

INTERNAL AUDITING & RISK MANAGEMENT

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EMPLOYMENT INSIDE REGION IN ROMANIA

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Abstract :

In the context of economic transition, the labor market in Romania has undergone significant changes in the volume and structure of the main indicators of labor. After 1990, the decrease of inhabitants in Romania, due to the negative natural growth and massive emigration, resulted in the reduction of the active population and employment in all eight development regions in Romania.

The paper analyzes the phenomenon of labor employment in regional profile. In essence, two issues were here followed: public participation in economic and social regional developments and employment structure. There were also highlighted the differences and development gaps between regions of Romania in the use of labor in order to identify conclusions that can improve regional development policies and to enhance effective action to fill the available labor resources.

It is this way that the paper highlighted the huge gaps between Bucharest-Ilfov region and other regions of the country in terms of employment structure by economic activities, the region around the Capital City keeping in context the smallest share of the population employed in agriculture.

Keywords : labor market, employed population, regional gaps.

Cod JEL: J01, J43, J80

1. Introduction

The economic restructuring process succeeded to re-direct an important part of the old unemployed people of cities towards rural areas, but this for embracing a just subsistence agriculture. So, the high rural population here existent and resulted, face to the large amount of arable land as available succeeds in their turn to make the agriculture predominant at least in the regional view and especially in the southern part of the country.

There are, besides the increasing number of agricultural people, crumbled farmland resulted from the property reform and low agricultural technology assimilated that equally resulted into a significant productivity diminishing. And concomitantly to agricultural development in particular, regional economic structure and distribution of activities continuously adapted to realities like: natural resources availability, their local processing traditions, facilities of available technology and capital, price system and market mechanism, as also locally specific.

Last year, Romania was by far the top European Union member country regarding the percentage of agricultural farmers in total active population, i.e. the top decreasing order in this regard within EU28 was: Romania (25.4%), followed by Greece (13.0%) and Poland (11.2%).

It is general remark that the education level currently becomes increasingly important for the evolving structure of employed population, as previously a progress providing factor for the whole nation. When considering the same EU28 scale in 2014 for the education level of labour of 15-64 years old, the medium one was predominant, as 49%, that further meaning by sexes 50.3% for males and 47.3% for females in their separate totals. So that the higher education level came on the second position as such with 32.7%, that further meaning 29.8% for males and 36.2% for females, and lastly the low education level was the third with 18.3%, that meaning 19.9% for males and 16.5% for females.

As correspondingly in Romania, the National Institute of Statistics' (NIS) data equally show a predominant medium education level of labour, for 60.8% of males and 54.6% of females, followed by the higher education for 16.7% of employed males and for 22.3% of employed females.

2. Employed population's regional distribution in Romania

In the 2008 year end the civil employed people in Romania were as high as 8474 thousands, then in the 2013 year end they were 8530 thousands, meaning a 216.4 thousands decrease along Five-Year. Table 1 shows the employed people's structure on inside developing regions.

Table 1 Employed by Romania's developing regions (% of total)

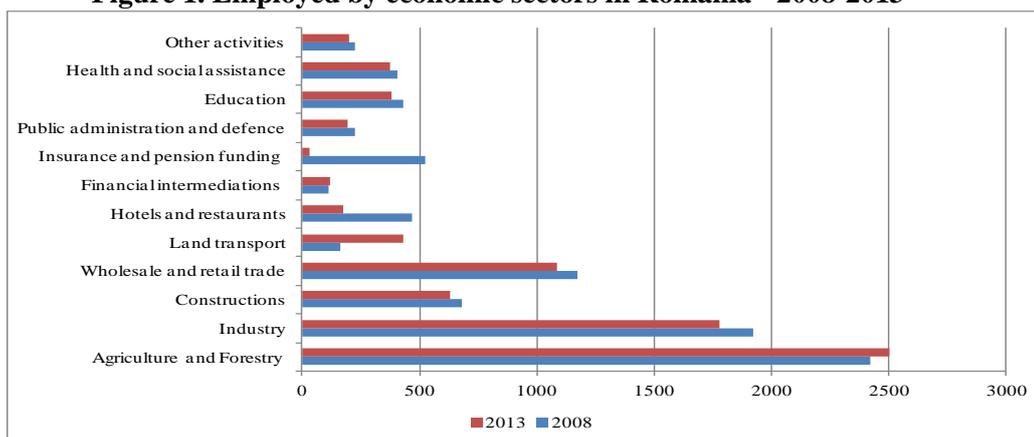
Developing region	2008	2013
North-West	13.6	13.9
Center	12.0	12.2
North-East	14.3	14.1
South-East	12.1	11.8
South	13.7	13.7
Bucharest & Ilfov	14.6	14.7
South- West	9.9	9.8

West	9.8	9.8
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Data source: *Romania's Yearbook 2009-2014 of the NIS*

Not too much structural change in the regional labour's distribution in Romania during these five years to be noticed. But now seeing on the economic sectors, the same employed people's structure appears like in Figure 1, that recalls the above introductory idea about significance of agriculture and forestry in this respect, and this at the national scale viewed.

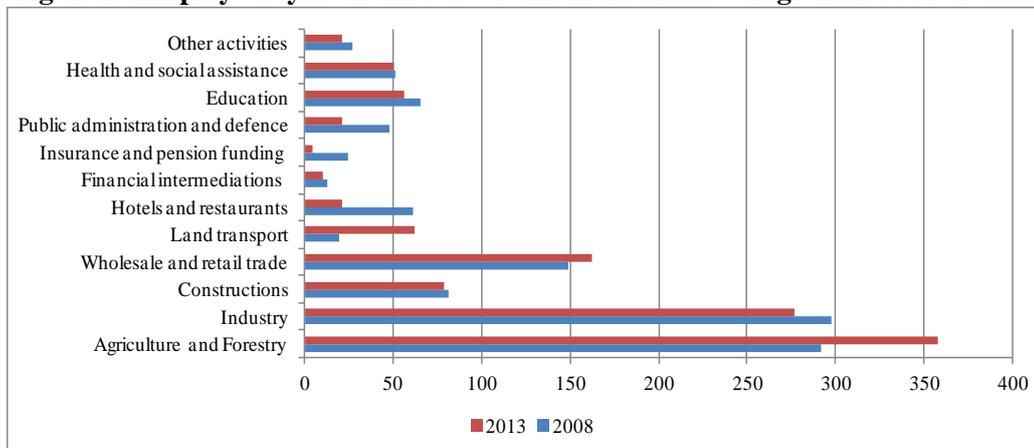
Figure 1. Employed by economic sectors in Romania - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the 2008 year end, the North-West region's civil population employed was as high as 1187.9 thousands and in the 2013 year end 1188, namely a relatively constant number, but that is the lonely regional case; though, a case in which the activity structure of population significantly changed, as concomitantly (see in Figure 2).

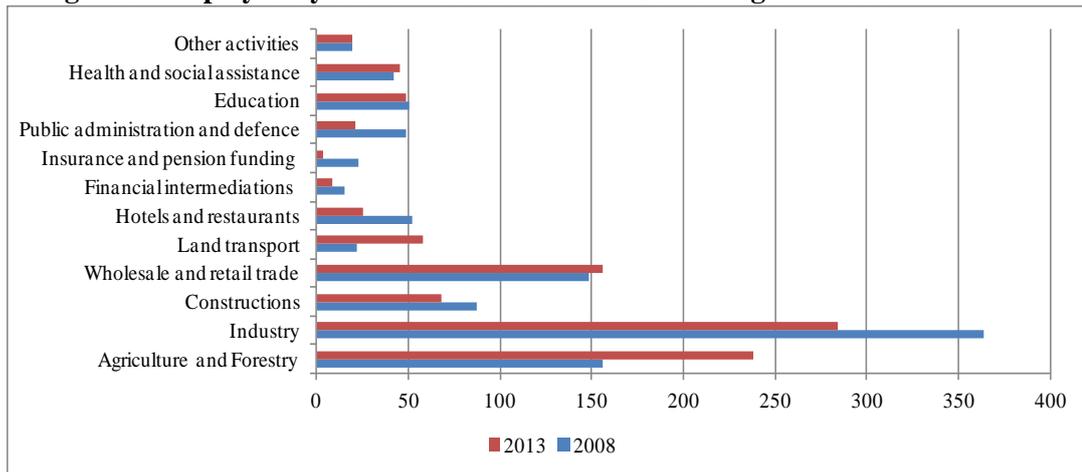
Figure 2: Employed by economic sectors in the North-West region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the Center region, in the 2008 year end the civil population employed accounted 1046.5 thousands and in the 2013 year end 1040.8 thousands, whereas the activity structure of this can be seen in Figure 3. This region is an example of the industry predominance, in this regard, agriculture coming on the next position for people employed and this in the aftermath of an important growth of these years.

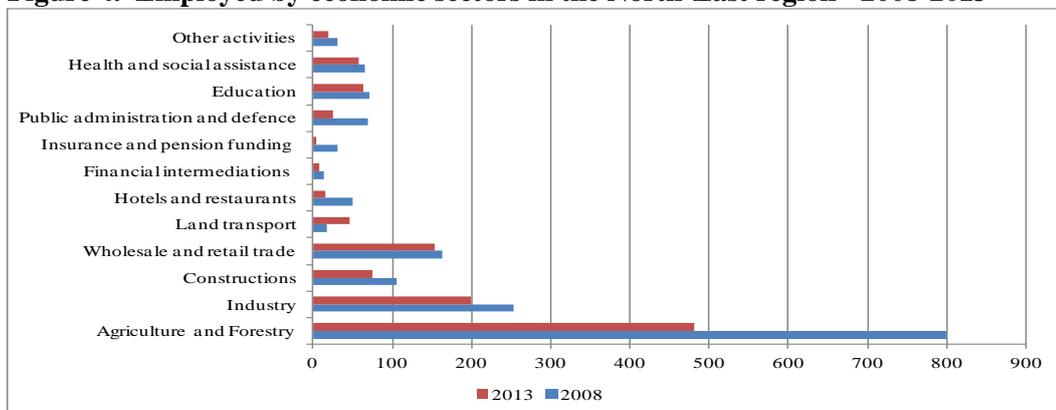
Figure 3. Employed by economic sectors in the Center region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

Now in the North-East region, in the 2008 year end the civil population employed was 1248.9 thousands and in the 2013 year end 1203.7 thousands; the same populations were distributed on activity structure as in Figure 4. In this case, agriculture was predominant even in a significant declining trend.

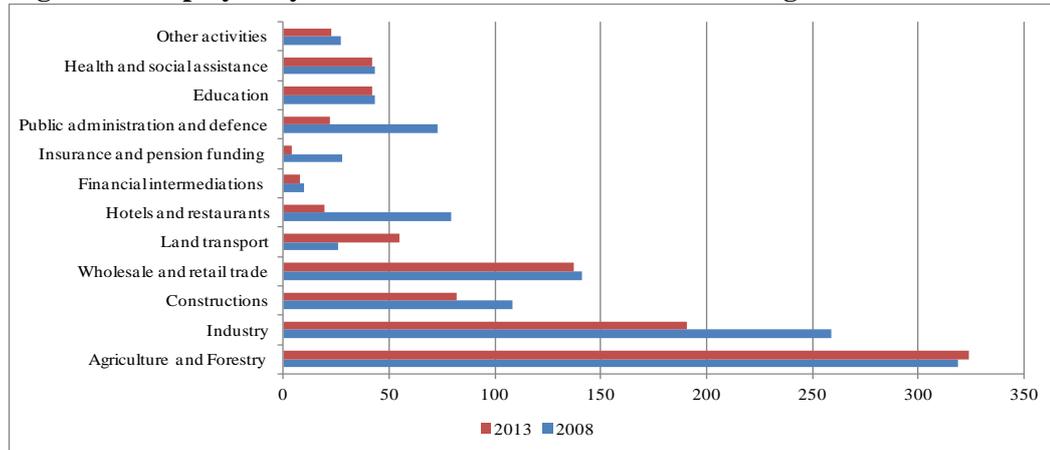
Figure 4. Employed by economic sectors in the North-East region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the South-East region, in the 2008 year end the civil population employed was 1057.6 thousands and in the 2013 year end 1003.9 thousands and the activity structure of population was in the same years as in Figure 5. Here, the industrial population dramatically lowered along this period.

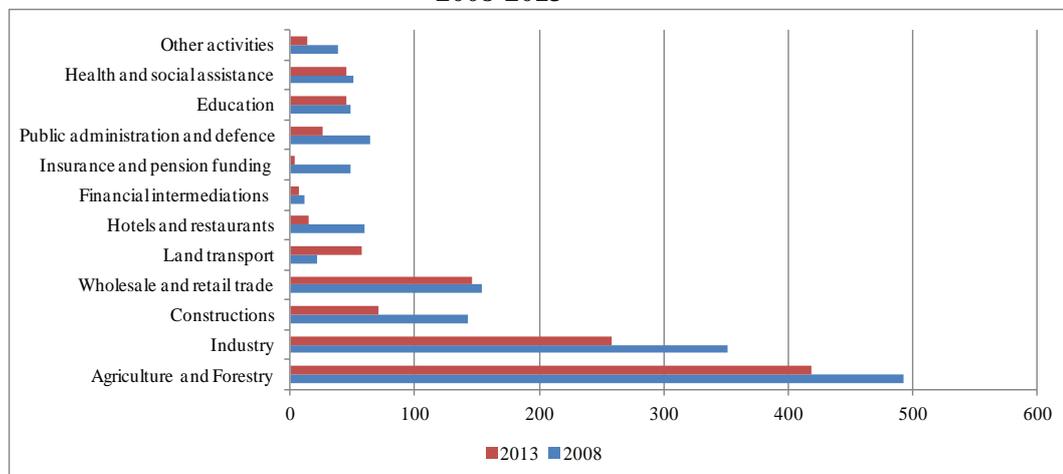
Figure 5. Employed by economic sectors in the South-East region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the South (Muntenia) region, in the 2008 year end the civil population employed was 1201.0 thousands and in the 2013 year end 1168.8 thousands and the activity structure was distributing the same population as shown in Figure 6. Here both industry and agriculture were losing employment and agriculture was staying as majority during these five years.

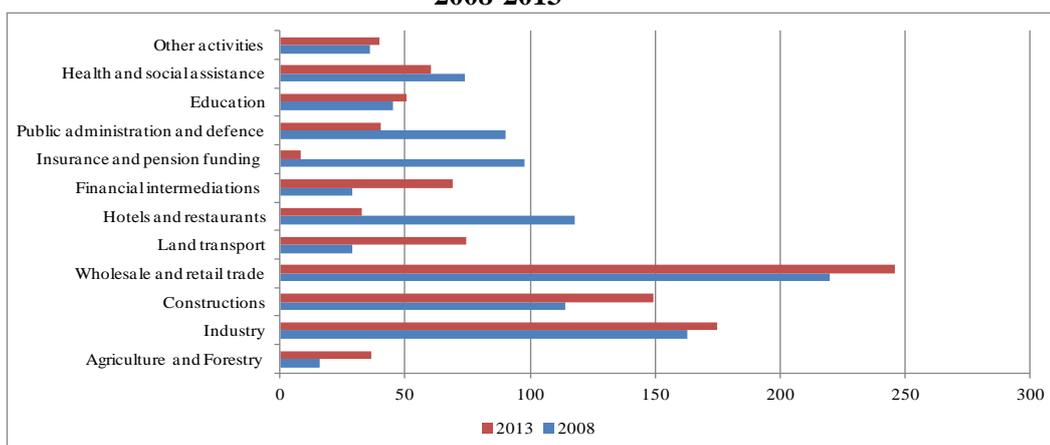
Figure 6. Employed by economic sectors in the South-Muntenia region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the Bucharest & Ilfov region, in the 2008 year end, the civil population employed was 1281.7 thousands and in the 2013 year end 1256.9 thousands and the activity structure of population was like in Figure 7 along the same period. This is a rather atypical region at the national scale, namely it is the lonely one with the services activity dominant.

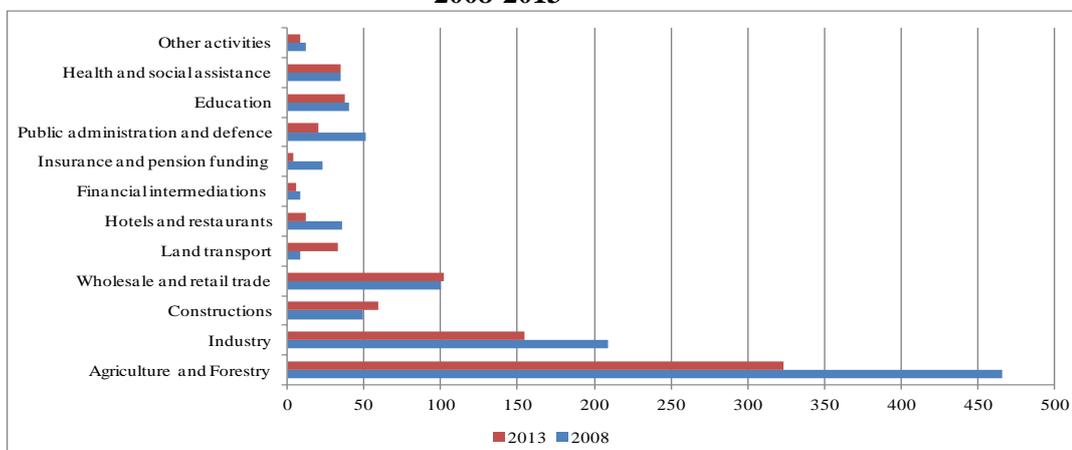
Figure 7. Employed by economic sectors in the Bucharest&Ilfov region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the South-West Oltenia region, in the 2008 year end the civil population employed was 867.0 thousands and in the 2013 year end 832.0 thousands. The activity structure employed people distribution was so like in Figure 8. This is another region of dominant agriculture, despite this sector losing enough people employed.

