis

For analyzing the relationship between ownership structure, performance and capital structure of Romanian listed firms during the period 2007-2011, we define two regressions:

3.1 Variables of the models

The dependent variable used in the first model is *firms' performance* measured in this study as Return on assets (*ROA*). In line with Jensen and

Meckling (1976) we expect a positive relationship between ownership concentration and firms' performance.

The dependent variable in the second model is the debt ratio (*DR*). In some studies, the debt ratio is calculated as the ratio of total debt to total assets (e.g., Chen, 2004; Delcoure, 2007; Ozkan, 2001), whereas in other studies it is computed as the ratio of total debt to total debt plus equity in the market and book values (e.g., de Miguel and Pindado, 2001; Nivorozhkin, 2005; Rajan and Zingales, 1995). Because of data availability, in the current study the book values were used instead of market values, and the debt ratio was computed as the ratio of total debt to total assets.

In both regressions we used as control variables: *firm size* (*SIZE*) and *asset tangibility* (*TANG*).

Regarding firm size, it must be specified that larger firms have a greater performance and a lower probability of becoming bankrupt, and can therefore contract debt more easily (Myers, 2003). In this paper we use the natural logarithm of net sales as a proxy for the firm size variable and we expect a positive relationship between firm size and performance and the debt ratio.

Asset tangibility is another important factor that influence debt ratio. Tangible assets are assumed to serve as collateral in the case of financial distress, which indicates a positive relationship between tangibility and the debt ratio of firms (Rajan and Zingales, 1995; Titman and Wessels, 1988). Following the approaches initiated by Cornelli, Portes and Shaffer (1998) and Nivorozhkin (2002) asset tangibility was computed in this paper as the ratio between tangible fixed assets and total assets and it was expected a positive relationship between this variable and debt ratio.

Table 2 presents the descriptive statistics for the selected variables for all firms during the period 2007-2011.

Table 2: Descriptive statistics of the variables used in the models

Variables	Mean	Std deviation	Min	Max
DR	0.4	0.45	-2.66	3.25
ROA	0.001	0.16	-2.12	0.37
Tang	0.57	0.22	0.03	0.96
Size	18.34	1.51	14.62	23.53

Note: *DR* = Debt ratio, *ROA* = Return on assets, Tang = Assets tangibility, Size = Firm size

3.2 Methodology and results

In order to assess the effect of ownership concentration of Romanian listed firms on performance and capital structure of these firms, the following regressions are defined:

$$ROA_{it} = \alpha + c_t + \mu_i + b_0 HI_{it} + b_1 DR_{it} + b_2 SIZE_{it} + b_3 TANG_{it} + \varepsilon_{it} \quad , \quad (1)$$

$$DR_{it} = \alpha + c_i + \mu_t + b_0 HI_{it} + b_1 ROA_{it} + b_2 SIZE_{it} + b_3 TANG_{it} + \varepsilon_{it},$$
(2)

where i= 1,2,…,69; t = 1,2,…,5; c_i are the firm effects; μ_t are the time effects and ε_{it} is the error term.

Firm specific effects (c_i) was included in the models to compensate the omission of other factors which affects firm performance and firm capital structure such as: firm age (King & Santor, 2008) or non-debt tax shield (De Miguel & Pindado, 2001).

Time specific effects are used to account for macroeconomic conditions which affect dependent variables (i.e., economic growth, inflation, financial crisis)

For the first regression, we have chosen a random effects approach for several reasons. First, because N = 69 is large and T = 5 is small the number of parameters to be estimated in a fixed model is large compared to the number of available data points. Second, the N firms are drawn from a large population; hence our data are not exhaustive. Third, random effects are tested by using the Breusch-Pagan Lagrange multiplier test.

Table 3 reports the estimation results for regression (1):

Table 3: Estimation results for regression with performance as dependent variable

Variables	(1)
DR	-0.21***(0.07)
HI	-0.05 (0.04)
Tang	-0.02 (0.05)
Size	0.02***(0.006)
No. of entities	69
No. of observations	205
R^2	0.19

Notes: The regression includes unreported year dummies.
Robust standard errors in brackets.
*** denote significance at the 1% levels.
DR = Debt ratio, *HI* = Herfindhal index, *Tang* = Assets tangibility, *Size* = Firm size.

As can be noted in Table 3, the coefficient for the Herfindhal index is not statistically significant, which indicates that ownership concentration has no significant effect on the performance of Romanian listed firms. These results support the findings of Demsetz and Villalonga (2001) who argued that ownership concentration and performance are endogenous variables. An explanation for the lack of a statistically significant relationship between ownership concentration and performance is given by Mahrt-

Smith (2005) who states that it is difficult to measure the effect of type of ownership on firms' performance, unless one type of ownership controls for the firms' capital structure choice. Debt ratio is negatively correlated with performance, while firm size is positively correlated with performance of Romanian firms.

For the second regression a static panel data model approach (i.e. fixed effects, random effects) was not valid. We use, therefore a dynamic panel data model which requires the use of first order lag of dependent variable as independent variable. The explanation of the use of a dynamic panel data is that Romanian listed firms have a financing behaviour in adjusting to the target capital structure (Brendea, 2014).

In the case of our model the period of time is limited (5 years) compared with the number of firms in the sample (69) and therefore we applied the Arellano and Bond (1991) dynamic panel data estimator. This strategy involves the use of second order lags of the explanatory variables as instrumental variables (De Miguel & Pindado, 2001).

The results of dynamic model estimation are presented in Table 4.

Table 4: Estimation results for regression with debt ratio as dependent variable

Variables	(2)
ROA	-0.17**(0.0)
HI	0.53*(0.29)
Tang	1.1**** (0.17)
Size	0.01 (0.03)
No. of entities	69
No. of observations	205
Sargan test	0.149
No. of instruments	17

***Notes*:** The regression includes unreported year dummies.

Standard errors in brackets.

*, **, *** denote significance at the 10%, 5% and 1% levels, respectively.

Sargan test indicates the validity of the instrumental variables.

The null hypothesis is that „the instruments as a group are exogenous" and *p*-value is reported.

ROA = Firms' performance, *HI* = Herfindhal index,
Tang = Assets tangibility, *Size* = Firm size.

As can be noted in Table 4, the coefficient for ownership concentration is positive and statistically significant at 10% significance level. The positive relationship between ownership concentration and debt ratio for Romanian listed firms contradicts the assumptions of the agency theory, but are in line with the results obtained for developing countries (see Cepedes et al., 2010). In these countries, firms will prefer debt as financing sources to the detriment of equity, because the issue of new equity means division or loss of firms' control. Firms' performance and assets tangibility are also determinants of capital structure.

Conclusions

In this study we estimated a static and a dynamic panel data models in order to investigate the relationship between ownership structure, performance and capital structure for a sample of 69 Romanian listed firms during the period 2007–2011. On average, these firms have a high ownership concentration, which means that firms' shares are concentrated in the possession of some major shareholders. In addition, the empirical results indicated that it is no relationship between ownership concentration and performance of Romanian firms. Romanian firms' performance is influenced by debt ratio and firm size.

The results of the estimation of the dynamic model showed that ownership concentration and capital structure of Romanian listed firms are positively correlated. These results suggest that major shareholders do not want to lose the control over firm and use debt as financing sources.

In addition, the results indicate that performance and asset tangibility are the statistically significant factors determining Romanian firms' target capital structure. The negative correlation between the debt ratio and performance of Romanian listed firms supports the assumptions of the "new pecking order theory" (formulated by Chen, 2004). More specifically, the financing behaviour of Romanian firms is characterized by the fact that they first use retained earnings as financing resources, then equity and, lastly, debt. The tangibility of assets had a positive effect on the target capital structure of Romanian listed firms, indicating that these firms use tangible assets as collateral.

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THE IMPORTANCE OF INTERNAL AUDIT IN OPTIMIZING MANAGEMENT PROCESSES

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Abstract

Future development directions are a continuation of that which already exists, are driven by the wish of continuous improvement and are influenced by the realities of the moment. This is why, nowadays, not only questions regarding the quality and productivity of the governing act, but also of government receptivity concerning society's problems are raise (Denhardt and Denhardt, 2009: 4-5). Although real progress in public administration reform has been measured, in order to find new solutions to its problems and challenges, we consider that an integrated process approach throughout should be regarded as a key part of this system.

Reducing the issue to organization level, this integrated approach questions should be seen as a starting point for the identification of necessary instruments for management modernization and efficiency growth. Thus implementing modern management processes and integrating audit and internal control activities into organizations should provide better images of the internal processes within organizations of the public sector, and provide better information to management decisions altogether.

Governance models for public institutions establish relationships between these components, building a working information system meant to ensure the reaching of organizational objectives and financial and process efficiency.

Keywords: *Internal Audit, Management, Internal Control, Governance Process, Public Administration*

JEL Classification: *M4, G3, H7.*

1. Introduction

The growing importance of the public administration in our society implies deep knowledge of its processes in order to guarantee the basis for its rational and efficient organization and function. The still unfinished reform process of the Romanian public administration has two main components, namely, the elimination of cultural and national boundaries as part of the harmonization process with the European public administration on one hand and internal process optimization, as the main instrument of fulfilling its objectives on the other. For the latter component, internal public audit and internal control are instruments of strategic importance. Their strengthened position within public organizations ensures reform acceleration at organizational level and also at the general level of the entire public administration, thus contributing to the above mentioned harmonization process.

Organizational development of public institutions is another aspect which can be improved and optimized with a major contribution by internal auditors. Organizational development [1] reflects the way an organization evolves from the point of view of human resources and internal structure, as an adaptation to its natural growth. For it to be a real support for the internal activities within the organization, it is essential that this development should be a sustainable one (Maniov, 2001: 142-143). In the past years a certain lack of sustainability has been observed in growth and development the Romanian public administration.

2. Audit serving management

The relationship between organs of the public administration, namely public institutions, and internal public audit must be intrinsic, natural and organic, in order to ensure sustainable growth along with the society it serves.

Due to the assisting function that internal audit has, this activity allows the persons in charge of the entities to better manage their activities. Therefore, this notion of assistance and counseling, fundamental characteristic of what we understand by audit serving management, which distinguishes internal audit from any „police (Renard, 2002: 53)" action, is recognized today by most and has a tendency to develop. Seen also as an attribute of leadership, audit represented by the internal auditor must be close to management, as management must allow itself to be aided or, rather, assisted by the internal auditor in order to solve problems of an entirely different nature, namely the ones pertaining to the decisions taken in order to have better control on the activity.

[1] Organizational development is a term whose origins lie in the private sector.

Thus, we can state that assistance and counseling are attributes of audit, while control is an attribute and an obligation of the entities' management. An Anglo-Saxon principle regarding the need of control states that „people do what they must do when they know they will be controlled" (Zecheru and Nastase, 2005: 299), while audit is not a repression instrument, but a function of any institution meant to ensure its functioning according to the standards regulated by laws and rules.

In this sense, audit is a tool of management, which must ensure the functioning of the institution. Audit must not only discover errors in the mechanisms of applying the laws governing the public activities, but also errors in the laws themselves, thus optimizing the entire public system. This optimization is particularly important if we take into consideration the fact that the public system works with public funds originating from the taxes and fees collected.

Starting from this idea, it is crucial that public sector investments are made according to the Principle of the Three "E" (economy, efficiency, efficacy) (Arens and Loebbecke, 2006: 916). Investment assessments[1] must take into account other aspects than their public utility. The implications on the national economy gain importance in such times. The investment must not only respect this principle, but must ensure that its effects in the economy respect this principle. In case the investments do not succeed, they can be considered a waste of public funds. Hence, the role of audit is to prevent this from happening.

Audit is not, generally, a key function of the economic entities, but rather a complementary one, with the role of supporting management. Audit must give an objective opinion on the events and realities within an entity, usually being connected to aspects pertaining to accounting and controlling (Dumitrescu, 2008: 41-43), focusing on the activity that the entity is performing. Still, in order to reach the objectives proposed during the crisis period, the entity must be prepared for the worst, which means that audit must regulate the activity of the institution during prosperity periods and must foresee what could happen during recession periods. Hence, the role of audit does not consist merely of the retroactive regulation of the public activity, but also of characteristics oriented towards regulating future activities. In this sense, one must consider all types of audit. Hereinafter, we shall indicate how the three types of audit can help to optimize the process of spending public funds. When we are talking about optimization, we are not referring to a Pareto optimum of resource allocation, but to a process optimization (Lipsey and Chrystal, 2002: 373).

[1] We will refer to these investments also under the aspect of public expenditure.

As soon as it is admitted that an internal auditor „counsels", „assists" and „recommends", but does **not decide**, his obligation is to represent a means: to do everything in order to help improve the control that each manager exercises over his activities and thus, in order to aid in reaching the objectives of the entity. We underline the above because the internal public audit compartment has advantages that management doesn't, such as:

- It has reference norms which confer upon it the authority to verify;
- It has methods and instruments guaranteeing efficiency (Renard, 2002: 54);
- Has independence of the spirit and autonomy, which allow it to conceive all hypotheses in order to finally formulate the best adequate recommendations;
- It is not distracted in its research and thinking by the constraints and obligations of a permanent activity or by the daily management of a service (Renard, 2002: 54).

Thus, in order to support management, a means is necessary, which to offer it an objective view over the activities within the entity. In order to formulate such an opinion, a long time and a team of specialists with very good training are necessary.

3. The audit and governance system

The key to success of every organization lays with the establishment by the management of a correct set of objectives. This will ensure a direction, a focus point and a hierarchy of the activity. The objectives must cover everything that the organization must accomplish and may include the improvement or even the development of key activities and high performance governing systems.

What for the private sector became a practice that ensures to investors the certainty of obtaining long-term good returns from the investments made, namely corporate governance, may also be applied to the public sector in order to assure society that the administration acts in its interest. The two problematic have a common background: the assurance that the organization management is high-performance and it makes all efforts within the limits imposed by law, ethics and the good practices[1], which can be certified through the efforts submitted by the internal audit.

In essence, internal audit may play two roles (Ghita and Spranceana, 2006: 106-107). The first role manifests in the initial stages of introducing a

[1]Even though there is the shareholders' tendency to impose to management the pushing of these constraints, this proves, on long-term, to be damaging to the organization, because the market does not tolerate unethical, illicit actions or actions outside good practices, for unlimited time.

solid governance system, when internal audit has the great opportunity to counsel and advise management with respect to the advantages of introducing good practices and of supporting their effects on the introduction of policies, mechanisms and procedures. The second role internal audit plays when auditing the governance system on the basis of which it supplies and assurance regarding its conformity and efficiency and makes recommendations whenever improvements in the manner of applying or functioning of this system will be required. This aspect will bring value to the organization.

3.1. *From transaction processing to the management process*

The concept of corporate governance is defined as being: „entirety of principles, rules and norms through which is ensured the administration and management by the managers of the enterprises, in the interest of the current and potential investors of the respective entities" (Feleaga, 2004). In the business practice, two directions of corporate governance were created, the Anglo-Saxon and the European ones, which have as basis the continuous fight between the shareholders and the other groups of influence on the corporation (stakeholders). Jean Tirole speaks, in this sense, of shareholder value versus stakeholder[1] value (Tirole, 2001: 1-36). The governance model is dictated by that part which has more influence in the current business practices. The entity's governance is considered, fundamentally, a problem of socio-political nature, for the understanding and interpretation of which we must resort to knowledge of company law, history of national economy, sociology of organizations, enterprise finance, financial markets and portfolio management, accounting and audit.

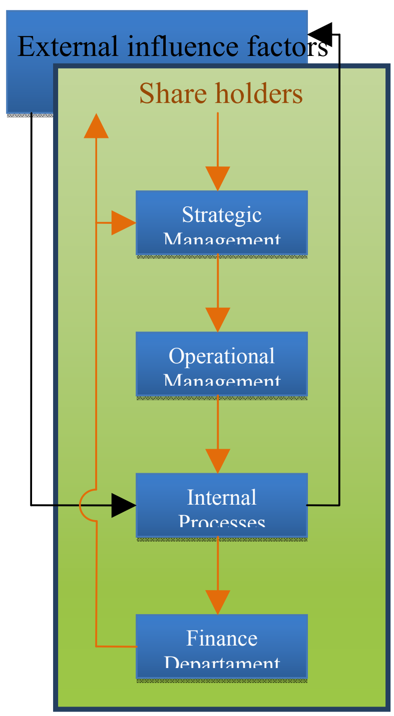
Also, OECD states, regarding enterprise governance, that it „represents the system through which the enterprises are guided and controlled". Thus, the structure of the enterprise's governance regulates the distribution of rights and responsibilities between the different categories of participants in society, such as the board of directors, the managers, the shareholders and other stakeholders, explaining in detail the decision-making regulations and procedures.

[1]The stakeholder-type model is present in most European countries, except certain states in the north of the continent and Great Britain. For this model, the objective to be reached is less the maximization of the shareholders' wealth and more the **protection of the interest of the entirety of parties involved**, one way or another, in the life of the enterprise: employees, trade partners, shareholders, managers.

3.2. Transaction processes at the level of organizations

The processes occurring within organizations are very complex, many times taking the form of continuous cycles, whose purpose is the continuous improvement of their performances. From the point of view of their object, we distinguish between the following cycles:

- *Decisional cycles* on the basis of the information offered mainly by the financial – accounting and internal audit department; analyses and scenarios are executed, in order to determine, define and implement the best action modalities in view of ensuring a constant development pace of the organization;
- *value-creation cycles*, which have as subject external influence factors (customers, suppliers etc.) and which, through the internal processes (production of goods and services) that take place within the organization, ensure short- and medium-term sustainability of the entity's development (Renard, 2002: 22)[1];
- *financial cycles* constituted of incomes and expenses through which the short-term activity of the organization is ensured.



Information cycle	Value adding chain
Shareholders: Expectations, requirements,	Expectations and requirements from beneficiaries. Quality of supplyers. Research quality and technological development level. State.
Strategic Management: Objectives, strategies, strategic decisions	
Operational Management: operational decisions, action plans	
Internal processes: Added value, direct expenses, resource consumption	Value adding through internal processes. Quality of the human resource. Direct expenses.
Process measurement and performance index calculation	

Figure 1. – Decision cycles and value creation cycles within organizations (Source: *Dumitrescu, 2012: 41*)

[1]Internal public audit brings plus-value to the entity.

In figure 1 are represented the decisional and value-creating cycles. Both cycles have as starting point the demands and expectations of the factors of influence (for the decisional cycle – the shareholders, who bear the entire financial risk of the organization and for the value-creating one - the beneficiaries and the suppliers). Within the decisional cycle, strategic management establishes the objectives and strategies for the fulfillment of the shareholder's expectations and demands and transmits them to the organization's operational levels. On this basis are elaborated, by the operational management, action plans destined for the managing and optimization of the internal processes, in view of adding a value as high as possible with costs as low as possible, in order to finally satisfy the shareholders' expectations and demands and of the external influence factors. The results of this process are measured periodically and analyzed by the entity's financial accounting department, in view of comparing them with the objectives set and of presenting these results to the shareholders.

In what concerns the value-creating cycle, it is decisively influenced by the following factors:

- quality of suppliers;
- quality of researches and the level of technological development;
- quality of the internal audit [1];
- the state (legislative framework, taxation level, bureaucracy level).

Also, the internal processes are influenced by the quality of the staff involved. By optimizing the internal processes, depending on the above-listed factors, a high degree of beneficiaries' satisfaction is obtained, together with the undertaking of social responsibility. Through the slight transformation of the above figure, we can obtain a rather simple model for the financial cycles occurring within an organization. Analog with the above-mentioned, we can say that through the continuous and constant optimization of the internal processes, an increasingly higher difference is obtained between the organization's incomes and expenses, within a certain time-frame. This is presented in figure 2.

The cycle of an entity's incomes is relatively simple because on the basis of the orders issued by the beneficiaries, goods and services are produced and delivered, for which the organization later receives the equivalent value. Between the volumes of orders, the price paid for the delivered goods and services and the beneficiary's satisfaction degree there is a direct, non-linear connection and, at the same time, an inexplicable one, from the economic point of view, with the aid of the phenomena governing the demand and supply of goods and services on the market.

[1]See previous footnote.

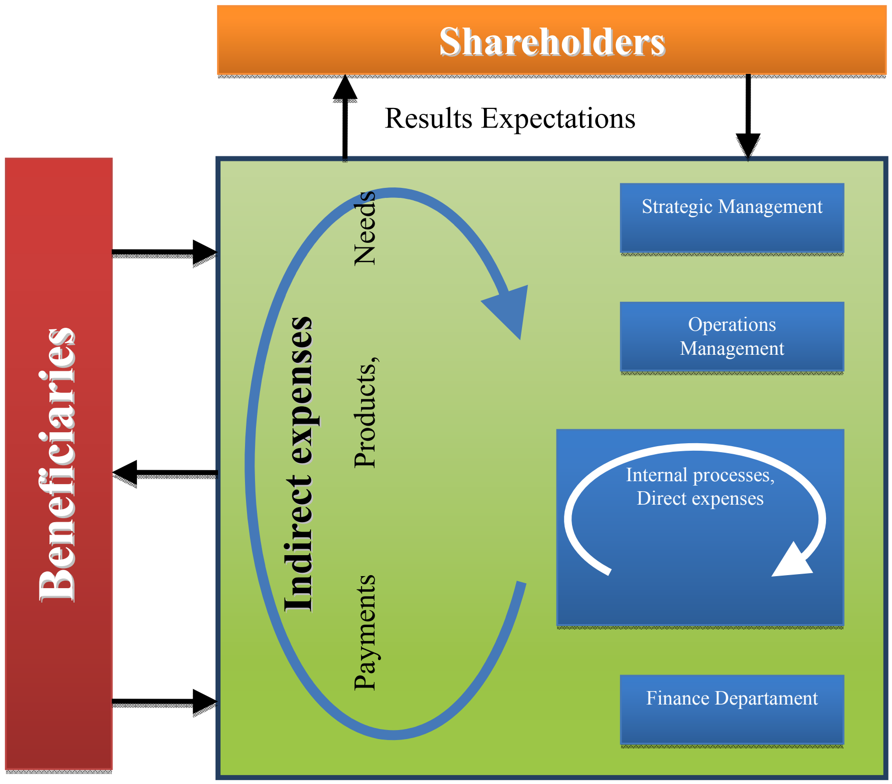


Figure 2. – Financial cycles of organizations
(Source: *Dumitrescu, 2012: 42*)

Unfortunately, the expense cycle is much more complicated than the income cycle and it depends, to the point of determination, on the organization's internal structure. However, what can be said is that the optimization of the internal processes and, implicitly, the reduction of the direct expenses in an organization are much easier than the attempt to reduce the indirect expenses (Dragan, 1980: 33).

Due to the optimization of the internal processes and to the implicit increase of the difference between the incomes and expenses, the shareholders' satisfaction degree also increases, together with their demands and expectations with respect to the organization. Between the three cycles shortly described above there is, hence, a functional, strong and stable connection, which leads to the sustainable development of the organization. The quality of the relations between management, shareholders and the other external factors of influence, which we generally call governance, is, therefore, determinant for the organization's market success.

4. Conclusions

The role that internal public audit must play for the sustainability of internal processes in the public administration is obvious. In this regard, it has the duty to support public management and the associated decision making processes and the establishment of a balance between above factors mentioned in this paper.

Internal audit is a collection of activities and actions undertaken by specialized structures at the level of public organizations, whose object is the measurement and improvement of quality and performance levels of the management, and the good administration of public funds and public patrimony. The goal of internal public audit is to performance improvement at the level of public organization; its conclusions must give to the management sufficient information for the accomplishment of this goal. The main followed aspect is efficiency, regarded as the quota of process inputs to process outputs. Lack of efficiency can be traced back to either

- lack of internal procedures,
- unclear internal procedures,
- unclear, missing or overlapping responsibilities,
- misleading or misinterpreted information, and so on.

Internal public audit plays an essential role in the relationship of the institution with both shareholders and stakeholders, because it is the only one capable to guarantee that the organization functions according to the constraints of efficiency, effectiveness and economy. Through different types of audit, the information needs of these two interest groups (shareholders and stakeholders) can be satisfied regarding good management and good governance, thus avoiding conflicts between the organization and its different influence circles.

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OPERATIONAL RISK MANAGEMENT AND MONITORING

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Abstract

A major concern for every organization is to identify the risks they face. Thus, all risks associated objectives, activities or actions taken should be identified and recorded. Although there is a risk management model applicable to all organizations, this activity should be a primary concern of the management, risk manifestation otherwise lead to damage to achieve the objectives.

