

**“DUNĂREA DE JOS” UNIVERSITY OF GALAȚI  
FACULTY OF JURIDICAL, SOCIAL AND POLITICAL SCIENCES**

**Member of the Network of Institutes and Schools and Public  
Administration in the Central and East Europe**

---

**INTERNATIONAL CONFERENCE**

**“EXPLORATION, EDUCATION AND PROGRESS IN THE THIRD  
MILLENNIUM”**

**Galați, 29<sup>th</sup> – 30<sup>th</sup> of April 2011**

**- Proceedings -**

**Vol. II, No. 3**

**Galati University Press**



**The Scientific Committee:**

**Honorary Chairmen:**

Ph.D. Professor Viorel MÎNZU  
Rector of the "Dunărea de Jos" University of Galați  
Ph.D. Professor Stefano PIVATO  
Rector of the University of Urbino "Carlo Bo" Italy  
Ph.D. Professor Andrei POPA  
Rector of the University "Bogdan Petriceicu Hasdeu" Cahul, Moldavia  
Ph.D. Professor Jerzy Marian Kopania  
Rector of the Stanislaw Staszic College of Public administration in Białystok, Poland

**Members:**

Ph.D. George ANTONIU	(Romania)
Ph.D. Massimo CIAMBOTTI	(Italy)
Ph.D. Luminița Daniela CONSTANTIN	(Romania)
Ph.D. Piotr SITNIEWSKI	(Poland)
Ph.D. Nicolaie VOLONCIU	(Romania)
Ph.D. Giorgio CALCAGNINI	(Italy)
Ph.D. Alexandru BOROI	(Romania)
Ph.D. Andreas P. CORNETT	(Denmark)
Ph.D. Dana TOFAN	(Romania)
Ph.D. Robert SZCZEPANKOWSKI	(Poland)
Ph.D. Luca IAMANDI	(Romania)
Ph.D. Agnieszka BITKOWSKA	(Poland)
Ph.D. Alexandru ȚICLEA	(Romania)
Ph.D. Pierre CHABAL	(France)
Ph.D. Nicolae DURĂ	(Romania)
Ph.D. Irena SZAROWSKA	(Czech Republic)
Ph.D. Petre BUNECI	(Romania)
Ph.D. Giorgios CHRISTONAKIS	(Greece)
Ph.D. Silvia Lucia CRISTEA	(Romania)
Ph.D. Fabio Musso	(Italy)
Ph.D. Dan DROSU-ȘAGUNA	(Romania)
Ph.D. Valentina CORNEA	(Republic of Moldavia)
Ph.D. Eleftherios THALASSINOS	(Greece)
Ph.D. Sergiu CORNEA	(Republic of Moldavia)
Ph.D. Emilian STANCU	(Romania)
Ph.D. Claude BROUDO	(France)
Ph.D. Tonino PENCARELLI	(Italy)
Ph.D. Dan LUPAȘCU	(Romania)
Ph.D. Daniel BUDA	(Romania)
Ph.D. Nicoleta DIACONU	(Romania)
Ph.D. Răducan OPREA	(Romania)
Ph.D. Romeo Victor IONESCU	(Romania)
Ph.D. Violeta PUȘCAȘU	(Romania)
Ph.D. Florin TUDOR	(Romania)

**Organizing Committee:**

Ph.D. Răducan OPREA	(Romania)
Ph.D. Romeo Victor IONESCU	(Romania)
Ph.D. Ioan APOSTU	(Romania)
Ph.D. Violeta PUȘCAȘU	(Romania)
Ph.D. Florin TUDOR	(Romania)
Ph.D. Neculina CHEBAC	(Romania)
Ph.D. Liviu Bogdan CIUCĂ	(Romania)

**Volume coordinator:**

Ph.D. Florin Tudor

**Copyright © 2009 Galati University Press**

Toate drepturile rezervate. Nicio parte a acestei publicații nu poate fi reprodusă în nicio formă fără acordul scris al Editurii.

**Galati University Press** – Cod CNCIS 281

Editura Universității “Dunărea de Jos”, Str. Domnească nr. 47, 800008 – Galați, ROMÂNIA

Tel: 00 40 336 13 01 39, Fax: 00 40 236 46 13 53

[gup@ugal.ro](mailto:gup@ugal.ro)