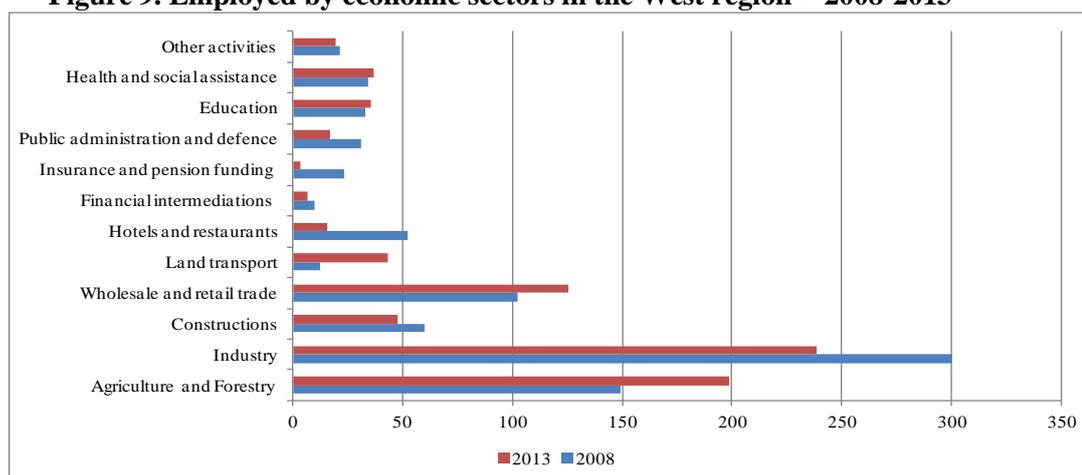
Figure 8. Employed by economic sectors in the South-West Oltenia region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

In the West region, in the 2008 year end the civil population employed was 856.4 thousands and in the 2013 year end 832.0 thousands and its activity structure was as shown in Figure 9. The West region is the third one in the decreasing order in which agriculture doesn't hold the majority of its employed population. Despite this, the agricultural population is here significantly increasing along this period.

Figure 9. Employed by economic sectors in the West region - 2008-2013



Data source: *Romania's Yearbook 2009-2014 of the NIS*

Then, there is a list of conclusions of the above analysis:

- it is about an overall 216.4 thousands decrease of population employed in all Romania's economic sectors;
- contrary to this, it is a slight growth to be noticed in the North-West region, namely of 0.1 thousands;
- and overall again the other regions accounted an absolute decreasing of people employed: South-East -53.7 thousands, North-East -45.2 thousands, South-West -35.0 thousands, South -32.2 thousands, Bucharest-Ilfov -24.8 thousands, West -19.8 thousands, Center -5.7 thousands;
- only three regions, of the total of eight, in which people employed in agriculture aren't majority of total people employed;
- the Bucharest&Ilfov region is atypical nation-wide, i.e. trade is the highest in employed people structure, followed by industry and constructions.

It is to see the total employed people of Romania diminishing at both the national scale and in rural areas. Overall, in 2013 the employment rate

of the 15-64 years old people was 59.5%, namely 4.7% lower than the European average. As for the rural areas, the employment rate diminishing for the same age group was diminishing from 61.6% in 2008 to 60.7% in 2013.

As for people employed's dynamic on activity sectors in the 2008-2013 interval, analysis indicates significant decreases as such for the primary and secondary sectors: -2.6% in agriculture, -4.4% in industry and constructions face to an increase of 14.5% in the tertiary sector. As geographically, significant disparities persist for pretty minimal numbers as such for either industry and/or tertiary sector in some rural localities, or agriculture up to 80% of people employed.

Employment seen from professional status results for 2013 as high as 89% self employed and contributing family workers in rural areas. These workers hold 42.6% of the total employed people in rural areas, but unfortunately this aspect plays for the subsistence agriculture rather than for any entrepreneurial spirit. As seen from residence areas, it is to be noticed that the employment rate in rural areas in 2013 was 51.5%, namely 1.5% higher than in urban areas. But this isn't for more favourable employment opportunities, on the contrary.

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PERFORMANCE AND VALUES IN ECONOMIC ORGANIZATIONS

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Abstract

The performance of an organization is influenced by the way in which organizations define their mission and provide the resources needed to carry out activities, how each employee knows their responsibilities, and the quality of communication at all levels.

In view of the increase in organizational performance, it is necessary to create and implement systems and procedures that will harmonize the budget execution process with the allocation of resources, minimize the costs and ensure the highest level of achievement of the established objectives.

Performance measurement is performed using performance indicators that allow for quantification of costs, measurement of activity efficiency as a result of efforts and results, measurement of effectiveness of achievement of objectives, measurement of financial result. Attention must be focused on assessing the extent to which the human resource achieves its objectives and fulfills the performance criteria, as it is the decisive factor that decides on the level of performance.

Keywords: *economy, efficiency, effectiveness, performance measurement, organization, performance, performance valences, financial statements.*

Cod JEL: *M40, M41.*

Elements of performance

The performance of an organization is influenced by how human, material, informational and financial resources are used to implement the activities and how they help achieve the set goals.

The research of the specialized literature reveals that the elements of the concept of performance within an organization can be presented as

follows: the referential system, the dimensions of the performance and the performance measurement.

The features of the referential system within the organization are given by:

- the complexity of the organization's mission, which is determined by the structure and complexity of the activities carried out, the way of quantifying the results of the activities carried out, identifying the market requirements and needs in relation to the quality of the products / services provided, the value system promoted and the image of the organization the market segment in which it operates;
- strategic development directions, established over an average period of time, and whose realization is largely influenced by the availability of the resources available for their realization;
- the general and specific objectives, which although they are established for all areas of activity of the organization, their realization does not ensure, however, the fulfillment in full and in term of the activity programs.

Performance dimension features within the organization are given by:

- resource economics, seeks to ensure that the resources needed to carry out the activities are assured in quantitative and qualitative terms and in the most advantageous conditions.
- the cost of operation is influenced by the constraints on the lack of resources in relation to the needs and exigencies of the market;
- the efficiency of the activity, has a pronounced collective character, as the organization provides products / services, seeking profit,
- the effectiveness of the activity is characterized by the capacity of the organization to fulfill its goals, objectives and attributions within the limits of the available resources.
- the quality of products / services, requires compliance with certain standards in their production and supply.

Performance-specific performance traits are given by the design and implementation of performance measurement mechanisms. As a rule, this is a complex and difficult process, due to the variety and diversity of the markets, the variety and diversity of the rules on the market, the different understanding of the concept of performance, type, nature and structure of products / the services provided in relation to those existing on the market and the complexity of the social and political environment in which the organization operates and which generates risks with a direct influence on performance.

Performance measurement allows tracking the efficient and effective allocation of available resources to the organization and helps substantiate and make managerial decisions.

Consequently, the dominant feature of performance growth is the establishment of functional structures, the increase of managerial accountability and the use of appropriate processes for carrying out the activities.

The measures that may be ordered to increase performance are related to the following:

- the consistent application of the management method to objectives;
- clear definition of the responsibilities of the personnel involved in achieving the objectives;
- performance measurement using performance indicators;
- rational use of available resources;
- final evaluation by assessing the quality of the results and the level of efficiency achieved.

Ensuring performance within an organization involves establishing a relationship between results, means and goals, and an approach in terms of effectiveness and efficiency.

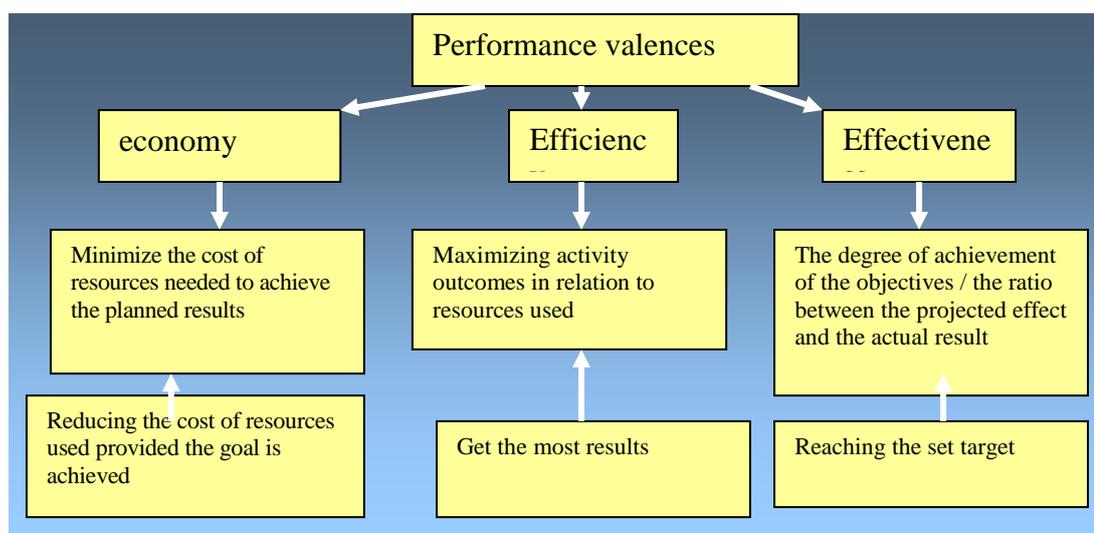
The importance of performance and their significance in economic organizations

An organization can be considered as performing if it is both efficient and effective in building up and using resources. According to this principle, being efficient means achieving goals with little effort or overcoming goals with planned resources.

According to the literature, the performance concept is associated with three valences:

- economics - purchasing the necessary resources at the lowest cost;
- efficiency - maximizing the results obtained from a given amount of resources, or minimizing the amount of resources for a planned outcome;
- effectiveness - the results achieved reach the expected results.

Starting from research in the field of performance-specific criteria, as well as from the overall goal of measuring performance, namely to improve efficiency and increase efficiency, performance valences can be as follows:



Economics is defined as "minimizing the cost of resources allocated to achieve the expected results of an activity, while maintaining the appropriate quality of these results." This implies that inputs of resources required to ensure the operation must be at the best value for money or inputs of resources must be made at the best possible price.

Efficiency is defined by "maximizing the results of an activity in relation to the resources used" This implies achieving a higher level of results with a volume of resources or achieving the same level of results but with less resources.

Efficiency, on the one hand, implies obtaining maximum economic effects with a given consumption of resources, and on the other hand, obtaining the volume of planned effects with a minimum consumption of resources. The general expression of efficiency is given by the ratio of economic effort to economic effect, namely:

$$E = \text{Effort} / \text{Effect} - \text{when effects are maximized};$$

or

$$E = \text{Effect} / \text{Effort} - \text{when efforts are minimized};$$

E - efficiency;

Ef - economic effort;

Ee - the economic effect

Efficiency is influenced by the quality of decision-making, the skills and professional capacity of the human resource, and the ability of the organization to perform tasks in a timely manner.

Effectiveness is defined by "the degree of achievement of the scheduled objectives for each activity and the relationship between the projected effect and the actual outcome of the activity. In practice, the

concept looks at the ratio between the result obtained and the objective to be achieved. Thus, the objectives must: • Express coherence with the mission of the organization; to be within a time horizon, measurable and allow the development of quantitative and qualitative indicators.

According to the literature, it is increasingly spoken of that "it is much more important to do well what you have done - effectiveness - than to do something else - efficiency." Thus, within an organization, it is not can speak of efficiency without effectiveness or vice versa, the relationship between these concepts being a whole-part, namely effectiveness is a measure of what is being done, efficiency is a measure of how it is done.

Under current development conditions, performance must also be addressed in the context of sustainable development, taking into account the present situation and development directions established for the upcoming period.

In order to achieve this goal, the directions of action must be on how to better manage the organization's resources, achieve the set profit levels and achieve the best possible performance by ensuring the organization's effective functioning.

Performance measurement through financial statements

In order to measure financial performance, it is necessary to appeal both to professional and financial results in performance measurement and to an analysis of the interdependencies between internal and external parameters, quantitative and qualitative, technical and human, physical and financial management.

Measuring performance through financial statements results in determining whether financial resources are used economically, efficiently or effectively, and whether "human, material, informational and financial resources are used to achieve the proposed objectives."

The financial statements provide information on the position and financial performance and changes in the entity's financial position as follows:

Components of financial statements	Measurement indicator of financial performance
Balance sheet	The patrimonial result
Heritage account	The patrimonial result
State of Treasury Flows	The Treasury Outcome
Changes in the structure of assets / capital	Overall result
Budget execution account	Outcome of budget execution

The balance sheet is considered a patrimonial asset indicator, provides information on the financial position through its assets, liabilities and equity;

The property income account is determined as a difference between income and expense, discloses information on financial performance on the basis of the patrimonial outcome;

The cash flow statement provides information on the existence and movements of cash in terms of operational, investment and financing activities;

The statement of changes in the structure of assets presents information on the structure of equity, namely: funds, property, retained earnings, asset revaluation reserves and amortization and amortization.

The budget execution account, implements the interface with the approved budget, reflects the outcome of the budget execution and recognizes all the financial operations during the financial year relating to the revenue received and the payments made.

Following the current trends of the economy performance measurement may include: financial result; the quality of the products / services provided; the quality of the human resource; the establishment and use of financial resources;

In order to ensure good functioning and a certain level of performance at the organization level, it is necessary to have an assessment of: the management tools used, the budget forecasts, the quality of the products / services.

Performance measurement tools are specific to each organization and are designed to meet management requirements. Under these circumstances, measurement tools, financial or other, which the organization uses to measure an objective, are the indicators.

In order to be used in various analyzes, indicators have to meet a number of criteria related to: justification; trust; understanding; resistance to adverse behaviors; out comprehensive; focus on performance.

In some authors' view, the indicators are "objective data describing a phenomenon from a strictly quantitative point of view", for others, "indicators are numbers that accurately express the controlled phenomenon," or "digital data originating from an activity or action , which can effectively contribute to the enrichment of progress decisions or their implementation".

Taking into account the views of specialists on understanding the concept, we believe that the following should be taken into account when defining an indicator:

- definition of the indicator - be clear, easy to understand and attached

- to an objective;
- the formula for calculating the indicator - should be simple and use quantifiable data and information within the entity
 - the frequency of the indicator's calculation - should be correlated with the deadlines for achieving the objectives, but it is advisable to carry out interim evaluations to ensure that the achievement of the objectives leads to the expected results;
 - why the indicator was chosen - it is necessary to specify how it contributes to the measurement of the objective and how it guarantees performance;
 - the sources of data needed to calculate the indicator - it must be within the organization, be the result of analyzes and processing and be used and approved by the management;
 - possible interactions with other indicators - Set of established indicators should be a homogeneous one and contribute to the actual and complete measurement of an objective.
 - the range of decisions that can be taken based on the indicator - an indicator is well established and defined if it helps management in making the decision;
 - how to present the indicators - they can be presented in both relative and absolute sizes.

In order to ensure a good performance measurement, it is necessary for the indicators conceived and used to make it possible to assess the consumption of resources in relation to the results obtained and to compare them with the established levels.

Conclusions

The performance of an organization is influenced by how it defines its mission, the resources available to carry out its activities, the degree of knowledge by each employee of their responsibilities, the way of measuring the results obtained, the elements that are taken into account at substantiating managerial decisions, and the quality of communication at all levels.

Taking into account the current conditions and trends of the economy, which make resources limited, the measurement systems and, at the same time, the increase in performance must aim to: improve the functioning of the organization in terms of resource economy, efficiency and effectiveness, improving internal control mechanisms by ensuring the effectiveness of risk management and the functionality of internal controls; the allocation and use of available resources to achieve performance, motivating staff and using all of their professional capacity to increase organizational performance.

The performance of an organization exists if it can be measured with a set of indicators with a degree of complexity more or less high.

Applying a performance measurement model based on the quantification of results according to the performance indicators will help determine the level of performance achieved. Attention must be focused on assessing the degree and the way the human resource achieves its individual objectives and fulfills the performance criteria, given that it is the decisive factor that decides on the level of performance achieved.

The use of a performance measurement indicator system should cover at least the following: quantification of expenditure for carrying out the activities, measuring efficiency as a result of efforts and outcomes measuring the effectiveness of achieving the objectives, measuring the quality of derulater activities; the measurement of the financial result, respectively the accounting result, considered the main indicator for the measurement of the financial performance. The established performance indicators system can be used both to determine performance, activities or actions, and to determine the contribution of each manager and employee to achieving the objectives of the organization.

Setting goals and reaching targets is significantly influenced by managerial competence and staff quality, which are the decisive factors in achieving performance. The manager must have autonomy and demonstrate flexibility in the decision-making process, authority over subordinates, formal leadership rules, delegation capacity and stability to achieve the objectives. In exercising his / her duties, the manager fulfills a dual role, ie a specific internal role exercised within the organizational and decision-making process and an external role to deal with the organization's exposure to the requests of interest groups or institutions and authorities with prerogatives in the field.

Promoting employees with proven professional and managerial skills that have achieved performance and are responsible for implementing policies and achieving the set goals is the key lever in increasing the quality of performance and performance.

The design and implementation of an internal control system within the organization, based on sound financial management of resource management and utilization, on ensuring the integrity of the property and on the application of the necessary corrective measures, is the premise of achieving at least the planned results. The implemented internal control system must ensure identification of malfunctions, develop adequate internal control tools, limit risks and ensure the achievement of activities.

Under the current conditions, the rigor of resource use must ensure cost reduction and focus on programs to achieve the set goals. The core tools available to managers, used to increase performance, are knowledge of

cost behavior in all their complexity. Knowledge of costs is also a decisive factor in making decisions and planning future activities.

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**NEW PRIORITIES FOR EUROPEAN COOPERATION IN
EDUCATION AND TRAINING AS PART OF THE STRATEGY FOR
EDUCATION AND TRAINING (ET 2020)**

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Abstract

Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training (‘ET 2020’) enshrine the essential role the education and training play in addressing the current and future challenges Europe and its citizens are facing, and at the same time they confirm Member States’ responsibilities for their own education systems.

The main purpose of European cooperation should be to support the further development of education and training systems in the Member States so that the European Union can achieve its goal of becoming a world-leading knowledge-based economy.

Within 2015 Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training, New priorities for European cooperation in education and training have been established, declined in concrete issues, of which, for higher education, we can retain for example: <Higher education systems should boost the knowledge economy and respond to society’s needs>.