Operational risk is the risk that the management and all staff encounters in daily and on which to exercise constant monitoring, so it does not affect the expression of the implementation of activities. This risk is related to the ongoing activities within the organization and may cause financial loss or material in case of manifestation.

Operational risk is a constant and significant in an organization and manifests about ongoing activities. Exposure to operational risk organization may have an upward or downward depending on the volume and complexity of transactions carried out, the quality and reliability of systems used internal control system implemented.

Keywords*: risk assessment, risk factors, risk management, operational risk, risk sources.*

JEL Classification: M00; M41; M42

Risk management is not a fad, but provides the basis for implementing the principles of corporate governance and shareholder organization provides a guarantee regarding the use of the resources that they have provided. By implementing risk management process management organization shall ensure that resources are used properly and effectively, yielding at least planned results.

1. Conceptual approach for operational risk

The concept of operational risk is a relatively new concept introduced in the practice of organizations in our country, initially being considered by operators in the banking system, and was later accepted and managed and the management of other economic organizations.

In the literature there is no unanimous view on the definition of operational risk, which is analyzed in terms of several aspects, namely:

- operational risks were identified initially as other forms of financial risks associated with development strategy, positioning in the environment in which the entity is or competence management;
- operational risks were associated second financial transactions or errors in the recording of entries in the system, data processing errors, errors in performing, recording outputs of system errors or errors in financial statements. In this context there is a risk that classification is specific only recording mode operations entry, processing and output of the system, do not take into account the risks of fraud intention, the execution of unauthorized transactions or inappropriate use of financial instruments in the nature of economic transactions;
- operational risks were associated third internal control system implemented by management or its non-functionality;
- finally, operational risks have been associated with direct or indirect loss resulting from improper conduct of activities, inefficient internal control measures implemented and making unauthorized personnel employed by the result of external influences or obligations.

Compared to the above, we can say that operational risk is recognized as the risk of incurring losses or of not reaching planned revenues, following actions to internal factors such as improper conduct of business, staff turnover and inadequate qualification or external factors such are changes in the economic environment, diversification needs, technology, the intention of fraud.

Operational risk is a reality in the entity and its correct approach leads to avoidance of losses and increase efficiency and effectiveness in achieving the objectives.

In practice, operational risk should be viewed both in terms of the relationship cause - event - effect and the effectiveness of controls that take place in the work.

Also, in our opinion, we believe that there must be a relationship between operational risk and the income so that the entity's management can make decisions in full knowledge of the risk level.

Operational risk is included in the category of non-systemic risks to the entity acting; its manifestation depends largely on how resources are managed. Or the organizational changes concerning the working environment can lead to increased exposure to operational risk.

2. The responsibilities of operational risk management

Practice has shown that in some cases the manifestation of operational risk is so severe that lead to business interruption, the inability to pay or even insolvency organization. In these circumstances it is necessary that the management organization to pay particular attention to operational activities and promote best practices and to ensure effective management of operational risk.

In the process of operational risk management *corporate governance* is responsible for developing and approving strategy and management procedures specific to this risk, structures while *functional leadership* is responsible for communicating the strategy and specific procedures to all staff and to follow the implementation and compliance.

Responsible for operational risks at the level of functional structures are responsible for identifying operational risks faced, accurate and timely reporting to them and to formulate proposals to reduce the risk and monitoring activities were implemented after control measures set . Also, if the event is responsible for monitoring the risk of losses, the implementation of measures to recover losses and tracking their recovery.

Functional structure of risk management is responsible for the development of the internal management of operational risk analysis information from responsible risk and monitoring risk factors for formulating strategies, policies and measures to mitigate operational risks reported in order to prevent future these events and their communication in charge of the implementation and monitoring risk.

Internal audit structure organized in the entity is responsible for operational risk assessment during the audit, identify the causes that led to its emergence and formulate proposals to eliminate the causes and reducing its level.

Operational risk can be managed efficiently given that at the organizational level following requirements are met:

- defining strategy and corporate governance principles underlying operational risk management;
- organize and establish a corporate governance internal audit function within the organization and ensure that operational risk is a concern of this function;
- from executive management can implement policies and procedures arranged levels of corporate governance;

- risks are identified and evaluated objectives;

- risk monitoring and reporting is done objectively by corporate governance and executive management;

- managerial decision making is informed of the existence and the management of operational risk;

- the organization has defined a business continuity plan that can be applied in case of interruption;

- organization ensures transparency and provides clear and true information on their activities, quality management and operational risks faced.

To implement these requirements in operational risk management, the management entity must: (a) a work environment and culture proper operational risk; (b) implementation of appropriate measures to identify and assess the operational risk events while; (c) implementing an adequate internal control system to give priority to the organizational risk; (d) determining the levels to which operational risk is acceptable and maintaining risk within these limits; (e) operational risk anticipation for restructuring activities or change the context in which activities are performed.

Also, internal procedures developed for each of the activities carried out must provide and describe: (a) the methods and techniques used for operational risk assessment; (b) functional structures responsible for the management of operational risk; (c) the actions and tasks performed for operational risk management; (d) a circuit adequate information on the assessment, treatment and monitoring operational risk; (e) mode of action and approach used to identify if an operational risk.

The establishment of operational risk acceptance allows the entity to ensure the achievement of the objectives in terms of efficiency and effectiveness and to adequately manage situations of termination of the activity. Acceptance limits for establishing the Organization must take into account, for each risk factor that is relevant, two values: a warning value and a maximum value that can be supported, for example:

Nr. crt.	**Risk factor operational**	**Attention value**	**The maximum value supported**
1	Losses due to actions committed with the intention of fraud or breaches of regulations, laws or entity/total loss policy	5%	10%
2	Losses resulting from the destruction or damage to tangible assets in the wake of natural disasters or other events/total loss	30%	40%

3	Accounting operations share reversed/total operations	0,05%	0,15%
4	Number of days/employee participation in professional training courses during the year	3 zi	1 zile
5	False documents/records total recorded documents	0,01%	0,01%

If the achievement of the organization's leadership attention value needs to be alarmed and to order a series of measures to prevent or correct the implementation of controls in order to limit the effects of operational risk.

3. Operational risk factors

Managing operational risk must be borne by the entity's management both at the level of each functional structures and of each employee. Staff must be familiar with the operational risks, to report and monitor.

Operational risk management approach can be done from two perspectives: the causal approach process and approach. Hopefully, this approach allows the taking into account of all the activities which they carry out entity and processes involved, namely: operational process, process management and internal control and process support including legal support functions, tax, IT and logistics. The causal approach to operational risk means that the organization is considering changes in the practice of human resources management, performance indicators establish staff and the extent to which they reflect operational risk tolerance, their level of training of staff and whether it ensures the achievement of the objectives, the extent to which employees are complying with regulations, as well as a plan for business continuity.

According to the literature of the operational risk factors are characteristics:

- external fraud-related events and internal fraud;
- personnel-related events, namely the discriminatory practices imposed on personnel selection and career system of employees;
- customer-related events, and unfair practices, breaking the rules in granting the contracts or the execution of works, the preferential treatment given to certain customers;
- tangible assets-related events, namely the existence of organizational and functional problems that endanger the integrity of tangible assets;
- work related events, the lack of programmers to ensure the continuity, changes in activities and system failures;

- events related to the activities, highlighting the inadequate instructions and criteria used to record transactions and transactions made by that entity.

From the analysis of these factors shows that several are factors which have as a result work. Situation where the attention should be focused on the selection of management and implementation of controls in conjunction with the nature of the risks that lead to the minimization of operational risk.

In practice the risk factors you can structure as follows:

Nr. crt.	**Type of event**	**Associated operations**	**Risk categories**
1	Internal fraud	The intention of fraud The fraudulent appropriation of property Circumvention of the rules in force	Transactions not reported Unauthorized operations Registration of operations without the existence of supporting documents The counterfeiting of documents False reports with the intent to defraud Changing information in computer applications Operations carried out by employees in their own name
2	External fraud	Security systems	Counterfeiting of documents Unauthorized access to systems of entity The erroneous assignment of assets
3	Personal	Employment relations Job security Discrimination	Disciplinary of employees Actions contrary to the legislation relating to employment, Assigning responsibilities beyond preparing employee Staff turnover Events of discrimination
4	Customer	Compliance with the rules Unfair practices	Granting of preferential advantages for customers Erroneous conclusion of contracts Facilitating access of clients to obtain contracts The use of inadequate accounting records, nature of operation
5	Active corporal	Disasters and other events	Destruction or damage to assets Unforeseen events affecting assets Misuse of assets
6	Business disruption	Functionaries systems	Damage to equipment Misuse of programs

7	Demonstr ation activities	Registration operations Making payments	Recording of incorrect data entry Errors in transaction processing Accounting errors Registration of illegal operations Unauthorized access to your accounts Errors in reporting obligations Provision of inaccurate reports

4. Operational risk management

The operational risk management must become a constant concern of the leadership of the entity, in order to achieve an efficient and effective management, in consonance with the principles of corporate governance relating to performance and transparency. Development process involves many activities, such as: analysis of sources of operational risk, the assessment and treatment of operational risk and operational risk monitoring.

a. Sources of operational risk. In general, the sources of operational risk internal events, we find that relate to human resources, systems, processes, organization entity, the nature of activities or external events and organizational changes, which relate to fraud, changes in the political environment, economic or legislative framework which prevents the attainment of the objectives of the organization.

Operational risk sources associated human resource refers to the degree of concordance between the vocational qualification of employees and responsibilities specified in job descriptions, the avoidance of conflicts of interest, establishing staff duties, linking remuneration to performance indicators establish employee, staff turnover and observance of ethical conduct.

Operational risk sources associated with computerization of business processes refer to the security, accuracy and integrity of stored data, access to information, the extent to which the programs used for the fulfillment of requirements of users, the existence of continuity of business plans and the degree of compliance of computer system.

That operational risks related to the Organization's management information systems should take account of the complexity and importance of the operations carried out, the identification of gaps of information systems to current needs, as well as the appearance of unwanted results.

Also, operational risk management entity shall establish and maintain procedures for evaluation, monitoring procedures and procedures for limiting the level of risk and appropriate policies for risk management, which takes into account the types of generators of operational risk events. The practice of generating operational risk events may be fraud, the criteria used for selection and employment of staff, the practices related to the granting of contracts, ensuring the integrity of the assets, ensuring continuity, to ensure transparency and the equal treatment of all customers, vendors and other individuals who have an interest in the entity.

b. Assessment and treatment of operational risk. Operational risk assessment, which aims to detect vulnerable operations, shall be carried out according to the probability of occurrence of the event generator losses from operational risk and the financial impact on the Organization, through a risk assessment matrix. Risk classification is done by means of a scale of risk (risk small, medium, large).

The probability of the risk matrix vertically should be described according to the specifics of your organization and the types of risk and can be great, very likely to happen; on average, is likely to spend and is more difficult to predict; small, highly unlikely to take place.

The impact on the organization describes horizontal array after the specifics of your organization and the types of risk and can be: high, major effect on operation; moderate, significant, but no major operations; low, the consequences aren't severe and any losses or financial implications are relatively low.

The tools used to assess operational risk shall take into account the following:

a) database of adverse events, including information related to the risk of losses arising from and measures for their rehabilitation;

(b) preventive measures taken for) anticipation of operational risk;

c) verification questionnaire, which includes a set of checklists are used in order to assess the degree of compliance activity relative to the operational risk management is implemented.

Risk control is carried out with the aim to transform uncertainties into an advantage for the organization, limiting the level of threats. It involves tolerating, treatment or transfer.

Operational risks toleration presupposes that they are accepted in the State in which it is not necessary to take any action.

Treatment of operational risk requires that, in the vast majority of cases the organization has management control measures to limit the risks. Thus, while the organization achieves its activities and implements a system of internal control which maintains the risk within acceptable limits. Inefficient risk treatment can lead to significant losses.

Operational risk transfer is determined by the fact that there are risks for which the best solution is to transfer them. In this situation, operational risks are transferred either to reduce exposure to risk, either because another organization is more capable or specialized in managing such risks.

For each element of risk taken into account, depending on the level of risk associated with the severity and risk classification as high risk, medium or small, the leadership has internal control measures in order to limit it and ensure that the objectives, for example:

Element of risk	**High risk**	**Environ mental risk**	**Low risk**	**The proposed measures**
Provision of public information	Providing information that is not public in nature and for which there is no authorizati on	Inadequate communica tion of information of a public character	Surface communicat ion public information	Clear definition of public information, Staff training and ensuring communication with the taxpayer
Erroneous payment of contracts	Erroneous payments for which there are no obligations	Payments on account	Smaller payments in relation to the current requirement	Visa submission of preventive control of the operations carried out before payment and actual payment.
Erroneous records	Recording of documents drawn up in fake	Misuse of accounts	Late registrations	Confirm the input documents by the Compiling of a providers instructions on using accounts

Operational risk posed by shortcomings in the organization's current activity, associated with human error, incorrect application procedures, non-compliance with legislation or other events is hard to quantify in a situation where its nature is not a financial one.

c. Monitoring of operational risk. Monitoring of operational risk requires keeping track of its classification in the threshold levels established by the policy of tolerance of the organization.

The organization must ensure that adequate information flow both vertically (in both directions, i.e. ascending/descending) and horizontally (between the functional structures) that allow the justification of the significance threshold established.

5. Conclusions

Operational risk is considered to be the risk of loss resulting from the deficiencies attributable to the procedures, people, and systems of organization and internal functioning or from external events, but which have an impact on the entity.

In general, the organization has implemented a management system for the management of the risks inherent and residual and less has been focused on identifying and managing operational risks related to the current activities being carried out.

In our opinion, we believe that every organization needs to implement a process of operational risk management in order to ensure:

- evaluation of operations and activities and to identify vulnerabilities to operational risk;
- establishment of indicators with which to be able to determine the level of acceptance of operational risk, and risk assessment can determine the position in relation to acceptable levels;
- permanent monitoring of operational risk.

Operational risk is perceived as the most recent venture, which raises new problems to its leadership. His analysis has taken into account all information sources available, including those relating to internal control.

Taking into account the complexity of the operational risk managers, the organization must ensure the existence of *a tool for evaluating the operational risk management process.* This function can be internal audit, which in accordance with the regulations in force is responsible for the provision of reasonable assurance, independent and objective on how risks are managed, control and governance. In addition, internal auditors can advise management regarding the organization and development of operational risk management, taking into account the broad vision of the entire portfolio of activities that are carried out within the organization.

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CO-MOVEMENTS OF EUROPEAN STOCK MARKETS USING THE UNIVARIATE MARKOV REGIME SWITCHING MODEL

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Abstract:
The connections among the European stock market indices are considered as an important element in the study of the integration of these markets. Our paper suggests the analysis of these connections by means of analyzing the simultaneity of regime shifts in the dynamics of a set of Western and Eastern European equity market indices. We measure this simultaneity phenomenon and we present evidence in support for its future consideration as a step in the study of stock market integration in Europe.

Keywords: *co-movements***,** *Markov regime switching, European stock markets, stock market integration*

JEL classification *C58, G17, G15*

Introduction

The study of the co-movements of stock markets is a topic that captured the attention of international finance literature, especially given the impact of the theory of portfolio diversification. The benefits that derive from diversification are clear and have been profoundly analyzed. The financial literature and practice have shown that the dynamics of a portfolio is not only based on the level of the return and the risk parameters of the assets held, but also on the correlations that exist between the mentioned assets. A low correlation between various international markets makes the process of diversification an efficient tool in portfolio management.

Therefore, given this logic and the phenomena of globalization, integration and convergence that characterize the modern financial environment, the study of the linkages between international financial markets has become a crucial aspect.

This lead to the formation of a consistent literature that focuses on the co-movement of international markets. Key contributions have been brought by studies such as Hamao and *al*. (1990), Richards (1995), Johnson and Soenen (2003), Bekaert and *al*. (2005), Bonfiglioli and Favero (2005), Syriopoulos (2007), Arouri et al (2010), or in more modern approaches such as Levišauskaitė et al (2014) or Dewandaru et al (2014). The study of co-movement does not rely only on modeling the existing correlations, incorporating also elements like volatility, contagion or spillovers.

The purpose of this paper is to contribute to the existing literature by studying the level of integration of European stock markets. We consider the co-movements in terms of simultaneity of regime shifts and try to explain their dynamics.

The remainder of the paper is organized in the following way. The second section presents several elements of the existing literature. Section III discusses the data used the methodology employed. Section IV exhibits the results, while the last section concludes.

Literature review

Hamao and *al*. (1990) analyze the financial markets of US, UK and Japan and show solid spillover effects using an ARCH model. Heston and Rouwenhorst (1994) study the co-movements of twelve European financial markets and observe that though industry correlations are high, the international volatility and return co-movements are influenced by country specific factors.

Longin and Solnik (1995) use a GARCH model and report a significant correlation for international stock markets during the 1958-1985 period. In a similar approach, Karolyi and Stulz (1996) document some changes in the dynamics of correlations in terms of daily returns in the cases of US and Japan indices.

In an ample analysis, Choudry (1997) uses a battery of statistical tools such as co integration tests, error correction models or simply unit root tests in order to document a potential link between the US market and other six Latin American markets. In another study that focuses on South American markets, Chen and al (2002) observe a strong level of co-movement for countries such as Venezuela, Argentina, Chile, Mexico, Columbia and Brazil.

Bonfiglioli and Favero (2005) build on the distinction between contagion and interdependence as firstly explained by Rigobon, (2003) in order to explain market co-movements in the cases of US and Germany. The authors investigate the long term interdependence between the two markets and also focus on any potential contagion effects. Though they do not find signs of long term interdependence, they find evidences of contagion. Gallo and Otranto (2008) use a Markov Switching bivariate model for the investigation of co-movements, interdependence, or spillovers. The authors distinguish co-movement effects between Hong-Kong and Singapore and a spillover effect from the former to Korea. Other relevant Markov Switching approaches can be found in Beaupain (2010) or Idier (2011). Boyer et al. (2006) also use the Markov switching model, but in addition to this they incorporate an analysis based on the extreme value theory. The authors remark an enhanced co-movement in times characterized by high volatility.

Lupu and Lupu (2009) study the presence of stock market contagion by comparing the evolution of Central and Eastern European markets with that of Western European states, US and Japan. The authors consider that contagion lies in any potential increase in financial co-movements after a certain event, and succeed in demonstrating the phenomenon.

Lupu (2011) brings forth an analysis of correlation coefficients between pairs of fourteen stock market index return series. Using as modeling tools a GARCH – DCC model, a volatility model and a jump diffusion model, the author documents on the nature of the investigated linkages.

Levišauskaitė et al. (2014) seek to determine the co-movements present between the bond and the stock markets for all the EU states. The authors report small and insignificant correlations for the countries included in the study except for Romania[1], Greece, Hungary and Lithuania.

Albu et al (2014a) and Albu et al (2014b) demonstrate the existence of stock market co-movements focusing on the effects generated by quantitative easing. The authors present an effect of contagion of US, British, Japanese and European policies on a set of nine CEE sovereign CDSs.

In a very recent contribution, Dewandaru et al (2014) discuss the market co-movements in classic and Islamic markets aiming to expose possible contagion signs during nine sets of relevant economic crises. The authors report a state of incomplete market integration that is more potent in the case of the Islamic markets.

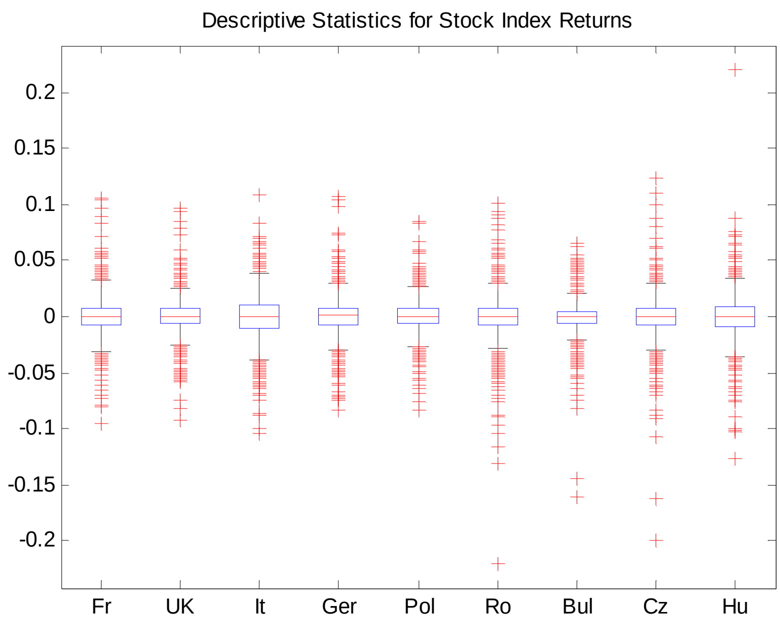
We consider that the process of financial integration is driven in general by the evolution of macroeconomic indicators. Albu, Lupu and Calin (2014) explore the linkages between GDP per capita and market capitalization through the use of a non-linear approach that simulates the convergence process.

[1] For a detailed view of the Romanian financial sector see Horobet and Lupu (2005)

Data and methodology

We are using daily prices for stock market indices from the following countries: France, United Kingdom, Italy, Germany, Poland, Romania, Bulgaria, Czech Republic and Hungary. We are covering the period ranging from September 2007 until December 2014. The data was organized in a common sample of log-returns covering 1665 realizations from September 5th 2007 until December 5th 2014. A brief presentation of the statistical properties of these assets is shown in Figure 1.

Figure 1 – Boxplots of stock market indices



We notice that the stock market returns have similar statistical properties, with means and standard deviations that are situated at approximately the same levels and with large probabilities in the tails. We notice large outliers on one hand especially in the case of Romania, Bulgaria and Czech Republic with a negative skewness and on the other hand in the case of Hungary with a positive skewness.

Our methodology relies on the logic of the Markov Switching modeling as portrayed by Hamilton (1994), Tsay (2002) or Wang (2003).

We thus assume a process given by the subsequent equation:

$$y_t = \mu_{S_t} + \sigma_t$$

Where $S_t = 1 \dots k$ and ϵ_t is assumed to follow a normal distribution.

Considering a two state approach, the model is characterized by the following set of equations:

$state\ 1: y_t = \mu_1 + e_t \quad e_t \sim (0, \sigma_1^2)$

$state\ 2: y_t = \mu_2 + e_t \quad e_t \sim (0, \sigma_2^2)$

The Markov Switching modeling background can be estimated with the maximum likelihood method in the following manner:

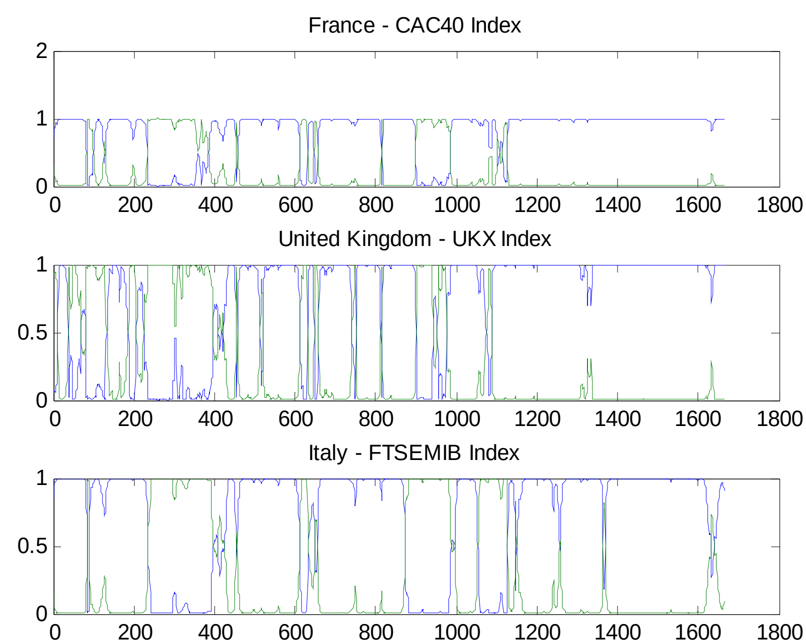
$$\ln L = \sum_{t=1}^{T} ln\left(\frac{1}{\sqrt{2\pi\sigma^2}} exp\left(-\frac{y_t - \mu S_t}{2\sigma^2}\right)\right)$$

Results

The fitting of these particular models to our series of data generated the results that present the general dynamics of the probabilities of two possible states, with shifts in both the mean and the volatility of these returns, treated at the univariate levels.