**ISSN 2066 - 7019**

## **SUMMARY**

### **PUBLIC ADMINISTRATION & REGIONAL STUDIES SECTION**

<b>Romeo Victor IONESCU - THE GLOBAL CRISIS AS A CONNECTION BETWEEN PAST, PRESENT AND FUTURE .....</b>	<b>9</b>
<b>Romeo Victor IONESCU - COMPARATIVE ANALYSIS OF THE PAYMENT SYSTEMS ACROSS THE EU27.....</b>	<b>25</b>
<b>Sergiu CORNEA - REALISATION DES PRINCIPES D'AUTONOMIE LOCALE EN REPUBLIQUE DE MOLDOVA: LE CAS DE GAGAOUZIE. 33</b>	
<b>Neculina CHEBAC - COMPARATIVE ANALYSIS OF THE REVENUE AND EXPENDITURE BUDGET EXECUTION OF GALATI COUNTY COUNCIL ON THE 2009-2010 BUDGET YEARS .....</b>	<b>45</b>
<b>Valentina CORNEA - RELATIONS BETWEEN SOCIAL CAPITAL AND SELF- ADMINISTRATION .....</b>	<b>55</b>
<b>Oleg BERCU - THE FORMATION TERRITORIAL UNIT - ADMINISTRATIVE UTAG GAGAUZ. LEGAL STATUS .....</b>	<b>65</b>
<b>Melinda CENUȘE - CESSATION OF THE TOWN COUNCILLOR'S SEAT .....</b>	<b>77</b>
<b>Liviu COMAN-KUND - RÉFLEXIONS SUR LE SYSTÈME POLITICO – ADMINISTRATIF ROUMAINE .....</b>	<b>87</b>
<b>Florin TUDOR, Ionuț JARCĂ, Andreea Loredana TUDOR - THE COMPETITION POLICY AND THE ECONOMIC AND FINANCIAL CRISIS .....</b>	<b>99</b>
<b>Ina FILIPOV - THE ROLE OF REMITTANCES IN THE WELFARE CERTAINTY OF MOLDOVA DEVELOPMENT .....</b>	<b>105</b>
<b>Veronika FIŠEROVÁ - FINANCIAL ASSETS AND THIN CAPITALIZATION RULES .....</b>	<b>113</b>



**PUBLIC ADMINISTRATION  
& REGIONAL STUDIES  
SECTION**





## THE GLOBAL CRISIS AS A CONNECTION BETWEEN PAST, PRESENT AND FUTURE

Romeo IONESCU\*

### Abstract

*The paper deals with a historical approach to the crisis, in order to mark out the cyclical world economic evolution and the idea that people and their leaders are not able to learn from past mistakes.*

*The first step of the analysis deals with a critical approach to the economic crisis in different countries during the 1907-2002 period. A distinct part of the paper deals with the great depression in 1929-1933.*

*An important part of the analysis is focused on the causes, the differences and the similarities between the present and the previous crisis.*

*The most important conclusions of the paper are: the present crisis is not defeated yet and the same crisis supports a new world economic order implementation.*

**Keywords:** *economic depression, financial liquidity, economic recovery, global economic approach.*

**JEL Classification:** *F43, F44, F59.*

### 1. Economic crises in the 20<sup>th</sup> century

The 1907 Bankers Panic was generated in the USA by the banking system collapse. This collapse was the result of massive cash withdrawals, bankruptcies and a drastic decrease of the confidence in banks.

There was no “official” institution able to guarantee bank deposits at that moment. The Dow Jones average index fell in March 1907 and it was followed by an important decrease in October. As a result, the US Treasury and JP Morgan Bank ensured the liquidity asked by the banking sector. The confidence restored in February 1908.

Another economic crisis was supported by the hyperinflation in Germany, between 1918 and 1924. In 1914, the exchange rate between the German mark and the US dollar was 4:1. In 1923, the same exchange rate achieved 1 billion:1. The Versailles Treaty, confirming the end of the 1<sup>st</sup> World War, forced Germany to pay 132 billion gold-marks (about 200 billion USD) as reparations. The payment had to be done in part, the annual rate being 2 billion gold-marks plus 26% of the German exports’

---

\* Ph.D Professor, Faculty of Judicial, Social and Political Sciences, “Dunărea de Jos” University of Galați, Romania, Email: ionescu\_v\_romeo@yahoo.com.

value. These penalties were greater than all German gold and foreign currencies. The situation improved at the end of 1923, as a result of a monetary reform supported by the Rentenmark implementation.

On October 15, 1973, the OAPEC member states (OPEC, Egypt and Syria) decided to stop their oil deliveries to the USA and other developed countries (especially, Netherland), which supported Israel during the Yom Kippur war. It was the first time when a rare material was used as weapon. The embargo caused the oil price to grow from 3 USD to 12 USD per barrel. The importers supported powerful negative effects. The negative effects cumulated those related to Bretton Woods' agreement termination. The oil crisis became the starting point of a new approach related to energy consumption, which militated for energy consumption decrease.

The Arabian countries, especially Kuwait, faced an important crisis in 1982, which was connected to the Souk Al-Manakh transactions. Souk Al-Manakh is a parallel exchange on which the high risk financial instruments are sold. The oil price explosion in the 70s and the stock market speculation caused the growth of the stock indexes. As a result, the official stock exchange failed. Then, the government imposed rigid trading rules. As a result of that crash, all Kuwait banks, excepting one, went bankrupt or were nationalised. Souk Al-Manakh had the third capitalisation in the world, after the New York Stock Exchange and Tokyo Exchange.

The USA faced an interesting crisis related to the largest stock market drop in history. In 1986, the American economy began to fall, but the Dow Jones average index achieved a peak of 2722 in August 1987. On October 19, 1987, the exchanges crashed and the Dow Jones decreased by 22.6% during a single day. As a result of this "black Monday", the companies lost 500 billion USD of capitalisation.