Through New priorities for European cooperation in education and training, the Strategy for Education and Training in Romania for the period 2016-2020 aims to correct the identified issues in the area of reference, through strategic objectives, the directions of action and the specific actions it foresees, and then, according to estimates, by 2020, the share of Romanian labour force with a high level of qualification should increase significantly.

The strategy responds to the strategic objectives for the 2010-2020 decade, with a focus on strengthening training systems to make them more attractive, relevant, career-oriented, innovative, accessible and flexible, tailored to the needs of the labour market.

The international commitments that Romania has taken under the Europe 2020 Strategy, correlated with the recommendations of the ET 2020 Strategic Framework, are also found at the basis of the legislative

instruments regulating the Structure of the accredited private higher education institutions (...) the "Athenaeum" University of Bucharest is part of.

Keywords: *Education and training, European cooperation, New priorities, Strategy in Romania, Strategic objectives, "Athenaeum" University of Bucharest.*

JEL classification codes: *K - Law and Economics/ K0 - General*

Preliminaries

Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training ('ET 2020'), emphasizes that: education and training have a crucial role to play in meeting the many socio-economic, demographic, environmental and technological challenges facing Europe and its citizens, and efficient investment in human capital through education and training systems is an essential component of Europe's strategy to deliver the high levels of sustainable, knowledge-based growth and jobs.¹

At the same time, the Council of the European Union recognizes that it fully respects Member States' responsibilities for their own education systems.

By 2020, the main purpose of European cooperation should be to support the further development of education and training systems in the Member States aimed at ensuring:

- „a) the personal, social and professional fulfilment of all citizens;
- b) sustainable economic prosperity and employability, whilst promoting democratic values, social cohesion, active citizenship, and intercultural dialogue”.²

In a global perspective, by providing education, training and attractive research opportunities, the European Union will be able to achieve its objective of becoming a world-leading knowledge economy.

The Council of the European Union also points out that lifelong learning should be seen as a fundamental principle for the whole framework, covering learning in all contexts - „whether formal, non-formal

¹ Council conclusions of 12 May 2009 on a strategic framework for European cooperation in education and training ('ET 2020'), 2009/C 119/02, Official Journal of the European Union, available on the website: [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52009XG0528\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52009XG0528(01)&from=EN), accessed on 21.07.2017.

² Idem.

or informal - and at all levels: from early childhood education and schools through to higher education, vocational education and training and adult learning”.¹

For the period 2010-2020, European cooperation in education and training should be established in the context of a strategic framework - „the framework should address the following four strategic objectives:

1. Making lifelong learning and mobility a reality;
2. Improving the quality and efficiency of education and training;
3. Promoting equity, social cohesion and active citizenship;
4. Enhancing creativity and innovation, including entrepreneurship, at all levels of education and training”.²

1. New priorities for European cooperation in education and training

Within 2015 Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020), *New priorities for European cooperation in education and training* have been established as follows:³

“1). Relevant and high-quality knowledge, skills and competences developed throughout lifelong learning, focusing on learning outcomes for employability, innovation, active citizenship and well-being;

2). Inclusive education, equality, equity, non-discrimination and the promotion of civic competences;

3). Open and innovative education and training, including by fully embracing the digital era;

4). Strong support for teachers, trainers, school leaders and other educational staff;

5). Transparency and recognition of skills and qualifications to facilitate learning and labour mobility;

6). Sustainable investment, quality and efficiency of education and training systems”.

The new priority areas are declined into *concrete issues*, for further work up to 2020, of which, for higher education, we (selectively) keep in mind the following:⁴

¹ Idem.

² Idem.

³ 2015 Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020), *New priorities for European cooperation in education and training*, (2015/C 417/04), Official Journal of the European Union, available on the website: [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015XG1215\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015XG1215(02)&from=EN), accessed on 21.07.2017.

⁴ Idem, Annex - Priority areas for European cooperation in education and training (extract).

- = “Promoting the relevance of higher education to the labour market and society, including through better intelligence and anticipation about labour market needs and outcomes, e.g. tracking the career of graduates, encouraging the development of curricula, more work-based learning and enhanced cooperation between institutions and employers;
- = Promoting civic, intercultural, and social competences, mutual understanding and respect, and ownership of democratic values and fundamental rights at all levels of education and training;
- = Increasing synergies between education, research and innovation activities, with a sustainable growth perspective, building on developments in higher education;
- = Raising the attractiveness, for both genders, and the status of the teaching profession;
- = Developing strategic partnerships and joint courses, in particular through increasing internationalisation of higher education and vocational education and training;
- = Exploring the potential of the Investment Plan for Europe in the area of education and training, including by promoting funding models attracting private actors and capital”.

The 2015 Joint Report of the Council and the Commission also shows that: „Member States will select, in accordance with national priorities, those areas and issues for work and cooperation in which they wish to participate”.

2. The Strategy for Education and Training in Romania for the period 2016-2020

In this European context, the Strategy for Education and Training in Romania for the period 2016-2020, approved by the Decision of the Romanian Government no. 317/2016,¹ proposes a coherent approach to initial training and ongoing training leading to the development of an accessible, attractive, competitive training system relevant for labour market demands, addressed to participants in lifelong learning.

The Strategy approaches in an integrated manner initial and continuing education and training and is complementary to the National

¹ The Strategy for Education and Training in Romania for the period 2016-2020, approved by the Decision of the Romanian Government no. 317/2016, published in the Official Gazette of Romania, Part I, no. 347 bis of 06.05.2016.

Lifelong Learning Strategy 2015-2020¹ and the Strategy on reducing early school leaving in Romania².

The Strategy for Education and Training in Romania for the period 2016-2020 contains at Chap. III - Analysis of the current framework for the organization and functioning of training³, Forecasts of Labour Force Demand and Supply at the Horizon of 2025, the CEDEFOP Preliminary Study in 2015⁴ for the 2025 horizon, which highlights the following trends (point 39 of the Strategy):

a) employment is expected to increase slightly, but will remain below the level of 2008 prior to the crisis;

b) the highest increases in employment will be in the distribution and transport sector;

c) the largest employment opportunities, around 47%, will be for workers in agriculture, forestry and fishing, almost eight times higher than the 6% forecast for these occupations for the European Union as a whole (point 41 of the Strategy);

d) the highly skilled labour force will reach 39%, compared to 26.6% in 2013;

e) the increase in the number of jobs in Romania by 2025 is expected to be in the same sectors that have grown over the period 2008 - 2013 - services, distribution and transport and non-commercial services - the majority state sector, but in a slower pace than in the period immediately following the economic crisis.

According to CEDEFOP forecasts, between 2015 and 2025, the slow growth in employment and the aging of the labour force show that the demand for replacement in Romania is expected to provide almost all employment opportunities (point 40 of the Strategy).

The labour force in Romania is becoming increasingly qualified due to the fact that more elderly, less qualified people leave the labour market and more young people with higher education enter the labour market (point 43 of the Strategy):

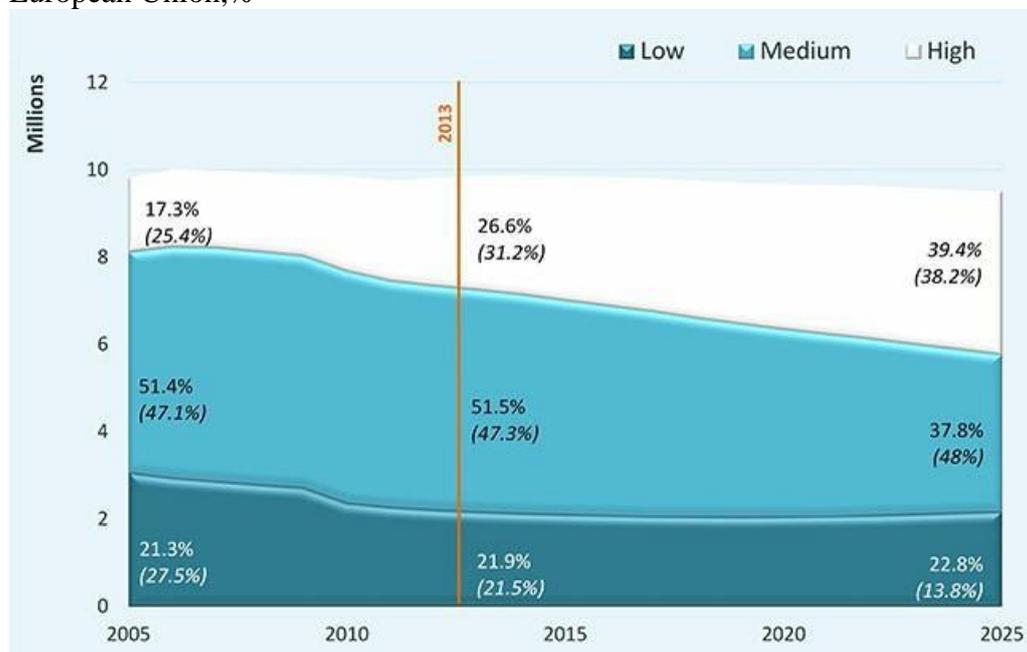
¹ National Lifelong Learning Strategy 2015-2020, approved by Decision of the Romanian Government no. 418/2015, published in the Official Gazette of Romania, Part I, no. 448 bis of 23.06.2015.

² The Strategy on reducing early school leaving in Romania, approved by the Decision of the Romanian Government no. 417/2015, published in the Official Gazette of Romania, Part I, no. 439 bis of 19.06.2015.

³ Study conducted in January 2014 by the National Institute for Scientific Research in the Field of Labour and Social Protection INCSMPS within the research and development project no. 3/21.11.2013 "Investment Incentive Models in Continuous Training at Firm Level" concluded with the Ministry of Labour, Family, Social Protection and the Elderly.

⁴ Cedefop - Romania Country forecasts Skill supply and demand up to 2025.

Labour market trends by skills, 2005-2025, Romania and the European Union,%



Data source: CEDEFOP - Romania Country forecasts - Skill supply and demand up to 2025

By 2025, the share of Romania's highly skilled labour force should increase to 39.4%, compared with 26.6% in 2013 and 17.3% in 2005.

Persons with average skill levels in 2025 will account for 37.8% of the labour force, compared to 51.5% in 2013.

The share of those with low or no skill is projected to remain at around 22% in 2025.

According to CEDEFOP's projections, by 2020, around 50% of the 30-34 year-old labour force in Romania will be highly skilled, higher than the EU target of 40%.

Based on the current trends, around 60% of the 30-34-year-old labour force in Romania will be highly skilled by 2025.

In these circumstances, the Strategy for Education and Training in Romania will have to ensure the continuation of the processes of training modernization, of connecting it to the needs of a European labour market and of responding to the priorities of national economic and social development (point 44 of the Strategy).

The education and training strategy establishes in Chapter V - Strategic Objectives and Action Directions for Training 2016-2020, as follows:

Strategic Objective 1: Improving the relevance of training systems for the labour market, having as strategic goal:

a) to increase the employment rate of young people aged 20-34, not included in education and training, with ISCED 3 and 4 education levels at 63% by 2020 compared to 57.2% in 2014¹;

Strategic Objective 2: To increase participation and facilitate access to training programs, with the strategic goals of:

a) increasing the share of students in technological secondary education and vocational education to 60% in 2020 compared to 49.8% in 2014²,

b) increasing adult participation rates in lifelong learning programs to 10% in 2020, from 1.5% in 2014³;

Strategic Objective 3: To improve the quality of vocational training, with the strategic goals of:

a) reducing school drop-out rates in technological secondary education and vocational education to 2% in 2020, from 4.2% in 2014⁴,

b) increasing the share of technological secondary education graduates declared successful in the baccalaureate exam to 60% in 2020, from 45% in 2014⁵,

c) increasing adult participation rates in lifelong learning programs to 10% in 2020, from 1.5% in 2014;

Strategic Objective 4: Development of national and international innovation and cooperation in the field of vocational training, with the strategic goals of:

a) increasing the total number of students involved in innovation and entrepreneurship growth programs to 50,000 in 2020, from 40,000 in 2014⁶,

b) increasing the total number of students involved in international mobility programs to 4,600 in 2020, from 2,800 in 2014.⁷

The Substantiation Note⁸ of Government Decision no. 317/2016, in Section 2 - The reason for the issuance of the present legislative instruments, point II, presents the results of the analysis regarding the evolution of the indicators, compared to the European average and the

¹ Eurostat, http://ec.europa.eu/education/tools/et-monitor_ro.htm, Education and Training Monitor 2015.

² Idem.

³ Idem.

⁴ Internal data National Center for Development of Vocational and Technical Education.

⁵ Idem.

⁶ Idem.

⁷ Idem.

⁸ Available on website: <http://gov.ro/ro/print?modul=subpagina&link=nota-de-fundamentare-hg-nr-317-27-04-2016>, accessed on 27.07.2017.

targets assumed by Romania for 2020, which were the basis of the adoption of the Strategy, from which we (selectively) render the following:

- the rate of early school leaving in Romania (18.1% in 2014, compared to the European average of 11.2%) is one of the highest in Europe, moving away from the national target of 11.3% for 2020;

- the reduced impact of career guidance services offered to secondary school students, which would make a significant contribution to informing and raising the awareness on the native abilities of students both by them and by the family and teachers;

- the employment rate of graduates aged between 20 and 34, at the latest 3 years after graduation, decreased after 2009; on the entirety of education levels, with a graduate employment rate of 66.2% in 2014, Romania is below the European average of 76.2% and away from the 82% target proposed at European level for 2020;

- in the aggregate of the active population aged between 20 and 64, the employment rate in Romania was 65.7% in 2014 (compared to the European average of 69.2%), with no significant progress in the analysed period against the 70% target, assumed at national level for 2020;

- the adult participation rate in lifelong learning programs was 1.5% in 2014, well below the European level of 10.5% and the 12% target proposed by Romania for 2020;

- the absence of company-sponsored training activities for 41% of employees over 40 and with low skills.

The forecasting research, "Proposals for measures and models to encourage continuous vocational training and expected effects - based on a foresight exercise with employers and managers" (carried out in 2013 by the National Institute for Scientific Research in the Field of Labour and Social Protection), among employers and managers in Romania, revealed that: on the one hand, in 2013 all employers considered the training of employees as important and with benefits, mainly in terms of increasing labour productivity, adapting products/services to market requirements and employee motivation at work; on the other hand, employers/managers complained of lack of own funds for professional training courses, lack of information or the difficulty of accessing funds for such activities (...).¹

The Strategy for Education and Training in Romania for the period 2016-2020 aims to correct the problems identified in the field of reference, through the strategic objectives, the directions of action and the specific actions it provides, in Chapter VI - Action Plan for Implementing the Strategy, which includes the administrative indicators, responsible institutions/structures and defined deadlines.

¹ Idem.

3. Structure, fields and specializations/study programs for “Athenaeum” University in Bucharest, in the academic year 2017/2018

The nomenclature of fields and specializations/academic studies programs and of the structure of higher education institutions for the academic year 2017-2018, approved by the Decision of the Government of Romania no. 140/2017¹, Annex no. 1, provides in the Fundamental Field - Social Sciences:

Branch of science - Administrative Sciences, Doctoral/ Master’s Degree Fields - Administrative Sciences, Bachelor’s Degree Fields - Administrative Sciences, Specialization - Public Administration/ European Administration/ Managerial Assistance and Secretariat/ Local Police/ Public Health Services and Policies/ Leadership in the Public Sector (in English).

At the same time, Government Decision no. 140/2017 provides in Annex no. 3 - The structure of the accredited private higher education institutions, the undergraduate study fields and the specializations/ study programs accredited or authorized to operate temporarily, the geographical locations where they are conducted, the number of transferable credits for each academic study program, the form of education and the language of teaching, as well as the maximum number of students who can be enrolled in the academic year 2017-2018, at point 10, for the “Athenaeum” University of Bucharest, no. 2: Faculty of Public Administration, Bachelor’s Degree Field - Administrative Sciences, Specialization/ Bachelor’s Degree Program - Public Administration, Accreditation (A), Form of education - Full time, Maximum number of students who can be enrolled - 50.

Also, Decision of the Government of Romania no. 117/2017 on the accredited Master’s study fields and programs and the maximum number of students who can be enrolled in the academic year 2017-2018² provides in Annex no. 2 - Master’s study fields and programs, the geographical locations where they are conducted, the number of transferable study credits for each academic study program, the form of education or the language of instruction, as well as the maximum number of students who may be enrolled in the academic year 2017-2018, within the accredited private higher education institutions, at point 10, for “Athenaeum” University of Bucharest, no. 1: Master’s Degree Field - Administrative Sciences, Name of Master’s Degree Program - European Administration. Public Institutions and Policies/ Executive Power and Public Administration, Geographic Location

¹ Decision of the Government of Romania no. 140/2017, published in the Official Gazette of Romania, Part I, no. 230 of 04.04.2017.

² Decision of the Government of Romania no. 117/2017, published in the Official Gazette of Romania, Part I, no. 218 of 30.03.2017.

- Bucharest, Teaching Language - Romanian, Form of Education - Full-time, Maximum number of students who can be enrolled - 50.

It is worth mentioning that, both in the content of the Substantiation Note¹ of Government Decision no. 140/2017, as well as in the content of the Substantiation Note² of Government Decision no. 117/2017, in Section 2 - The reason for the issuance of the present legislative instrument, point 1. The description of the present situation it is confirmed that: the provisions of these legislative instruments observe the international commitments that Romania has taken under the Europe 2020 Strategy and are correlated with the recommendations of the ET 2020 Strategic Cooperation Framework for Education and Training.

Conclusions

The development of the Strategy for Education and Training in Romanian for the period 2016-2020 was carried out in the context of the Europe 2020 Strategy, which promotes smart growth, achievable through major investments in sustainable education, research and innovation, inclusive growth, with a focus on creating jobs and reducing poverty.