We organized the results in three different charts, each summarizing the cases of three countries (three stock market indices) in Figures 2, 3 and 4.[1]

Figure 2 – Dynamics of Probabilities for the two states at the univariate approach for France, UK and Italy



[1] *All computations were performed in Matlab using the code developed by Marcelo Perlin.*

The OX axis presents the time span of the series of stock market index log-returns. We notice that there is a larger co-movement, in terms of regime shifts, for the case of UK and Italy especially in the last quarter of the series that we used in our analysis, and a larger co-movement for the case of France and UK in the first part of our data. The FTESEMIB Index, on the other hand, seems to move less between the two states – situation that could be interpreted as a good fit for the use of two-state Markov Switching model. The UKX Index seems to move a lot between the two states, especially in the first part of our analysis.

A situation approximately similar with the one in Figure 2 can be observed in Figure 3, where the DAX Index and the WIG Index seem to have a larger similarity, while the Romanian index seems to move less between the two states established in the model. The second half of our time series seems to be more fitted to the two-state model and the three stock index returns move from one regime to another in approximately the same moments.

Figure 3 – Dynamics of Probabilities for the two states at the univariate approach for Germany, Poland and Romania

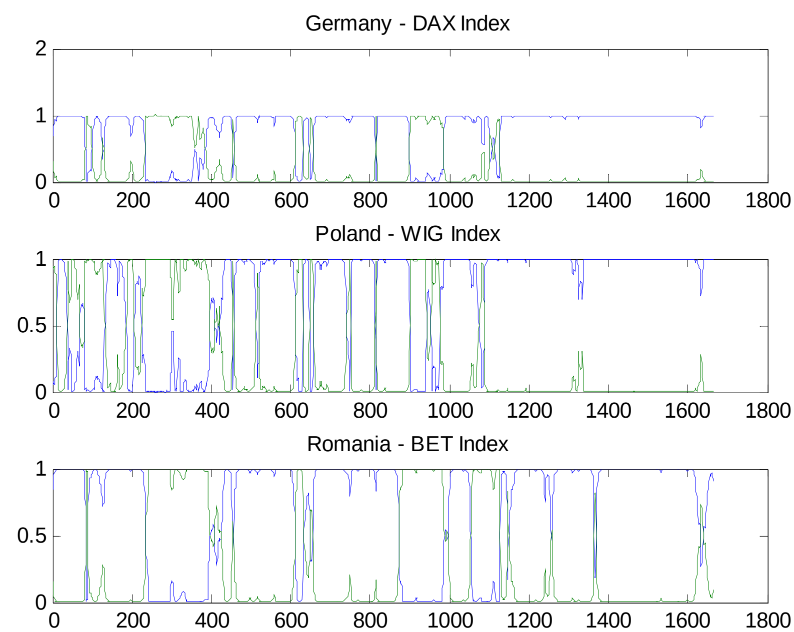
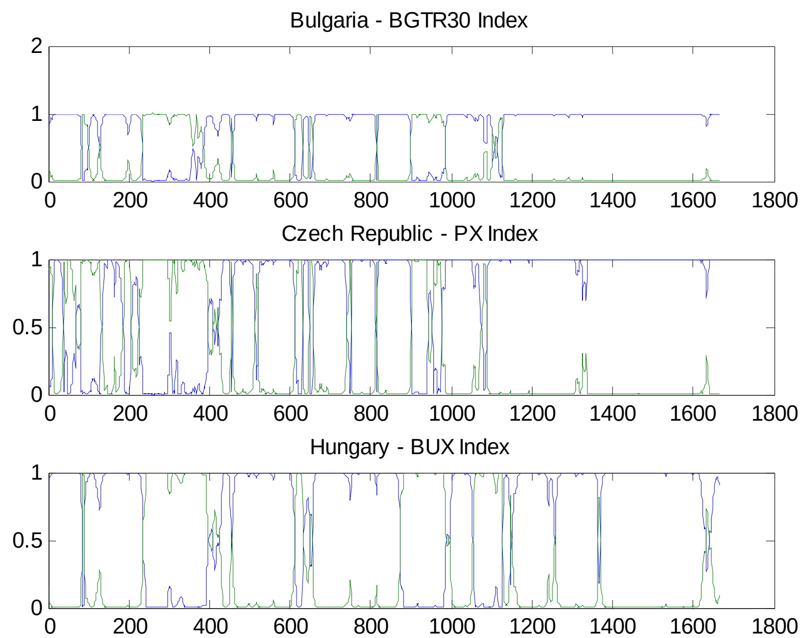


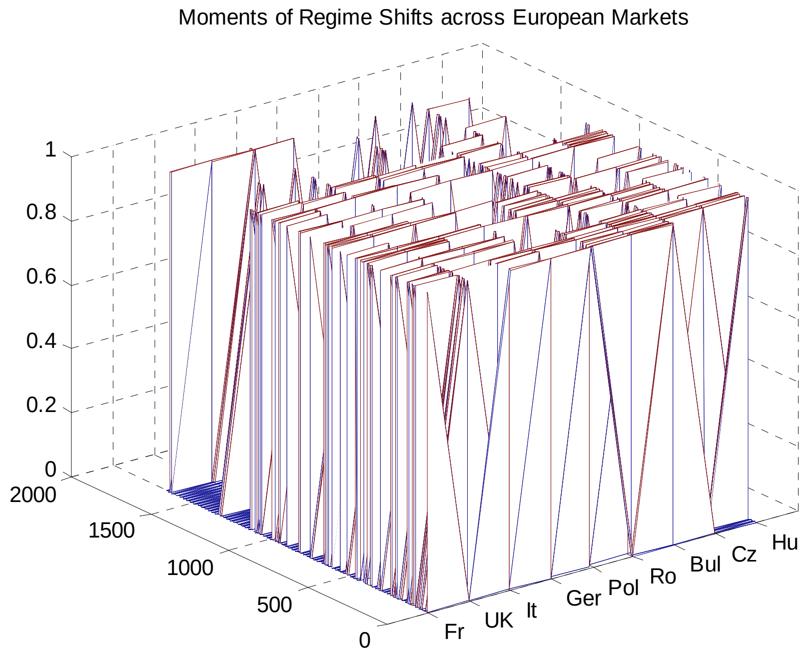
Figure 4 presents the dynamics of the changing probabilities for the Bulgarian, Czech and Hungarian stock market indices. We can notice that these returns exhibit the same structure of changing regimes in the first part of the series and they show very few changes in the second part, as in the cases observed in Figures 2 and 3. The Hungarian and the Bulgarian indices show more stability, they move less between the two regimes.

Figure 4 – Dynamics of Probabilities for the two states at the univariate approach for Bulgaria, Czech Republic and Hungary



In order to measure the similarities of the series across all the countries in our analysis, we determined all the moments when the probabilities move from one state to another for each stock market index. Figure 5 presents a three dimensional chart with the regime shifts for all the countries across all the moments of our analysis.

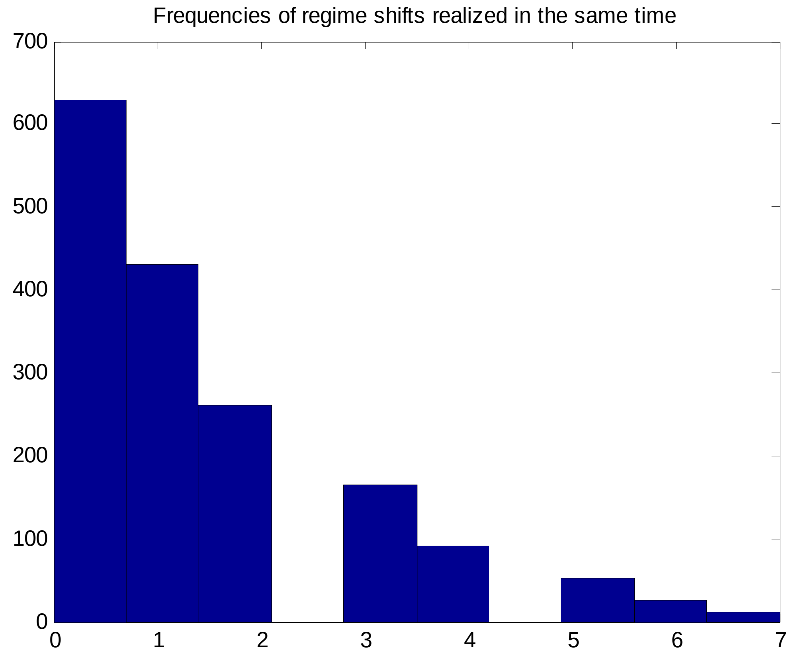
Figure 5 – Structure of Regime Shifts for all the series in our sample



We notice the fact that the chart tends to exhibit blocks of dynamics at the same moment in time, which is evidence of the fact that the changes take place usually in the same time – the block are constructed along the axis of countries.

In order to measure this pattern a bit better, we decided to count the number of regime shifts that occur in the same time for all the moments (days) in our sample. Figure 6 presents the map of frequencies (histogram) of all these appearances. We notice the fact that there is a large number of regime shifts that took place in the same time, sometimes covering 7 countries. There is also a large amount of individual shifts – as we can see by the large size of the first column in the histogram.

Figure 6 – Histogram of appearances of common regime shifts at the European level



Concluding Remarks

We are using a set of nine stock market indices with daily frequency to study the simultaneity of the regime shifts that occurred in a time interval of seven years.

Our results show that there is important evidence in support of regime changes that appear in the same time across all the nice stock market indices. This can be considered as evidence in support of stock market integration as result of co-movement. The Romanian stock market index exhibits less similarities with the rest of the European developed markets but larger similarities with the Central and Eastern European markets.

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CONSTITUTION OF ROMANIA – IMPROVING WHAT WE HAVE OR CREATING A NEW LAW

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Abstract:

A Constitution is the most important law that a state has, the fundamental one. It must inevitably reflect the historical moments in which is developed and reflects certain socio-political realities.

The economical, social and political changes and new realities, the political power, the mentalities and traditions of the Romanian people, the fact that we are members of the European Union and of NATO and even the resources of life must be the ones who dictate the Constitution of our country.

Any law requires, in time, certain adjustments. The possible modification, supplement or amendment of a Constitution must be regarded as an act of normality due to changes in society or some inconsistency between constitutional norms and social realities.

The specialists ask themselves if it is enough to change, to modify or to add new articles or paragraphs or is better to have a new Constitutional law, with its own structure, a new foundation and a new way of seeing and saying the principles of democracy.

The present article intends to analyze which of the two ways of changing the Constitution of one democratic state - the revision law and the recall followed by a new Constitutional law – is the one that should be operated in the case of Romania, in the present time.

Keywords: *Constitution, revision law, new constitutional law*

I. Introduction

Any law, once adopted and implemented, may be amended, supplemented, sometimes even repealed, in accordance with the changes in society in order to respond to new challenges and to design future situations, or due to distorted interpretation and application of its provisions, but also if there are of deficiencies incurred by its application.

Although the Constitution revision is no longer in the first places on the political parties' agenda or on public agenda, the entitled question regarding the need for and the opportunity of a revision remained.

National Constitutions inevitably reflect historical time characteristics in which they have been elaborated and show certain social-economic and political realities, and a possible proposal of amending it should be seen as an act of normality, in terms of the changes in society or some inconsistency between constitutional rules and social realities. It can be said the mere discussion of the fundamental rule revision indicates that the society has essentially changed.

II. The revision of the Romanian Constitution after 1989

Political events in 1989 led to the recall of the 1965 Constitution and to a new fundamental text. Constitution of 1991 was adapted to the realities of that time and its revision in 2003 was necessary due to situational dynamics of the moment. The fundamental act was thus aligned to new political, economic, social realities, domestic and international.

The revision of a constitution is a distinctiveness method, particular and special, due to its self-importance and its provisions relevance, which take precedence over other normative acts. The constitutional text should contain provisions specifying who can initiate the review, what authorities or persons have the jurisdiction to revision it and what is the procedure to be followed.

According to article 150 from the Constitution of Romania, republished, [1] the "revision of the Constitution may be initiated by the President of Romania on the proposal of the Government, by at least one quarter of the number of Deputies or Senators, as well as by at least 500,000 citizens with the right to vote. The citizens who initiate the revision of the Constitution must belong to at least half the number of the counties in the country, and in each of the respective counties or in the Municipality of Bucharest, at least 20,000 signatures must be recorded in support of this initiative". "The draft or proposal of revision must be adopted by the Chamber of Deputies and the Senate, by a majority of at least two thirds of the members of each Chamber. If no agreement can be reached by a mediation procedure, the Chamber of Deputies and the Senate shall decide thereupon, in joint sitting, by the vote of at least three quarters of the number of Deputies and Senators. The revision shall be final after the approval by a referendum held within 30 days of the date of passing the draft or proposal of revision." (Article 151)

The Constitution of Romania, like any other constitution, is based on certain fundamental principles which are the essence of the political system of the state.

[1] http://www.cdep.ro/pls/dic/site.page?id=371.

Article 152 establish some limits of the revision[1] “the provisions of this Constitution with regard to the national, independent, unitary and indivisible character of the Romanian State, the republican form of government, territorial integrity, independence of justice, political pluralism and official language shall not be subject to revision. Likewise, no revision shall be made if it results in the suppression of the citizens' fundamental rights and freedoms, or of the safeguards thereof. The Constitution shall not be revised during a state of siege or emergency, or in wartime.”

This is why, before making a proposal of a text version there must be set some general principles that will form the frame and the structure for the new fundamental act.

In the case of Romania, in 1990, the texts which have given rise to effervescence discussions have made reference to national unitary character of the state, form of government, the principle of separation of powers in the state, private property guarantee. The 1991 Constitution established the transition from communism, as a dictatorial regime, to a democratic one, a rule-of-law state with the Republic as form of government, bicameral structure of the Parliament and political pluralism, in which the rights and liberties of citizens were guaranteed.

From the date of the Constitution adoption up to the time of its revision, in Romania have been substantial changes on all plans. The amendments made in 2003 noticed in particular the Euro-Atlantic integration, but also aspects concerning the term of office for the President, the responsibilities of the members of the two Chambers of Parliament, of the Constitutional Court and of the Superior Council of the Magistracy, and also a more precise and explicit constitutional provision in general.

During the period from 2003 to 2010, although there have been, in some instances, numerous debates regarding the usefulness and the need for a Constitution revision, it has not been drawn up a draft law in this respect.

Subsequently, the need for a new revision has been obvious in the political disputes in the years 2007 and 2012, when the President of Romania was suspended, also when the Constitution has been interpreted by the representatives of political parties, and not only by them, in different ways, depending on their own interests, but also in political crises in 2009 and 2012 when two motions of censure[2] have been adopted in a single legislature - 2008-2012. The same conclusion, of the revision, has resulted after the analysis of the economic crisis in 2008-2009.

Romanian citizens consider necessary to preserve and protect their values, traditions, interests, institutions, as well as to establish a general

[1] EU Member States Constitutions that contain provisions that establish limits of the revision: France, Germany, Greece, Cyprus and Luxembourg.
[2] http://www.cdep.ro/pls/parlam/motiuni.lista.

framework that will set the functioning of the state and of the public authorities, freedoms and duties, fundamental rights and the economy by any imprudent, foolish legislative approach, made in the interests of certain groups and in the general disadvantage.

The INSCOP survey, made in 2013, shows that 78.8 percent of the interviewed people think that the existing Constitution needs a revision and 21.2 percent of the respondents believe that the revision is remotely required. Approximately 75% believe that the process of revision is necessary at this point in time and 24.3 % consider that the review should not be speeded up. Almost 60 percent of the respondents believe that significant changes should be made, 20% claim that the current form should be replaced by a new constitutional text and 20% consider that the existing text needs only small adjustments.[1]

In 2010, on the proposal of the Government, by virtue of his prerogatives, the President of Romania has presented to the Parliament the draft bill of revising the Constitution (PL-x 492/2011).[2] The legislative changes[3] proposed aimed: a unicameral structure of the Parliament with a maximum number of 300 MPs - proposals justified by the option expressed in that direction of the majority of the citizens who have participated at the national referendum on 22 November 2009; the procedure of suspending the President of Romania; restriction of interim president prerogatives; changes in the structure and in the way of electing the president and the members of Superior Council of the Magistracy; provisions regarding confiscating the fortune acquired unlawful.

On the matter of this project, the Constitutional Court, by Decision No. 799/2011[4], by a majority of the votes cast, has established that, although the bill of revising the Constitution was initiated in compliance with the provisions of the Romanian Constitution, there are unconstitutional paragraphs or in conflict with other legal provisions in force, and some should be re-examined.

Following this Decision and the reject report drawn up by the Committee for Legal Matters, Discipline, and Immunities, the Chamber of Deputies' plenary rejected definitively the draft law in 2013.

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[1] Constitutional Forum Report, p. 51-52.
[2] http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=12163.
[3] They include the recall of one article, the introduction of two new articles, and the amendment of other 57.
[4] Official Gazette of Romania, Part I, No. 440/23 June 2011.

On 11 February 2013, the Parliament of Romania has established a special common Commission of the Chamber of Deputies and the Senate for drawing up the legislative proposals aiming the revising of the Constitution[1].

At the first meeting,[2] the Commission adopted the setting up of the Constitutional Forum, as an advisory and independent structure, with the goal of organizing debates with the theme of revising the Constitution, to gather proposals made by civil society and to draw up a comprehensive report on this subject.[3] The Forum Report includes observations and amendment proposals for more than half the constitutional articles.

Following the debate on amendments made by the civil society and by the parliamentary groups, in total more than 500 amendments, at the end of June 2013, the Commission draw up a legislative text for the revision of the Constitution[4], adopted with 17 votes "for" and one abstention[5]. Subsequently, on the basis of this text, the Commission has elaborated a legislative proposal[6] for the revision of the Romanian Constitution, which included the Legislative Council observations and those of the representatives of the Venice Commission. The Constitutional Court, by Decision No 80/2014[7], has established that the proposal was initiated with compliance with the provisions of Article 150 of the Constitution, but some paragraphs exceed the limits of the revision provided in Article 152 and brings into the attention of the Parliament the elimination, the re-writing and the reorganization of some paragraphs and articles.

In 2013 also has been drawn up a citizenship legislative initiative[8] of revision of the Constitution, which received a negative opinion from the Legislative Council. In its Preamble it is written that "the current disastrous state of Romanian economy and society is the result of the defective way in which has been created the Constitution adopted in 1991 and the revised one

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[1] The Commission has been set up by the Parliament Decision No. 17/2013, and its subsequent amendments, published in the Official Gazette of Romania, Part I, No. 95/15 February 2013. http://www.cdep.ro/pls/parlam/structura.co?cam=0&idc=114.

[2] A Constitutional Forum was created for the revision from 2003.

[3] Constitutional Forum Report 2013, p.7 and 13.

[4] http://www.senat.ro/UploadFisiere%5Cbb175b74-8e6b-4603-8589-d27a014a2dc0%5Cprop.de_revizuire_a_Constitutiei_-_final_-_25_iunie_2013.pdf.

[5] http://www.mediafax.ro/politic/proiectul-de-revizuire-a-constitutiei-adoptat-de-comisia-de-resort-cum-arata-noua-constitutie-vezi-documentul-10984439.The PD-L and PP-DD representatives withdrew from the discussions of the Commission, as they were dissatisfied with the way in which the debate has been organized. They have not been present at the meeting in which it was given the final vote on the project. The UDMR representative has abstained from voting.

[6] http://www.senat.ro/afisarelistafisiere.aspx?pagina=BB175B74-8E6B-4603-8589-D27A014A2DC0 - 06.02.2014.

[7] Official Gazette of Romania, Part I, No. 246/07 April 2014.

[8] Official Gazette of Romania, Part I, No. 100/10 February 2014.

in 2003, by the manner in which the text of the Constitution defined the relationship between people and the state, by the manner in which the responsibilities of the different components of the state have been defined and by the inter-relationship between them". The bill proposes that a number of 132 articles and titles should be amended and completed, to repeal other 2, as well as the introduction of 27 new articles, 2 sections and 7 chapters.

III. A revision or a new law?

The revision or the adoption of a new constitutional law should be regarded and analyzed with serious consideration. Sometimes it is perhaps better to keep what you have than to create something under the impulse of the moment. The Constitution shouldn't be revised only through the past events significations or uncertain future events. A compromise solution to calm down a political situation at a given moment in time will become, certainly, harmful over time.

The Constitution in force, adopted in 1991 and revised in 2003, largely provides the general operating framework of the state. It is true that can be raised questions about some of its aspects, with the purposes of their clarification in order not to give an opportunity to biased interpretations.

Studies, stakeholder consultations and analyses in this respect carried out by Romanian specialists in constitutional law reflect two aspects: most of them indicate that the amending is necessary at this point in time - by revision or a new law, the rest claim a revision, but not at this time.

The revision of the Constitution of Romania appear to be an obvious need based on two major considerations: the national valid referendum from 2009, whose result should be transposed into normative acts by the legislative authority, and some disagreements between the provisions in force and current realities.

In favour of adapting the constitutional provisions to the new realities can be brought more important arguments: general interests of the state, development of the democracy, the role of political parties, of state institutions and of the civil society, adaptation to EU standards, elements of dysfunction resulting from the application of the legal acts in the past few years, aspects of economic nature, the current state of foreign and security policy.

Constitutional reform processes are closely linked to and influenced by the national context, past history, the degree of democracy in a society, the geo-political and international context.

The revision of the fundamental rule means changing the text in accordance with the procedure laid down in the Constitution. The introduction into the constitutional text of the provisions relating to its revision is a measure taken to provide the possibility to adapt it to the time realities within its provisions produce their effects. Although one of the ground rules that must be taken into account in drawing up a fundamental document is the principle of the legal act stability, this does not mean that, from time to time, when the situation calls for it, the laws may not be changed.

Over time there have been various debates regarding two different revisions of the Constitution: a partial/relative revision - which involves amending, completion and repeal of some texts, adding new articles or paragraphs - and a total replacement of the text. Up to this moment it has not been established if the revision is just a modification or may also be a repealing and if partial revision procedure must be different from that of total revision.[1] Both, the revision and the repeal, involve many theoretical, technical and practical processes.

Our Constitution does not contain any provision which makes reference to or defines the concepts of partial or total revision, both approaches being legal.

It is necessary to be taken into account that, sometimes, by partial revision, it is avoided a future repealing. It must be observed that, in 1990, it was strictly necessary to repeal the old constitution and in 2013 it was enough to amend the existing text.

In the same time, should also be analyzed the provisions which, according to the constitution, cannot be revised. The aspects that cannot be revised can be repealed in the case of adoption of a new Constitution? If it is necessary to revise one of these articles, which are seen as fundamental rules, it means it's a simple amendment or a complete change of the law? Full revision should be understood as replacing a constitutional document with another one, namely a full modification of the text, or as a modification of the set of basic principles?

At the level of the Member States of the European Union it was found that a complete revision of the Constitution has been carried out in the case of Austria (1994), Belgium (1993) and Finland (2000), and a partly one in the case of the other states like France (2005, 2007, 2008), Italy (2002 and 2003), Belgium (22 times from 2000 to present), Germany (53 revisions from 1949 until the present time), Austria (23 amendments between 1983-1995, 120 revisions between 1996-2004). [2]

The legislative bill initiated by the President of Romania, the legislative initiative in 2013, as well as the Constitutional Forum Report in

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[1] The Constitution of Austria contains provisions according to which the procedures for partial and total revision are different (Article 44). The total revision is a substantial modification or removal of one/several fundamental principles.

[2]http://www.ecln.net/national-constitutions.html.

2013, although they include the amending of various articles, some of them suggesting fundamental changes, they all propose the amendment and completion of the existing Constitution and not its repeal and the adoption of a new law. Not even the text proposed by the parliamentary Committee for the revision speaks about a new law.

The main conclusion, set out in the texts for revision and in the studies carried out by the experts, until the present moment, is that it is necessary to revise what we have and not to adopt a new constitution law. But what we must necessarily clarify, before we start this complex process, is what should be revised and in what direction, and when it is the appropriate moment to carry out this revision.

IV. Conclusions

At this point in time, any possible constitutional modification would give the opportunity to the Romanian society to have one of the most modern European Constitution because will be adapted to the nowadays realities, will be based on its own specific background and history, but also on the others European states past experience. Constitutional model of the South-Eastern Europe states, who have a similar past and history, as well as that of Western states, much more developed and with a rich democratic experience, may provide an inexhaustible source of analysis.