Across the same continent, the Mexican economy grew very much during 1990-1993, as a result of the strict exchange rate control and a powerful money injection related to wages and pensions' growth. The budgetary deficit achieved an unsustainable level and the national currency started to fluctuate freely. During a single week, the peso-USD exchange rate decreased from 4:1 to 7.2:1. USA bought quickly pesos directly from the market and guaranteed a loan of 50 billion USD. At the end of the crisis, the same exchange rate decreased to 6:1.

The Asian continent faced a great crisis during 1997-1999. The start of the crisis was in Thailand, where the national currency (bath) devalued when the government decided to let the free money. This measure and the high foreign debt supported the collapse of Thailand's economy and the export of the crisis across the South-East Asia, including Japan. The greatest impact of the crisis was focused on Korea, Indonesia and

Thailand, which needed the IMF support. IMF financed the exchange rate stabilisation in these countries with 40 billion USD. Two years later, these economies started to recover.

Europe faced another economic crisis, in Russia, in 1998, which was connected to the Asian crisis that generated the decrease of the rare materials' prices. 80% of the Russian exports represent rare materials. This was why Russia entered under default. The Russian government used bonds in order to cover the deficit. However, those bonds were paid to cover other bonds and the debt was "rolled" as a snowball. The annual interest rate paid by the government for those bonds reached 150%. This pyramid scheme crushed on August 13, 1998, when the stock exchange and the exchange course failed. The Russian economy started the economic recovery in 2000.

Argentina was confronted with an economic crisis during 1999-2002. At the beginning of the '80s-'90s, Argentina was facing military dictatorship, a war (Falklands Islands), a galloping inflation (200% in July 1989) and a unsustainable public debt. In 1999, the population started massively to withdraw money from banks, to exchange them to USD and to transfer them abroad. The government froze the accounts for a year and the people started to revolt and to attack banks and foreign companies. As a result, the peso-USD exchange rate changed, from 1:1 in 1989, to 4:1. The situation returned to normal in 2003.

## **2. The great 1929-1933 depression**

The great depression occurred between 1929 and 1933, a crisis able to put the American economy under collapse and to affect the whole world economy. In September 1929, the stocks' price began to decrease, and on October 24 (the black Thursday) 12 million stocks were supplied and their value decreased again. It was followed by the black Monday and the black Tuesday when the stock exchange crashed. This process took one month and the great stock exchange crash was followed by the great depression. The causes of this crisis have to be searched in the '20s, when the Americans borrowed massively from banks. The short term effect consisted in a greater welfare, but the long term effect was negative. The stocks' prices decreased dramatically and the unemployment rate achieved 25%. Moreover, the prices and the revenues decreased by 25%-50%, but the debts were constant. During the first 10 months of 1930, 744 American banks collapsed. At the end of the crisis, 9000 banks had collapsed and 140 billion USD had been lost in bankruptcy. The unemployment rate achieved 30% and the GDP decreased from 103 billion USD, to 55 billion USD.

The impact of the crisis was lower in an Europe facing the World War II, but the highest effect was not economic but consisted in the fact that the Americans lost their confidence in the “invincible” American system and government. The Homerville camps were everywhere, including Central Park, Brooklyn and Seattle, where the camp lived during 1932-1941. The suicide rate increased, from 14/100000 inhabitants to 17/100000 inhabitants. On the other hand, the food prices decreased by 40%-60% and the farmers preferred to destroy their output than to sell at lower prices. This was a measure adopted when other millions of people craved for food.

During that crisis, 2 banks collapsed every day. The banking crisis had three phases. The first was during October-December 1930 and consisted of the growth of the banks’ weakness. The Federal Reserve (FED) did not wish or was not able to adopt measures to block the crisis across the banking system. The second phase was June-December 1931, and it was prefaced by the Austrian Kredit-Anstalt Bank’s bankruptcy in May 1931, and the panic start across the European banking system. In that year, in the American economy, the prices’ index decreased by 9.4% (deflation), the industrial output index crashed by 15%, the M1 monetary aggregate decreased by 5.7% and the interest rate achieved a stable value of 11.3%. The third phase, December 1932-March 1933, was the apogee of the great depression. The unemployment rate grew from 3% in 1929 to 25% in 1933, the stock exchange lost 80% of its capitalisation, the industrial output index decreased by 52%, the money supply contracted by 33%, the prices of the stocks decreased by 33% and 1/3 of the banks collapsed or were retrieved.

The end of the crisis was forced by the New Deal, an economic recovery plan implemented by the Roosevelt administration. The plan covered:

- implementation of the Reconstruction Finance Corporation, in order to provide liquidity to the financial system;
- adoption of the Securities Exchange Act, which regulated transactions under a specific margin and established the legal framework for the credits given by banks to these transactions;
- adoption of the Glass-Steagal Act, which separated the investment banks from the commercial banks;
- supporting the 18-25 years young people to obtain a community service job paid with 30 USD monthly. 2 million Americans worked in these jobs;
- implementation of the Agricultural Adjustment Act, whereby the government conferred a money compensation

to farmers in order to not farm a part of their land. 6 million farmers received that financial compensation until 1940. As a result, the farmers' revenues grew by 50%;

- adoption of the National Industrial Recovery Act (1933), which supported new business rules and new jobs creation.