Given that the Member States will select, in accordance with national priorities, those areas and issues for work and cooperation in which they wish to participate and the Strategy for Education and Training in Romania for the period 2016-2020 provides for:

- on the one hand, in the Strategic Objective 1 - Improving the relevance of the vocational training systems for the labour market, par. a) Strategic target - Increasing the employment rate of young people aged between 20 and 34, not included in education and training,

- on the other hand, in the Strategic Objective 2 - Increasing participation and facilitating access to vocational training programs and in the Strategic Objective 3 - Improving the quality of vocational training, par. b) and par. c) a common strategic target - Increasing adult participation rate in lifelong learning programs, we advocate for the increase of the employment rate in parallel, including for young people included in certain education and training programs.³

¹ Available on the website: <http://gov.ro/ro/print?modul=subpagina&link=nota-de-fundamentare-hg-nr-140-16-03-2017>, accessed on 27.05.2017.

² Available on the website: <http://gov.ro/ro/print?modul=subpagina&link=nota-de-fundamentare-hg-nr-117-16-03-2017>, accessed on 27.05.2017.

³ All the more so, in a symmetrical way: The Strategy for Education and Training stipulates at point 58, in order to achieve the Strategic Objective 1 - Improving the relevance of education and training systems for the labour market, the next direction of action - 4. Improving **learning at the work place** in vocational training.

At the same time, in the Strategic Objective 4 - Development of national and international innovation and cooperation in the field of vocational training, par. b) having as strategic objective - Increasing the total number of students involved in international mobility programs, we advocate for correlative development of some national programs for their subsequent attraction on the Romanian internal labour market.¹

Against the issues raised in this paper, it can be concluded that the international commitments that Romania has taken under the Europe 2020 Strategy and the recommendations of the ET 2020 Strategic Framework for Cooperation in Education and Training are reflected in the content of the current national framework which regulates the organization and functioning of the education and training system.

In the same European context, regulations have been adopted such as those concerning the Structure of accredited private higher education institutions (...) the "Athenaeum" University of Bucharest is part of.

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Decision of the Government of Romania no. 140/2017 regarding the approval of the Nomenclature of fields and specializations/academic study programs and of the structure of higher education

¹ In the context where: The Strategy for Education and Training provides at point 58 for the fulfilment of the Strategic Objective 4 - Development of national and international innovation and cooperation in the field of vocational training, the next line of action - 18. Extending mutual learning and the exchange of good practices, in order to provide the premises for participation in an inclusive European labour market.

institutions for the academic year 2017-2018, published in the Official Gazette of Romania, Part I, no. 230 of 04.04.2017.

Decision of the Government of Romania no. 117/2017 on the fields and programs of accredited Master's studies and the maximum number of students that can be enrolled in the academic year 2017-2018, published in the Official Gazette of Romania, Part I, no. 218 of 30.03.2017.

The Strategy for Education and Training in Romania for the period 2016-2020, approved by the Decision of the Government of Romania no. 317/2016, published in the Official Gazette of Romania, Part I, no. 347 bis of 06.05.2016.

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CONCEPTUAL DEVELOPMENTS REGARDING THE LAW- MAKING ACTIVITY

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Abstract

The characteristics of today's modern society are the increasingly accelerated rhythms of change caused by scientific and technological achievements and the magnitude of these changes. These characteristics are at the basis of non-permanence, the transition penetrating in depth all the existence and organization modes, these transformations being irreversible sometimes.

The most revolutionary change is the modification of the thinking system itself, moving from the Cartesian thinking (characterized by the biunivocal cause and effect relations) to the holistic thinking (of sensing the multiple and contradictory interdependencies), this leading to the emergence of new concepts: system, process, feedback (reversed connection), and dichotomies such as continuity-discontinuity, equilibrium-imbalance, necessity-chance. In such context, it was emphasized the need to take into account facts which apparently would be isolated, but which are in fact closely interconnected, thus being possible to understand the essence, nature and directions of change in order to integrate and synthesizes, coherently, facts, events, realities and consequences that at first sight would seem isolated from each other.

The existence of a series of causes and interdependent effects makes the concept itself a constant change, the stability being rather a particular case, the true state of things being that of the dynamic equilibrium, i.e. a continuous search for new equilibrium (the concept of dynamic equilibrium). Under these circumstances, it becomes obvious that the company's leadership can no longer evolve on the old bureaucratic, cumbersome, linear lines, imposing by itself a new approach of the society as a global system that includes all kinds of activities that take place in all areas and at all levels of the economic and social organization (approached as subsystems or partial systems).

Of course, the law, representing the legal framework within which all categories of political, economic and social activities are conducted, cannot

be isolated from this state of mobility of the society, as it is an integral part of the global social system, as a subsystem. The legislation activity represents a flexible framework, having the required capacity and plasticity to maintain the constant contact with the political, economic and social realities.

The law-making activity is becoming an ongoing process, whose authors are both the bodies empowered to legislate (mainly, the parliament) and the jurisprudence and doctrine, process components found in a permanent contact with the political, economic and social realities (including citizens and citizens' organizations). This way, at least in the field of law-making, we are witnessing a transition from representative democracy to participatory democracy.

Key words: *Law-making activity, conceptual developments related to the law-making process.*

JEL Classification: *K12, K2, K 31*

1. The characteristics of the contemporary modern society are the ever-accelerated rhythms of change determined by scientific and technological achievements and the magnitude of these changes. We are pressed by events that happen swiftly, the reality sometimes becoming a kind of kaleidoscope that is constantly moving. Stressing space and time with rapidity, the direction of change fundamentally changes, gaining power and a range of action that has never occurred before.

The qualitative, decisive distinction of the period of time that we are going through, as opposed to earlier periods, consists in extending the scale of change and radically changing the rhythms, releasing new action forces of such magnitude that they even influence the notion of time, revolutionizing the tempo of life and affecting the way we feel and understand the world around us.

Describing the full force and magnitude of these changes in a plastic manner, references were made to a space age, an age of informatics, an age of electronics, a technological age, a scientific and technical revolution.

This acceleration of the rhythms of change and such an extent of change is at the basis of the non-permanence, the transition penetrating deeply all the existence and organization modes, sometimes the transformations being irreversible.

Perhaps the most revolutionary change is the modification of the thinking system itself, moving from the Cartesian thought (characterized by the biunivocal cause and effect relations) to the holistic one (the perception

of multiple and contradictory interdependencies) leading to the emergence of new concepts such as: system, process, feedback (inverse connection) and dichotomies such as continuity-discontinuity, equilibrium-imbalance, and necessity-chance. In such context, it was emphasized that the seemingly isolated facts are in fact closely connected, so it is necessary to understand the essence, nature and direction of change in order to integrate and coherently synthesize facts, events, realities and consequences that seem to be isolated from each other.

The existence of a series of interdependent causes and effects make the context itself permanent, stability being rather a particular case, the real state being that of dynamic equilibrium, i.e. a continuous search for new equilibrium (the concept of dynamic equilibrium)¹.

2. Under the aforementioned conditions, it becomes clear that the company's leadership can no longer continue to evolve on the old bureaucratic, cumbersome, linear lines, imposing a new approach to society as a system, a concept that was originally used in the technical field, then going into the economic one, to make an increasingly obvious path in the social field. The society as a whole must be conceived as a global social system that includes all types of activities carried out in all fields and at all levels of economic and social organization (subsystems).

From the systemic perspective, the society is considered to be a vast, general system consisting of private self-regulating subsystems capable of adaptation and research, having the ability to achieve, to some extent, the stability and finality, in accordance with the goals of the global social system. The social assemblies are constituted within the global social system either as its subsystems (e.g. the economic subsystem) or as highly specific partial systems (e.g. the enterprise), being subordinated to the general principles governing the global social system.

Such subsystems and partial systems have their own self-regulation and adaptation capacities, but these remain subordinate to the general principles that govern the global social system, and they are found in every compartment of life in the society: economics, culture, public and political institutions, and within the specific partial systems. In fact, they form the objective framework that determines, in a certain direction, the actions and behaviour of social groups that are integrated into these subsystems or partial systems.

The effectiveness of these sub-assemblies, as well as that of the ensemble taken in its entirety, is directly related to their possibility and ability to organize their internal processes in such a way that they would be

¹ See V. Păulea, Principiile generale de drept al contractelor, University Publishing House, Bucharest, 2015, p. 7-8.

able to respond adequately to complex external impulses (entrances) and dynamics that are manifested in particular for each of these sub-assemblies that organize the economic and social life. The particularity, variability and complexity of the conditions in which the organization and operation of each sub-assembly or partial system takes place necessarily implies that these sub-assemblies are endowed with the ability to absorb, process and respond to very different and potentially disturbing impulses (entrances), with a high degree of peculiarity, which implicitly means that they must be systems capable of self-regulation.

Their remote regulation, within a centralized bureaucratic framework would involve knowing and mastering all the complex connections between these sub-assemblies, which could only be accomplished through extended works of modelling, experimentation, measurement, and computation, to which would be added a cumbersome, complicated and ineffective information device to find solutions to disruptive entrances in the system. However, it is clear that under these conditions until the solution is found, the disturbances would have been fully effective, crossing the system and disrupting it. Such case is totally inconceivable and accepted because it would affect the effectiveness of responses to external impulses and, ultimately, the very performance of economic and social activities¹.

The contemporary scientific research on this topic has made available to public policy makers and for those developing the public policies the adequate tools, able to control the ever-changing economic and social life of cybernetics, operational research, system theory, organization and information, ergonomics and, of course, the management science (management), which brings together, in a unitary perspective, the various methods of including the disciplines mentioned above. A leading role is played by the concepts of information and decision-making. In terms of information, their primary role is acknowledged in both decision-making and cyber-phenomenon in regulating economic and social processes. The organic relationship between management disciplines and their polarization around the concepts of information and decision-making strongly emphasizes the notion of an informational-decision system (SID) conceived as a set of parties (people) and means (sources other than humans) with information organization and decision-making, both at the level of the component subsystems and at the level of the whole systemic system, acting in the direction of achieving objectives (programs).

¹ See H. Ene, Organizarea sistemică, condiție a conducerii științifice, in “Știința conducerii societății”, Bucharest, 1971, p. 61 and followings.

The first level of analysis of an informational decision-making system is the cybernetic system where inputs into the system (resources and information) and outputs from the system (products and information), for the moment not being important the information concerning its inside processes. The size of the system outputs are compared with the set objectives (the objectives pursued by the programs). Since deviations will often occur, the regulator will intervene, having the role of bringing back outcomes to the set objectives. This regulator is translated, in terms of practice, through the interventions of the governing bodies that act on some regulatory levers such as additional equipment with material and human resources, as well as by normative provisions, this type of interventions being effective only when the relations between inputs and system of the decisional informational system are very well known. This also implies a further level of analysis, which involves a thorough research into the functioning of the system, this way of analyzing and designing the informational-decision system having the merit of explaining the objectives and subordinating the whole study to their realization, in choosing information-decision solutions, using the whole range of methods and procedures offered by the different management disciplines. This way, there is a possibility to transform the economic and social leadership into a scientific process based on a rigorous methodology synthesizing in a unitary conception the most modern developments of the management sciences, eliminating or reducing considerably the recourse to methods based on inspiration, talent or routine which, often, hide subjectivity and voluntarism, with their entire array of extremely harmful arbitrary effects.

Concerning the decision-making, analysis and design processes, these will be all the more efficient as they will be able to reduce their greatest part to algorithmic operations by some logical systems, ranging from simple comparisons and selections up to complex decision-making methods based on operational research procedures or other mathematical techniques. Certainly, however, a significant part of the decision-making processes under consideration retains the discretion character of the decision-maker, but in this case, in order to minimize the subjective aspects, the system design uses methods of the decision theory and utility.

The third phase (decision level) that the decision-making and designing team of the informational-decision system has to undergo is the coordination of the implementation of the project provisions, the so-called implementation phase, which can start even before the end of the design and which consists in the recruitment, training and recycling of the necessary specialists, the acquisition of equipment for the processing and transmission of information, the construction or arrangement of the necessary buildings

or spaces, the preparation of files, the development and testing of computer programs, the experimental application of the entire system.

After completing the implementation phase, a new qualitative step is taken: normal operation of the designed system¹.

So, the general policy, the public policy making and the implementation of these policies are scientific in nature, involving systemically structured activities.

Generally speaking, these activities are based on selected programs from a list of priorities established through feasibility and impact studies.

In order to achieve these programs, the material, financial and human resources necessary for their realization will be precisely defined, and there will be included budgets, possibly multiannual, if the programs will be extended over longer periods.

The gradual realization of programs will be carefully monitored through rigorous and continuous control mechanisms, both quantitatively and qualitatively, the findings being regularly communicated to the management bodies, which will be informed about how the work is done at each stage. Any deviation from the graph will be carefully analyzed, and the responsibilities for the non-observance of the plan will be established. In this respect, the causes of deviations that may occur either upstream (insufficient planning of material, financial or human resources), or downstream (unjustified delays, work that is not executed in time or of poor quality) will be established. On this occasion, they will determine precisely who the persons responsible for this state of affairs will be subjected to repairs or will be removed from the system, being replaced by more capable persons. All these measures must be taken promptly, following closely how they are being carried out. It is very important for the promptness and effectiveness of responsibilities that in many cases are not set, which leads to perpetuation of such irresponsible behaviours. The accuracy, timeliness and effectiveness of measures to hold those incompetent, negligent or superficial will be an important part of the action to streamline the actions taken based on the carefully planned and monitored activities.

3. It is clear that the law, which is the legal framework within which all activities are carried out, in all fields and at all levels, cannot be isolated

¹ See: G. Boldur, Procese informaționale și de decizie în economie, Scientific Publishing House, Bucharest, 1969; G. Boldur, Analiza operațională a obiectivelor, in “Viața economică” no. 3/1971; G. Boldur, I. Băncilă, Metode și mijloace moderne de luare a deciziilor în întreprinderi, sinteză documentară, IDT, Bucharest, 1970; G. Boldur, Modele pentru rezolvarea problemelor decizionale complexe, in “Studii și cercetări de calcul economic și cibernetică economică” no. 6/1969; G. Boldur, Informația și decizia în procesul conducerii social-economice, in “Știința conducerii”, Bucharest, 1971, p. 135 and followings.

from this state of mobility of society, as it is an integral part of the social system ensemble. Consequently, the right has to be conceived and approached as a subsystem of the global social system, with a degree of autonomy and specificity (itself, taken in itself, forming a system), which will act in accordance with the principles and systemic rules.

In this respect, we must draw attention to the fact that many years ago (2010), in the Romanian legal literature, under the aegis of the Romanian Institute for Human Rights and the Superior Council of Magistracy, it was elaborated a large work (944 pages), a unique work, too little assimilated, dedicated to the theme of “legal and jurisdictional management”, highlighting the conceptual evolutions in relation to the legislative activity in the sense of flexibility and plasticisation of this activity aiming to ensure the dynamic concordance between legal regulations and changes accelerated in economic and social life¹. The same author, recently, in another paper devoted to the flexibility of law through the category of agreements², makes, in the introductory part, a summary (summary) of the conceptual evolution regarding the activity of lawmaking. Finally, in the same year (2015), the author published in the magazine “Palatul de Justitie” a suite of three articles devoted to legal engineering works, which ensure the flexibility and plasticity of legal regulations³.

Consequently, in the following, we will confine ourselves only to the recalling and summarizing of the parameters based on which the conceptual evolutions in the area of legislative activity take place.

It is obvious that, for the reasons outlined above, the legislative system can no longer be conceived as an abstract and rigid structure once and for all, but must be replaced by another more flexible structure that has the ability and plasticity necessary to be able to roll on the realities of economic and social life in continuous movement and change.

It is true that in order to avoid chaos, it is necessary for the laws to have stability and continuity, these being basic principles of unshakeness, but the very content of the notion of stability and continuity must be revised, this being necessary to be understood states of dynamic equilibrium, adjusted to motion and transformation (to transitions) in order not to become obsolete, that is, unusable. The ever closer interconditioning between all categories of activities in society necessarily implies to approach the society as a cybernetic system, which also applies to the

¹ See V. Pătulea, Tratat de management juridic și jurisdicțional, Bucharest, 2010.

² See V. Pătulea, Principiile generale de drept al contractelor, University Publishing House, Bucharest, 2015.

³ See V. Pătulea: Ingineria juridică, in “Palatul de justiție no. 10/2015”; Rolul dreptului comparat în cadrul procesului legislativ, in “Palatul de justiție no. 11/2015”; Rolul dreptului comparat în cadrul procesului jurisdicțional, in „Palatul de justiție no. 12/2015”.

legislative system, as it allows the deepening of the interactions and evolutions of phenomena and processes, as a whole, reflecting the state of the society in motion, meaning the complexity, dynamism and interdependence, which is a dynamic state of balance.

In other words, the law no longer represents a fixed, rigid structure, but a procedural and evolutionary one, which allows a permanent contact with the changes from the society, in increasingly fast rhythms, their processing and integration into laws and other normative acts, which must be kept up to date. And for all this, other legal categories (or with legal character), such as jurisprudence and doctrine (the scholarly law), which, together with the laws and other normative acts, form a living indispensable and indestructible legal tissue.

Only such a flexible and complex legal structure may be appropriate for ensuring the contact of law (conceived as a system) with political, economic, social, cultural realities, integration and processing of these realities into legal and paradigmatic categories.

In this perspective, new concepts have been developed, such as the living law, the free law or the reflexive law.

In essence, in order to fill the gaps or weaknesses of the positive law (which cannot cover all aspects and nuances), the judge has been subjected and involved in the activity of creating his own conduct rules not expressly provided for by laws or acts with normative character, resorting, as stipulated in art. 1 par. 2 of the Civil Code, to usages, similar provisions from other laws (comparative legislation), general principles of law, but we add to other jurisprudential solutions that have crystallized as true normative components. To that end, the judge, also in support of his doctrine (the scholarly law, including in-depth scientific research based on comparative law study, comparative jurisprudence, and works by independent groups of jurists), will act as a true legal engineer. Such legal engineering constructions are similar to what F. Géný called free complementary research, which would be a science-oriented compilation activity.