Unfortunately, a law cannot be perfect and give rise only to positive effects and benefits for all. In the attempt of making it as perfect as possible, any legal act must be adapted to the complex, continuous and constant changes in the economic, social and political environment, domestic and international. Legal act are part of a dynamic process which will never be completed, but may be permanently adapted and streamlined.

The existing situation in Romania does not imply necessarily a radical change so as the fundamental text must be replaced, as it was in 1990. On the other hand, the high number of aspects which the proposals made would like to be revised create another constitutional frame and a new structure.

To say, precisely and unequivocally, that it is better to revise what we have or to create something new, without taking into account the reality forever and perpetually in motion, it is a difficult thing to accomplish, considering that there are arguments for and against both possibilities.

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BUDGETING METHODS OF SUPPLIES

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Abstract
This article is a presentation of a modality for budgeting the supplies, making a comparison between two methods: keeping the fixed quantity for being ordered, modifying the period between two commands (called command point system) and maintaining constant intervals between commands with a change of the ordered quantities (system called periodic replenishment). The theoretical description of the working methodology is followed by a case study conducted in a business in which we applied the Wilson model. There are also highlighted the limitations as well as the strengths of the two methods under study.

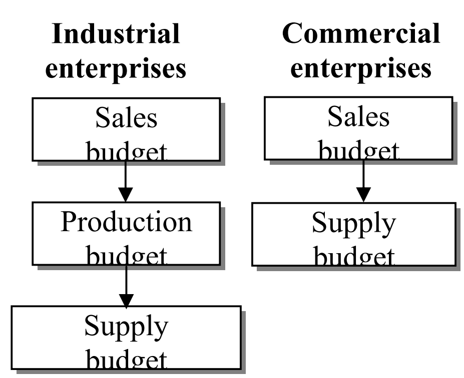
Keywords*: budget, supply, Wilson model, orders, deliveries*

JEL classification*: L23, M21*

1. Introduction

The supply budget aims to ensure optimal management of stocks of raw materials, consumable materials, products, goods, etc. to avoid stock ruptures and overstocks as well as minimizing the cost of supplies. It is closely related to the budget production in industrial enterprises and directly related to the sales budget in the commercial companies.

Fig. 1. The link of the supply budget to other budgets



Regardless of the activity in budgeting the supplies we must take into account the storage policy of the company.

2. The stages for drafting the supply budget

Building the supply budget involves the completion of these steps (Gervais, 1994, pp. 92-95):

A. The determination of the method of supply;

B. Determining the budget process;

C. The drafting of the corresponding sub-budgets;

D. The valuing of the quantities.

A. Methods of Supply

The Wilson model can be successfully applied in the conditions of a constant consumption .A constant consumption determines constant supply periods and supplied quantities. The reality is this harmony does not exist as the consumption varies. The company will have to determine how to carry supplies. There are two classic ways possible:

1. Maintaining the fixed quantity for being ordered, modifying the period between two commands (called command point system);

2. Maintaining constant intervals between commands with a change of the ordered quantities (system called periodic replenishment).

B. Budgetary Procedures

Two budgeting methods can be used for budgeting the supplies:

- The accounting procedure. Budgeting the supplies using the accounting procedure is performed through a table in which the main information are: initial stock, supplies (inputs), consumption, theoretical final stock (the stock with split) real final stock (corrected stock), quantity ordered and delivered, the date of making the order, order arrival date (delivery date).

- The graphic procedure. In this procedure the supply budgeting is realized in a system of coordinate axes where the x axis represents the time and the y axis represents the cumulative consumption and the successive deliveries added to the initial stock (cumulative inputs).

For the case study presented below, I chose to use the accounting process.

C. Sub-budgets elaboration

The supply budget is divided into several sub-budgets, which can be expressed both quantitatively and in value:

- The budget of orders;
- The budget of deliveries;

- The budget of consumption;
- The budget of stocks.

D. The valuing of budgets

Theoretically the valuing of the four budgets can be done at different prices and that is because the price of a command is not always the same with the delivery price and different methods can be used for the evaluation of the outputs from the stock. If you want to still keep a simple concordance between documents, a valuing of the budgets is recommended with a single price, usually a standard price (Gervais, 1994, p. 95).

3. The constant replenishment system (budgeting by constants lots)

According to this system (also called the control point system) the amount of replenished Q remains constant, and the time interval between two orders will vary so that the demand is met. The regular fixed amount for being ordered and the level of the stock alert should be specified in the header of the sheet stock of the item. The quantity for being ordered is determined in such a way to minimize the cost of supply and storage (calculation is done using Wilson model).

A fixed amount is ordered when the stock reaches a critical value equal to:

Replenishment stock = (Dc x t) + Ss

in which:

Dc - daily consumption;
t - the average time for obtaining an order expressed in days;
Ss - safety stock.

The deadline for obtaining an order includes the processing time of the order, delivery time from suppliers and handling and control time during the reception. The alert stock is recalculated each period based on recent consumption using the computerization.

The safety stock may be relatively small, it should not cover but the risks that may occur during the period of getting the order (the delivery deadline), i.e. the period between the launch date and the order receipt from the supplier. Computerization allows real-time updating of inventory by recording the inflows and outflows from stock too and so the purchase orders can be edited automatically.

4. The fixed periodicity system (maximum stock replenishment)

According to this method the time interval between two successive orders is fixed, the supplied quantities are those that vary. This time period and the number of orders during the year are calculated according to Wilson model and the objective is minimizing the cost of supply and storage.

The fixed replenishment period will be indicated on the stock sheet of the stocked item as well as replenishment level (quantity sufficient to cover the needs for a period equal to the supply level (the interval between orders) plus time for obtaining the order (with delivery time). The replenishment level L_r is determined using the formula:

L_r = [Dc x (T + t) + Ss

in which:

Dc - daily consumption;

T - time of supply;

t - average time for obtaining an order;

Ss - safety stock

Quantity to be ordered Q_r is equal to the replenishment quantity reduced with the available quantity in stock on the day of order.

5. Case study on budgeting the supplies

We know the following information related to a raw material:

- The supply term: 30 days;
- Safety stock: 10 days of future consumption;
- Annual purchases: 2.000 kg., with the price of 5 lei/kg. ;
- Cost of storage: 0,5 lei per kg per month;
- Cost to launch a command: 375 lei;
- The provided consumption of raw materials is in Table 1.

Table 1. Consumption provided

Month	Consumption (kg)
January	200
February	180
March	170
April	150
May	150
June	130
July	130
August	120
September	130
October	200
November	220
December	220

Source: Information provided by the company

Based on Wilson model the following can be calculated:

- Economic quantity for being supplied (Q_e):

$$Q_e = \sqrt{\frac{2 \cdot C_l \cdot Q}{c_d}}$$

in which:

C_l - the cost of launching the command;

Q – the quantity to be purchased;

c_d - unit storage cost per year.

$$Q_e = \sqrt{\frac{2 \cdot 375 \cdot 2.000}{0{,}5 \cdot 12}} = 500\,\text{kg.}\ \text{(Variable data)}$$

- Optimal cadence for supply:

$$N_o = \sqrt{\frac{Q \cdot c_d}{2 \cdot C_l}} = \sqrt{\frac{2.000 \cdot 0{,}5 \cdot 12}{2 \cdot 375}} = 4$$

- Optimal interval between two commands:

T_o = 12 months/4=3month (for varying amounts)

5.1. Budgeting by constant batches

In this form of budgeting the size of an order will be of 500 kg. The company will have to determine the date on which delivery is to take place and date to launch the command (Table 2).

The amount of 500 kg is ordered when the stock is at the level of the stock replenishment. Expressed in days, this stock is:

The replenishment stock in days = Delivery time + safety stock in days = 30 days + 10 days = 40 days.

► It is observed that the risk of rupture of the stock appears in March for the first time. The average daily consumption this month is 5,484 kg/day (170 kg/31 days). The initial stock of 120 kg is enough for 22 days (120 kg/5,484 kg/day) not for 40 days as the size of the stock replenishment is, with the result that the order must be made 40 days prior to March 22, i.e. Feb. 11 (assuming that February has 28 days). Order delivery date is every 30 days starting from February 11, i.e. on March 13.

► In June the average daily consumption is 4,333 kg/day (130 kg/30 days). The initial stock of 150 kg is covering 35 days (150 kg/4,333 kg/day), that is the whole month of June and five days from July). Because the replenishment stock is for 40 days, the order must be issued 40 days prior to July 5, on May 27. Order is received after 30 days on June 26.

► In October the average daily consumption is 6,4516 kg/day (200 kg/31 days). The initial stock of 140 kg covers the needs of 22 days (140 kg/6,4516) until October 22. As the replenishment stock is of 40 days the command must be issued 40 days prior to October 22, i.e. on September 13. The order arrival time is over 30 days, on October 13.

► In December, the average daily consumption is 7,1 kg / day (220 kg/31 days). The initial stock of 220 kg covers 31 days (220 kg/7,1 kg / day). Because the replenishment stock is 40 days, the order must be issued 40 days before December 31, that is on November 22. The order will be received by December 22.

Table 2. Budgeting in constant batches

Indicators	**I**	**F**	**M**	**A**	**M**	**J**	**J**	**A**	**S**	**O**	**N**	**D**
Initial stock	500	300	120	450	300	150	520	390	270	140	440	220
Deliveries			500			500				500		500
Consumption	200	180	170	150	150	130	130	120	130	200	220	220
Final theoretical stock*	300	120	-50	300	150	20	390	270	140	-60	220	0
Final real stock **	300	120	450	300	150	520	390	270	140	440	220	500
Orders released - Quantity - Date		500 11 feb			500 27 may				500 13 sep		500 22 noi	
Incoming orders (deliveries) - Quantity - Date			500 13 mar			500 26 Jun				500 13 oct		500 22 dec

Source: my processing based on the information provided by the enterprise

* - before the deliveries

Final theoretical stock = Si – Consumption

** - after deliveries

Final real stock = Si + Deliveries - Consumption

5.2. Budgeting by constant periods

The period between two successive orders is of 3 months, under this form of budgeting, the supplied quantities are those that will vary (Table 3).

The risk of rupture of the stock occurs in March. As it was calculated for budgeting through constant lots, the average daily consumption in this month is 5,484 kg/day (170 kg/31 days). The initial stock in March of 120 kg is enough for 22 days (120 kg/5,484 kg/day) not for 40 days as it is the size of the replenishment stock. The order will be made 40 days prior to March 22 that is on February 12.

Given the fixed rhythm of three months, the other commands will be made as it follows: Order 2 - on May 12, the order 3 – on August 12, Order 4 – on November 12 (it was considered the average of a month to be of 30 days). The orders will be received one month from their release date.

The quantities to be ordered are calculated taking into account the fact that that they have to cover the consumption of three months following the date of the appearance for the risk of stock rupture.

► In March, as the risk is on 22, the amount ordered on February 12 (received after a month, i.e. March 12) should cover consumption between 22 March and 22 June. The quantity to be ordered is:

- Consumption of March 22 to March 31: 50 kg (170 kg total consumption of the month minus the initial stock of 120 kg from that month);
- April consumption: 150 kg;
- May consumption: 150 kg;
- For the consumption between June 1 and June 22. It is calculated the average daily consumption of June: 130 kg/30 days = 4,33 kg/day. Consumption of 1 to 22 June is: 22 days x 4,33 kg/day = 95 kg.

The total quantity for being ordered on February 11 is 50 kg + 150 kg + 150 kg + 95 kg = 445 kg.

►The quantity for being ordered associated to the command that will be launched on May 12 (and received on June 12) should cover the consumption between 22 June and 22 September and is:

- Consumption of June 22 to June 30: 35 kg (total consumption of 130 kg in June - consumption by 22's of 95 kg);
- July consumption: 130 kg;
- August consumption: 120 kg;
- For the consumption between 1 September to 22 September. The average daily consumption is calculated for September: 130 kg/30 days = 4,33kg/day. The consumption between 1 to 22 September is: 22 days x 4.33 kg/day = 95 kg.

Total quantity for being ordered on May 12: 35 kg + 130 kg + 130 kg + 95 kg = 380 kg.

Table 3. Budgeting by constant periods

Indicators	I	F	M	A	M	J	J	A	S	O	N	D
Initial stock	500	300	120	395	245	95	345	215	95	576	376	156
Deliveries			445			380			611			64+x*
Consumption	200	180	170	150	150	130	130	120	130	200	220	220
Final theoretical stock*	300	120	-50	245	95	-35	215	95	-35	376	156	-64
Final real stock **	300	120	395	245	95	345	215	95	576	376	156	
Orders released												
- Quantity		445			380			611			64+x *	
- Date		12 feb			12 may			12 aug			12 nov	
Incoming orders (deliveries)												
- Quantity			445			380						64+x*
- Date			12 mar			12 jun			12 aug			12 dec

* - x is consumption between 1 January N+1 and 22 March N+

Source: my processing based on the information provided by the enterprise

► The quantity to be ordered on August 12 (and is received on September 12) should cover consumption between September 22 and December 22:

- For the consumption of September 22 to September 30: 35 kg (total consumption of 130 kg September - consumption by 22's of 95 kg);
- For the October consumption: 200 kg;
- For the November consumption: 220 kg;
- For the consumption between the first of December and 22 December. The average daily consumption for this month is calculated: 220 kg/31 days = 7,1 kg/day. The consumption between 1 to 22 December is: 22 days x 7,1 kg/day = 156 kg.

Total quantity to be ordered on August 12: 35 kg + 200 kg + 220 kg + 156 kg = 611 kg.

► In November the command that will be launched on the 12th day of the month (and received on December 12) should cover the consumption between December 22 N and March 22 N + 1. Consumption in the period between December 22 N and December 31 N is 64 kg (total consumption of 220 kg in December minus the consumption of the 156 kg until the 22 of the month).

Conclusions

Budgeting by constant lots requires daily monitoring of the level of the various stocks and orders for being released, a reason for which the order management administrative costs are high. It does not allow the grouping of orders, even when items for being stocked come from the same supplier.

By applying the system with fixed periodicity the administrative costs for managing orders are reduced. By ordering at regular intervals, the possibility of regrouping the orders is created. You can also expect a better compliance with delivery times from suppliers through regular supply plan proposal. As a drawback of this system we can mention the fact that the safety stock must meet fluctuating needs throughout the period T between two supplies. This system is less flexible, less reactive, recommending it to be applied only items with very regular rotation.

Whichever method of supply used, the last step is valuing budgets. I recommend valuing of the four sub-budgets (the budget for orders, the budget for deliveries, the budget for consumptions and the budget for stocks) with a single price, usually a standard price, taking into account the probable course of prices during the period under budgeting (Gervais, 1994, p. 95).

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THE ANALYSIS OF APPETITE TO SPECULATE FOR THE BROKERS IN ROMANIAN CAPITAL MARKET

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Abstract

It is known that the personality of each individual has multiple facets in relation to the behavior found in everyday life and to investors on the stock exchange. This paper focuses on the study and analysis of the psychological profiles of brokers from the Romanian capital market as well as the way in which they react in both normal and extreme situations. Investment decision and in particular the decision to invest in securities listed on the stock exchange, in many cases is based on fundamental analysis or technical analysis. This is evidenced by numerous bibliographical sources specific to this field. In practice, however, intervenes a number of subjective factors affecting in a way somehow the unexpected behavior of investment brokers, or their investment decision. I propose therefore an analysis on behavior of investment brokers in the Romanian capital market as regards their inclination toward speculation and how this influences the investment decision.

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Key words: *investment decision, investor's personality, inclination toward speculation.*

Cod JEL: *G02*

Introduction

In the specialty literature can be identified several theories that addresses the manner of investment decision making, on the financial markets. Perhaps the most relevant and most well-known of these is the efficient market theory, formulated by Eugene Fama, since 1965. Ever since then, Fama said: "an efficient market is one on which there are a large number of rational agents who maximizes profits, are engaged in a constant competition and trying to predict the future course of action, for which the current information is available almost for free to all participants. On an efficient market, competition between the many intelligent participants leads to a situation where, at any time, the prices already reflect the effects of past and forthcoming information. In other words, on an efficient market, the current price of the action will be at all times a good estimator of its fundamental value" (Fama, 1965). Later, however in 1970 he completed the theory of efficient market, thus: "an efficient market is a market on which prices reflect perfectly and permanently available information" (Fama, Efficient Capital Markets: A Review of Theory and Empirical Work, 1970). Therefore, the efficient market theory is based on the assumption that decisions of market participants are rational. This is due in particular to the fact that much of the market participants are using at the same time most of the information available at any given time in the market. According to this theory, the hypothesis of the formation of speculative bubbles in the market could be excluded, since these are the most obvious forms of inefficiency of the market.

What happened in the last 7 years of international financial markets demonstrate however, that the behavior of investment brokers can play a very important role in the development of financial markets. The subject related to the behavior of investment brokers in the capital markets has always received the attention of investors, the media and the general public. Investment decision making by the brokers respective trading strategies used by them, were always the attention to all market participants, although brokers most often use a common logical.

And from this point of view we can say that investments in financial instruments are an attraction to investors as long as from them can be obtained yields above those that can be obtained from bonuses for deposits (Stoica, 2006). Another important aspect in this case is the fact that the derivative financial markets, we have to deal with practical issues of marketable financial instruments without limits.

Therefore, although the theory of efficient market tells us that on an efficient market are always acting rational investors with distaste for risk, and the prices of financial instruments include market information available at any given time, at least from the experience of the crisis in 2008-2010, we can no longer believe that things are like that. The first and simplest explanation in support of this idea lies in the fact that the market is not perfect. With regard to the behavior of brokers, and here can be found a wide variety of specialties, including: their objectives can often be different, the risk accepted by each is different, and the volatility of the market accepted may vary from one broker to another, the time horizon of their investment is also different, and the differences that can be identified, can continue.

Methodology and data

In this paper I propose conducting an analysis with regard to the behavior of investment brokers in the Romanian capital market. I pursued this matter related to their inclination toward speculation and how this influences their investment decision. In order to achieve the objectives set out in this paper, I have tried to point out the few lines of brokers profile from the Romanian capital market, using for that purpose a questionnaire with 34 questions addressed to them. The questionnaire was distributed to all staff members of financial investment services authorized to operate on the capital market in Romania, both on the Bucharest Stock Exchange and on Monetary and Financial Exchange Sibiu, in February-March 2012. Response rate among them has been quite low. The analysis was performed using a number of 31 questionnaires completed. The questions of the questionnaire also made reference to their preferences in terms of investments; the investments made, the time horizon of their investment, but also to items related to temperament, fears, temper and investment personality.

Having regard to the moment of the application of the questionnaire (February-March 2012), the results of the analysis outlines especially aspects related to investment of the brokers ' behavior during the crisis, so their behavior on a decreasing trend of financial markets. It is known already that they are acting and reacting differently as regards the decision to invest, when financial markets are inscribed on an ascendant trend, from the time when the financial markets are on a downtrend.

I believe that in a market as it is the capital market of Romania, at the beginning of the road, the behavior of market participants is very important. In fact, the modernity of a market can be established by this aspect of the behavior of investment brokers, attitude, experience, personality and their qualifications.

Speculation in the stock exchange transactions

In transactions on the financial markets, respectively transactions in stock exchange markets, speculation is in simple words - taking a risk in order to achieve a win. Therefore, the claim involves the trading of financial instruments in order to achieve a net gain from the price difference. This can be done either by purchasing securities at a lower price and selling at a later time with the same financial instruments at a higher price or selling financial instruments initially at a great price and buying later the same financial instruments at a lower price. So, speculators are trying to profit from fluctuations in the market, turning them by assuming the risk, in opportunities for them. Of course, the risk will be assumed in the case of an adverse price development in the market for the financial instruments in question, in which case the risk assumed it can turn into a loss for them.

Often, especially in the press in Romania, we can find information that speculators are the ones that create the risk of market; respectively they create the volatility for price of the various financial instruments. Surely they have a goal of obtaining profit, and through their actions they can distort somewhat market balance, creating excessive volatility. From my point of view, speculators are those who assume the risk in any market. Assuming this result ensures a high liquidity of the market and offers a more dynamic aspect to it. In any market, liquidity is a very important aspect to be taken into account when the decision is made to invest. Any participant wishes to identify easily the market counterparty. Another important role of speculators involves constantly identifying new opportunities to win, so we can say that they participate in the innovation and development of somehow in transactions on the stock exchange.

As a result of the questionnaire, I could draw a conclusion quite relevant, namely: in the Romanian capital market brokers manifest an inclination to speculation with regard to investment decision making.

Risk in the brokers vision

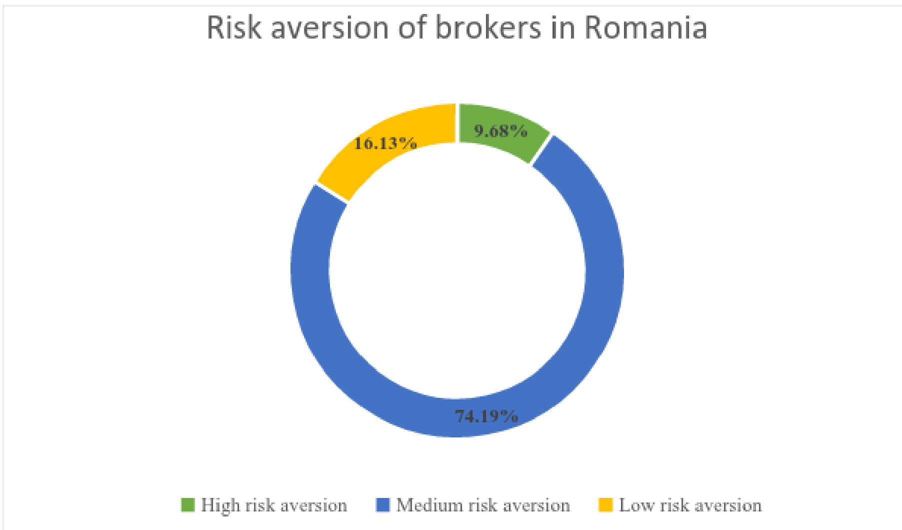
Not by chance we approached earlier appearance tied to speculators in the stock market. This due to the fact that the risk they assume it is a very important element that underpins investment decision making. When we talk about risk, automatically we think about the probability and possibility of its occurrence (Mionel, 2010, p. 203). Once these two dimensions included in the equation, we can say that the decision of investment becomes difficult to take but also to assume, and that the probability of occurrence and possible manifestation of a risk can be in many cases very difficult to quantify. Any broker quantifies the risk associated with a transaction on the stock exchange in accordance with a scale of risk assessment. Based on this assessment scales they will decide if an investment is risky or not for them and they could thus decide on taking the risk.

In literature we find the information according to which a broker will assume an additional risk as long as the returns it is greater than the one he can be obtain. Therefore, the notion of risk may be associated with the notion of potential win (Jacquillat & Solnik, 1997, p. 82).

It is important in this case, that each active broker to clearly establish the level of risk he can support for its transactions. In order to establish this level, he will consider first of all, his own attitude to risk and its own personality.

As shown in figure below, most brokers in the Romanian capital market exhibit a medium risk aversion (74,19% of them), 16,73% declare that they manifest an aversion to risk as low, and only a percent of 9,68% says that have a great aversion to risk. From the responses received from the brokers we found that each of them attaches a particular importance to the risk, however small it may be. From the responses I found that there is any broker for which the risk is not important in making an investment decision.

Figure 1. Risk aversion brokers Romanian capital market



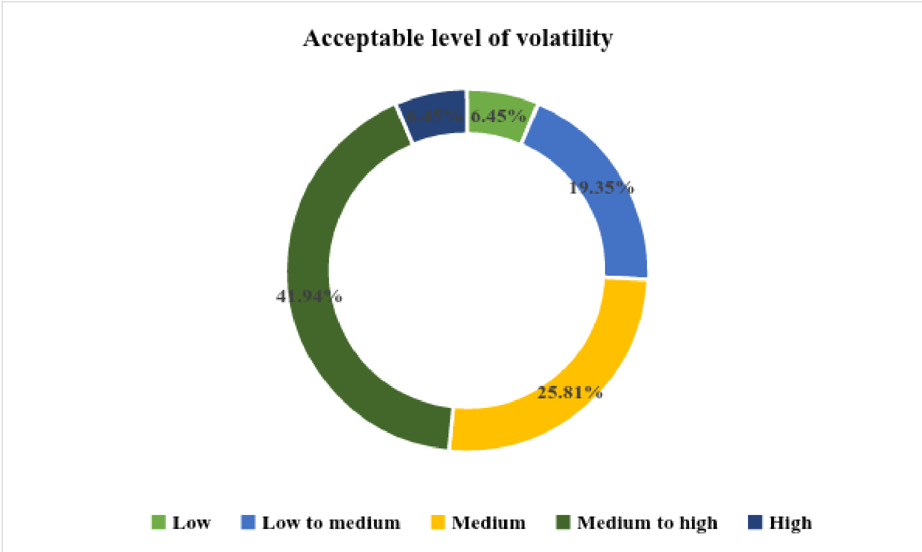
Source: own calculations

Brokers who declared that exhibit high risk aversion (9.68%) can be enrolled in the defensive category brokers, as Graham called them (Graham, 2010, p. 364). They frequently use methods of protection against risk and their investment preferences are represented by shares of growth. On the other side are brokers who say they exhibit low aversion to risk (16.13%) and their investment preferences are represented by financial instruments with high leverage. For the latter, the volatility of the market is nothing but the opportunity marking of earnings. Brokers with average aversion to risk (74.19%) have expectations according to general market developments.