In 1940, the American economy recovered after the great depression and became the greatest economic power of the world.

### **3. The present global crisis**

During the 19<sup>th</sup> and 20<sup>th</sup> centuries, the economic crises were connected to banking panics, stock exchanges' collapse, monetary crisis and unsustainable public debts. There still is no consensus about the causes and the anticipatory measures.

According to the conjuncture, the economic crisis can be stagflation, depression or economic collapse.

The present global crisis started in 2007 and was generated by the excessive speculation of the financial assets, especially stocks and real estate, which achieved high values. On the other hand, the governments and international institutions were not able to adapt to the new business environment conditions.

The main cause of the crisis was the bursting housing bubble, which supported the interests' growth and the houses' prices decrease. As a result, the annuity mortgage refinancing became difficult and the outstanding loans grew. The only solution was to liquidate a lot of houses. In March 2008, about 11% of the Americans had a house which was worth less than the mortgage value (Geithner, 2009). The crisis reached its peak in September 2008, after the bankruptcy of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (Enache, 2009).

On September 14, 2008, the Lehman Brothers Bank started the bankruptcy procedure. Another important bank, Meril Lynch, was taken over by the Bank of America on the same day. On the other hand, almost all stocks' prices fell on September 15. On September 16, the greatest insurance company in the world, AIG, was borrowing 85 billion USD by FED in return for 79.9% of stocks. At the end of the week, all financial markets entered in crisis and they were saved from collapse by FED with a financial injection of 105 billion USD. Moreover, the senate approved a saving credit market plan of 700 billion USD. From the American economy the crisis extended to the world economy, as a result of the complex mechanisms governing international finances. The American financial markets are ones of the most liquid markets in the world and the USA is a financial partner who cannot be ignored.

The European banks, for example, which use financial and derivate products, were exposed to the American markets' conditions. A great number of European banks collapsed. Iceland, with a high dependence on the financial sector, entered into collapse and asked IMF and neighbour countries' for financial support in order to save the national economy. During the first quarter of 2009, the GDP decreased by 14.4% in Germany, 15.2% in Japan, 7.4% in UK, 9.8% in the Euro area and 21.5% in Mexico. In April 2009, the Arabian countries faced 3 billion USD loss as a result of the economic crisis, and in September the same countries reported 4 billion loss.

Romania is far away from the financial crisis epicentre and it achieved an important economic growth in 2008. The real estate and constructions are the most affected economic sectors (Bara, Marincea, 2008).

The greatest GDP growth rates in 2009 were achieved by China (6.1%), India (7.9%), Pakistan (2.6%) and Switzerland (1.5%). The Euro area faced a negative GDP growth rate of -4.0%, even if Germany (0.7%), France (0.3%), Italy (0.6%), Spain (0.3%) achieved positive growth rates.

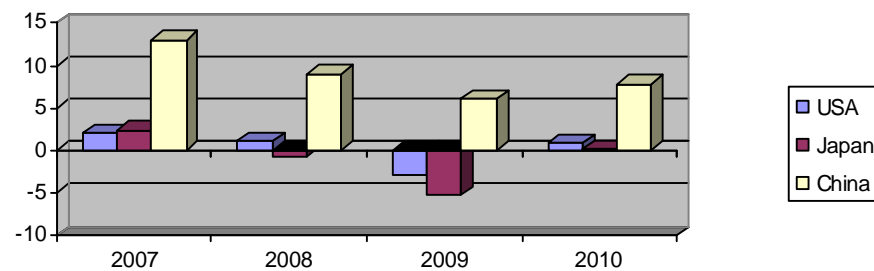
On the other hand, other main global actors faced decreases of the GDP rates: USA (-2.9%), Japan (-5.3%), Russia (-3.8%) and Canada (-3.2%). This trend had a negative impact on the world trade connections, as well (see table 1).

**Table 1: World economic environment**

% real annual change	2005	2006	2007	2008	2009	2010
Real GDP growth rate						
USA	2.9	2.8	2.0	1.1	-2.9	0.9
Japan	1.9	2.0	2.4	-0.7	-5.3	0.1
Asia (exclusive Japan)	8.3	9.1	9.7	6.9	3.3	5.6
d.c. China	10.4	11.7	13.0	9.0	6.1	7.8
ASEAN (Indonesia, Malaysia, Philippines, Thailand)+ Korea	5.0	5.4	5.7	4.2	-0.3	3.3
Candidate countries	8.0	6.7	4.8	1.3	-3.6	2.1
Russia	6.4	7.7	8.1	5.6	-3.8	1.5