A special mention must also be made in relation with the concept of reflexive law, which is defined in two ways: as an active law containing relational programs and as a law of societal guidance. This concept was taken into account starting from very close premises, namely the autonomy of judges to evolve, by reference to scientific knowledge, and the need for intersubjective control of the occurrence of events. This approach has succeeded in penetrating in depth and even transforming legal dogma, even without the explicit contest of legal sociology.

The concept of reflexive law implied the attainment of a certain level of development of law that was necessarily coupled with the evolution of

the complex evolved societies and the functions of the modern contemporary state.

The reflexive law, like interventionist law, is an active law containing relational programs, meaning rules that set up organizational and contextual premises in which interaction of systems with relative autonomy takes place. The reflexive law is a discursive rationality (which deducts, by reason, an idea from another), thus creating areas of relative autonomy for social systems.

The concept of legal tissue includes, in a systemic ensemble, the legislation (positive law), jurisprudence (applied law) and doctrine (scholarly law).

a) The positive law consists of the decisions of the competent authorities (referred to, as a rule, by the notion of legislator) on various legal issues. It is conceived as a stable law, with a tendency towards intangibility justified by securing juridical relations, the technique of coding, being emphasized the tendency to wipe out the temporal footprint of successive laws.

The contemporary modern tendency, on the other hand, is directed towards the flexibility and plasticisation of law to make it fit to be in constant contact with the political, economic and social realities, to absorb, process and integrate in obligatory legal forms, it has been through the contribution of jurisprudence (applied law) and doctrine (scholarly law).

Judges of all categories (judges, prosecutors, jurists, notaries) are the real sensors of contact with political, economic and social realities, facing conflicting situations resulting from the contact, in particular, of laws and other normative acts and these realities. The raw (unprocessed) information obtained by them is directed to legal management centres, where they are processed, compacted, and gradually integrated into legal categories such as laws and other normative acts, and then passed through different phases of crystallization, all of which being possible to be used no matter what phase they are in. Moreover, in the Civil Code, it is clear and explicit that the law, the customs and the general principles of law (Article 1 paragraph 1 of the Civil Code) are sources of civil law, and these general principles may also derive from legal engineering works to which we have referred above.

b) The concept of jurisprudence has undergone, over time, important transformations, moving from the judge's margin of action, under the silence of law, to the source of law. And in common law countries, it is even considered to be a science of law.

c) The legal doctrine (scholarly law) is a real factory of analysis grids, the legal institutions being conceived in terms of values and principles that show the directions in which the positive law must be oriented.

The legal doctrine is in correlation with other concepts with more or less extensive affinities, such as the science of law, ideology and legislative politics.

The doctrine also has close links with jurisprudence, from which it extracts informative elements from direct sources of contact with political, economic and social realities, providing the analysis grids that are so necessary for jurisprudential constructions.

The legal doctrine cannot be separated from legal thinking conceived as a mediator between social and cultural exigencies and legal culture in the face of a civilization on the move. Only in these circumstances can one consciously speak in a coherent manner, about a true legal thinking.

In conclusion, the law-making activity is a process where not only law enforcement bodies participate. Equally important or equivalent roles are taken by jurisprudence and doctrine that are direct sources of contact with political, economic and social realities, and we can unambiguously speak that we are in an early stage of transition, at least in the process of law-making, from representative democracy to participatory democracy.

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THE ROLE OF INSTITUTIONS' QUALITY IN ENHANCING FDI INFLOWS IN CENTRAL AND EASTERN EUROPE AND NORTH AFRICA

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Abstract:

The aim of this paper is to assess the impact of institutions' quality on FDI inflows in two groups of countries in Central and Eastern Europe and North Africa. We test if the Worldwide Governance Indicators are significant factors that investors take into account when deciding their location's investment. In this respect, we use the panel data methodology for the period 2002-2015. We find that only regulatory quality has a significant impact for FDI inflows in both groups of countries, while traditional determinants, such as the GDP level, are still important for the European economies. For the countries in North Africa, it is possible that the harnessing of natural and capital endowment could be more attractive than the development level or the market dimension, once the agreement between the state and the foreign investor is made.

Keywords: *foreign direct investment, institutions' quality, Central and Eastern European countries, North Africa*

JEL codes: *F23, O43, O52, O55*

I. Introduction

Foreign direct investments (FDI) are seen, in general and especially in developing countries, as healthy and sure remedies for enhancing growth and positioning the economy on the way of economic development. Their benefits are due to the long-term commitment with the host country, the inflows of technology and know-how and the positive spillovers that pull up

the private business environment. Therefore, efforts are made for increasing these types of investments inflows.

There is no clear receipt as regards the specific factors that each country should enhance in order to attract more investments. We generally know that foreign investors are interested in either the abundance of resources, the dimension of the market, the economic development and the sophistication of the customers, the role of created assets, the quality of institutions and policies. The range of FDI determinants is broad and, equally important, it varies from period to period.

Our paper focuses on the role of institutions in attracting FDI – are institutional variables relevant in the actual context and during the last decade? In this case also, the literature does not provide a clear set of public policies that must be employed in order to increase the quality of institutions. We neither do have a strong set of determinants that shape each country's attractiveness for foreign investors – the variables that are significant in relation with FDI range from the corruption level to the economic freedom, the state fragility or the transition index. The only consensus in this area emphasizes the particularly negative impact of the lack of institutions' quality on FDI.

Still, the level of institutions' development is crucial for attracting FDI, especially for transition countries, which count on the contribution of foreign investments for catching up with the other developed economies. The pressure on institutions is even higher as precisely these institutions suffered important changes for adapting to the market economy [Bevan et al., 2004]. Institutional development, as an essential attribute of progress in the transition process, is the most important determinant of aggregate FDI [Grcic and Babic, 2003]. Dunning [2004] emphasizes the importance of the institutional framework as a necessary condition for attracting FDI, while for Kukeli [2007], its role is to accelerate the economic reform.

Countries in Central and Eastern Europe (CEE) benefited from high FDI inflows mainly starting with their EU adhesion. The period 2005-2008 was favorable for such type of inflows, while their positive impact on economic growth was experienced in the years to follow [Hlavacek and Bal-Domanska, 2016; Melnyk et al., 2014]. The crisis had a negative impact on these countries' attractiveness for FDI, some of them being also negatively affected by political instability (for example, Hungary and Romania). Investors are taking safety measures as regard countries in this area, the region being ranked as the fourth most attractive for establishing operations in 2015, after Western Europe, North America and China, according to the Ernst and Young European Attractiveness Survey [2015]. Its attractiveness continued to drop in the last years; the region was considered the second

most favorable destination for FDI in 2008, after China. The main issue that must be dealt with is regaining the confidence of investors.

The same importance of FDI for the economic development is supported by Soumare [2016], who points that FDI are vital for improving the economic growth in North Africa, having positive effects on the level of welfare and on reducing inequalities between countries. For this to happen there is a strong need in improving the quality of institutions and governance.

In fact, North Africa is the only African region that saw a major decrease of FDI inflows between 2010 and 2014, while investments increased in all the other regions. The attractiveness of this region suffered following the Arab spring and the unrests in Libya. Still, FDI inflows entered an upward trend since 2015, once Egypt recovered in terms of FDI inflows, sawing an increase with USD 1.9 billion in 2015 as compared to 2014. Each country has its own specific: investments in Egypt are focused on the construction sector, the real estate and the hospitality industry, while Morocco receives mostly FDI in services (61% of total FDI stocks in 2014), according to KPMG [2016]. Given all the turmoil in the recent years, North Africa still manages to gather 51% of FDI capital in Africa in 2014, according to the Africa Attractiveness Survey 2015, provided by Ernst&Young.

In fact, Egypt is the second most attractive country in Africa for foreign investments in 2014 (with a score of 96%), followed by Morocco on the second place (94%) and Tunisia (87%). Libya is near the middle in this ranking, while Sudan and South Sudan are at the bottom of the ranking, according to RMB report [2015].

We focus our analysis on the impact of several variables encompassing the quality of institutions on FDI inflows in several former transition countries in CEE and several economies in NA. The comparison between the two groups of countries is reasonable: CEE countries have a history of transition, while among the states in NA there are some countries in transition (Egypt, Morocco, Tunisia and Libya), according to the OECD classification. In some cases, similar European companies are investing in different countries in the two regions, as it is, for example, the case of the Renault group, which has investments in production lines in both Romania and Morocco. We are interested if there are similarities between the institutional variables that are FDI determinants in the two groups of countries. The rest of the paper is organized as follows: in section II we provide the results of several studies in the literature pointing to the relationship between FDI and institutional variables in the analyzed countries. In section III we describe the data and track the progress of FDI inflows and institutional variables in these countries. We also deal with

explanations as regards the methodology we apply. In section IV we present and discuss the results, while in the last section we draw several conclusions.

II. Literature review

The need for well-equipped institutions, that provide qualitative and coherent policies for the development of the business environment, is already tested in practice, once with the experience of CEE transition countries. The incorporation of institutional variables (such as the protection of property rights or the political risk) in FDI theories, especially as regards the locational determinants of foreign inflows, is already acknowledged [Meyer and Jensen, 2005]. Although the literature has reached consensus on the positive impact of institutional quality on the attractiveness of a country for FDI, there are still divergences regarding its definition and measurement in empirical studies.

Kaufmann, Kraay and Zoido-Lobaton [2000, p.10] understand that institutions' quality implies a good governance, which refers, among other things, to "the capacity of the government to effectively formulate and implement sound policies; and the respect of the citizens and of the state for the institutions that govern economic and social interactions among them".

Rodrik and Subramanian [2003] divide institutions into four categories. The first one is composed by the institutions which create a clear legal basis and a legal system which guarantee the protection of property rights and a low level of corruption. The second group is composed by institutions which regulate the competitive framework and ensure the reduction of distortions in sectors such as transport, telecommunications and financial services. In the third group, there are institutions dealing with measures for a stable macroeconomic environment, while the last group is composed by institutions which create favorable socioeconomic conditions, such as the welfare or education system).

Empirical studies also support the increasing importance of institutions quality. The variables used for quantifying institutions and their quality tend to become even more important than the market dimension, factor endowment or internationalization level – also known as traditional determinants – according to the study of Pournarakis and Varsakelis [2004]. Gliberman and Shapiro [2002] have a similar result, pointing the superiority of governance infrastructure over the quality of the environment or the social aspects in a sample of developed and developing countries in the period 1995-1997. Focusing on the transition economies in CEE, Kinoshita and Campos [2006] find that institutions are more important for the foreign investors than the market dimension or the labor cost. Their proxies for institutions include the economic openness and low restrictions as regards FDI inflows.

Still, we must take into account that institutions have a different capacity of attracting investments, depending on the level of development and the region where the country is located, and is frequently influenced by the local institutional arrangement [Dunning, 2006; Fabry and Zeghni, 2010].

The regulating capacity should be firstly assessed in order to reveal the quality of institutions. There are several indicators that try to capture this capacity, mainly focused on the economic freedom, regulation burden (where bureaucracy is included) or economic and structural reforms.

The investors' preference for free market remained unchanged in the transition economies at the beginning of this process [Brenton et al., 1998] and subsequently [Tintin, 2010]. For Bellak, Leibrecht and Stehrer [2008], a one percentage increase in the institutional barriers for the CEE countries leads to a decrease of 0.4% in FDI. Globerman and Shapiro [2002] conclude that open economies, with free market, attract more FDI than those where competition is discouraged. This fact is available regardless the stage of development of a country, and the burden of regulation is the most important factor in the investors' process of location decision making.

The bureaucracy level shows if the implementation capacity of a country is efficient or flawed. There is no such thing as "good" or "bad" bureaucracy, because a dense bureaucracy can be associated with a clear framework of rules and laws that must be respected, while the legislation complexity can be linked to a good level of predictability for investors. The role of the governments is, therefore, to enforce an efficient bureaucratic system that creates the preconditions for attracting FDI [Pournarakis și Varsakelis, 2004]. Otherwise, bureaucracy could become a serious obstacle for investors [Garibaldi et al., 2002]. This, associated with the lack of transparency, is another problem for investors [Drabek and Payne, 2001]. The postponement of FDI inflows is due to an increase in risk and uncertainty. According to the two authors, a one place increase in the transparency ranking would mean an increase of 40% in FDI flows.

In particular, the definitions of institutions focus on the role of property rights and compliance with laws [Fischer and Sahay, 2004]. As a result of the analysis of empirical studies, Fabry and Zeghni [2010] retain three main aspects that describe the quality of institutions: the quality in managing the public affairs, the enforcement of laws protecting private property and the limits imposed by political leaders.

Empirical studies point to a positive correlation between FDI and the level of democracy, which encompass the rights and freedom protection [Addison and Heshmati, 2003; Busse and Hefeker, 2007]. The study of Kostevc et al. [2007] notes that, of the indicators that give the degree of institutional quality, the regulation and protection of property rights have

the greatest impact on FDI. The composite index used by Disdier and Mayer [2004], formed by proxies expressing the political rights, other civil liberties and the liberalization of the economy, has a significant impact on FDI. Benassy-Quere et al. [2007] use the term of public efficiency in describing institutions and find evidence for its significant impact on FDI. The authors include here the taxation system, the ease of establishing a company, the lack of corruption, the transparency level, the property rights security, the justice and efficiency of prudential standards.

Also, the impact of corruption is frequently tested in empirical studies in relation with FDI. A high level of corruption is the reason for a substantial reduction in FDI inflows. Countries in CEE have a similar behavior, according to Wei [2000], Habib and Zurawicki [2002] or Popovici and Calin [2013]. Moreover, Goodspeed et al. [2009] signal a greater impact of corruption for the investors in developing countries than in the developed ones.

The assessment of risk is frequently linked to the quality of institutions. Generally, a low level of risk is perceived as a climate of stability and predictability.

The study of Busse and Hefeker [2007] points to the fact that investors are strongly sensitive to the changes in political arrangement and the government framework. The result is reinforced by Daude and Stein [2007], who mention that the improvement of the institutional framework as regards the economic measures and their implementation is a way to increase FDI inflows.

Alonso [2016] provides strong results as regards the negative impact of political risk over FDI inflows in Egypt, especially for the period 2010-2014. The risks are emerging due to the policy of controlling capitals, terrorism, civil and social turmoil, breaches in ensuring property rights, as seen in the multiple expropriation cases or breaches of contracts.

The necessity for the stability and predictability in the host country is underlined by the long term interest in that economy, which is carried out by the FDI activity in itself [Barolli et al., 2009]. According to Barolli et al. [2009], there are two main types of risk: the instability of the host country given by civil wars or international conflicts and the political volatility, which generate currency volatility.

Taking into account the recent evolutions in North Africa, we might be tempted to suppose that risk is a threatening especially for these countries. Still, Brada et al. [2005] emphasize that the progress of economic transition and political instability (either domestic, either due to international tensions) significantly affect the volume of FDI, by comparing transition economies with their neighbors that were not implied in such a process.

Also, investors need to correctly forecast the evolution of the business environment, which requires a stable and predictable investment climate, therefore political instability should be avoided at all costs [Pajunen, 2008]. Political stable countries are more attractive for foreign investors, according to Kukeli [2007] and Rihab and Lotfi [2011], while an increased potential of expropriation, repatriation of profits and payment delays are deterring for FDI.

In Egypt, major steps in opening the economy and creating a favorable business environment was hindered by sudden and rapid changes in laws affecting the business development, which led to questions about their credibility [Louis et al., 2004]. The progress done until recently in this regard is not enough, while the volatility of the social unrests is still putting pressure on the business environment.

As a brief conclusion given the above, the role of government is important in improving efficiency and business regulation, cutting red tape and reducing the tax burden.

III. Data and methodology

a) Data description

Our empirical analysis focuses on two groups of countries: five European Union member states in CEE that have a common transition history (Bulgaria, the Czech Republic, Hungary, Poland and Romania) and five countries in North Africa (Egypt, Libya, Morocco, Sudan and Tunisia). Due to data constraints, the empirical analysis is developed, in both cases, for the period starting with 2002 until 2015.

We use the FDI stocks (FDI) in these countries as the dependent variable, expressed in millions US dollars. As independent variables, we use two of the FDI traditional determinants, the GDP volume (GDP) in US Dollars at constant prices (2005) in millions and the trade openness (TRD) expressed as the sum of total imports and exports in goods and services as percentage of GDP. Given that our analysis is focused on the impact of institutions' quality in attracting FDI, the rest of independent variables are retrieved from the Worldwide Governance Indicators provided by World Bank's database. These indicators are computed based on the perceptions of enterprises and citizens on the quality of governance in their countries. In order to avoid potential overlapping information and to achieve the goals of this paper, we use the following indicators:

- Voice and accountability (VOC), expressing the freedom of citizens to choose their government and to express themselves;

- Government effectiveness (GEF), which covers the quality and independence of the public service and the government credibility in implementing sound policy measures;
- Regulatory quality (RGQ), which regards the quality in the formulation and implementation of policies for the private sector;
- Rule of law (RLW), for expressing the degree of compliance with the law;
- Control of corruption (COR), to give an overview of the corruption phenomenon.

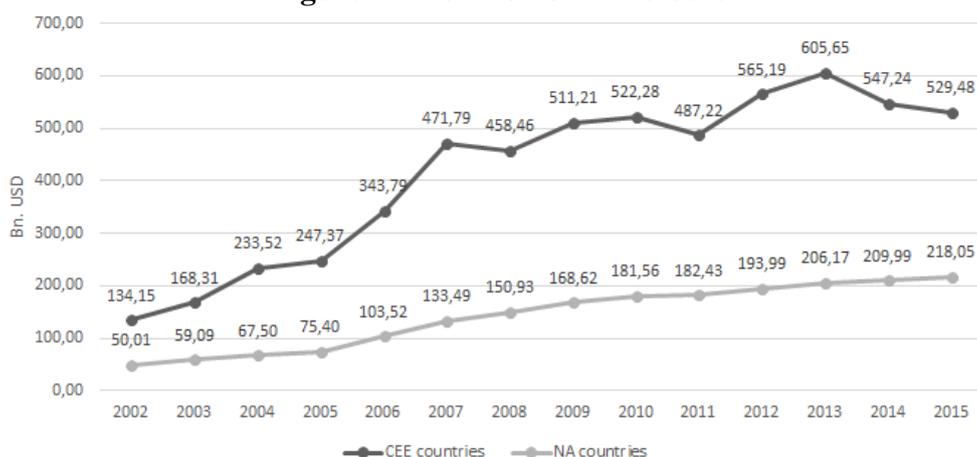
All these indicators are ranged on a scale from -2.5, expressing the lowest governance performance, to 2.5, which is the best performance in terms of governance quality.