Volatility in the broker's vision

Accepted volatility of financial markets must be analyzed in correlation with the level of risk accepted by brokers. Volatility level accepted by brokers in Romania can be highlighted using the following figure:

Figure 2. Volatility acceptable level to achieve the objectives



Source: own calculations

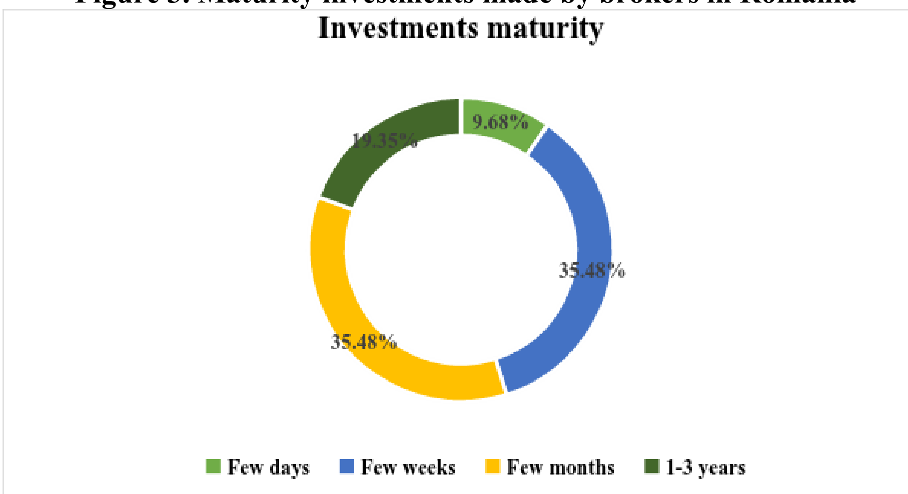
Following the results obtained as a result of the questionnaire, we found that 41.94% of brokers in Romania consider that a medium to high level of volatility in the market may be in line with their goals. A percentage of 25.81% of brokers believe that the average volatility in the market would be consistent with their investment objectives and 19.35% considered a low to medium level consistent with their objectives. Noteworthy in this case is 6.45% percentage of respondents who believe that low volatility in the market would bring greater benefits. Similarly, a rate of 6.45% of respondents believes that high volatility in the market would be beneficial for their actions investment.

Based on the results presented so far, we can say that most brokers in the Romanian capital market show a certain penchant for speculative transactions, this mostly as a result of market volatility level that they deem to be consistent with their investment objectives.

Maturity investments

According to the results obtained from the questionnaire on the Romanian capital market of brokers, we can reconfirm the conclusion reached earlier regarding propensity to speculation brokers, if we look at things from the perspective of maturity investments. Most brokers in the Romanian capital market set their time horizon for their investments to several weeks (35.48% of them) or months (35.48% of them). Brokers who are considered highly speculative set their time horizon of up to several days for their investments (9.68% of them). I believe that this percentage, almost 10% is slightly too high for a capital market at the beginning, as Romania. The effect of a massive presence of speculators participants in such a market can be a very powerful destabilizing factor for the entire market. So, from this point of view financial supervisory authority must be very careful to transactions entered into by these participants.

Figure 3. Maturity investments made by brokers in Romania

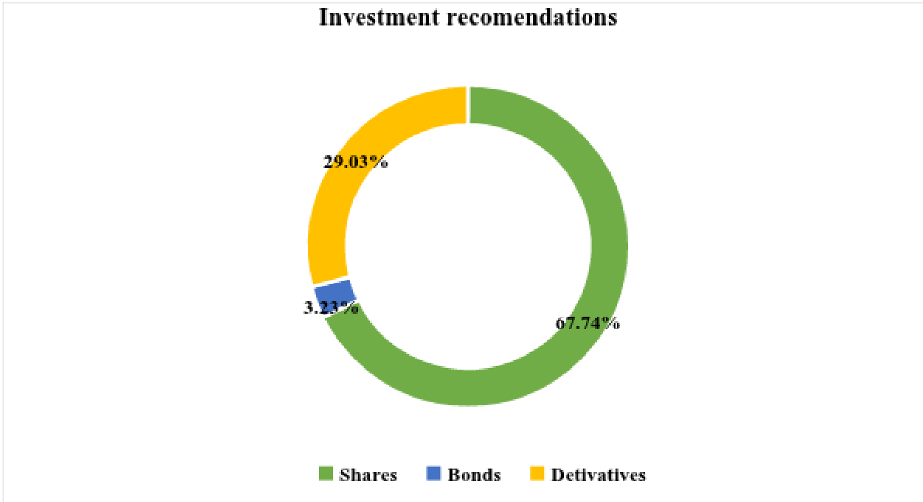


Source: own calculations

Brokers more conservative in a ratio of 19.35% report entering into transactions with a maturity between 1 and 3 years, so they are oriented on a longer term. None of the respondents said that brokers enter into transactions with a maturity of more than 3 years. This can be explained by the fact that the questionnaire was applied in early 2012, when the changing market trend was still obvious after several years of decline.
We therefore conclude that, at least in terms of the time horizon for which brokers in Romania conclude transactions, they have adapted to market needs and their customers.

Broker's investment recommendations
Regarding investment recommendations of the brokers from Romanian capital market, they are presented in the following figure:

Figure 4. Investment recommendations of the Romanian brokers



Source: own calculations

It can be seen from the previous figure that most of the brokers in the Romanian capital market (67.74%) often consider investments in shares. Somewhat paradoxically, they advised their clients to invest only in bonds at a rate of 3.23%, while 29.03% of them recommended investments in financial derivatives. Although worldwide, the percentage of the trades with financial derivatives is much higher, the percentage of 29.03% of brokers in Romania which recommends investments in such securities is quite good. This is especially true because the derivatives segment is still underdeveloped in Romania.

According to the results presented earlier, we may be tempted to invalidate the conclusion drawn earlier on the propensity to speculation brokers in Romania. There is however a sufficient explanation relevant confirming the hypothesis exposed earlier. In Romania, the spot market is still clearly more developed than the future market, which is why they recommend their clients investments in shares. Perhaps less surprising is in this case, that no respondent said that recommends investing in mutual funds, bank deposits or real estate.

The 29.03% of brokers who say that recommend investments in financial derivatives, reconfirms the earlier hypothesis namely propensity towards speculation of the brokers in Romania.

Conclusions

Regarding hypothesis launched in the beginning of this article, we can say that based on the responses obtained from the authorized brokers in the capital market from Romania, it is confirmed. So, generally speaking, a broker in Romania can be characterized by the following lines profile:

- He has an average aversion to risk.
- A medium to high level of volatility in the market could satisfy its investment objectives.
- Most initiated transactions have a maturity of a few weeks, at most a few months.
- Most often recommends investments in shares, but also recommends investments in financial derivatives, but rarely recommends investments in fixed income instruments.

We note again that these profile lines were made on the basis of the questionnaire applied in 2012, so responses were influenced by the state of brokers and their perception vis-à-vis the market at that time. A more complete picture regarding the investment behavior of market brokers can be made after the application of a new questionnaire at the beginning of 2015, so their answers can show off their attitude in terms of an upward trend in the market.

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SHORTCOMINGS IN EARNINGS MANAGEMENT DETECTION RESEARCH AREA: A STATE OF THE ART OF CONTEMPORARY INSIGHTS

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Abstract:
Our paper provides a critical assemblage of the errors comprised in earnings management detection area of research. In this respect, the aim of this study is to identify the main limitations documented in the arena of the earnings management detection process. Our analysis included the assessment of the papers published in the most popular 5 accounting journals, on the last five years. The results obtained seems to confirm what most researchers publishing in earnings management are documenting: i.e. despite the fact that current research designs used in detection of earnings management are frequently used, important and significant errors appears. Potential solutions and future research directions are also discussed.

Keywords: *Earnings management, accounting estimations, manipulation, errors in earnings management research area*

1. Introduction

Earnings management, as main technique for manipulating financial information is extensively documented in both research and practice of accounting and auditing. In this respect an impressive number of papers are addressing the causes, motivational palette, manifestations and consequences (Armstrong et al., 2010). Although tackled systematically over the past 50 years, earnings management area of research suffered a substantial augmentation with Jones's study (1991); that boosted the detection of earnings manipulation. After this study was published, a period of improving this model followed and is following still comprising new models of detection (Dechow et al., 1995; Dechow et al., 2010; Fan et al., 2010). In the light of sound financial scandals, both media and regulatory bodies approached and discussed the consequences of earnings manipulation that harm the image of the profession of accounting and auditing (Badolato et al., 2014) and stressed the need for fairness.

In this context, earnings management became an attractive concept for researchers everywhere, currently enjoying excessive attention. We mention here some of the most cited cases of financial scandals discussed extensively in the literature, such as: Royal Ahold (2003, USA); Parmalat (2003, Italy); Penny Stock (2006, India); Anglo Irish Bank (2008, Ireland); Sino-Forest Corporation (2011, Canada-India); Olympus Corporation (2011, Japan, Autonomy Corporation (2012, USA). It should be noted that all these financial scandals followed the Enron case, considered the most important scandal in US history, financial scandal that has shaken the confidence of the capital market in accounting and auditing profession. On this base, the detection process of earnings management became popular and important to be developed (Dechow et al., 2012).

Despite the fact that earnings management is enjoying a great success, detractors can be found. Studies aimed at detecting earnings management are accused of many shortcomings, most often accepted as commonly used methodologies are perfectible.

Therefore, the purpose of this study is to perform a critical analysis of the inherent biases found in the models commonly used in detecting earnings management. In this respect, we turned to conducting a literature review, selecting papers published in the last 5 years (period 2010-2014) in accounting journals traditionally occupying the top 5 places in the ranking of the best journals in the world. In this respect, our study is intended to be a first starting point for young researchers who are interested in the area of accounting manipulation and consequences of earnings manipulation both in the capital market and economic life, and on the other hand, to conduct a pertinent analysis of shortcomings found in one appreciated area of research in accounting and auditing.

Our study is timely and relevant for at least three reasons. First, in light of previous financial scandals, earnings manipulation has become a pivotal issue in all discussions regarding the stability and credibility of the accounting outcomes disclosed in the financial markets. Secondly, there is an increased interest in the results documented in this area of research as authors such as Graham et al., (2012) and Solomon et al., (2013) recall. Thirdly, the debate on the detection of earnings management and other creative accounting techniques were and still are a topic that falls under the interest of most of the participants in the economic scene given the adverse consequences of such practices. In this regard, the items approached have the potential to augment current research, both at national and international level.

The originality of this research consists in the fact that we provide an overview of the biases and shortcomings faced by earnings management detection area of research, synthesis performed on a basis of the most representative papers in the field.

The structure of this paper is as follows: the first section comprises the research questions and research method used, followed by a section comprising some items of meta-analysis research method, aiming to present: the frequency of papers published in the area of earnings management detection; a summary of the main research methods employed by the scholars publishing in earnings management arena, and of course, a series of discussions on the main biases and shortcomings facing this area of research, followed by potential solutions. As a remark, we mention that this study is not meant to be a meta-analysis in the true sense. Finally, conclusions are presented, together with the limits of the study and scope for future research.

2. Research profile

The current research is aiming to augment the literature by analyzing the main limits found in the main research designs used in the detection of earnings management. Our study convers a period of 5 years, from 2010 to 2014, as stated above.

2.1. Research questions

Our analysis has the goal of identifying, assessing and addressing future research ideas, based on the discussion of the main limits and errors found in the area of earnings management detection. In this regard, two research questions were developed as follows:

1. ***Which are the main biases found in the research designs used to assess the magnitude of earnings management?***
2. ***Can future research limit those biases?***

2.2. Research method

This segment comprises our explanations regarding the research method employed in selecting the articles analyzed in this present paper. In this respect, we used a similar methodology as Guthrie et al., (2012), comprising five steps. Similar to Guthrie et al., (2012), the first step comprised the formulation of the research objectives, as follows: (a) identify the main limits of the research designs used in earnings management detection area; (b) identify the potential solutions to counter those limits, being proposed either in the literature analyzed, either comprising our own recommendations.

The second stage of our research comprised the selection of journals publishing papers from earnings management detection area. In this regard, we selected internationally recognized accounting journals, traditionally considered top 5, among the most appreciated accounting journals worldwide, as in Chan et al., 2009. Table 1 below disclose the journals selected and the number of the papers on earnings management detection published by each journal. The third stage comprised the selection of papers. In this stage specific key words were used, found in the earnings management detection area (*Abnormal accruals, accrual methodology, detecting earnings management, accrual based earnings management, real earnings management, bias of accrual methodology, model misspecification, correlated omitted variables*). We obtained a number of 93 papers that were downloaded and stored in an Endnote database together with the references. In the fourth stage we analyzed all the papers downloaded and discharge the ones with marginal focus on earnings management detection, conducting to a number of 53 papers in our final sample. In the last stage we analyzed each paper under the aegis of possible limits and errors of the research designs used in detection earnings manipulation and synthesized the results obtained. Following up this last stage we could have a pertinent answer to our research questions developed.

3.Taxonomies

Using partially a dedicated method for selecting and classify scientific papers (Guthrie et al., 2012) we conducted an analysis on top 5 level of the most known and appreciated accounting journals worldwide on a period of 5 years, as we stated above. In this segment we included two description items, as follows: the frequency of the publications from the earnings management detection area and the taxonomy of the research methods found in the papers analyzed. It is important to specify that our study do not comprise a typical meta-analysis, moreover we included in our paper some segments of a traditional meta-analysis research method. The main arguments for assessing only papers from top 5 journals of accounting are twofold: (a) first, we wanted to assess the interest of those journals in the area of research approached; (b) second, we found this demarche as being helpful for other scholars interested in earnings management area of research, in terms of future trends of research in earnings manipulation.

3.1. The frequency of publications in earnings management area of research

Both the selected journals and number of articles published are disclosed in Table 1. In this regards, a total of 53 papers were analyzed on a period of 5 years (2010 – 2014).

Table 1. Number of articles published in earnings management area in top 5 accounting journals (2010-2014)

NAME OF THE JOURNAL	JURNAL CODE	NO. OF ARTICLES	PERCENTAGE
Accounting, Organizations And Society	AOS	3	5.66
Contemporary Accounting Research	CAR	17	32.09
Journal Of Accounting And Economics	JAE	16	30.18
Journal Of Accounting Research	JAR	6	11,32
The Accounting Review	TAR	11	20.75
TOTAL		**53**	**100,0**

Source: Authors ` projection

As can be noticed from the information provided in Table 1, three journals published more papers from our area of interest (*Contemporary Accounting Research* (17 papers); *Journal of Accounting and Economics (16* papers*)*; *The Accounting Review* (11 papers). As main observation, all the other journals included in our sample are publishing a small number of papers annually, comprising a small number of issues, while the selection process is extremely rigorous and the rate of rejection very high. In this regard, it is encouraging to know that those journals are interested in earnings management area of research.

3.2. The methodological mix

Table 2 disclose the main research methods comprised in the papers under analysis.

Table 2. Research methodologies employed in the papers analyzed (2010-2014)

NO.	RESEARCH METHODS	NO. OF PAPERS	PERCENTAGE
1	Interview/Descriptive survey	3	5.66
2	Literature review	5	9.43
3	Mathematical analysis/statistical analysis	41	77.36
4	Experiment	4	7.55
	Total	**53**	**100,0**

Source: Authors ` projection

The categories listed in the table above are adapted from Parker (2011), in the present study retaining only those research methods found in the papers analyzed and not all research methods found in Parker (2011). Similar to Parker (2011) when a mix of research methods was encountered, we decided to count only for the main research method used. All the above categories are well known in the literature, so we do not consider it necessary to define what each research method is about.

What particularly interested us was to achieve a synthesis of these research methods found in the area of earnings management detection and the outcome, to our surprise, was at least interesting. While some research methods are extensively used, others are of little use or not at all. Thus the dominant research method for this area of research was the mathematical analysis / statistical analysis (77.36%); followed by the literature review (9.43%, with authors like Solomon et al., 2013 Gerakos, 2012; Armstrong et al., 2010; Dechow et al., 2010a; Defond, 2010); and experiment (7.55% with authors as Jorgensen et al., 2014; Chen et al., 2012; Seybert 2010; Cianci and Kaplan, 2010). None of the papers under review have used the case study research method for instance.

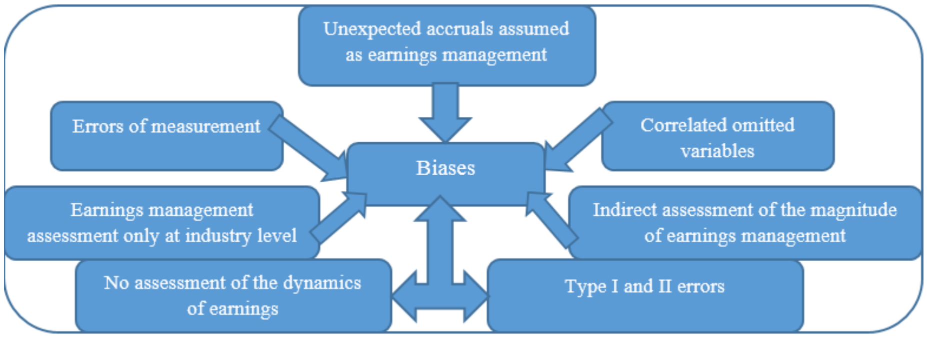
Based on these results we can assert that researchers' publishing in top 5 accounting journals have a clear preference for mathematical analysis / statistical analysis (which is understandable given the specificities of this area of research) or top 5 journals prefer to publish works that are predominantly comprising papers using those methods. The fact is that one can easily observe that certain research methods are underused.

Given the above we can assert that to some the extant biases found in this area of research can be explained by the limits comprised in the mainly commonly used research methods. Anticipating the results of the analysis (shown below) one can easily identify the major biases in the earnings management detection area as being the lack of discriminant power of the models used to assess the magnitude of earnings management practices or misspecification of the models used. As can be seen easily, both limits are belonging to mathematical and statistical analysis.

3.3. **Biases and limits found in earnings management detection area of research**

A synthesis of the main biases and limits found in the arena of earnings management detection is disclosed in Figure 1.

Figure 1. Main biases comprised in earnings management detection area of research (2010-2014)



Source: Authors ` projection

Despite the fact that various empirical studies document extensively the existence of earnings management, the results are commonly under the aegis of important biases (Badertscher, 2011). Thus, one of the main issue of concern is actually also the main challenge that boosts this area of research: almost all the studies analyzed are based on the assumption that unexplained accruals represents earnings management.

In this respect this assumption is acting as a main argument for constructing the proper research design to assess the existence and magnitude of earnings management. We consider this assumption plausible but we cannot stop asking whether other factors can explain the existence of abnormal discretionary segment such as the poor quality earnings, macroeconomic factors such as the financial crises, legislative factors or inefficient management. It is also known that most of the models used for assessing earnings management existence and magnitude suffer from measurement error. This issue is documented in many of the studies reviewed. In this respect, the models used very often fail to discriminate with high accuracy the abnormal discretionary segment from the normal one, considered for the business. Despite the fact that various control variables were introduced over time, many of the improvements are to be documented by future research (Resutek, 2010).

The issue of the correlated omitted variables was also addressed in the literature. For example, company size (measured by turnover, number of employees and total assets) has been identified as one of such variables in the estimation tests of the existence / magnitude of earnings management (Ecker et al., 2013). Many of the methodologies used in estimating earnings management have not considered this variable, leading to increased volatility of results.

Remaining in this segment of the discussion, another major difficulty in terms of specification models used in detecting earnings management stems from the wide variation used for measuring the proxy variables. For instance, the abnormal accruals are used as a proxy for earnings management but the estimation of such segment comprises different paths from one study to another (Dichev et al., 2013), and what we assess as estimation of the abnormal accruals is moreover an amalgam of different estimation methods using a wide variety of proxies. In this regard, the differences documented in the results of earnings management studies can be explained by the presence of different investigation methods, knowing that different investigation methods can lead to different results.

In the large majority of studies conducted the estimation of the existence and magnitude of earnings management is assessed at industry level despite the fact that an assessment at firm level can offer an estimation of the discretionary segment with greater accuracy. However, since this latter approach comprises important limitations in terms of managing the financial data used in the research process, industry-level estimation is still used extensively. One of the main disadvantages of the assessment of earnings management at industry-level consists in the calculation of constant coefficients used at benchmark. In this regard, the important biases occur when companies varies greatly from the benchmark, which may come more often, as observed Burgstahler and Chuk (2014), not because of financial accounting manipulation techniques but of simple industrial classification.

Given the fact that the whole area of research aimed at detecting earnings management is one that uses an indirect approach to assess the existence and magnitude of earnings manipulation, many of the limitations are explicable. Although is extremely difficult to assess earnings management in a direct approach, this is preferable to the indirect estimation (Dichev et al., 2013).

Further, the incentives to manipulate earnings can act a starting point for detecting other inconsistencies (Cohen et al., 2011). Thus, we want to draw attention to the fact that most often potential incentives are assessed (which are the most relevant from the point of view of the researcher, otherwise subjectively) while others are left aside. Further, most often the empirical studies testing for ways of manifestation of earnings manipulation usually focus on accrual-based earnings management, excluding from the analysis the real earnings management (Cohen and Zarowin, 2010), leading to an incomplete testing of the managerial incentives (Zang, 2012).

Another important limit found in the area of research of earnings management detection is the lack of assessing in connection the incentives to manipulate with the concrete, measurable result obtained after the manipulation is assessed and documented. In this respect, it is important not only the statistical assessment of the magnitude of earnings management practices but moreover to demonstrate without any doubt the existence and magnitude of the gain or loss realized after managers engaged in earnings manipulation.

Given the above discussion, our first research question has an answer. The second research question approached the future of above discrepancies. So the question naturally arising is: Can we limit the biases documented?

Following we will focus on responding to the second research question formulated in this paper. So in an attempt to outline an appropriate response we can begin with the observation that most of the studies analyzed can be included in one of the two directions: either, those studies comprise consecrated research methodologies used to document new cases of earnings manipulation, either, new methodologies are developed.

Thus, while authors of the first category accepts the inherent limitations of detection methodologies used, authors of the second category continues a perpetual process of analyzing and counter the most important biases. So the answer to the second research question can only that comprised a positive message, since contemporary research efforts are being made to find solutions to the main problems found in this area of research.

Among others the study conducted by Stubben (2010) is representative, documenting the superiority of revenue based models having a higher power of discrimination compared to classical models when estimating mixed manipulative practices using concomitant revenues and expenses. Another model was the one developed by Dechow et al. (2011), which decreased the measurement errors and increased the power of discrimination in detecting the manipulative behavior of managers. Considered to be one of the best models of detection, it was developed based on a preliminary analysis conducted in order to understand the behavior of companies under financial stress.

The study conducted by Dechow et al., (2012) comprised the assessment of the reversal properties of accruals, and limit in this regard important biases previous documented in the literature. Jansen et al., (2012) proposed an innovative technique for detecting earnings management using DuPont analysis based on the idea that net current assets and operating earnings vary directly with sales.

Another model comprising significant improvements in the detection of manipulative behavior was developed by Dechow et al., (2012) and confirmed by Gerakos (2012). This model is characterized by a higher discrimination power, being currently one of the best models used to assess the manipulative behavior (Dichev et al., 2013).

4. Conclusions, limits and scope for future research

Earnings management as main techniques used for manipulating the financial information is both blamed and adored, while one idea reach consensus: this phenomena cannot be eradicated. Everything that can be done is to enhance the efforts to limit its much discussed practices, since previous literature documented important economic and social implications.