Latin America	4.6	5.4	5.6	4.2	-1.6	1.6
Sub-Saharan Africa	5.6	6.5	6.6	5.2	2.5	3.5
World economy	4.5	5.1	5.1	3.1	-1.4	1.9
World goods trade						
World imports growth	8.5	9.5	6.7	2.6	-11.4	0.9
World exports growth (without EU27)	.....	9.3	8.9	3.6	-10.7	2.1

Source: European Commission, 2010

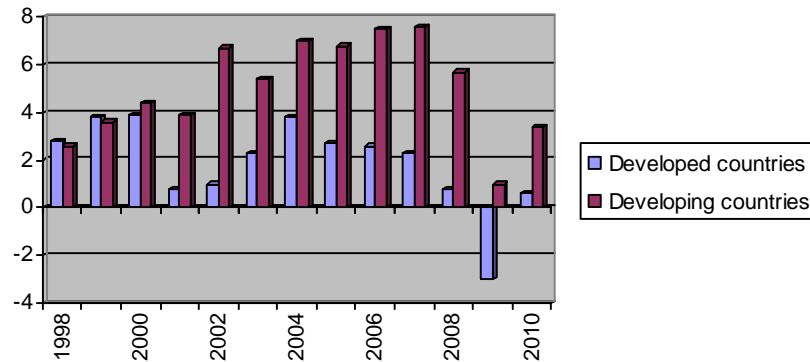


**Figure 1: GDP trend in the main global economic actors**

Source: personal information processing according to EC database

According to the trend in figure 1, China will have the best economic evolution in 2010. During 2005-2010, China achieved the greatest GDP growth rates. All main world economies reached the growth peak in 2007 and the lowest one in 2009. The trend for 2010 is positive, but these economies are not yet able to obtain the same results as in 2008. The world economic trend is almost the same with the world greatest economies without China during 2008-2010.

Another important idea is that the developing economies had greater GDP growth rates than the developed ones (without EU27). These developing countries reached the growth peak in 2007 and will obtain better economic results in 2010 (see figure 2).

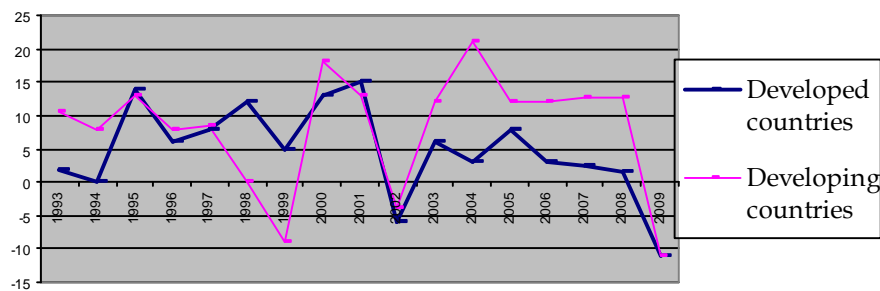


**Figure 2: Growth economic rates in the non-EU economies (%)**

Source: Ionescu R., 2010.

During 2000-2010, the economic performances of the developing countries were better than those of the developed countries. The greatest disparity was achieved in 2007. In 2009, the average economic performance in the developed countries was negative. 2010 is the year of recovery, but the difference between the developing and developed GDP growth rates is still high.

The international trade had different evolutions for the above two categories of countries. The single common point is the evolution of the imports in 2009, when these countries marked the lowest level since 1993 (see figure 3).



**Figure 3: Regional trade trend (%)**

Source: personal information processing according to EC database

The banking sector became fragile and the forecasts connected to the future losses increased to 4 trillion dollars (IMF, 2009). The bank recapitalisation grew in order to cover the previously exhibited losses. Nowadays a feedback connection from the real economy to the financial sector is done. But the financial sector was not able to support the



economic growth in 2009 and it will not be able to do this thing in 2010, as well.

Another negative feedback connection action between the financial sectors from the developed countries and the emergent economies, which are more exposed. The general global financial stress is still high and the developed economies are far away from the trust recovery into the interbank markets. The Bond Markets were volatile as a result of the inflation and risk factor growths. The emergent and developing economies face severe financing lack which affects the portfolio and direct investment. This situation leads to a capital fluxes inversion.

Inflation and unemployment rates are still high and very different between the most important global economic actors. The inflation rate in 2009 was 0.9% in the Euro area, 2.70% in the USA, 1.90% in China, 1.30% in Canada and Australia and 2.80% in Korea. The greatest difficulties connected to this rate were in: Brazil (4.31%), Russia (8.80%), India (13.51%) and Venezuela (26.90%), while Japan faced disinflation (-1.90%).

The global economic contraction affected the unemployment rate trend. In 2009, it was 3.50% in Korea, 4.30% in China, 5.20% in Japan, 5.41% in Mexico, 5.50% in Australia, about 10.0% in EU and USA, and achieved 23.20% in South Africa.