The data for FDI, GDP and TRD were provided by UNCTAD statistics, while the source of the governance indicators (VOC, GEF, RGQ, RLW, COR) is the World Bank's database.

We processed the data for obtaining stationary time series and, for the governance indicators, we added 2.5 to each observation in order to have positive data for using the logarithm and the first difference in the empirical analysis.

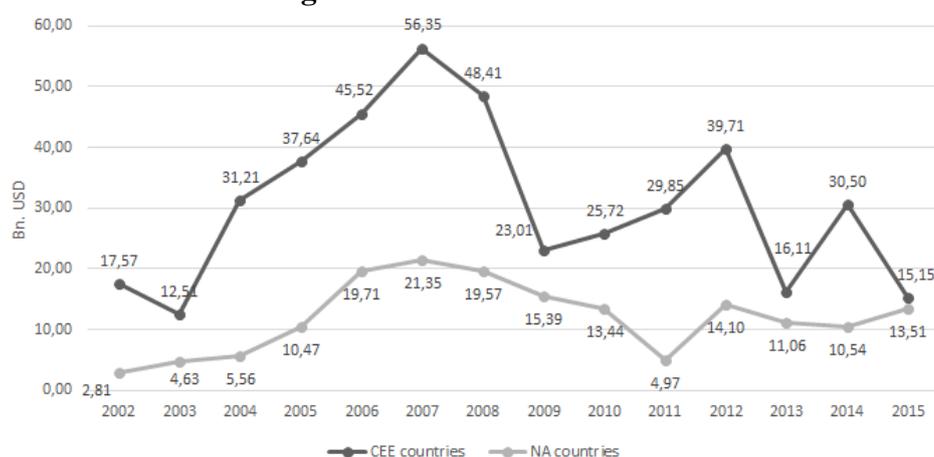
b) The evolution of FDI inflows and institutions' quality

According to the Figure 1, the stocks of FDI in the NA countries had a steadily positive evolution during 2002-2015, more significant after 2005. At the beginning of our analysis, the stocks in CEE countries were 2.7 times higher than those in NA countries; although there was a significant increase in CEE FDI stocks starting with 2006, the crisis affected the inflows in these countries, therefore, in 2015, the difference between the stocks of the two countries is almost the same (the stocks in CEE countries are surpassing those in NA states by 2.4 times).

Figure 1. Evolution of FDI stocks

Source: authors' own computation based on UNCTAD statistics

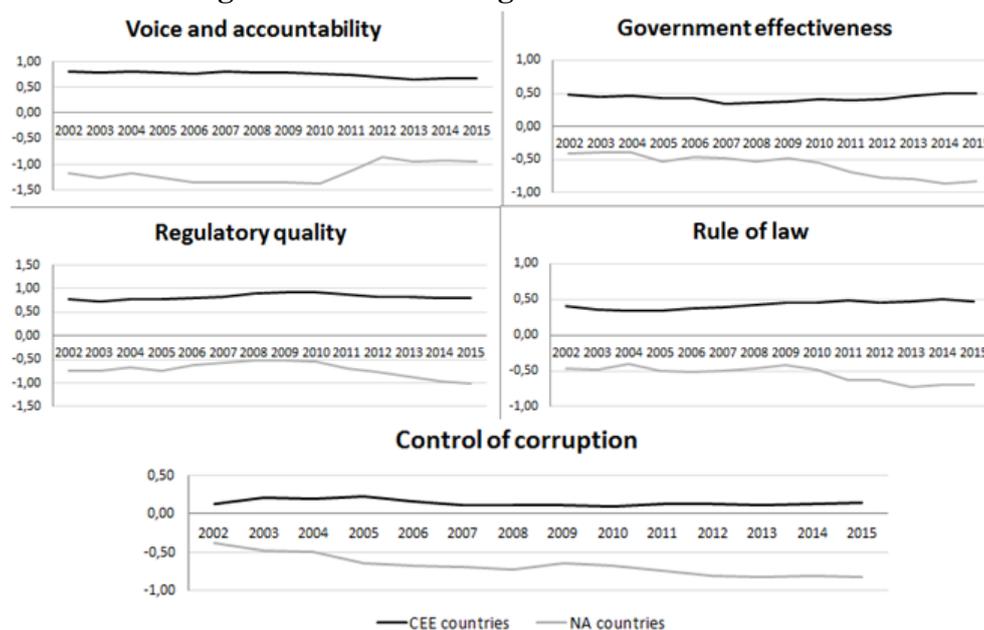
The substantial increase in FDI stocks for the countries in CEE was mainly given by the EU adhesion in 2004 for the Czech Republic, Hungary and Poland and in 2007 for Bulgaria and Romania. Fluctuations are specific to the CEE countries, on which the crisis had a stronger impact. The recovery is not yet restored for FDI stocks, although there were increases in the stock of FDI in 2009-2010 and 2012-2013. The actual level of FDI (529.5 bn. USD) is lower than in 2012 and there is a decreasing tendency in the last two years. The NA countries improved yearly their FDI stocks, the highest value being registered in 2015, of 218.05 bn. USD.

Figure 2. Evolution of FDI flows

Source: authors' own computation based on UNCTAD statistics

The evolution of FDI flows is more volatile from year to year for the two groups of countries. There is a substantial increase in FDI flows during 2003-2007, followed by a sharp decrease in the crisis' years. The last four years show the indecision of foreign investors as regards choosing the CEE countries as host location for their investments. A more stable situation in the FDI inflows is pictured for the NA countries; although there could be noticed the impact of the crisis, there is a smoother decline than for the CEE countries. In fact, the most important impact is the one given by the events in NA countries starting with the end of 2010, also known as "the Arab Spring", which continued in 2011. As a result, FDI inflows in 2011 were by 63% lower than in 2010. The last two years brought a slight increase in FDI inflows in these countries. Another interesting aspect as regards the two groups of countries is the difference between the volumes of FDI inflows. If at the beginning of the period, FDI flows in CEE countries were 6.3 times higher than those in NA region, in 2015, based on the decline in Europe, almost the same volume of FDI is invested in both countries.

Figure 3. Evolution of governance indicators



Source: authors' own computation based on UNCTAD statistics

Figure 3 presents the evolution of the governance indicators, calculated as the average for the two groups of the countries.

There is a clear tendency as regards the governance indicators for the NA countries. Except for the Voice and accountability, there is a clear decrease of the governance quality in the last years, mainly driven by the

Arab Spring. The lowest value (-1.02) is registered for the Regulatory quality in 2015, followed by Voice and accountability (-0.95). The CEE countries have a better situation for the governance quality, with positive values for the analyzed variables. A positive evolution is observed for Government effectiveness and Rule of law, while Voice and accountability and Regulatory quality registered decrease of quality. The evolution of corruption is quite stable.

c) Methodology

We use the panel data analysis due to its several advantages: the control of unobservable or unmeasurable variables, the possibility to obtain solid results even for shorter periods of time (due to lack of data availability), more complex observations (Baltagi, 2005; Hsiao, 2006). The panel data methodology allows for the estimation of fixed or random effects.

The fixed-effect are recommended to be used when the interest of the analysis is on the impact of the variables that are varying over time, as the model is used for controlling the time-invariant differences between the individuals. The equation for describing a fixed-effects model is presented in (1):

$$Y_{it} = \alpha_i X_{it} + \beta_i + u_{it} \quad (1)$$

where Y_{it} is the dependent variable, X is a vector of k independent variables, α is the coefficient of each independent variables, β_i is the intercept for each country ($i=1, \dots, 5$) and u_{it} is the error term.

In the random effects model, there is assumed the existence of constant and unique individual attributes that occur as a result of random variations and are not correlated with individual regression coefficients. Namely, the dependent variable is also influenced by the differences across entities. The equation for the random effect panel model is described in (2):

$$Y_{it} = \alpha_i X_{it} + \beta_i + u_{it} + \varepsilon_{it} \quad (2)$$

As compared to (1), the error term is composed by u_{it} expressing the between-entity error and ε_{it} expressing the within-entity error.

We use the Hausman test for deciding between fixed or random effects models. The null hypothesis of the Hausman test states that the coefficients of both types of model are consistent, but those of the random effects model are more efficient than the ones for the fixed-effects model. If

the null hypothesis is accepted, then the random effects model is the most appropriate.

IV. Results

We started our analysis by applying the panel data estimation procedure for the two group of countries and then we compare and discuss the results.

a) CEE countries panel data estimation

The result of the Hausman test (see Tabel 1) points to the random effects panel model as being the most appropriate for our empirical analysis.

Table 1. Hausman test result for CEE countries panel data estimation

	Coefficients		(b-B) Difference	sqrt(diag(V_b-V_B)) S.E.
	(b) fixed	(B) random		
D.lnvoc	.1432092	.149376	-.0061668	.2955994
D.lngef	-.9647616	-.9368231	-.0279385	.1725841
D.lnrgq	1.594375	1.72827	-.1338952	.2772429
D.lnrlw	-.9609856	-.8473102	-.1136753	.4017192
D.lncor	-.6315822	-.6384989	.0069167	.1570687
D.lngdp	2.426833	2.518153	-.0913203	.1898713
D.lntrd	-.2834426	-.318698	.0352555	.065545

b = consistent under Ho and Ha; obtained from xtreg

B = inconsistent under Ha, efficient under Ho; obtained from xtreg

Test: Ho: difference in coefficients not systematic

$$\begin{aligned} \text{chi2}(7) &= (b-B)'[(V_b-V_B)^{-1}](b-B) \\ &= 0.73 \\ \text{Prob>chi2} &= 0.9981 \end{aligned}$$

Source: authors' own computation

The results of the random effects panel data analysis for the group of CEE countries are presented in Table 2. Only one indicator out of the five used for expressing the quality of governance is significant for FDI stocks, namely the Regulatory Quality. This means that an increase in the quality of regulation imposed by the government to promote the private sector will have a positive effect on investors, which will direct their investment in the CEE countries. The rest of the governance indicators are not significant and for some of them, we obtain a different sign than expected (GEF, RLW, COR). The variable used for expressing the trade openness (TRD) is also not significant and has a negative sign; further research is needed in order to gain an in-depth explanation of such a result. The present empirical analysis could be extended by taking into account several other variables seen as

specific for the CEE countries, such as the labor cost or the educational attainment level.

In accordance with the literature, we found a positive and significant coefficient for the GDP level in this group of countries. Investors are favorably influenced by the perspectives of economic development. Also, the CEE countries could be seen as markets for their products, therefore an increase in the GDP will generate more investment.

Table 2. Random effects panel data estimation for CEE countries

Random-effects GLS regression		Number of obs	=	65		
Group variable: country		Number of groups	=	5		
R-sq: within	= 0.3003	Obs per group: min	=	13		
between	= 0.7296	avg	=	13.0		
overall	= 0.3140	max	=	13		
corr(u_i, X) = 0 (assumed)		Wald chi2(7)	=	26.09		
		Prob > chi2	=	0.0005		
D.lnfdi	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
lnvoc						
D1.	.149376	1.158309	0.13	0.897	-2.120868	2.41962
lngef						
D1.	-.9368231	.7633837	-1.23	0.220	-2.433028	.5593815
lnrgq						
D1.	1.72827	.9168434	1.89	0.059	-.06871	3.52525
lnrlw						
D1.	-.8473102	1.158604	-0.73	0.465	-3.118133	1.423512
lnacor						
D1.	-.6384989	.7146057	-0.89	0.372	-2.0391	.7621025
lngdp						
D1.	2.518153	.716543	3.51	0.000	1.113755	3.922552
lntrd						
D1.	-.318698	.3072738	-1.04	0.300	-.9209436	.2835476
_cons	.0587544	.0285972	2.05	0.040	.0027048	.1148039
sigma_u	0					
sigma_e	.1670729					
rho	0	(fraction of variance due to u_i)				

Source: authors' own computation

b) NA countries panel data estimation

For the group of the countries in North Africa, only two variables are significant, both of them being among the group of the governance indicators. For the VOC variable, we obtain a negative significant coefficient, contrary to expectations. It seems that freedom of citizens in selecting the government and the freedom of expression or associations are

obstacles for investments. This is understandable, given that investments mainly focus in rich natural-resources sectors. As a result, corruption and political instability could be overlooked by foreign investors if the benefits resulting from investing in these sectors are considerable.

The second significant indicator is the regulatory quality. More exactly, investors appreciate the government's concern for providing a favorable environment for the private sector, ensure its openness for foreigners and promote the private business activities. The situation in this group of countries is rather interesting: investors count on the activity of the government but tend to be adversely affected by the citizens initiative.

Table 3. Random effects panel data estimation for North Africa countries

Random-effects GLS regression	Number of obs	=	65
Group variable: country	Number of groups	=	5
R-sq: within = 0.4638	Obs per group: min =		13
between = 0.5207	avg =		13.0
overall = 0.2994	max =		13
	Wald chi2(7)	=	24.36
corr(u_i, X) = 0 (assumed)	Prob > chi2	=	0.0010

D.lnfdi	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
lnvoc						
Dl.	-.2812304	.1422942	-1.98	0.048	-.560122	-.0023388
lngef						
Dl.	-.5035872	.3383568	-1.49	0.137	-1.166754	.1595798
lnrgq						
Dl.	.8763079	.2282873	3.84	0.000	.4288731	1.323743
lnrlw						
Dl.	-.3091919	.3671597	-0.84	0.400	-1.028812	.4104279
lncor						
Dl.	-.3282807	.339887	-0.97	0.334	-.9944469	.3378855
lngdp						
Dl.	.0404879	.1131048	0.36	0.720	-.1811935	.2621693
lntrd						
Dl.	.0468194	.1744244	0.27	0.788	-.2950462	.388685
_cons	.1510836	.0204862	7.37	0.000	.1109315	.1912357
sigma_u	0					
sigma_e	.12101362					
rho	0	(fraction of variance due to u_i)				

Source: authors' own computation

Traditional FDI determinants are not significant in this group of countries, neither the GDP level, nor the trade openness, although they have the expected sign. This result is also explained by the type of FDI in these

countries, which are more resource-seeking than market or efficiency-seeking. Investments that harness the natural or factors endowments could take place no matter the development level or the market dimension, once the agreement between the state and the foreign investor is made.

V. Conclusions

Although the two groups of countries have undergone or are undergoing a transition period, they face different obstacles and must overcome different barriers. CEE countries did not face the social unrests that NA countries are still facing, but their vulnerabilities at present are given by the macroeconomic fissures or the political instability.

While regulatory quality and economic development are the main FDI determinants in CEE countries, investors in NA countries are more interested in the regulatory quality and the capacity of government to deliver sound policies for improving the business environment. Still, there are not as many institutional variables significant in relation to FDI as expected. We only found one significant variable for the group of the CEE countries and two institutional variables for the NA countries. A diversification of institutions' quality variables would be appropriate for future research. Another significant result emphasizes that traditional determinants, such as economic development, is still among the main factors attracting FDI, especially for CEE countries. Their lack of importance in the NA economies could be explained by the interest of investors in harnessing the natural resources and gaining advantages through the use of low labor cost. All in all, the results of our paper certify again the need for pursuing policies measures that enable the increase of institutions' quality. It is one of the methods of attracting more FDI inflows and improving the economic growth.

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THE IMPLOSION OF CONFIDENCE - THE OPENING OF FRONTIERS TOWARDS POPULISM AND NATIONALISM

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Abstract

„We entered a chaotic period of transformation of the system of the world which we belong. The result is unpredictable”¹, specify Immanuel Wallerstein in the „The decline of American power - United States in a world of chaos”, published in 2003, which has appeared in Romania in 2005, at Incitatus Éditions. Renowned historian and sociologist warned more than a decade ago that „after five hundred years of existence, the world capitalist system stands for the first time in a real systemic crisis” and the society seen from a global perspective, lies „in an age of transition”. Transition whose final station is unsafe. In the sense that „all these for the first time in five hundred years”, even if „there is a real prospect for fundamental change, which could be progressive”, there's no „must be”².

In a somewhat related note, David Korten emphasize in 2007 the following: „In 1995, I noticed in the prologue of the book ”When corporations lead the world”, everywhere I went, finding among the common people, an almost universal opinion, that institutions which they depended were untrustworthy”³.

Even though Wallerstein hypothesis may be questionable yet (according to Professor as a result of the current crisis the capitalist structural system will cease to exist) or Korten fears can still be interpreted in a subjective exaggerations key (Korten sees a possible incapacity of institutes to provide in the future specific means for solving social conflict), last data confidence

¹ Wallerstein, Immanuel, 2005, *The decline of American power-United States in a world of chaos*, Incitatus Publishing House, Bucharest, pag. 78

² Wallerstein, Immanuel, 2005, *The decline of American power-United States in a world of chaos*, Incitatus Publishing House, Bucharest, pag. 199

³ Korten, David C., 2007, *The great turning. From Empire to community land*, Antet Publishing House, Bucharest, pag. 12

Barometer Edelman¹ presented this year earlier open a perspective which should reflect carefully. For the first time, globally, we are found impressive decreases levels of trust in four fundamental institutions: government, business, the media and NGOs. Furthermore, we can add the lowest rate the credibility of globally CEO's so far.

What we know for sure is that the performance of the institutions depends on their fundamental background of social, economic and cultural. There is also a proportionately report between confidence and the likelihood of cooperation. In that the last is favoured under conditions in which the rules are based on the social trust

We know also that the formal institutions influencing policy and practice governance². From this latter perspective, that will be the implications of the crisis of globally confidence? We can expect in the future, in certain States, to witness an escalation of populist movements fueled by a lack of trust in the system and fears of economic and social?

Winning the presidential election by Donald Trump, Brexit, and the failure of the referendum in Italy in this year's open discussion of coupling of the populations already lack of trust in the current global system.