Our study is part of that trend, by trying to identify the main limits found in the research designs used for detecting earnings management practices, and synthetize some possible solutions documented in the literature. In order to achieve our goal, we analyzed the most recent papers published in top 5 accounting journals, the most known and appreciated journals worldwide. Among the limits and errors found in the research designs used in detecting earnings management practices we could find the following: measurement errors; correlated omitted variables; type I and II errors; entirely based assumption that unexplained accruals represent earnings management; indirect approach for assessing the magnitude of earnings management; most of the current models for assessing earnings management existence do not comprise the dynamics of earnings assumption. On the other side, despite the fact that this area of research comprises important biases and limits, one should appreciate the constant efforts of scholars publishing in this area, in terms of finding solutions to improve the power of existing models used to assess earnings management existence and magnitude. In this respect, studies like the ones conducted by Stubben (2010), Dechow et al., (2011); Dechow et al., (2012); Jansen et al., (2012) or Gerakos (2012) are representative.

Our paper comprises its own limits. One of the main limits can consist in the fact that we analyzed papers published in top 5 accounting journals, excluding both other published work or working-papers, conference proceedings. In this regard we excluded an important number of papers that could enriched our analysis.

As scope for future research, we can assert that the main goal of this paper can consist in a future research topic based on the permanent efforts documented in the literature to counteract and limit the biases found in earnings management detection area of research. Each on the biases documented in our paper can be found in the large majority of research designs used so far to detection earnings management existence and magnitude. In conclusion is up to future research to deal with issues as: triangulation problem in the research designs used so far conducting to important differences in the documented results; a better understanding of the consequences of earnings manipulation in the process of decision-making (Das et al., 2010); improving the data management for the data used in the estimation of the proxy variables; development of an economic theory of manipulation, to explain both the manipulative behavior of managers, motivations and consequences.

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ROMANIA REAL ESTATE MARKET ANALYSIS & CHINESE REAL ESTATE MARKET STRATEGY ANALYSIS

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Abstract
Romania and China both were communist country, after the politilcal change, economy and other social aspects all changed a lot. Regaring the real estate field, nowadays there are big differnence compare with chinese market strategy and Romania market. The comparision is aimed to know better how busniss going on each country and which strategy is more advanced and adpatable.Through the demand and suplier and price evolution analysis, we can see the differnence. In order to know better strategy differences.

Keywords: *real estate, demand , supplier, strategy, price evolution*

JEL Classification: *R30, R31, R32*

1. Introduction

Romania and China both were communist country, after the politilcal change, economy and other social aspects all changed a lot. Regaring the real estate field, nowadays there are big differnence compare with chinese market strategy and Romania market. The comparision is aimed to know better how busniss going on each country and which strategy is more advanced and adpatable.

1.1 Romania and economy overview.

Romania is an EU country, located at the intersection of Central and Southeastern Europe. Romania has as neighbors Hungary and Serbia to the west, Ukraine and Moldova to the northeast and east, and Bulgaria to the south (as per the figure 1 below)

Figure 1: Romania geographical situation

Romania is the 8th largest country of the European Union considering the surface, and has the 7th largest population of the European Union with almost 21 million citizens;

ECONOMIC CLIMATE

- Romania has the most dynamic European GDP evolution (+3,5% in 2013 vs. 2012) – the biggest economic growth in EU
- Among European Union countries Romania has one of the lowest unemployment rate recorded in 2013 (5.65%)-position 8 in front of UK, France, Italy etc.
- Inflation rate was at the end of 2013, 1.6% one of the lowest in CEE
- Romania ranks 3rd in the EU by the lowest income tax charged, which is 16%. The first positions are held by Bulgaria with 10% and Lithuania with a 15%
- Romania ranks 3rd in the world by Internet data speed download. With an average download speed of 52.8 Mbps, it is outranked only by Hong Kong and Singapore
- Bucharest – is the capital of Romania and the largest city– the 6th largest city in the EU. It is located in the southeast of the country and has almost 3 mil inhabitants together with the surrounding metropolitan area
- Bucharest attracts most of the foreign investments that accounted 25% of the country’s GDP in 2012

- GDP/capital In Bucharest is with 240% higher than the country average

INVESTMENT CLIMATE

- Foreign direct investments to Romania amounted EUR 2.7 billion in 2013, the highest level in the last four years, according to data from Romania's Central Bank BNR
- The investment funds that are actively monitoring Romania are currently interested in residential buildings, office spaces, shopping centers, hotels
- Moody's improved recently the Baa3 rating outlook of Romania from negative to stable, anticipating that the positive evolution of macroeconomic indicators in 2013 will continue, while economic growth and funding risks have decreased due to the recovery in the euro area, (Mediafax-news agency)

Table 1: forecast for Romania GDP

	2011	**2012**	**2013**	**2014**	**2015**
GDP % (yoy)	+ 2,3	+ 0,6	+ 3,5	+ 2,3	+ 2,5

Source from ZF newspaper-Banking Financial Analysts (Raiffeisen & BCR ERSTE BANK)

2. Bucharest residential market Over view

2.1 The demand analysis

In the last five years the residential market of Bucharest has known a spectacular development in the sense of a balancing of the accelerated demand for residential units in new developments for new apartments or old, already built apartments.

The main factors generating this evolution were:

- decreased risk appetite of the banking system, generating harsher financing conditions for residential buyers.
- capping and often decrease of income per household (salary, freelance professions, rents, dividends, copy rights), due to the deterioration of the economic environment.
- lacking trust of the buyers for the acquisition of a new home or the extension of living spaces, due to the high level of unpredictability concerning the financing of the acquisition and the subsequent medium and long term support of the costs involved.

- If we the period of time between 2008 - 2010 we see that the demand fall is only one of conjuncture and was generated especially by economic factors.
- The demand for residential units has been on an upward trend for over 40 years worldwide, European and National level, with local focus on Bucharest and other large cities.
- This evolution at the level of Bucharest was due to several factors, such as:

Economic factors influencing the constant growth of demand:

- The increase of net income of potential buyers
- Diversification of the income sources of potential buyers
- Increase of new created jobs numbers
- Increase of investments made in the area Bucharest - Ilfov, into fields returning a high added value (IT, R&D)

Social factors affecting the increase of demand:

- The shaping of an increasing social category, consisting of persons considered to belong to the middle class, according to European and international standards
- The necessity to live in homogeneous communities
- The necessity to improve quality of life
- Higher educational level of the population segment of 25-45 years

Demographic factors affecting the increase of demand:

- Increase of the number of births in the age segment between 25 and 45 years
- Strong migration of the population segment between 25 and 45, from areas with low economic potential, to urban and suburban areas near Bucharest

The Demand - Typology and manifestation

The demand in the residential segment was expressed, sustained and materialized in transactions starting with the ’90s, when the only apartments available for sale were the ones located in the area of Primaverii and with a double surface in comparison with medium class apartments built in the industrialization period or apartments built in the districts of Bucharest which were raised in the communist period, or old apartments in the city centre.

As buyers became more educated and capital concentration was registered with a larger number of customers, the demand increased but until the year 2000 - when the accelerated development of the area Herastrau – Sos. Nordului began - this demand did nothing but put pressure on the market, which leads in turn to a spectacular increase in transaction prices while the quality of the products remained unchanged.

In parallel, based on the constant demand for quality products and the lack of offers, a large number of customers chose to build their own homes, most of which are located in the area of Snagov Lake or in the premises near this area.

In the last 15 years, the excessive demand for residential units and the increasing financial potential of the buyers lead to a number of areas or developments classified as premium, being transformed into luxury areas. This is how Corbeanca emerged in the 90s as a luxury area but was reclassified as premium at the beginning of the year 2000.

All of these phenomena were characteristic for an immature and un-segmented market, especially due to a constantly increasing demand, at times even aggressive demand (1990-1995 and 2005-2008)

Nowadays it is rather hard to create the profile of the residential consumer in Romania. This difficulty increases when we analyze the profile of buyers of the premium and medium segment, because the motivation as well as the expression and satisfaction of the need for residential units remain hard to quantify on an immature market.

We classify home-buyers according to the most important characteristics: motivation, market presence, aim of acquisition, financial power, education and appetite for acquisition/investments for the residential market.

According to reason of the acquisition:

-Buyers as users
-Buyers as investors
-Buyers as "collectors"

According to market presence:

-Permanent buyers (collectors, speculators)
-Accidental buyers (users, new rich buyers, emotional buyers)

According to the aim of the acquisition:

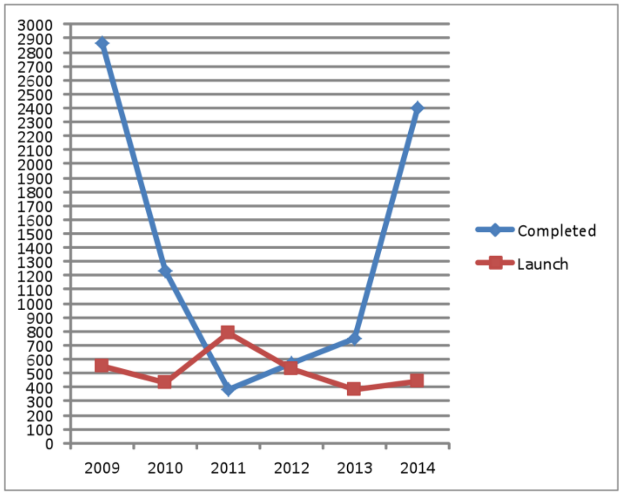
-Rational buyers (speculators, investors)
-Emotional buyers (new rich, final users)

According to financial power:

-Large contractors (speculators, collectors, investors, users)
-Owners or partners in renowned offices of free professions
-Top managers, heirs/ independent persons

2.2 The Supply Analysis

Evolutions of Apartments Delivery & Lunches (units/year)



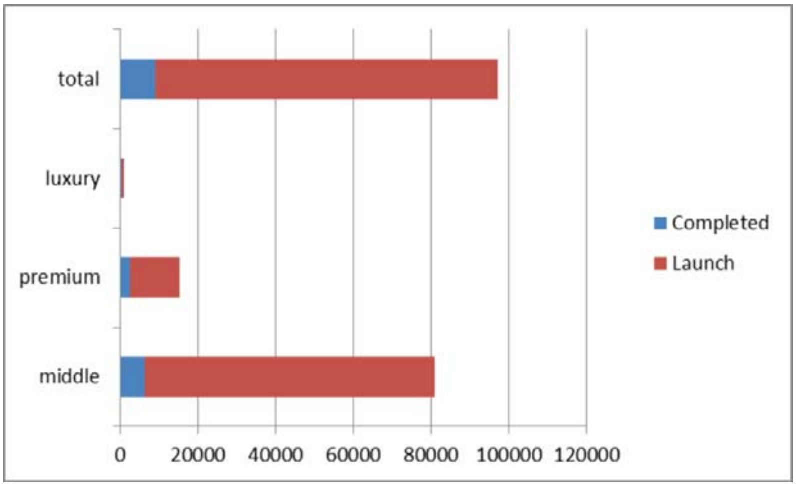
From the point of view of quality, most of the delivered units are classified in the medium segment, followed by the premium segment and then by the luxury.

However, due to the dimension of the segment and the low level of the market risk for the luxury segment, the proportion of deliveries was the highest, reaching 58%, in comparison with the medium segment, where it was only 9,2% (due to an unrealistic enthusiasm of the launch of new projects and also due to an over-evaluated demand).

However we have noticed that the difference between the units announced and the ones built was considerably reduced, so that in the time frame between 2011 and 2013 there was practically no difference.
However, starting with the 4th quarter of 2013, announcements of new projects started to increase again in number, due to the increasing enthusiasm of developers/ investors for the residential market.

It does seem that this time the enthusiasm expressed is not without basis, since it is accompanied by much more realistic economic background: macro-economic indicators improved substantially, a certain optimistic view returned to the financial and real estate markets.

Lunch vs Completed Apartments (units/type)



The luxury segment has seen a relatively constant evolution from the point of view of the offer, the main reasons being:

- Increased caution of specialized developers of such products means that the offer for such products was constantly low
- The value of demand for this type of products is much lower
- Bucharest is rather condensed from the point of view of real estate development, which means that the areas considered to be luxury areas are very limited and the land available for development of such areas is limited as well.

Luxury as a concept it means a reduced building or residential unit density among many other things, and a reduced number of multi-family residential unit flats.

Luxury means generous space to both living areas and sleep areas.

It may even seem hilarious but many of the characteristics related to luxury and premium products of Bucharest are considered minimal standards for products classified as medium on markets where real estate development has a rich and long history (London, Paris, Rome) or not a very rich but a long history (Vienna, Prague, Budapest), especially as concerns the residential comfort and the quality of the execution.

For term definition and in order to understand the detailed market elements in depth, we have identified the main technical and/ or ambiance characteristics differentiating the products of the three major segments: luxury, premium, medium.

Most of the supplies in China are normal and traditional residential apartments; there are not many light spots and special, new creativities design in the local residential market. Because of high rate of return in investment in real estate market in China, there are more and more real estate companies going into residential market even some industries companies are opening their residential apartments or branches. It looks as a new industry in China, it is very important to build a famous brand in real estate market for attracting customers. The real estate market in China need some public praise real estate company with their famous brand and good after sales service and good facilities services to be the leader in the market. The supply situation is the market is lack of high quality residential and sub districts.

2.3 Price Evolution

The evolution of prices per residential segment was directly affected by the evolution of capital accumulation transposed into the evolution of expressed and satisfied demand, based on the transactions concluded. A constant particularity of the last 2 decades, the demand for the luxury segment was not conditioned by external financing of the acquisition, and even more, every time cash was available, the demand was expressed and satisfied almost at once, which translated directly in an increase of prices.

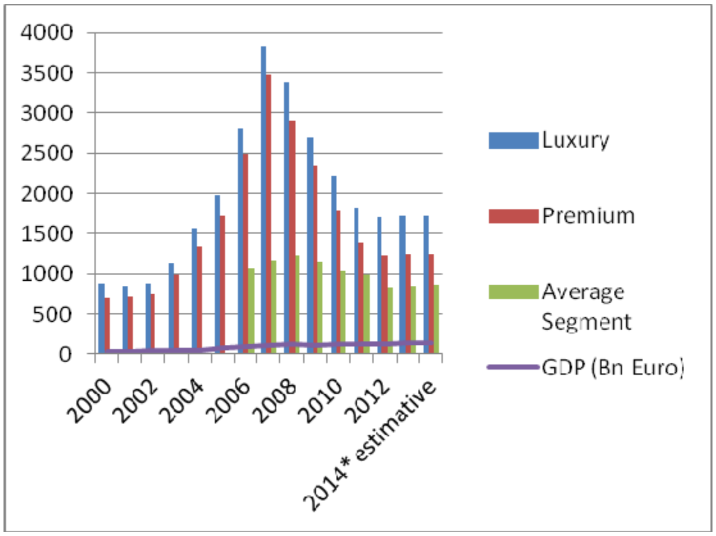
For the premium and medium segments the prices evolved relatively similar, because the segmentation of products was not very clear.

The evolution of the sales price for properties of the luxury and premium segment was constantly increasing,

The analysis considered mainly the sales price for apartments situated in multi-family buildings, because these are the critical mass which can be monitored, registered and analyzed with only a small error.

Villa type estate transactions could be monitored but there were no conclusions possible because the number of such transactions was only 1436 /year, related to a period of 11 years and this transactions number is too low for analysis and to create trends. The monitoring included transactions in Bucharest but also in areas near Bucharest.

Romania market Price Evolution for Luxury, Premium and Medium Segment vs GDP



The analysis performed on the evolution of prices for real estate products from the luxury segment showed another important fact, respectively that the difference in price between the segments luxury and premium was very low until 2009, due to the following facts:

-The reduced number of products did not allow for the clear segmentation of the market into the two segments according to the price

-On the backdrop of the recession, buyers became more critical towards the products offered on the market and the selection of product quality was based on the price

-A lot of the products considered to be luxury between 2000 and 2009 started to show many technical and design deficiencies, and as consequence were quickly downgraded to the premium segment

We can state that the real value of the products in the premium and luxury segment had a much more constant evolution than that of the market average. If for certain market segments (e.g. land around Bucharest) the increasing variation registered reached a level of even 170%/year and subsequently the market correction lead to such falls as even 95% for the same product, the luxury real estate market had acceptable variations with the maximum increase being a little over 30% /year and the most significant fall a little over 11%, in conditions when the average annual corrections of the market for comparative periods in an upward direction were 44% and in a 87% decline direction.

3. Romania real estate strategy in residential

As real estate represents the largest percent of the capital investment in tourism industry, the links between these two economic sectors are significant. The fast growth of tourism in emerging economies represents a potential opportunity for real estate developers in these countries. Although we cannot compare the GDP per capita in these regions to the one in developed countries, the rapid growth of the middle class make them attractive for investments in tourism. Inskeep (1988) describes a broad range or real estate elements related to touristic activities:

Commercial, cultural and conference centers, visitor centers, recreation centers, employee housing and accommodation, all these elements represent potential opportunities for real estate developers, but first they have to gain market knowledge related to these products.

4. Chinese real estate strategy in residential

Real estate industry is a new economic growth point and main industry in Chinese gross domestic product nowadays. Most of the supplies in China are normal and traditional residential apartments; there are not many light spots and special, new creativities design in the local residential market. Because of high rate of return in investment in real estate market in China, there are more and more real estate companies going into residential market even some industries companies are opening their residential apartments or branches. It looks as a new industry in China, it is very important to build a famous brand in real estate market for attracting customers. The real estate market in China need some public praise real estate company with their famous brand and good after sales service and good facilities services to be the leader in the market. The supply situation is the market is lack of high quality residential and sub districts.

From the aspect of long term trend in the real estate market in China, the house price will increase in the future excluding a few megalopolis. In secondary cites and the level under secondary cities, with the increasing of the salary, the house price will be accepted by the local resident. At the present, the house price is downward because of the central bank constrains commercial banks whey they issue loan, and increases the ratio of down payments for the personal second house purchase and increase interest of loan. That is the adjustment by central bank for the overheated real estate market in the last few years. The downwards trend is not the long term trend for Chinese property market. The long term trend depends on urbanization process, change of population size and structural, resident income change and etc. China is a big country with 1.3 billion populations but the ratio of urban population is less than 50%. According to <World Cities Outlook

2007> issued by United Nations, there are about 3.3 billion people that lives in urban cities which means the world urban population is more than 50%. China urbanization level is lower than average of world. General speaking, China is in high speed increasing process of urbanization, but there is a distance with a lot of western countries. Because most people are living in middle and small size of cities and towns except for few big cities in China.
However, from the view of whole country, rural population trends to small and medium size of cities and people in small and medium size of cities trend to live in big size of cities in future.
From the trend of short and medium term in China property market, there will have a long adjustment period. There are some limits and reasons which will affect the adjustment period. The first one is the real economy and industry development; if the real economy keeps grow steadily, the salary and employment rate will increase steadily and that brings house demand increase. The second is inflation changes; if the inflation doesn't work in the normal range the central bank will adjust the monetary policy. All of these reasons will lead the house price change which brings uncertain factors in real estate market.

From the general view of the project, Fuxing Huiyu Real Estate Company has chosen their marketing strategy in a smart way. It focuses their energy to high end residential apartment in secondary cities and small cities which brings the company high profit.
From summing up experiences of the projects I found some good advises for real estate companies. Firstly, good location is very important. Both of the projects in 44 different cities are located in a good communications and good views areas. Because most Chinese families like take a walk after dinner, a street park is quite important for them to choose apartment. Secondly, they must know consumer psychology very much. It is easier to earn money from rich people than poor people. Rich people prefer to live together which area is must much higher than other areas, a real estate company with a good reputation satisfied customers' vanity. Thirdly, they must deeply know the marketing demand and supply. From the projects the company knows the high end residential is demanded in secondary city and small city; because the income is increasing in these kinds of cities and the customers need to buy a comfortable apartment for their parents and it could be their holiday apartment. As a well-known real estate company with a good reputation, it is not enough to build a suitable apartment but also need to build a good living environment such as a street park.

5. Conclusions

Romania real estate market is smaller than Chinese real estate, but there are some common demand, the supply situation is quite differnt. Each one has the advanced strategy to learn from each other. For example, romania market price is more reasonable and stable, Chinese market price is out of range, should be cool and get back to normal level.

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CHALLENGES INVOLVED IN IMPLEMENTING OF ERP AND AUDITING

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Abstract

An ERP system allows an organization to integrate all primary processes in order to increase the efficiency and to maintain a competitive position. However, without the successful implementation of the system, the benefits designated for improving productivity and increasing competitive advantage would not be possible. In his definition, the ERP is a system of enterprise-wide information system that integrates and controls all business processes across your organization. Enterprise Resource Planning system (ERP) is universally accepted as a practical solution to get a solution for an integrated information system for the entire organization. ERP implementation is a complex process, and the success or failure depends on many factors, and it is difficult to be planned to avoid any potential pitfalls. Traditional audit model has undergone significant changes over the past decade. Change in financial audit is attributed to market pressures, including competitive prices, saturation and increasing training and technology. The profession moved toward providing additional systems of insurance services. For example, there has been a paradigm shift in insurance services, which focuses on the internal control system throughout the life cycle of the information system. Implementation of an ERP system is usually followed by an increase in internal audit procedures as a result the organisation may reach a higher level of integration in business processes and to improve the quality of the reports.

Key words*: ERP, implementation, audit, controls*

JEL Classifications*: M15, M40, M42*

1. Introduction

Advances in information technology, expand the use of the internet and electronic commerce, and global competition have made running a successful business is a lot harder than ever before. Currently, a popular approach for the development of an integrated enterprise-wide implementation is an ERP system-Enterprise Resource Planning.

Of all the business changes that have taken place throughout history, most explosive were related to information technology (IT), which has become increasingly complex. The explosive growth of it includes computer hardware, databases, networks, telecommunications, internet, extranet, e-commerce, client-server architecture, data repositories, integrated software, accounting systems such as ERP systems, and automated reasoning and software of neural networks (Cerullo, 2003).

An ERP system allows an organization to integrate all primary processes in order to increase the efficiency and to maintain a competitive position. However, without the successful implementation of the system, the benefits designated for improving productivity and increasing competitive advantage would not be possible. In his definition, the ERP is a system of enterprise-wide information system that integrates and controls all business processes across your organization. Enterprise Resource Planning system (ERP) is universally accepted as a practical solution to get a solution for an integrated information system for the entire organization.

Anderson, Banker, Menon, and Romero (2011) have an ERP that defined "database software that automates and integrates information processing in real time, on a large number of business processes and functions within an organization." Significant components of an ERP include human resources, finance, logistics, production, fill orders, and supply chain management (Mehrjerdi 2010, p. 308). The traditional objectives of ERP SYSTEMS were to provide greater efficiency, while contemporary ERP are designed to streamline and integrate processes and information flows within the company.

ERP systems, operational and financial information are linked together through a stream of complex information. Transactions can be automatically introduced without review or pre-check with the ERP system. For these situations, you must control mechanisms designed to prevent the introduction into the system of false or inaccurate information. So audits must be done through the computer in the ERP environment. Accountants and company management must be aware of the risks involved in an ERP system. Today, with integrated ERP systems implementation, internal controls develop itself to support automated operational management. As a result, financial officers and changed its approach and implementing internal controls automatic enable managers to manage the business effectively by ERP systems.

An ERP system automatically updates the data in the entire system once a transaction has been entered. Because the information is regularly updated, maintained and stored electronically, auditors must understand how modules interact between each other and with the database. The Auditors have to spend more time with lower-level employees in the case of the ERP system in order to determine what they do while entering data, and especially what happens if you make a mistake.

2. ERP Implementation

Globally, developed countries have put in place and implemented ERP system for settlement and improvement of business flow in order to face global competition. They had to overcome economic, cultural barriers and basic infrastructure. This applies to large-scale, medium and even small units. The various difficulties and obstacles arise from limitations of capital, lack of availability of resources, mismanagement, etc. ERP is the "childhood" in developing countries compared to developed countries. As shown in Figure 1, the ERP system is essential for every business because it brings standardization, transparency, globalization, automation and integration functions.