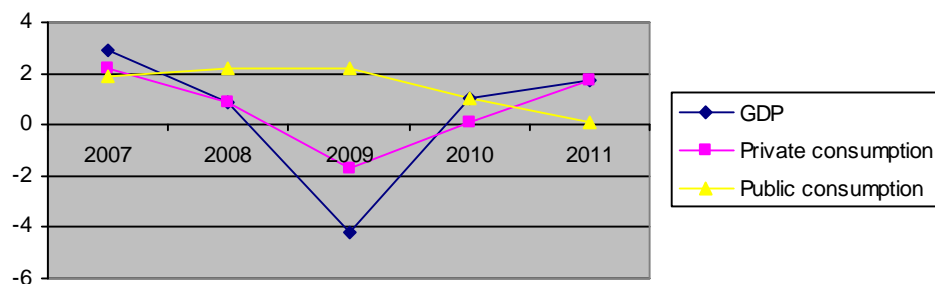
The financial crisis in Africa is connected to the chaotic and unsustainable crediting of the financial operators. As a result, a lot of financial instruments and schemes were implemented, especially the sub prime loans and the security mechanisms. Moreover, the African national economies faced the decrease of the demand and prices for crude oil, platinum and nickel (Nola Nouck Lucien, 2009). South Africa was the first African economy affected by the present global crisis. Morocco and Egypt contracted their economies, but they faced crisis, too. A report of the EDCO and the African Development Bank supported the idea that the Africa's GDP growth rate decreased from 5.7% in 2008, to 2.8% in 2009. This trend affected the welfare, the inflation and unemployment rates and grew the social and political conflicts on the continent. On the other hand, the forecast talks about a GDP growth rate of 4.5% in 2010 and we consider it too optimistic.

The mining is one of the most important economic activities in Africa. It was affected by the global crisis because the decrease of the specific demand in Europe and America. As a result, the African countries' exports and the base materials' prices decreased. There are four African countries which suffered great economic contractions in 2009. Angola, which is the most important African crude oil exporter, achieved a GDP growth rate decrease from 15.8% in 2008, to -0.4% in 2009. Seychelles had a GDP growth rate of 0.4%, Chad -0.7% and the Democratic Republic of Congo -0.6%. The forecast for 2010 is connected to a GDP

growth rate of 0.2% in the Central Africa and of 3.5% in the Eastern Africa. The most developed African economy – South Africa – had the same negative evolution of the GDP growth rate, from 3.1% in 2008, to 1.1% in 2009. South Africa entered recession in the first quarter of 2009. The mining and manufacture sectors faced the greatest impact of the global crisis, as a result of the demand decrease for cars, platinum, ferro-chrome and steel.

OECD came into notice that the Chinese-Nigerian agreement of 3.3 billion USD for a cement factory building was frozen, and the agreement of 9 billion USD between China and the Democratic Republic of Congo, connected to an exchange of infrastructure for rare materials was stopped (WTO, 2010). The fast deterioration of the current account deficit, together with the rare materials' demand decrease supported the idea that the African economies should ask for the help of the IMF in order to face the crisis and to maintain the exchange rate of their currencies. On the other hand, the same African countries adopted recovery measures in order to support the achievement of the same GDP growth rates as before the crisis in 2010 and 2011. The challenges for the African economies are still present and these economies have to support the development of the manufacture and goods for export, as well, because the international financial institutions will be not able to finance their deficits on long term. The African agriculture achieved positive growth rates during 2007-2009, but its contribution to the GDP was minimal. The African mining sector faced important decreases during 2008-2009, as a result of the international demand contraction. As a result, it did not have a major contribution to the annual economic growth.

Economic growth in Africa will rebound with a growth of 4.5% in 2010 and 5.2% in 2011. The recovery will remain uneven, with southern Africa – the region hardest hit in 2009 – recovering more slowly than the rest of the continent. On the other hand, East Africa is predicted to lead the way higher, with a growth averaging more than 6% in 2010 and 2011. The world financial crisis slashed growth levels on the continent from an average of 6% in 2006 to 2008 to 2.5% in 2009 (John James, 2010).



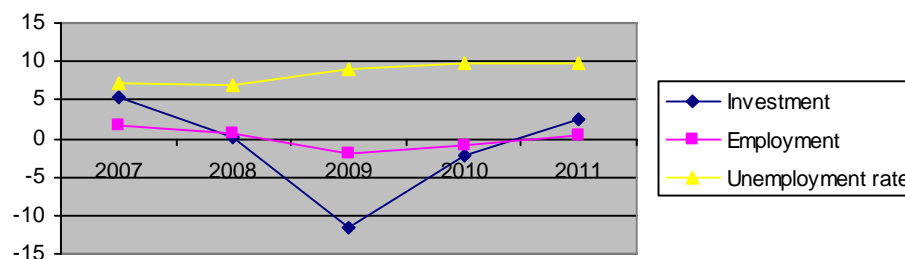
**Figure 4: Evolution of GDP and consumption in the EU (%)**

Source: personal information processing according to EC database

The public consumption had a similar evolution and will be able to achieve positive growth rates in 2010 (0.1%) and 2011(1.3%). As a result, the public consumption will decrease during the same period (see figure 4).