We talk about a border in motion or just about an implosion of confidence, a spurt of tension of the distrust that will be systemically readjusted in years to come?

Keywords: barometer, business, corruption, globalization, immigration, implosion, innovation, institution, trust, media, nationalism, populism, technological change, social values

JEL Classification: Z10, Z13, Z18, R58

1. Populism - fear, xenophobia, the failure of traditional political parties

Explanatory dictionary of the Romanian language describes a populism as a socio-political stance, often a conjectural or demagogic, that is aimed at winning popular sympathy. Sympathy that can be won

¹ The confidence barometer Edelman 2017 is the seventeenth of trust and credibility. The study was conducted by the research company Edelman Intelligence and consisted in an interview online for 25 minutes, held between October 13 and November 16, 2016. 33.000 respondents participated in the survey. For selecting the public informed in 28 countries have used the following criteria: age 25-64 years old, educated, upper income limit for age and their country, tracking at least weekly business news or General, concern for public policy that we are pursuing in the media several times a week.

² Putnam, Robert D., 2001, *How does democracy*, Polirom Publishing House, Iași, pag. 193-203

politically not the few times building to satisfy the wishes of citizens routes, even to the detriment of their interests.

An interesting definition of populism done by Cas Mudde in his "Populist radical right parties in Europe".¹

According to Mudde, concept itself is merely a 'host' ideology ('host ideology') in which right-wing populism (a form of nationalism) or left-wing populism (a form of socialism) operates at maximum climate socio-economic weaknesses and political community (State) at a time. In other words, make the progeny of the dynamics of some distrust put in motion fundamental changes in the paradigms of interpretation of societal and political conventions.

From the perspective of political philosophy that you espouse, populism cannot be positioned either to the left or right spreading out the ideological parties. He probes term in the social tissue weaknesses and institutes where the level of productivity of social exchanges is strongly influenced by the negative perception of individuals about how things work in community.

Interpretat în cheie politică, nu sunt puțini specialiștii care fac o distincție foarte clară între populist și demagog. În sensul că, dacă pentru ultimul neîndeplinirea politică a promisiunilor asumate îl păstrează cumva în limitele unei filosofii sistemice din care oricum nu intenționează să iasă (sistem politic căruia de altminteri îi aparține, își asumă apriori înșelarea opiniei publice prin promisiuni mincinoase), pentru politicianul populist nu în puține dintre cazuri lucrurile stau cu totul altfel. Pentru acesta frontiera filosofiei sistemului politic căruia îi aparține este interpretată doar ca o gemandură peste care se așteaptă să înnoate într-o zi împins de forța unui curent popular conjunctural așteptat, al cărui reprezentant îndreptățit nu va întârzia să se considere.

Played in political key, there are very few experts who make a very clear distinction between populist and demagogue. In the sense that if for the last failure to comply with policy promises keep it within a systemic philosophy from that anyway does not want to leave (political system which otherwise belongs to, assume the public deception by lying promises), for populist politician not in few cases things are with everything else. For this the frontier of the political philosophy system whose belongs is interpreted as a „border” who is expected to swim one day over pushed the force of an expected popular term, whose representative will not delay the effect has to be considered.

¹ Cas, Mudde, "Populist radical right parties in Europe", Cambridge University Press, 2009

What is interesting, the emergence and existence of populist politician depends on the fundamental right of existence of the mechanisms of democracy, because it needs the entire architecture of the democratic network in order to make known the vision. Vision that not in few cases can be modelled even a sense of undeniable sincerity, confidence in the values we represent.

Basically, it is the antechamber where the populist person is separated from the demagogue. No policy lie represents the major danger, but on the contrary, honesty, authenticity has made possible its belief. Beliefs that, if offered the chance, make populist person able to articulate and implement public policy, which assessed superficially, can have disastrous long-term consequences even for activists or voters who brought him to the forefront of the political scene plane.

As specify and Professor Andrei Cornea, the great problem for populist is right honesty, which builds its way through a 'moral' shall enter into the formulation of a great 'bad'.¹

In other words, disguising the 'public good' of some temporary adverse faiths with consequences for society, which are contextual connected to a meteoric film of a social history whose needed development populist person even think.

There is no boiling point or a point to establish with precision the perimeter which validate the entry into the play area of the populism. There are however certain frontiers beyond of which, once passed, certainly he can feed it the ideology.

One of these borders is institutional distrust. That is probably a pennant altitude, an Everest who once reached, can power multiple changes in interpreting the paradigms from inside the of the social worlds.

Edelman trust Barometer data from 2017 should worry in this regard just by lowering the levels of trust at the same time the most important global institutions.

From this perspective, we are on the threshold of a fundamental paradigm change possible? What are the dates that we should either from the perspective of a possible endorsement of the teacher's Wallerstein hypothesis, which put in discussion even possible entry into the crisis of the current world system?

¹ See <http://revista22online.ro/70251052/populismul-i-demagogia.html>

2. The likely implications of the crisis of confidence in global level

Let's turn the main four institutions whose level of distrust invite to a rigorous analysis in the light of possible developments with unintended globally consequences¹:

- Trust in all four institutions is in declines (two of four institutions distrusted: media and government).

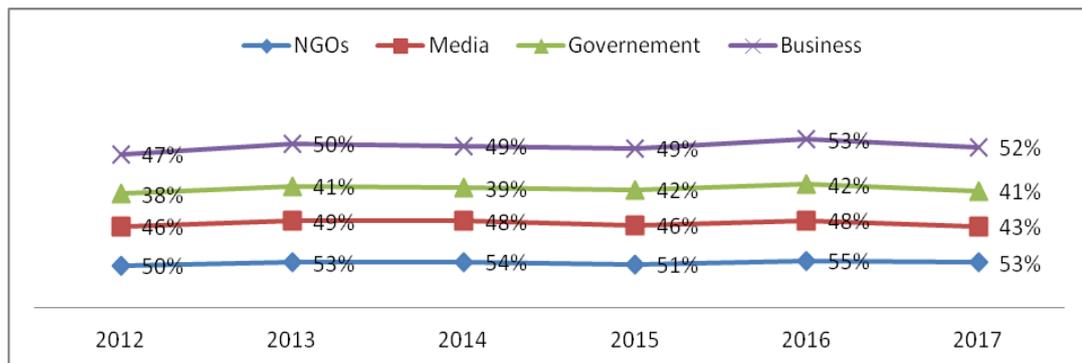


Fig. 1 – Percent trust in the four institutions: 2012-2017

- We notice a world of distrust – trust declines in 21 of 28 countries (2 in 3 countries are now distrusters);
- At this point, trust in Media plunges to all-time lows (distrusted in 85% of countries);
- Also, trust in Government further is evaporates (distrusted in 75% of countries, declines in 14 countries);
- We also notice that NGOs less trusted than business in 11 countries (distrusted in 8 countries, declines in 21 countries);
- Also, business is on the brink of distrust (distrusted in 13 countries, declines in 18 countries);
- And which greatly worries - credibility of leadership is in crisis (CEOs 37% credible, Government officials 29% credible);
 - o All-time low for CEOs credibility – CEOs not credible in 23 countries, declines in all 28 countries;
- At question: How true is this for you?
 - o Sense of injustice,
 - o Lack of hope,
 - o Lack of confidence,
 - o Desire for change,

¹ See <http://www.edelman.com/global-results/>

Majority believe the system is failing them:

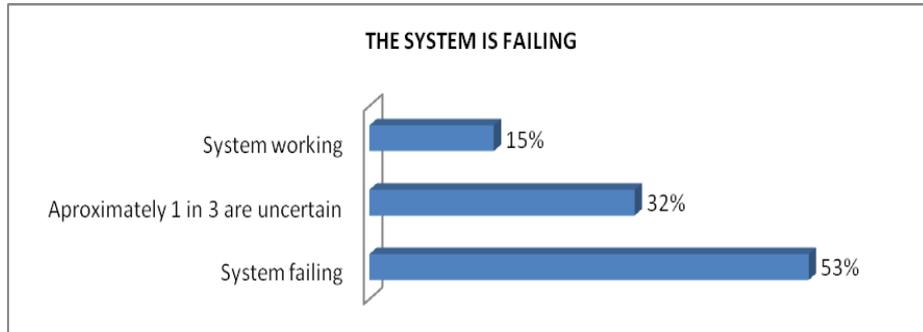


Fig.2 – Without trust, belief in the system fails

- Even those at the top are disillusioned:

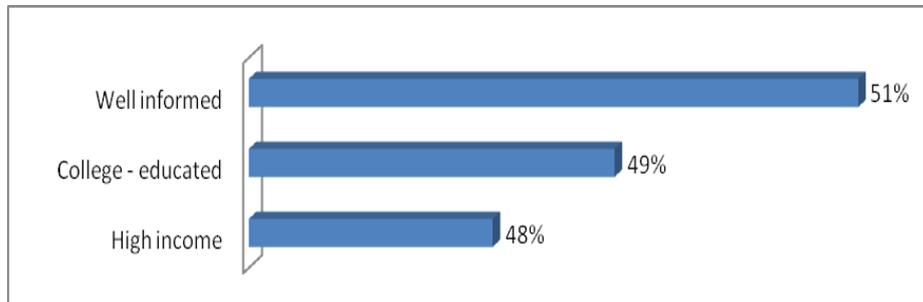


Fig.3 – Percent who believe the system not working

- 1 in 2 countries have lost faith in the system (systemic loss of faith restricted to western-style democracies);
- Concerns have become fears:

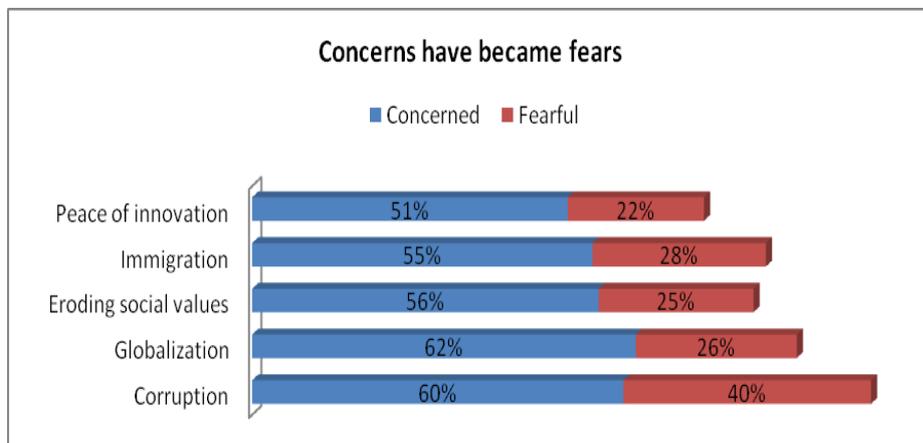


Fig.4 – Concerns have become fears

- Fears further erode belief in the system:

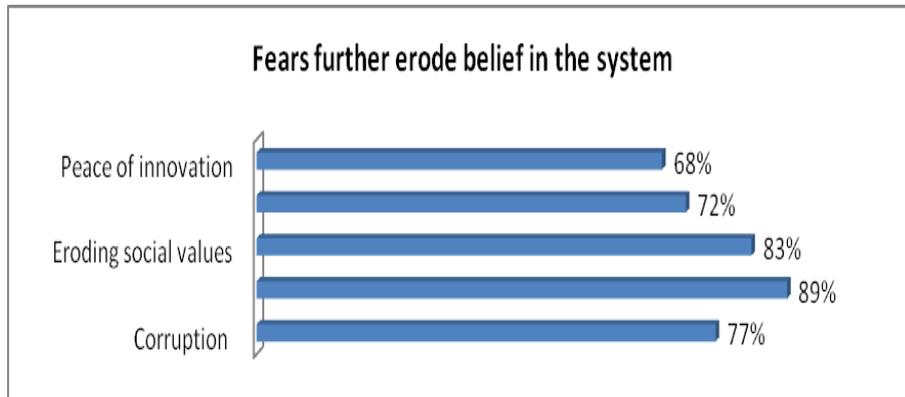


Fig.5 – Percent of respondents with various fears who also believe the system has failed them

- Respondents favors search engines (59%) at the expense of journalists editors (41%), which means they are 4 x more likely to ignore information that supports a position they do not believe

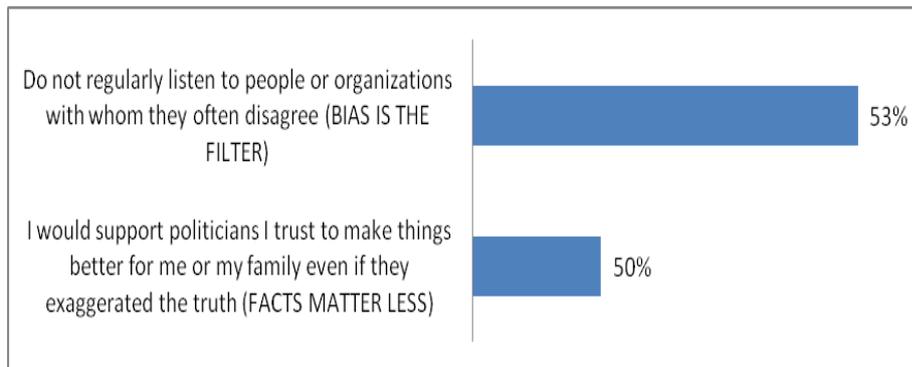


Fig.6 – The echo chamber in action

- Here is the reliable sources of information (traditional media down 5 point /owned media now as trusted as media as an institution):

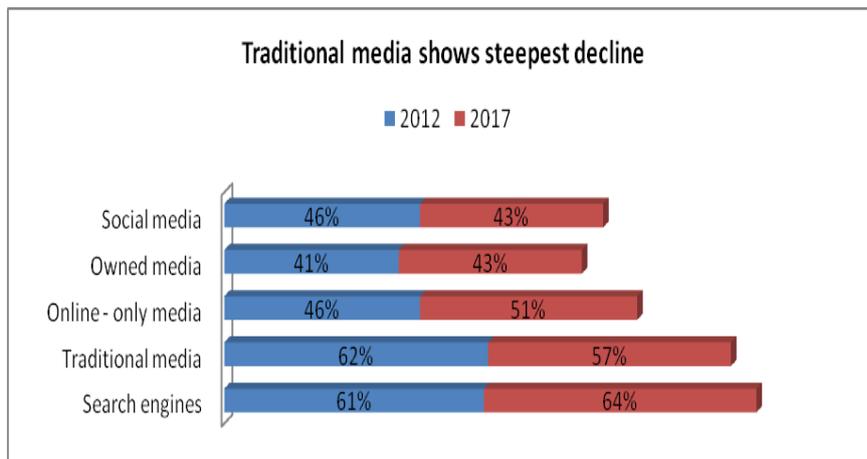


Fig.7 – Percent trust in each source for general news and information

- Edelman barometer shows that:
 - o Peers now as credible as technical or academic expert,
 - o CEO credibility decreased the most, dropping to all-time low (37%),
 - o A person like yourself now tied for most credible spokesperson.

- In business:
 - o 53% appreciate that the pace of change in business and industry is too fast,
 - o 50% appreciate that globalization taking us in the wrong direction,
 - o Business plays an important role in stoking societal fears.

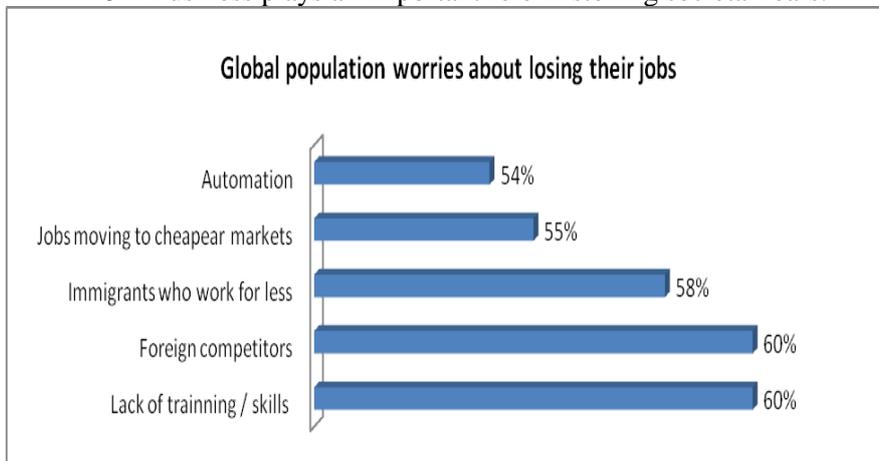


Fig.8 – Global population worries about losing their jobs

- They are support for anti-business policies:

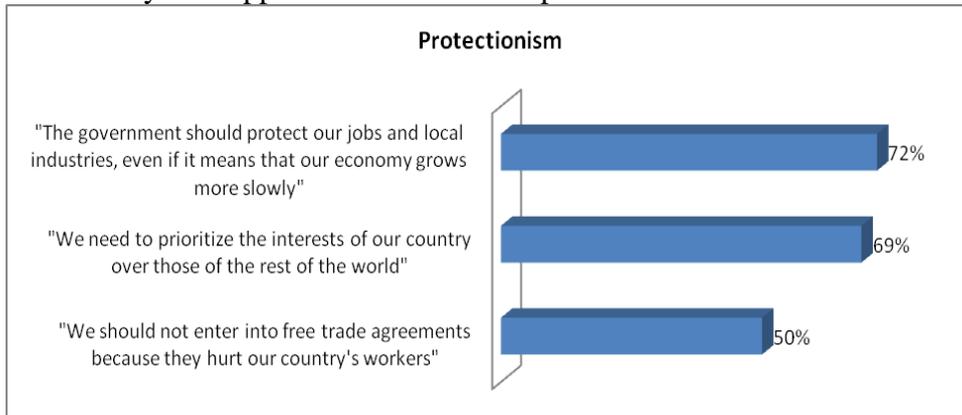


Fig.9 – Support for anti-business policies

- 82% agree that the pharmaceutical industry needs more regulation;
- 70% agree that policy makers should taxes foods that negatively impact health;
- 53% do not agree that financial market reform have increased economic stability;
- 75% agree that a company can take specific action that both increase profits and improve the economic and social condition in the community where it operates;
- Business in the most trusted among the 1 in 3 who are uncertain about the system.