Fig 1. ERP is at the center of many business

ERP implementation is a complex process, and the success or failure depends on many factors, and it is difficult to be planned to avoid any potential pitfalls. Comparable to the difficulty of identifying the source of the success or failure of ERP implement is the difficulty of arriving at a clear definition of the term. Despite the fact that this distinction may seem intuitively simple, companies and professionals have not reached an agreement on a definition of success or failure of implementation. Studies from the last period on the progress of the information systems for enterprises have shown, without just and may, market success of ERP products. The most known companies cheer such integrated systems are Microsoft, Oracle and SAP.

Characteristics of an ERP system are as follows:

- the database is usually centralized and, since you have to meet the needs of multiple users, the system allows flexibility in customization and configuration.

- processing is real-time online data bases are updated simultaneously with the operation of the minimum data entry.

- data input controls are dependent on validation of pre-and is based on balancing transactions. -transactions are stored in a common database, which is accessible from the different modules.

- security control assessment is of paramount importance.

- auditors must spend considerable time with an understanding of data flow and process transactions.

- the system is dependent on large-scale network.

- the risk of failures occurring is greater in the case of ERP systems.

There are 5 main reasons for companies to implement ERP:

1. Integrate financial data - as general manager tries to understand the overall performance of the company will be able to evaluate different versions of the problem. Accounting has its own figures on income, sales also their version and the different outlets can also make their own versions of how they contributed to revenues.

2. Integration of database commands - ERP application can become a customer can place order to "live" in the moment it is received until the goods are delivered, accounting prepares and sends the invoice. With this information in one application and not several independent applications that do not communicate with each other, companies can keep better track of the orders can better coordinate the production, stocks and supplies in multiple locations at the same time.

3. Standardize and streamline the production process - production companies, especially those who want to merge or expand, often make the same mistake - in so many ways using various methods and applications. ERP comes as standard method for automation of some steps in the production process. Standardizing those processes and using a single integrated system can save time, reduce costs and increase production.

4. Inventory optimization - ERP helps the manufacturing process flow smoothly and improves the performance of the order. This can reduce losses, ongoing production and application can help user's better plan deliveries, reduce the stock of finished goods in warehouses.

5. Standardization of information in the department of human resources - especially companies with multiple outlets, the human resources

department might not have a unique method of tracking employee time and communicating with them about benefits and services.

In the race to solve these problems, companies lose sight of the fact that ERP is nothing but a representation of how a normal company operates. While most ERP packages are as complex and detailed, each industry has its specificity that makes it unique. Most ERP applications have been designed to be used for cases abstract production companies (producing things that can be counted) which made those companies with similar type of activity petroleum, chemical and service companies who measure the flow production rather than physical units are not covered by this kind of applications. Each of these companies has struggled with those who sell ERP application to modify and adapt according to their requirements.

Many organizations today opt for ERP in the cloud in increasing numbers, motivated by:

- Do not want to buy servers and hire IT resources.
- Activities are becoming increasingly complex and difficult to be managed.
- Organizations have a complex ERP system and need something easier and more economical.
- Top management does not want to spend on an ERP system.

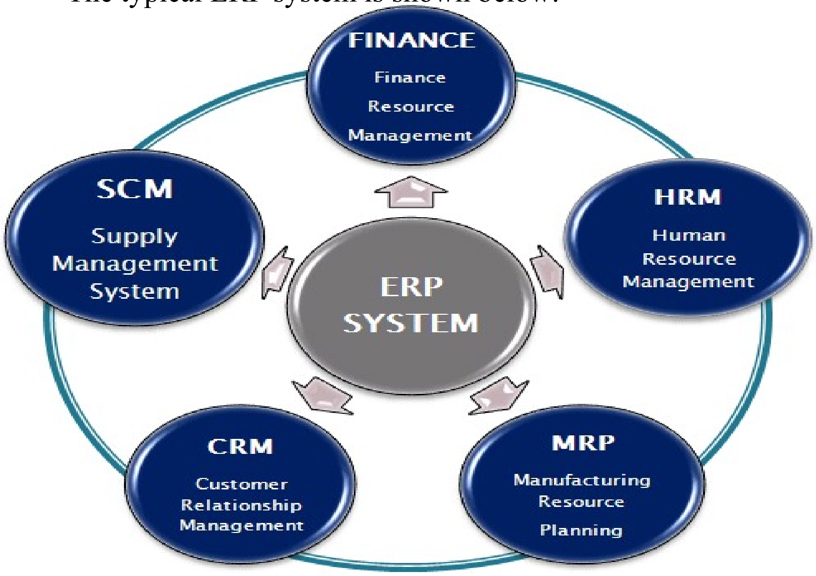
In practice, there are three models of implementation of ERP:

A Great Big Bang - in this case (which is the most ambitious and difficult method of implementing ERP systems) companies definitely dropped their old systems and install one application at a time integrated ERP for the whole company. Although this was the most common method for ERP implementations first, few companies dare to do so, because it requires synchronized mobilization and change the entire company. The most dramatic experiences of ERP implementation 90s warn us about companies that have done this. Making everyone to cooperate and accept a new system at the same time is difficult, because the new system will not have any supporter. No one in the company has any experience in using it, so no one is sure it will work. Also, ERP inevitably involves compromises. Many departments systems that were molded on how they work. In most cases, ERP offers no comfort or familiarity functionality or a dedicated system. In most cases, the speed of the new system may suffer because not only serves the entire company and department. ERP implementation requires direct approval of the general manager.

B. Strategy franchise - this approach lends itself to a variety of large companies or big, not common tasks in working points or departments. Independent ERP systems are installed in each unit and accounting within the company they are interconnected. This strategy has become the most common way of implementing ERP systems. In most cases, each site has its own ERP system, consisting of a system and database independent. The systems are connected only to be present at group level information so as to create an overview of all sites (revenue per center for example), or for processes that do not vary much from a working point another (ie bonuses HR). Typically, these implementations start with a demonstration or pilot installation in a place of business where if something wrong happens not affected the company's activity. Once the project manager manages to put up the system and fix all the problems can be installed in other outlets of the ERP, using the first reference implementation over time.

Slam dunk C. (the fast) - in this case, the ERP system implementation process dictates that focuses on a few basic processes, such as those contained in a financial way of an ERP system. This method is viable for smaller companies are expected to increase with ERP application. The goal is to put on your feet fast application and lasting quit modeling in favor of a dedicated ERP system. Few companies have implemented such a manner ERP benefited from the advantages. Many companies use the system as an infrastructure to help future implementation easier. Yet many find it less viable quick installation instead of a dedicated system does not force older because end users (employees) to change mode. In fact, it is more challenging to adapt to install than a something that does not exist in any system, because at that time anyone in the company would not feel the difference.

The typical ERP system is shown below:



Although different companies will find different "me" in the budget, those that have implemented ERP agree that certain costs were mostly omitted or were underestimated by others. Armed with understanding the business, ERP supporters vote following activities as those that will exceed your budget:

1. Training - is almost unanimously voted ERP implementers experienced as the most underestimated budget item. Training expenses are high because employees must learn a new set of processes, not just using a new software interface. The courses are focused on telling people how to use the software, not on educating people about certain features of their business, requiring Develop an outline of the different business processes that will be affected by ERP.

2. Integration and Testing - Testing the links between ERP packages and other software company. A typical manufacturing company may have additional applications for major type - eCommerce and supplier-buyer chain, to the minor - calculation of taxes on sales and administration barcodes. All this requires integration with the ERP system links. If you can buy additional applications (ready-integrated) from vendor ERP systems is best. As training, testing ERP integration must be made from a process-oriented perspective. Veterans recommend that instead of introducing fictitious data that move them from one application to another, to run a real control process throughout the system, from order entry to delivery and receipt of payment - the whole process command-payment - preferably with the participation of employees who will then these daily chores.

3. Configuration - Additional applications are just beginning ERP integration costs. More expensive, and something to be avoided altogether, if possible, is effective configuration of the central ERP system. This happens when the ERP can not solve one of your business processes and the company decides to walk the ERP software to do what he wants. Configuration can affect all ERP modules that are closely interlinked. Updating ERP system is like a walk in the park; in the best case becomes a nightmare because you have to restore all configurations over again in the new version. Maybe it will work, maybe not. In any case, the seller will not be there to help, but people will be employed to make configuration and maintenance.

4. Data conversion - costs to move information about customers, suppliers, product design and the like, from legacy systems into the new ERP system. The majority of managers admit that most of the data from the old systems are not very helpful. Companies deny that the data would not be accurate until you need to move them to new setups client / server ERP packages are required. Consistently, these companies underestimate the cost of moving data. But even correct data need some adjustments to fit with the ERP.

5. Data analysis - usually data from ERP systems must be combined with data from external systems to be analyzed. Users who require large and complex analysis should include budgeting, cost of data retention - and should expect a bit of work to make the system work properly. Users are in trouble when updating all data from the ERP system every day in a big company is difficult and ERP systems do a good job when it comes to tracking data were modified from day to day, making selective updating data hard to do. An expensive solution is customized programming.

6. Consultants indefinitely - when users fail to deliver, consultancy payments soar. To avoid this, companies should identify objectives that should follow when making personnel training. Measurements should be included in contracts consultants, for example, a specific number of users of the company's employees should be able to pass a test project-manager.

7. Replacement of the best - is accepted as wisdom that the success depends on hiring ERP project of the best and most enlightened business and IT department employees. The software is too complex and changes in business too big to entrust the project to anyone. The bad news is that the company should be prepared to replace people when the project ends. Although ERP systems market is not as hot as other time, consulting firms and other companies that have lost the best people will hunt with higher salaries and bonuses that the organization has not finished implementing allow - or that human resource policies do not allow.

8. Implementation teams can not stop - most companies tend to treat the implementation of ERP system implementation as any other software. He figures that once installed software implementation team will be sent home each will resume daily activities. But after installing ERP can not to leave home. Implementers are too precious. Because they worked so deep into the ERP system know more about sales than sales people and know more about the production process than people from production. Companies can not afford to send people involved in the implementation back to business as there are so much to do after the ERP software is installed. Just write the reports that out of the new information system will keep ERP project team busy for another year. Unfortunately, few systems integration planning departments craze after ERP implementation activities; of them, and less a budget plan when I start ERP projects. Many are forced to ask for more money and people immediately after they finish implemented before the ERP system to demonstrate the benefits.

9. Waiting for ROI (Return on Investment) - one of the most misleading legacies of traditional software project management is that companies expect to gain value once the software is installed, the project manager while waiting for a break or a pat on the back palm. Any of these

expectations do not apply to ERP. Many of these systems do not show value is used only after a longer period of time and focus on improving business processes that are affected by the system. And the project manager will not be awarded until after the software will show its benefits.

10. Depression Post-ERP - ERP systems creates often damages the companies that install them. In a research firm Deloitte Consulting on the 64th of Fortune 500 companies; one in four admits that he suffered a decrease in performance when their ERP system came alive. Percentage really is undoubtedly much higher. The most common reason is performance decreases turn, prevents that everything looks and works differently than look and work forward. When people can not do the job as they were used to and still do not know very well the new way, panics and business is harder.

As seen from the above described, ERP systems are those systems that integrate functional business processes, leading to improved reporting to management and the adoption of decisions within the organization. Tools to exploit the information stored by ERP system but have limited functions, geared mainly to facilitate user access to a single source of data, the share and fast, with the aim of analytical information and less of the synthetic.

Making complex analysis of data stored in databases of ERP systems requires a special effort to the organization's processes and results are visible and can be sold only at this level. Another drawback is that these tests are not systematic and are not correlated with predefined requirements for performance measurement processes, lines of business or organizations work efficiency as a whole.

Planning and automatic monitoring and evaluation of performance measurements in processes specific and can only be achieved through strategies and tools for Business Intelligence. Only by Business Intelligence solutions an organization can obtain all the information dispersed integrates and builds necessary to support decisions and assessment their effectiveness.

A Business Intelligence system processes helps managers to take informed decisions based on data from in-depth analysis of business processes, capitalizing on top of a large volume of information, the automatic calculation and evaluation of pre-defined performance indicators in general organizational knowledge correct and complete.

Integration of Business Intelligence components of ERP systems in an organization brings a number of benefits to the business such as:

a) the superior possibility of a large volume of data gathered from sources dispersed and heterogeneous virtual and a deposit unit of information that is visible to all employees with access rights and allows aggregating, filtering and transforming these data, the analysis in Useful information and improve business development;

b) The use of flexible working interfaces (in Romanian language and in other languages) which provide a series of user satisfaction: the elimination of routine; use of advanced software tools that provide access to relevant information and quasi-instantaneous real and sophisticated analysis tools for information; monitoring of critical indicators or those that define business performance; flexibility in formulating requirements analysis also, depending on context; facilitating business modeling or simulation complexity scenarios or business development trends;

c) Recovery of search engines High Yield Business Intelligence applications equipped with search / retrieval that can quickly manipulate an impressive amount of multidimensional data structures, heterogeneous relational database or other databases, providing work opportunities using tools zoom in or out or rotate and control the level of detail of the information displayed;

d) The use of modeling and analysis functions of the business incorporated in BI applications and tools and mechanisms of advanced / sophisticated logical modeling of information, based on collections of predefined entities and visible or stored data the organization.

3. Audit of ERP

The traditional model of audit has undergone significant changes over the past decade. Change in financial audit is attributed to market pressures, including saturation, competitive prices and increasing training and technology. The profession has shifted to providing additional systems of insurance. For example, there has been a paradigm shift in insurance services, which focuses on internal control systems throughout the lifecycle of the information system.

The implementation of an ERP system is usually followed by an increase in internal audit procedures as a result the company can reach a higher level of integration into business processes and improve the quality of reports.

Given the integrated nature of ERP systems, they can add additional risks or challenges:

- Industry and business environment
- User behavior or manager
- Processes and procedures
- Operating system
- Application security
- Infrastructure
- Data conversion and integrity
- Business Continuity

Risks associated with implementation and continued use of an ERP system can not be determined or controlled by examining applications or technical risks in isolation, but must be considered in conjunction with the control of the company objectives. Auditors challenge is to obtain an understanding of the business and regulatory environment in which the organization operates and to identify technical risks and less quantifiable procedural or behavioral.

Computer assisted audit is good, but has some disadvantages. In addition to changing audit functioning and activities, computer assisted audit involves distributing different files in different locations, making it even more difficult and complicated audit especially for those who do not have sufficient knowledge of technology. In addition, many ERP systems involve logging. This means that those who are not involved in the operational department may not be able to identify the personnel responsible for some data, they may need. Another setback may be that IT staff also can change the figures, because they have access to the database. This could cause economic losses to companies that can not be identified right away (Chang et al. 2008).

The challenges of internal audit regarding the use of an ERP system aim to:

a. Parameters audit

ERP systems have many parameters such as process parameters, operational parameters, control parameters, parameters of financial integration, cost-sharing parameters and so on. These parameters only affect the effectiveness of internal controls, but the accuracy and consistency of financial data. In particular, during the ERP implementation should ensure the integration of financial data with data control, accuracy of the data source, parameter settings and financial data validation.

2. The audit data security

Computers and network technology allows the widest range of accounting information that is shared between users of information, but this is based on a common access to data security. As computing, and human impact will increase the risk information in the network, especially in the ERP, where data are used in electronic mode Streak of alteration or falsification. So lowers reliability of the information available to the auditor and their authenticity is threatened.

Therefore, auditors should treat it as important data security audits in response to the ERP environment.

3. Software Audit

Manual audit practices are difficult to adapt to the needs of electronic accounting data. Building internal audit information must be simultaneous with the development of information systems, accounting, audit techniques. Therefore, the current need is to synchronize information technology audit requirements by developing audit software has features intelligent integrated network versatility and practical applications. Software Audit ideal must have financial analysis capabilities, testing functions, calculation functions, features auditing functions, statements and notes, automatically generate audits, help functions instantly and network access capabilities. In addition, audit software audit should provide also audit plans, summary information such as the list of commonly used tools, templates and regulations.

4. Conclusions

Implementation of an organization of an integrated (ERP) involves processing transactions in a manner performance advantage of storing data giving a non-volatile manner historical and dedicated to collecting information for decision-making environment. Market Trends Management database is represented by incorporating tools for data analysis, as facilities management systems database solutions mainly developed by Microsoft, Oracle and SAP.

When you need to purchase an ERP, it is necessary to define realistic expectations and a thorough analysis of the issues that need to be resolved, users and technology application.

Most existing ERP systems on the market offer about the same features and choice of the solutions must take into account many factors, among which the most Important are price, knowledge users and preferences for certain platforms and technologies.

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APPROACHES TO THE INTERNATIONAL CAPITAL FLOWS IN THE GLOBALIZED ECONOMY

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Abstract

The problem addressed by this paper concerns issues related to the international capital flows in the current context of the globalized economy. In this respect, we focused, at first, on approaches of conceptual boundaries nature, and then we treated a series of aspects of evolutive nature, causes and effects of the international capital flows, as well as the major institutions through which such flows are carried out. At the same time, our analysis has paid particular attention to the globalization phenomenon of capital markets.

Keywords: *economy, globalization, international flows, capital markets.*

JEL Classification: *F23, F60, G15, M21.*

1. Introduction

Capital, in all its forms, is probably the economic resource with the highest degree of mobility in the economic context of the new millenium. Capital flows are now common presence both on international circuits, and on national, inter-sectoral and intra-sectoral routes **[12].** Not only the volume of capital flows and their movement speed are in a constant ascendency, but also the ease with which they metamorphose, depending on the characteristics of the host environment and on the interest and profit of the holder. If in the past the capital flow was seen only as a way of financing the current account, nowadays, the international distribution of capital determines increasingly more the currency circulation and the international interest rates which, in turn, influence the evolution and structure of International trade **[2].**

International capital transactions involve the sale and purchase of assets or loans between residents in different countries. These transactions may consist mainly of:

- ✓ *International investments,* respectively foreign direct investments indefinite term and portfolio investment short and long term;
- ✓ *Various term loans,* or bank and non bank loans, debt securities.

From the point of view of a country's *Balance of payments,* the transactions constituing the components of the international capital flows are included in *the capital account*. The main economic actors involved in the case of international capital flows and coming from international lending are the creditor (the exporter of capital– the one that lends) and the debtor (the importer of capital– the one that borrows). In order to generate the international capital flows, the exporter of capital must have an amount of capital available, capital resulting either from the export of goods and services for which the counter value is collected, or from the capital reserves the exporter has made **[6].** Considering the aspects presented in the case of the international capital flows, as an exporter, investitor or creditor, only those economic actors that have a surplus of resources can participate, and these economic actors are usually, but not exclusively, in the developed countries.

2. Evolution, manifestations, causes and effects of international capital flows

In its evolution, the financial globalization has seen manifestations specific to the level of development of every historical period identified, respectively: the early Modern period, the classic Gold-Standard period, the Bretton Woods stage and the contemporary era **[8].**

The first systematic and significant international capital flows date from the second half of the nineteenth century when several governments and railway companies have issued bonds with fixed interest mainly on the UK capital market, as well as on the capital markets in France and Germany. Later on, in the late nineteenth century, direct foreign investments, especially the ones coming from the USA, started to compete in terms of value with these portfolio investments, and thus the international capital flows exceeded the commercial one in terms of importance, which coincided with the time when capitalism became a worldwide economic system. After the end of the First World War which caused a discontinuity in the evolution of these flows, the combination of direct foreign investments and portfolio investments has evolved positively, being directed especially from the USA to Europe. The Great Recession of the 1930s has reduced foreign investments significantly, their place being taken by speculative capital movements seeking to exploit developments in exchange rates. Ten years after the end of World War II, the international capital flows reappear as direct foreign investments and, later on, as international financial markets, the main form being that of variable interest loans, unlike previous periods when fixed-rate bonds had prevailed.

International capital flows have experienced remarkable growth in the period 1960 – 1980, and then they faced a real crisis caused by the inability of many developing countries to cope with debt service.

One of the most important changes in the orientation of the international capital flows is that the USA has become the largest importer of capital in the world. For more than 60 years, the USA has represented the biggest exporter of capital in the world, being the world's largest creditor. Currently, the USA is the world's largest debtor and its foreign debt is higher than all other debtor countries toghether **[1].**

The causes that generate the international capital flows are different depending on the form of their manifestation. For direct foreign investments, the causes are determined by the existence of economic assets such as patents, know-how, commercial and managerial expertise which the entrepreneurs hold and wish to capitalize on markets or sources of production means different from the country of origin. This type of investment, since it implies the binding of technological cycles lasting for years, is not very sensitive to short-term macroeconomic evolutions and, therefore, it isn't susceptible to present a high volatility.

In the case of portfolio investments, the relationship between their evolution and orientation and the macroeconomic situation is direct because all the calculations made by investors are based on the data of this situation.The classic motivation of international portfolio investments is that of achieving efficiency superior to the one obtained in the country of origin. In reality, investors are considering a larger number of variables, some subjective ones, also. On monetary markets, in the long term, the international capital flows are oriented towards countries with a higher rate of interest. In the short term, it is however possible that early changes in exchange rates prevail in decision making on the differences between interest rates, so that the capital flows move to countries with lower interest rates. In comparison with the direct foreign investments which are made, significantly, by transnational corporations, portfolio investments are made by a variety of institutional traders, financial and non-financial companies.

The international capital flows can have positive ***effects*** on the welfare and economic development through several mechanisms:

- *Capital flows embodied in direct investments* allow the receiving countries to modernise and diversify their economy, and investors to achieve higher profits;
- *Capital flows which take the form of portfolio investments* allow investors to diversify and, consequently, to mitigate risks;
- *Capital market domination by fewer actors of great dimensions* whose domestic policies can or cannot compete with the interests of other actors of more modest financial power.

In case that international capital flows finance deficits of the current account, then there can be ***two types of favourable effects*** **[4]:**

- *When the loan is used to finance an investment whose efficiency is higher than the cost represented by the service of the debt;*
- *When granting or requesting loans aim to the modification (postponement, braking or accelerating) of consumption.*

What should be emphasized in connection with the two situations presented above is the character of possibility, not of certainty. For example, a country may make loans for productive investments, but the results are not satisfying in terms of quality or price, or there is a change in demand which no longer allows the volume of transactions expected. In this case, the debt service can became too unbearable and the respective country may face difficulties in paying the debt.

3.The institutions where the operations specific to international capital flows take place

An important role in the development and orientation of international capital flows is attributed to international institutions which differ depending on the nature of operations, respectively investments or loans. They were created over time in order to promote the international financial cooperation, to facilitate the access to financial resources of the less developed countries or of those experiencing temporary internal imbalances, to promote private foreign investments or to stimulate social and economic development of the member countries. With the expansion and deepening of the globalization process on the international financial markets, the role of these international institutions has increased significantly. Nowadays there is a large numbers of such international financial bodies with different financial objectives and mechanisms: the International Monetary Fund, the World Bank Group, the European Bank for Reconstruction and Development, the European Investment Bank or the Bank for International Settlements. Each of these institutions has developed continuously over time, permanently increasing their strength, basically trying to take on an active role in the international finance **[8].**

When it comes to short or long-term portfolio investments, banks or stock exchanges are used. Stock exchanges are markets where securities with variable incomes are negotiated, such as shares or fixed-income securities such as bonds. The most important stock exchange in the world in terms of transactions volume is the New York Stock Exchange (NYSE). Other important stock exchanges are the ones in London, Tokyo, Frankfurt, and Hong Kong. In the case of short-term international capital operations related to the development of exchange differences, currency markets are used. We must emphasize that the international currency market is the largest market in the world, its volume exceeding almost 1.6 trillion per day in 2014 **[10]**, which makes that the current feature of this market be a strong movement towards the Internet, being in this respect supported by all the most important banks in the world.

Regarding the direct foreign investments, we cannot talk about some specific markets, but about case by case operations carried out by investors from another country than the residence one **[5].** When some foreign investment promotion agencies become significant promoters of foreign capital flows to the receiving country, then they can be considered the equivalent of "markets".

4. Issues related to the globalization of capital markets

The liberalization of international capital flows gradually lead to the disapearance of commercial borders and the erosion of national borders being a way to homogenize the globalized economic space where national souveranity either becomes an outdated notion or acquires new meanings. The risks, the evolutions and the circumstances on the global capital markets trigger reactions and responses at global and national levels. Thus, at global level, there is an interest towards financial innovations such as financial derivates that play a role in risk management, but also as a means of speculative instrument. On the other hand, at national level, risk management requires correct regulations of the banking sector and of capital market, the control of internal corruption, as well as the avoidance of an early liberalization of some capital markets **[11].** In this respect, financial globalization requires governments to adopt national policies and strategies of development that have as objective low and stable inflation rates, which implies a financial discipline, a ferm monetary policy to enable them to avoid the risk of non-refoulment credits **[7].**

Currently, due to the evolution of communications and of on-line transactional techniques, the stock trading takes place practically non-stop. Time differences allow that the activity of stock exchanges take place in the USA when they close in Europe, while stock exchange activity restarts in

Europe when it closes in Asia. Thus, the actions of large corporations that are listed on several exchanges simultaneously can be traded continuously.