EU started to support the global crisis effects in 2008, when almost all economic indicators had negative evolutions. The EU27 GDP growth rate decreased from 2.9% in 2007, to 0.9% in 2008 and to -4.2% in 2009. The forecast for 2010-2011 time period talk about a GDP growth rate of 1.0% in 2010 and 1.7% in 2011.

The investment process had the same negative trend during 2007-2009. The recovery is forecasted to start in 2011. As a result the employment rate decreased and the unemployment rate grew (see figure 5).



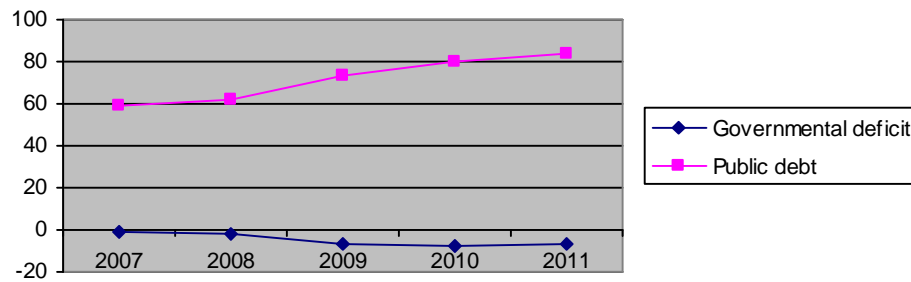
**Figure 5: Evolution of investment and labour indicators in the EU (%)**

Source: personal information processing according to EC database

An important success of the EU recovery policy is the decrease of the inflation rate, from 3.7% in 2008, to 1.0% in 2009. Even if the inflation rate is forecasted to grow to 1.8% in 2010, it will decrease to 1.7% in 2011.

The EU27 governmental deficit (as % of GDP) grew between 2007 and 2010 and it is forecast to achieve a little decrease in 2011 (-6.5%).

On the other hand the public debt (as % of GDP) grew during 2007-2009 and the trend will be the same during 2010-2011 (see figure 6).

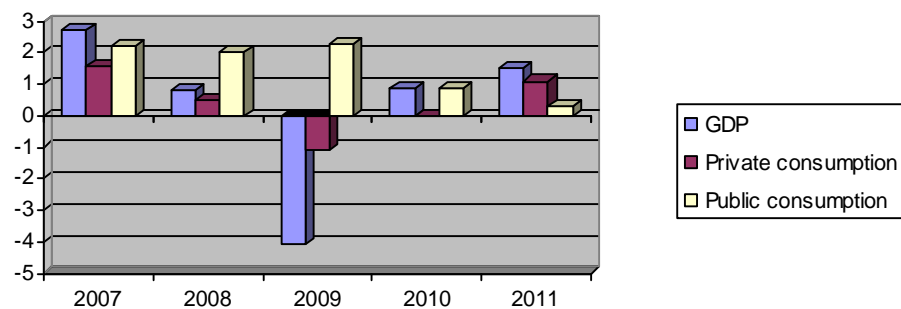


**Figure 6: Evolution of investment and labour indicators in the EU (%)**

Source: personal information processing according to EC database

On the other hand, the Euro area has not a better position regarding EU27. As a result the GDP growth rate decreased during 2007-2009 and it will grow in 2010 and 2011.

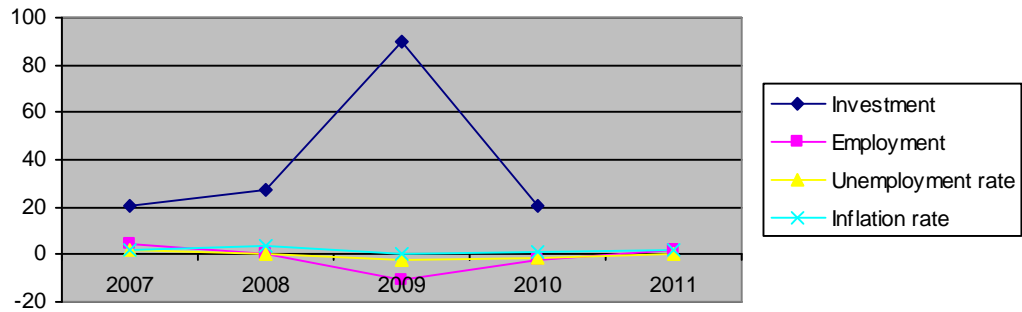
The private consumption decreased during the same time period and the public consumption had the inverted evolution.



**Figure 7: Evolution of the GDP and consumption in the Euro area (%)**

Source: personal information processing according to EC database

The total investment evolution and the economic contraction affected the employment and the unemployment rate, even if the inflation rate was not so great.