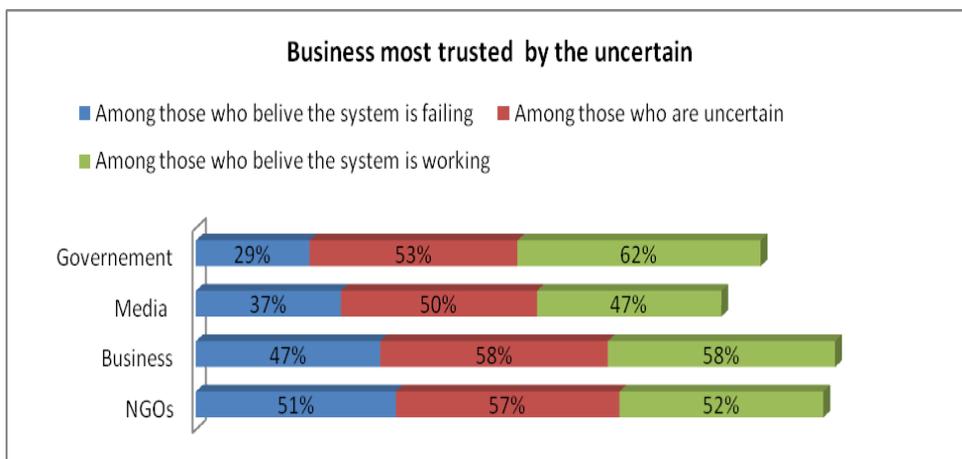


Fig.10 – Business most trusted by the uncertain

- When the system is failing, companies must do more:

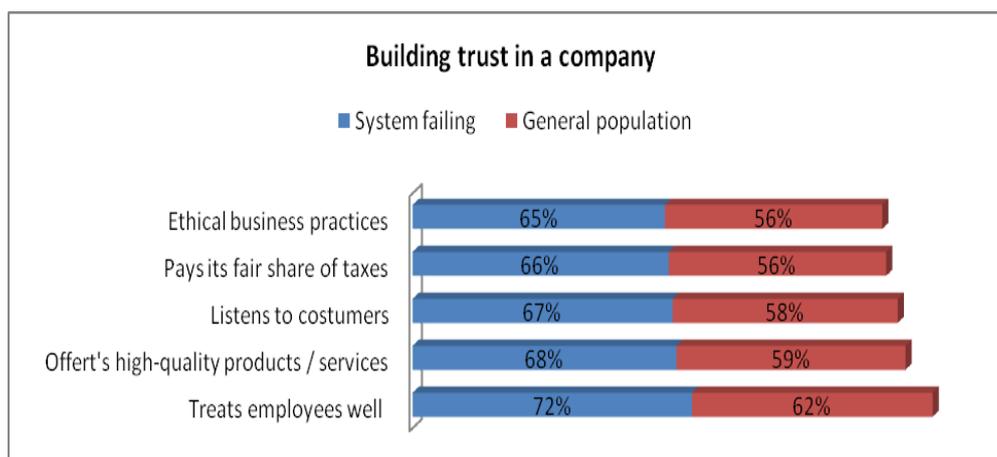


Fig.11 – Percent who rate each attribute is important in building trust in a company.

Conclusions:

- Over 53% of respondents were disappointed by the current global system and this state of mind should be interpreted in a key of a major distrust in the future;
- What seems interesting is that including the elites (population with a high index of human capital) appreciates that the current global system failed;
- Generally a consistent disappointment bearing the imprint of faith in social inequity on which the global system has generated and maintain year after year;
- The distance between the audience of the informed population and the rest of the population reached 15%, values being much higher in the US (21%), United Kingdom (19%) and France (18%), all three already suffering major political changes in the last year;
- For the first time the overall pace of innovation fear (22% considered that it was too big), calling into question the nature of the public good brought of technological revolutions;
- Distrust of authority, calling into question the legitimacy of institutions heavily eroded (a normal individual is equally credible as a source of information about a company with a specialist or expert, but much more believable than a CEO or Government official);
- The high level of distrust can trigger fundamental changes in the operating mechanisms of the present modern world system;
- Moreover, amid supply economic and social fears (globalization, migration, corruption, erosion of social values) populist movements can finally maintain doctrines, a long time remaining in a treacherous latency;

- As long as the present perception on the level of institutional performance and effectiveness generates rather fears, it is very difficult to maintain the cohesion of a community;
- In the discussion being even global community risk may be very large.

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INTERNAL CONTROL IN ROMANIA MALFUNCTIONS – PERSPECTIVES

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Abstract:

The phrase "internal control" highlights the responsibility of all hierarchical levels for the management of all internal processes carried out to achieve the general and specific objectives.

The implementation and development of a solid internal control system is a time-consuming process adapted to the legislation, organizational, personnel, financing etc. of each individual public entity and which requires significant efforts from the entire staff of the entity and, in particular, from the employees with leading positions.

The internal control system of any public entity operates with a variety of procedures, means, actions, provisions that address all aspects of the entity's activities, being established and implemented by the entity's management in order to have good control over the entity's activity as a whole as well as over each activity / operation.

Keywords: *internal control, management, entity, risks*

JEL classification: *M41, M42, M48, M49, H83*

1. General considerations on the concept of internal control

The necessity and the obligation of organizing the internal control in the public entities was imposed by OG no. 119/1999.

According to this normative act, the internal control is defined as an ensemble of the control forms exercised at the level of the public entity, established by the management in accordance with its objectives and with the legal regulations in force, in order to ensure the administration of the public funds economically, efficiently and effective.

The implementation of the internal control at the level of the main credit ordinarators started in 2006, when the main objectives of this type of control were established through OMFP no.946 / 2006.

At that time, however, internal control only concerned the financial side of public institution management.

For this reason, essential changes in the organization and implementation of internal control have been performed through OUG no.86 / 2014 and Law no.174 / 2015.

In order to implement the stipulations of the two normative acts, Order no.400 / 2015 of the General Secretariat of the Government was issued, which established the main ways of implementing the internal control.

The following substantive changes have been made by the mentioned normative acts:

- A new organization and subordination of the structure that aims at the implementation of the internal control by creating a Directorate for Internal Managerial Control at the level of the General Secretariat of the Government.

- The number of standards has been reduced from 25 to 16, combining some standards and introducing new ones;

- A Monitoring and Risk Management Committee have been set up at each public entity level;

In the current context, the legislation in the field of internal control is largely made up of general principles of good practice, accepted internationally and in the European Union.

The way in which these principles are transposed into the internal control system is specific to each country, being determined by legislative, administrative and cultural conditions.

The organization of the internal control system of any public institution takes into account the achievement of at least three categories of objectives that are subject to changes depending on the implementation stage and which can be grouped as follows:

- a) Objectives regarding the effectiveness and efficiency of working - includes objectives related to the goals of the public entity and to the use in conditions of economy, effectiveness and efficiency of the resources, including objectives for protecting the public entity's inadequate use or loss of resources, and also the identification and the management of liabilities;
- b) Objectives regarding the reliability of external and internal information - includes the objectives of maintaining appropriate accounting, the quality of the information used in the public entity or disseminated to third parties, as well as by the protection of

documents against two categories of fraud: the concealment of fraud and the distortion of results ;

- c) Objectives regarding the compliance with domestic laws, regulations and internal policies - includes the objectives of ensuring that the entity's activities are carried out in accordance with the obligations imposed by laws and regulations, as well as with respect for internal policies.

The design, the implementation and the continuing development of a viable internal control system are possible only if the system complies with the following requirements:

- a) To be adapted to the size, complexity and the specific environment of the entity;
- b) To target all levels of management and all activities / operations;
- c) To be built with the same "instruments" in all public entities;
- d) To provide reasonable assurance that the entity's objectives will be achieved;
- e) The costs of implementing the internal control system are inferior to the benefits resulting from it;
- f) To be governed by the minimum management rules contained in the internal control standards.

The establishment of the internal control system is the responsibility of the management of each public entity and must take into account the internal control standards.

Internal control systems need to be developed taking into account the legal, organizational and financial specifics of each public entity.

2. Malfunctions in the current internal control system

By OSGG no.201 / 2015, the Methodological Norms for accomplishing the verification missions and methodological guidance were established, in order to be achieved by the Directorate of Internal Managerial Control of the General Secretariat of the Government, to the public institutions that have the quality of principal orderers.

The verification missions of the Directorate of Internal Managerial Control of the General Secretariat of the Government as well as the Court of Auditors highlighted a series of malfunctions regarding the inadequate implementation of the internal control in the entities and also the causes that generated this situation.

An in-depth analysis of the Methodological Norms concerning the implementation of the internal control established by OSGG no.400 / 2015 and OSGG no.200 / 2016 highlights the fact that the stipulations are not

clear and precise, leading to interpretations or even the impossibility of applying in practice mandatory rules of the internal control system.

This way we exemplify:

- According to the stipulations of Article 3 paragraph 2: "The Monitoring Committee includes the heads of departments in the organizational structure, which shall be updated whenever necessary and it is coordinated by the President, who holds the leading position."

This normative provision can not be applied by large public entities with many compartments in the organizational structure and located in different places. This is because, if the organizational structure includes 50 compartments, then the monitoring committee should consist of 50 members, who should be convened, monitored, coordinated to take decisions in the field of internal control, which would be impossible or unwarrantable in terms of costs in relation to the benefits obtained. There is also the risk of encouraging formalism, that is, the committee to meet fictitiously and only to sign the documents;

- According to the stipulations of art.3 paragraph (2) and art.5 paragraph (4) of the OSGG no.200 / 2016, the head of the internal audit department would be part of the monitoring committees, which is contrary to the stipulations of art.22 paragraph (3) of Law No. 672/2002 on public internal audit, republished, as amended and supplemented, states that "Internal auditors should not be involved in any way in the accomplishment of the activities they are potentially able to audit, nor in the preparation and the implementation of control systems for public entities".
- According to the stipulations of art. 3, paragraph (6) of OSGG no.200 / 2016, "the Monitoring Committee analyzes and prioritizes the significant risks that may affect the achievement of the general objectives of the functioning of the public entity by establishing the risk tolerance limits annually, approved by the management of the entity, which are mandatory and are transmitted to all application compartments. "

Regarding to this stipulation, it is not clear how it is applied in practice, which limits of risk tolerance are transmitted by the monitoring committee to the compartments and whether they are transmitted only for the risks related to the general objectives or to all the objectives of the entity, including the specific ones of the compartment's activity ;

- According to art. 5 paragraph (4) of the OSGG no.200 / 2016, "The risk management team includes the department managers or their substitutes, from the organizational structure, is updated whenever necessary and is coordinated by the president , a person who holds a

leading position and is different from the person who coordinates the Monitoring Committee. "

If the Risk Management Team (EGR) is made up of heads of compartments, it is in fact a superposition of the monitoring committee, the two "teams" being different only through their chairperson.

In our opinion, this way of working would create bureaucracy, duplication of documents and activities (Regulation of Organization and Functioning of the Monitoring Committee, Regulation of Organization and Functioning of the EGR, EGR meeting papers, etc.). If the EGR were made up of substitutes for heads of departments, this would require them to take decisions on the establishment of risk management measures and, also, on cost decisions, over the heads of departments responsible for this action. This leads to excessive bureaucracy in the implementation of risk management.

- According to the stipulations of point 3.2.5 of the Code of internal managerial control, it is mandatory for the heads of the departments of the public entity to ensure, for each employee, participation in professional training courses each year in his field of competence. Or, according to the stipulations of Article 194 in the Law no.53 / 2003 - Labor Code, with subsequent amendments, the employer is responsible to ensure participation at training courses at least 2 times a year (for entities with more than 21 employees) or triennial (for entities with less than 21 employees).

In our opinion, the introduction of a stipulation more restrictive than the stipulations of the law governing professional training contravenes art. 16 para. (1) and (2) in the Law no.24 / 2000 on the technical legislative acts norms for the elaboration of normative acts, which state that in the law-making process it is forbidden to introduce the same regulations in several articles or paragraphs of different normative acts, and in the case of parallelism, they will be removed by repeal or the concentration of the matter in unique regulations.

- According to the stipulations of point 2.2.6 of the Standard 2 - Duties, functions and tasks: "The management of the public entity identifies sensitive functions and functions considered to be particularly exposed to corruption and establishes an adequate policy of management of the personnel in charge of such functions".

In our opinion, the text from OSGG no.200 / 2016 is unclear and does not delimit the terms: sensitive functions / functions exposed to corruption. Thus, it is not clear whether there is a difference between sensitive functions and the ones that are exposed to corruption, or the two terms are similar, contrary to the stipulations of Article 37 (2) of Law No.24

/ 2000, which states that "If a notion or a term is not consecrated or can have different meanings, its significance in the context is determined by the normative act which establishes them, within the general establishments or in an annex of the lexic, and becomes compulsory for the legislation of the same field".

- According to the stipulations of section 2.2.8, "The management identifies sensitive functions based on the inventory of sensitive functions and the list of employees occupying these sensitive functions. When the management decides to declare the existence of sensitive functions, it will develop a plan in order to rotate the staff at intervals of at least 5 years. If the management of the public entity decides not to declare certain sensitive functions, then it will necessarily implement additional control activities or other measures on the flow of that process so that the effects upon the activities carried out within the entity should be minimal in the risk management process".

In our opinion there are uncertainties and difficulties in applying the stipulations regarding the identification and management of sensitive functions in the current text, as follows:

- "The entity's management identifies sensitive functions based on the inventory of sensitive functions and the list of employees occupying these sensitive functions ...": Sensitive functions are identified / established first and then the inventory / list of sensitive functions is drawn up followed by the list of employees occupying the sensitive functions.
- "In the event that he decides to declare the existence of sensitive functions, he shall draw up a plan in order to rotate the staff at intervals of at least 5 years.": The manager of the entity may decide, as he wants, to declare or not the sensitive functions, which is not correct in the case where they are identified or they exist. Also, the term of rotation is at least 5 years, which means it is legal that staff rotation never intervenes.
- "If the manager of the public entity decides not to declare certain sensitive functions, then it will necessarily carry out additional control activities ...". There is a contradiction with the previous paragraph, in the sense that only some functions may not be declared, but control measures are required for these functions, which in fact do not exist and are not declared.

It is also unclear how to approach the objectives, performance monitoring indicators, risks and procedures for entities that have implemented ISO 9001 and that have the obligation to implement OSGG no.400 / 2015, also being a risk of the documents to be duplicated (for example - procedures), the occurrence of conflicts by using different models on ISO or OSGG no.400 / 2015 etc.

In conclusion, we consider that the current version of the text in OSGG no.400 / 2015 emphasizes the elaboration of documents in the damage of the implementation of the internal control, having the risk of lowering the interest of the management of the entities in the application of the internal control as a result of its perception as an excessively bureaucratic activity. The current form also requires resource consumption in the public sector (for the development of a big number of internal control documents) with little application to practice.

In the context of the aforementioned, we consider that it is necessary to amend and supplement the OSGG no.400 / 2015 and OSGG no.200 / 2016, aiming at simplifying / reducing the number of documents, in agreement with the difficulties and ambiguities highlighted above, the news brought by the control reviewed by COSO in 2013, and also clarifying how to integrate ISO 9001 into the entity's internal control system. Regarding the review process, we consider it necessary to consult the public entities, as well as to carry out public information activities on drafting and implementing the draft normative act in order to receive proposals and debates for insuring stability in the application in practice of the Code of internal managerial control.

3. Perspectives regarding the implementation and development of the internal control system in Romania

Internal control is now perceived as a difficult concept, difficult to apply in practice and without positive effects in the public entity's activity.

Therefore, a simpler framework needs to be created, with limited resources (human and material), with standardized documents that must produce immediate effects for the entity's manager.

Internal control should highlight responsibilities to all hierarchical levels in the way of managing the internal processes developed for the achievement of the general and specific objectives.

The internal control system must be regulated so as to ensure a general framework of organization with flexible and adaptable application to each type of entity, to ensure highlighting of strengths and weaknesses and to highlight significant risks that must be known by the entity's manager, and the development and standardization of operational and system procedures for all activities, thus contributing substantially to the entity's objectives.

In the context of the above, we consider that a series of changes to the orders governing the internal control are required, and which mainly consists of:

- Establishing in all entities a position of Counselor with responsibilities in the field of internal control, similar to the Ethics

Advisor, regulated in this moment for public institutions. The role of the counselor for the internal control would be to periodically inform the manager of the entity about the way the Monitoring Committee works.

- Modify the composition of the Monitoring Committee to include only the main entity structures (resources, legal, economic) in it, and periodically completing it with the structures within the entity that are involved in the endorsement of the procedures. In this way, the Monitoring Committee can operate without affecting the entity's current activities.
- Abolish the risk management team and set up a technical secretariat to monitor the risk management. This would remove the excessive bureaucratisation of risk monitoring activity, and the Monitoring Committee could conduct its work and inform the entity's management of the possible risks to be achieved.
- Collecting informations about risks through a senior manager at the highest level of the entity, department or directory. The number of staff collecting risk information would be eliminated; for this moment there is a person nominated to be responsible with the risk management for each compartment, office, service, direction.
- There should be a situation at the level of the entity with its general and specific objectives and the measures to be taken to achieve them, for the moment there is only a limited inventory with the main objectives.
- The risk register should be reviewed periodically by the monitoring committee and amended and completed according to the concrete cases in practice. At this time, the once-completed risk register is not considered as a major source of risk-related information.
- An explanation of the phrase "sensitive functions", an inventory of all entity-sensitive functions and the creation of an appropriate framework for periodic review and the establishment of preventive measures for the possibility of the appearance of significant risks.

In current regulations, sensitive functions are limited to functions pertaining to corruption, this way a series of common facts are eliminated, such as those relating to service offenses, etc.

In conclusion, we believe that the internal control system must be the main tool by which the new or the older manager of the entity can obtain informations on which he can take decisions in a speedy manner to ensure the fulfillment of his tasks.

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