With globalization and modern communications, not only investments can run non-stop, but also banking operations. Many transnational banks, which have branches in countries on different continents, can offer non-stop banking services.

The globalization of financial markets doesn't mean just covering the entire globe with a network of services, but also integrating these markets on a global scale. In this context, capitals gain unprecedented mobility; their transfer can be made only from the use of electronic technique **[3].** Consequently, the globalization of financial markets has determined a significant growth in the volume of transactions that exceeded the international trade in goods and services. If in the past the financial transactions were largely correlated and determined by commercial trades, nowadays between the two types of flows there has been a decoupling.

In the global financial market, the capital flows originate both in private and state companies, as well as in international organizations. These organizations may come from the system of the United Nations Organization, respectively, the International Monetary Fund and the World Bank or they can be cooperation bodies or of interstate economic integration such as the European Union or the North american Free Trade Agreement. Of course that, if in the case of international organizations, the capital flows generated have a smaller weight and are carried out on the basis of well-defined and relatively slow mechanisms, the flows generated by private companies have both a larger weight and a greater mobility.

5. Conclusions

The globalization of financial services, the internalization of capital and the rise of money to the rank of means of communication have changed the balance of power in the modern global economy for the financial activities that own and control the system's functions.

The mobility of capital, the deregulation and financial innovations are the challenges and concerns of most governments and central banks in the civilized countries in establishing the monetary and macroeconomic policies, in managing the decision-making tools such as exchange rates or interest rates as inflation targeting levers, adjusting the current account deficit and risk timing/mitigating since it is known that the scale and dimensions of the global financial system attract effects specific to globalization.

In the new economy, the banking and financial environments are among the most exposed to the shocks triggered by the information propagation speed, the financial globalization is a phenomenon with profound consequences on the mechanism of global economic activity. The financial globalization already has a considerable track record of events registered during its evolution.

The opening of national financial markets, their deregulation, the development of new financial tools, the expansion of banks and of other international financial institutions, the involvment of foreign financial institutions on domestic markets as well as the involvment of domestic financial institutions on global financial markets have facilitated the intensification of international capital flows, and thus creating a functional global financial system.

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REPRESENTATION OF THE STATE IN TERRITORY BY THE PREFECT IN THE ROMANIAN LEGAL SYSTEM

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Summary:
This paper aims to examine the status of the prefect, in his capacity as representative of the Government in the Romanian legal system. The analysis is based on constitutional and legal provisions equally. Both regulations will be analyzed both in terms of positive law, in a critical view, and in terms of suggestions of ferenda law which should be considered in the future. These proposals cover both the current constitutional and legal framework represented by Law no. 330/2004.

Keywords: *prefect, Government, State, representative, subordination relations, administrative trusteeship, administrative, constitutional status, legal status.*

I. Terminological substantiation

The notion of representation in plain language, is the quality of a person, individual or legal, to act on behalf of another public or private law, or exercise, on its behalf but on its own responsibility, rights and obligations conferred by law.

Representation is found equally in private law and public law.

For private law, the substantiation of the representation are found mainly in the Civil Code[1], which is, as we like to say, "the bible of private law" and the Civil Procedure Code[1] or the Criminal Procedure Code[2].

[1] The Civil Code was approved by Law No. nr.287/2009 published in Official Gazette no. 511 of 24 July 2009 and put into force by Law no.71/2011 published in the Official Gazette of Romania, Part I, no. 409 of 10 June 2011.

It's mainly about the following types of representation:
a). representation of persons lack capacity to use and exercise capacity[3];
b). representation by the governing bodies of legal entities[4];
c). representation, before courts or the commercial arbitration, of the the parties in a litigation[5];
d). representation before the investigators or criminal prosecution of persons that are accused or defendant[6].
In public law, the representation can be analyzed from several aspects.
The first variant is the **representation function** exercised by certain public authorities or institutions at central and local level.
The art. 80 of the Romanian Constitution revised and republished[7] provides that **the President represents the Romanian State** and, although the Constitution does not expressly provide, **the representation is exercised both internally and externally**.
Law no. 215/2001 on local government[8], provides in Article 62. paragraph 1 and Article 102 para. 1 that the mayor and the president of the county council represent the common, city, municipality, or where applicable, the county, in relation to all other natural or legal persons, from country or from abroad, and also in justice.
A second situation is the one that aims to **represent the people** by **certain bodies**, elected by universal, equal, direct, secret and freely expressed vote.
The art. 2 of the Constitution provides that the *Romanian national sovereignty belongs to the Romanian people, who exercise it through its representative bodies chosen through free, regular and fair elections and by referendum.* Have quality of central representative body:

- **Parliament**, which is described in the Constitution as **the supreme representative body of the Romanian people;**

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1 The Code of Civil Procedure was approved by Law nr.134/2010 published in the Official Gazette of Romania, Part I, on July 15, 2010 nr.485, implemented by Government Emergency Ordinance no. 4 of January 30, 2013 published in the Official Gazette of Romania, Part I, no. 68 of 31 January 2013.
2 The Criminal Procedure Code was approved by Law nr.135/2010 published in the Official Gazette of Romania, Part I, no. 486 of 15 July 2010, implemented by Law no.255/2013 published in the Official Gazette of Romania, Part I, nr.515 of 14 August 2013.
3 It is about art. 143 and the following ones from the Civil Code
4 Regulated by art. 1919 from the Civil Code
5 According to the art. 80 and the following ones from the Code of Civil Procedure
6 According to the art. 96 from the Code of Criminal Procedure
7 The Romanian Constitution was published in the Official Gazette of Romania, Part I, no. 767 of 31 October 2003 , was revised by Law nr.429/2003 published in the Official Gazette of Romania, Part I, no. 758 of 29 October 2003 and republished by the Legislative Council under Art. 152 of the Constitution.
8 Republished in the Official Gazette of Romania, Part I, no. 21 from 18 july 2006

- **President of Romania**, which has a **double function of representation internally,** being one of the representative bodies referred by art. 2 of the Constitution, but also **externally.**

Locally, have status of representative bodies the local councils and county councils, that are *deliberative bodies of local autonomy* and **mayors** and **chairmen of county council**, that are their executive bodies.

We need to distinguish between the concept of a **representative body**, on the one hand, and **quality** (function) **of representative** exercised by some public body or public function holder or dignity, on the other side.

The notion of *"public function"* and its title should be understood in a lato-sensu sense, which includes various professions.

The quality of "representative body" is conferred by the formation of that organ, respectively **the choice**, and also its proclamation, which is made by the **legislator**. As mentioned above, the Constitution itself, fundamental law in State qualifies Parliament as "the supreme representative body" by Article 61 para. (1).

In what concerns the President, through art. 80 of the Constitution it is given the role of *"representative of the Romanian state"* and from the content of art. 82 on *the election of the President*, results that it has the quality of **representative organ**. We can say that, what concerns the President, the Constitution confers a double quality: the authority exercising a function, a role, that of representing the Romanian State and **status** of representative body, being elected by universal equal, direct, secret and freely expressed vote.

The same double quality results also for other public authorities, such as mayor or chairman of the county council, which, according to the provisions of Law 215/2001 on local public administration, as amended and supplemented, republished, have the status of *"representative bodies"*[1] but is also exercising the function of representing the administrative unit in which they are elected and operate. In terms of representing exercised by certain holders of function or dignity under the law, we have to make some clarifications. First, from principle, every manager of a public authority or institution fulfills the role of *representing that authority or public institution* in relation to other individual or legal persons, Romanian or foreign, from country or abroad.

Such a quality results otherwise from the content of the law governing the organization and functioning of the public authority or institution concerned. Exempli gratia, **H. G. No. 156 of 10 April 2013** [2] amending and supplementing of Government Decision no. 416/2007 on the organization of

[1] It is about art. 62 from Law no. 215/2001
[2] Published in the Official Gazette of Romania, Part I, no. 213 from 15 april 2013

the Ministry of Internal Affairs and to amend certain acts, which states in Article 1 that the Minister of Internal Affairs is leading the ministry and represents is in relations with other subjects of private law.
Secondly, certain holders of high public functions or dignity receive, in their duties, in exercising their tasks, empowerment or delegation to represent the public authority or institution.
For example, the regulation of organization of specific activities[1] provides in paragraph 50 and the following, that the specific activities of the Court of Accounts, respectively performing control actions/audit by specialized staff is made based on documents called "*delegations*", whose content is provided on Annex no.2.2 contained in to the Regulation.
Regarding the procedure of solving civil or criminal litigations, where appropriate, the new Civil Procedure Code and the new Code of Criminal Procedure contain independent sections which governs **the representation of parties before the court**[2].

In conclusion, to those mentioned in the introductory part of this number, we consider that may be essentialized the following ideas:

a. the notion of *"representative body"* evokes the status that certain public institutions have, which is determined by the way of constitution, respectively by universal, equal, secret, freely expressed vote;
b. the representative quality of a public law matter is conferred by law, to subjects of public or private law (state *representative* by the president, representative of the village by mayors or presidents of the local council, representative of the public authority or institution that leads the person performing the function of head of the public authority, respectively President, director, CEO) or the prefect quality of government representative;
c. specific representation task of a matter of public or private law which exercises specifically a certain person who performs a public function or dignity under an *act of empowerment* or of *delegation*, in order to perform a specific activity.
Regarding this study, we will consider the quality of representative exercised by the holder of a public function or dignity under the law, situation including the prefect.

[1] RODAS published by Plenum Decision no. 130/2010 published in the Official Gazette of Romania, part I, no. 832 from 13 december 2010
[2] We consider the art. 80 from the Code of Civil Procedure and art. 96 from Code of Criminal Procedure

II. The prefect - government representative in each county and in Bucharest . A vision of lege lata and of lege ferenda.

II.1. The current constitutional status.

Art.123 para. (1) of the Constitution provides that **the prefect is the representative** of the government in each county and in Bucharest. According to the legislation in force[1], the prefect has the status of a **civil servant** from **the high-rank public officials**. Since the first draft of the Constitution, by the old art. 122 paragraph (1) that become art. 123 para. (l) by republishing, it was stipulated that the prefect is **the representative of the local government**.

Such a quality is reflected by the Law no. 340/2004 regarding the prefect and the prefect institution, as amended and supplemented, republished[2], which in Article 1 paragraph. (1) reproduces the provisions of Article 123 para. (2) providing that *"the prefect is the representative of local government."*

This is a constitutional and legal norm, which explicitly proclaims the quality of prefect to be the representative of local government.

To this rule set out in Article 123 para. (2) the first thesis is added the one from the same paragraph, second thesis, according to that the prefect *"leads decentralized public services of the ministries and other bodies of specialized central administration.* "

The function to *"lead the decentralized public services"* is derived from prefect representative function of Government locally. The Government, under Article 102 par. (1) of the Constitution, **exercises the general management of public administration**[3].

This is **the administrative role** that government exercises, along with **its political role**, through which ensures the **country's internal and foreign policy**[4].

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[1] We consider art.12 of the Law no.188/1999 on Civil Servants Statute, republished in the Official Gazette of Romania, Part I no. 251 of 22 March 2004 and article 1 paragraph 1 of Law no.340/2004 on the prefect and the prefect institution, published in the Official Gazette of Romania, Part I, no. 658 of 21 July 2004

[2] The republishing was made in the Official Gazette of Romania, Part I, no. 225 from 24 march 2008

[3] The article 102 para. (1) has the following content: "The government, according to the government program accepted by Parliament, ensures the country's internal and external policy and oversees on public administration"

[4] Regarding details on this issue, see **Dana Apostol Tofan** in **I. Moraru E.S. Tanasescu** (coord.) *Romanian Constitution, comment on articles*, ed. Ch Beck, Bucharest, 2008, pp.941-942.

As the government **manages the entire administration**, appears naturally that its representative in the local state administration to lead the state administration in territory, represented by the **decentralized public services of ministries and other central administration bodies of specialty.**

Moreover, Article 1 para. (4) of Law no. 340/2004 states that *"the ministers and the heads of other central government bodies under the public central administration under Government may delegate some of their duties of management and control with respect to the activity of decentralized public services subordinated".* The duties that may be established by the delegation are established by Government decision, now being about GO no. 460/2006[1].

From the quality of representative of the Government in the territory derives the special right that the law recognizes to the prefect[2] **to be given military honors**, under the conditions established by specific regulations[3], during military ceremonies held in the county.

By the content of Article 123 of the Constitution are determined the categories of relationships that the prefect has with other government bodies operating in the county where he was appointed by the Government:

a). as far as that goes the **central government decentralized public services** of specialized central public administration in the county, the **prefect leads them**, hence results the existence of **relations of subordination thereof to the prefect**, being, as allowed by the doctrine and practice, a **horizontal subordination** that coexist with **vertical subordination** which they have to central authorities of central specialized administraion in structure which they belong;

b). with respect to the **local autonomous authorities**, the Constitution provides that **the prefect is not in relations of subordination to them**. We consider par. (3) of Article 123[4], which states, expressis-verbis, **the absence of subordination between prefect**, on the one hand, **the local council** and **the mayor** and **county council** and **its chairman**, on the other hand.

[1] Published in the Official Gazette of Romania, Part I, no. 363 from 26 april 2006

[2] By art. 16 of Law 340/2004

[3] Is about the Regulation on military honors and ceremonies approved by the Minister of National Defence, published in the Official Gazette of Romania, Part I, April 2009 nr.208/1st of april 2009

[4] The text was introduced by Law Review no. 429/2003

Lack of subordination is natural and legitimate, the local autonomy governing the activity of administrative authorities from administrative units excluding any other authorities.

This is the main reason why the Constitution, in the first version, did not consider it necessary to clarify that there is no subordination between the prefect and authorities of local autonomy in communes, towns and counties.

As practice has shown that not always have been understood and were correctly interpreted the laws governing the organization and functioning of public administration in territorial-administrative units, has found it necessary in 2003 to complement the current contents of Article 123 para. (3), that brings two new elements:

a). on the one hand, **is completed the scope of the authorities in the county with the county council president;**

b). on the other hand, is stated that **between the prefect** and **autonomous authorities in communes** and **cities** (local council and mayor) and **from the counties** (county council and county council president) **there are no relationship of subordination**.

To all these changes occurred in present to the fundamental law, the current constitutional status includes the following key dimensions:

a). **the prefect** is **the representative of the Government in each county** and **in Bucharest**, function exercised by virtue of an appointing act passed by the authority that he represents, respectively the Government;

b). **the prefect leads the deconcentrated services of the central specialized administration** from counties and Bucharest, being to them in horizontal relations of subordination;
c). **the relations between the prefect**, on the one hand, and **autonomous deliberative and executive authorities of the communes**, cities (municipalities) and **counties there are not subordination relationships;**

d). **the prefect exercises the supervising of legality of local and county authorities activity**, whose **acts may appeal to the administrative contentious courts**, which attracts **the suspension** of the contested acts. This right of the prefect is qualified in doctrine as **administrative**

guardianship[1] institution that enjoys legal recognition by Article 3 of Law no. 554/2004, of the administrative contentious[2].

II. 2. The prefect, from the perspective of constitutional revision

In the following, we will briefly analyze, from a critical perspective, the draft law amending the Constitution[3], which was subject to review by the Constitutional Court, which declared it, in the most part, contrary to the fundamental law[4].

As far as we are concerned, we have commented on the draft law amending the Constitution[5] before it was subject to analysis of the Constitutional Court and we remain constant to the vision expressed, with the additions that we make in this material.

A first observation is that we share the option to devote a separate section in Chapter V of Title III of the Constitution to regulate "*the state administration of the territory*." In this way, it eliminates the discussions that the current constitutional regulation created, who puts the prefect in Section II of Chapter V of Title III of the Constitution, in which is regulated the *"public local administration"*.

On the other hand, these discussions focused on the use of the concept *"local"* both for administration from the administrative units (villages, towns, cities) but also for those at the **intermediate level** (counties). In other words, the local level, in terms of terminology, encompasses also the county one, which is **partially true**. Secondly, but in relation to the first, hence the issue of whether **the prefect is local body or a central one**? In our opinion, as the representative of the Government in the territory, the prefect is a **central body**, a **public descentralized authority of the Government in the county.**

The prefect is not a part of public authorities which together constitute "local public administration" as it might result from where it is placed. In this respect, the solution that propose the draft law amending the Constitution **is legitimate**. But what is lacked of legitimacy is the article

[1] For more about development of the institution, see **Bezerita Luciana (Tomescu)** - *Administrative trusteeship* PhD Thesis, Bucharest, 2014, University of Bucharest.

[2] Published in the Official Gazette of Romania, Part I, nr.1154 of 7 December 2004. Article 3 of this law is called "administrative trusteeship".

[3] We consider the draft law was released by Parliament in June 2013

[4] By Decision. 80/16.02.2014 published in the Official Gazette of Romania, Part I, no. 246/07.04.2014.

[5] See **Verginia Vedinas** - *Some considerations on the draft law amending the Constitution*, the Public Law Magazine no. 3/2013, pp. 17-35.

content, that is proposed to constitute the section governing *"state administration in territory."* A first aspect, that we consider a drafting one, **aimes even that the proposed section would consist of a single article.** In our view, a section is part of a law, which should have a structure that includes several items, at least two, which confer identity of distinct part of a chapter.

A second aspect concerns **the proposal to establish at the level of fundamental law** also the **sub-prefect**, alongside prefect, but especially how it proposes to achieve this, which, from the text analysis, we find that **it puts on an equal footing legal prefect and sub-prefect**. If in respect to the first issue we can accept, we can also admit that the subprefect to be enshrined in the Constitution, with the second we can not agree. Such a view is unacceptable, legally, and would cause problems in practice. Therefore, we consider necessary for a rethink, otherwise the text. A section of the text proposed to be introduced as the first section of Chapter V of Title III of the Constitution, **could have two items**: a first article in which to regulate **the prefect**, with its constitutional status, as Government representative at the county level, and **a second article** in which to regulate **the sub-prefect,** as deputy of prefect and as its substitute, when he is unable to perform the function.

The Constitutional consecreation of the sub-prefect could be beneficial for the protection of its status in relation to political decisions. We consider the formal declaration, by law, of the prefect and the sub-prefect as high-rank civil servants, to whom political affiliation is prohibited, under penalty of dismissal from office, otherwise. But the government practice flagrantly contradicts the letter and spirit of these regulations, until cancelling them. Secondly, we consider the abolition of one of the two sub-prefects consecrated by Law. 340/2004 that existing in each county[1], which was made by a political decision, not enshrined in terms of legislative, motivated by the so-called need to reduce costs, the economic crisis through which Romania also passes. Beyond that we do not share such a view, that, in our view, **the genuine democracy has its costs and we can not sacrifice citing *"economic"* excuses**, we can point out **the lack of legitimacy of the procedures: political decision can not substitute the law.** So it is that **the law continues to talk about the two sub-prefects**, because in reality, **to have a single sub-prefect in the county.**

[1] Under Article 9, which has the following content *"(1) For carrying out the duties and powers conferred upon it by law, the prefect is assisted by two deputy prefects. Bucharest prefect is assisted by three sub-prefects. (2) Powers subprefect shall be established by the Government *)."*

Therefore, if in the Constitution would be a separate article devoted to the sub-prefect, in which to specify how many sub-prefects are in the county and how many in the capital (in our opinion should be about two to the county and three to the capital), things would be stabilized.

Another serious issue that also requires to be resolved by the Constitution and aimes equally *the prefects* and *sub-prefects* is **their status**, **politicians** or **high-rank civil servants**. As is known, to the prefect and sub-prefect there were conferred the status of high-rank civil servants by law in 2003[1] and, effectively, since 2005, when it was adopted GEO no. 179/2004[2] and was coverred the certification process on their position of the prefects and sub-prefects that, at that time were on their positions, were political appointed and were tenured as high-rank civil servants. This thing has caused some criticism and feedback in doctrine[3] but, although passed 9 years from that moment and more than 10 years after the adoption of the law, the things have not changed, the prefects and sub-prefects continue to be appointed with violation of the recruitment procedure of high-rank civil servants, by national competition, governed by Law no. 188/1999 and Government Decree which implements it[4].

Changing from their function, is drawn, as a rule, by the changes in political alliances governing, an dis realized by **mobility procedure**, which led to wonder whether **mobility is longer a way** to change the service relation of the high-rank civil servant or become a form of its termination[5]. Clarifying the legal status of the prefect and sub-prefect is a problem that is becoming more stronger required in the legal doctrine , to give up what is called demagogy, in sense that it declares something by the law, but in reality things occures the opposite[6].

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[1] It is about Law. 161/2003 on transparency in public functions and public integrity, public dignities and business environment, the prevention and punishment of corruption, published in the Official Gazette of Romania, Part I, no. 279/21.04.2003 which amended several laws, including the Law. 188/1999 on the status of civil servants.

[2] Published in the Official Gazette of Romania, Part I, no. 1.142/16.12.2005.

[3] **Verginia Vedinas** – *Status of the civil servants*, Ed.Law Universe, Bucharest, 2009, pp.84-86.

[4] See Article 18 of the Law no.188/1999 on the Statute of civil servants and G.D. 611/2008 for the approval of the organization and career of civil servants

[5] **Irina Alexe** - *Mobility of high-rank civil servants - way to change or terminate the service* in nr.4/2009 Public Law Review, published in Scientific Notebook of the Institute of Administrative Sciences "Paul Negulescu" no. 7/2005, pp.275-284.

[6] **Radu Nicolae Stoian** - Prefect in Romanian law and comparative, Ph. thesis, University of Bucharest, 2014.

Therefore, we allow ourselves to reiterate this problem, as the need to slice in a manner of harmonizing the text of the law with the practice of governance and administration. The solution that we support and we have presented it in our other articles[1] is the one of returning to the status of **the prefect and sub-prefect as politicians**. In our view, within a genuine rule of law, as Romania is stated by the Constitution, and how it aspires to be, perfecting the legal and institutional realities, it is not accepted the existence and perpetuation of some ambiguous situations, which creates a sort of pharisaism, of duplicity that are not good for anyone. It may serve some interest at a time, cyclical, but erodes the foundations of democracy. What stands out a rule of law and democratic from a totalitarian one is the correspondence between the promoted ones at the legislative and declarative level and what actually happens, in practice of governance and administration. The solution is, moreover, supported by the Constitution, which gives **the quality** of **representative of the government** for **the prefects**. Or, since the government is eminently a political body, is naturally that also its territorial representative to have the same character, and hence **the sub-prefect**, the prefect replacement right.

Conclusions

We have analyzed in this article the role and the place of the prefect, as representative of the state in territory.

It is a traditional institution for Romania, whose status varied between **the quality of a politician** and the one of **administrative officer** , of the "career prefect" dominant, in terms of extent in time, being the first quality.

In the 150 years since its appearance, the prefect continues to reveal as an institution that has not yet found a natural track of its manifestation. After 1990, the prefect was, until 2005, **a politician** as otherwise the sub-prefect, so as from 2005 to go back to **the prefect - official career,** by a forced procedure that has revealed the inefficiency in terms of practical settlement and legal institution[2]. Its role, however, is extremely important and deserves to be understood in its full and complex valences equally.

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[1] See **Verginia Vedinas**, **Daniela Ciochina**-Priorities of constitutional revision in terms of public administration regulation, the Public Law Magazine no. 1/2013, pp. 64-68.

[2] See **Irina Alexe**, *High-rank public officials*, Law Universe Publishing House, Bucharest, 2014, Annex II "The employment situation of public functions in the category of high-rank public officials by the prefect and sub-prefect in the period 01.01.2009 - 01.04.2013", pp.283-314

For this, **we must start from the role of Government**, whose representative is, **to determine the role of prefect in the territory**. Since the Government exercises its dual **political** role, through which ensures the country's external and internal policy and administrative, which oversees the general management of the public administration, results that also to the prefect incumbent powers that reflected this dual role. They are otherwise enshrined by the organic law under which incumbent to the prefect responsibilities in achieving territorial government program, as well as general management responsibilities in public administration, having to oversee the legality of the activity of local autonomous authorities.

For these reasons, we argued also through this article the need to clarify the legal status of the prefect, in order to strengthen its role as representative in counties and in Bucharest as Government guarantor of constitutional and legal status in public administration from territorial-administrative units.

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