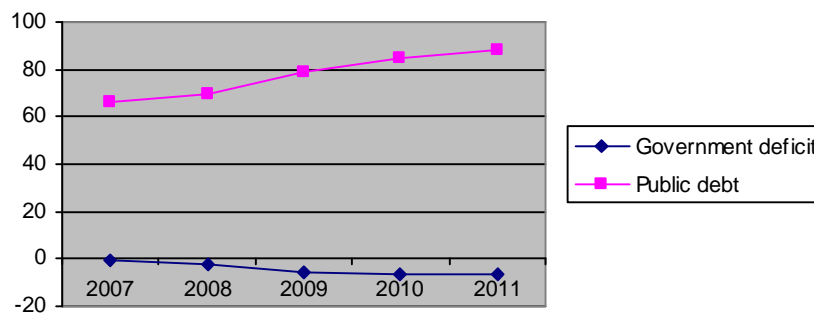


F

**Figure 8: Evolution of investment and labour indicators in the Euro area (%)**

Source: personal information processing according to EC database

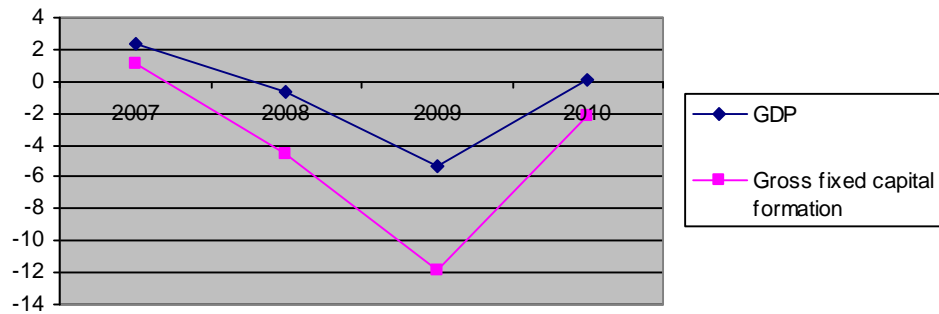
As a result, the governmental deficit and the public debt grew during 2007-2010. Even that the governmental deficit will decrease in 2011 (-6.1% of GDP), the public debt will increase again to 88.5% of GDP.



**Figure 9: Evolution of investment and labour indicators in the Euro area (%)**

Source: personal information processing according to EC database

Another important global economic actor is Japan which was under economic expansion during 2005-2007. This economic boom was supported by the foreign demand and the private consumption. At the beginning of 2008, the economic activity contracted and Japan faced recession. As a result, the GDP growth rate decreased from 2.4% in 2007, to -0.7% in 2008 and -5.3% in 2009, and will achieve a little positive value in 2010. According to this trend, the gross fixed capital formation annual rate decreased more (see figure 10).



**Figure 10: Evolution of GDP and gross fixed capital formation in Japan (%)**

Source: personal information processing according to IMF database

This negative evolution was supported by the decrease of the private and public consumption and the negative impact of the net exports on Japan GDP. As a result, the classic current account exceeding transformed into deficit, at the beginning of 2009. The National Bank of Japan (Boj) adopted unconventional monetary measures, including the growth of the volume and types of bounds accepted by the Japanese government for acquisition. On the other hand, the Japanese government implemented fiscal packages (5.5% of GDP) in order to support investment and guarantees for loans. In 2010, the general deficit will achieve 8.7% of GDP and the public debt (as % of GDP) will be above 200%.

The most dynamic world economic actor becomes China which achieved a GDP growth rate of 13% in 2007 and 9% in 2008. China represents an important engine of the world economy. As a result of the net exports contribution, the GDP growth rate decreased to 6.1% in 2009, but it will recover to 7.8% in 2010. The Chinese exports of manufactured goods (45% of total Chinese exports) decreased when the developed countries demand decreased, as well. The Chinese government implemented a giant stimulus package at the end of 2008 (13% of GDP). The greatest part of this package was focused on infrastructure and constructions. China has many political economic instruments in order to face the global crisis. The foreign currency reserves achieved 1950 billion USD at the end of 2008. Moreover, the inflation rate decreased from 8.7% in 2008, to -1.2% in February 2009. As a result, the National Bank of China changed the reference interest rate from 7.47% in 2008, to 5.31% in 2009. Another economic giant, Russia achieved an average economic growth rate of 6.8% in the last ten years. In 2009, Russia faced the recession and the real GDP contracted to 3.8% in 2009 and will growth to 1.5% in 2010.

Russia faced the decrease of international liquidities the contraction of rare materials prices. The most affected economic sector in Russia is investment, which passed from a two marks growth rate in 2007, to a contraction of 17% in 2009. More over, the unemployment rate grew from 5.6% in 2007, to 9.5% in 2009. The Russian government implemented a lot of economic measures in order to support the recovery. These measures cover liquidities, direct support for the banking sector, firms and population and a greater flexibility of the exchange rates. The value of the stimulus package was about 14% of GDP.

### **Conclusions**

Nowadays, Asia achieved the first rank according to the economic recovery process regarding the USA and the EU. The Asian success was based on recovery plans financed with a billion USD and the powerful demand of China.

From the second quarter of 2009, Singapore and Hong Kong (of China) succeeded to pass the recession, even if the demand on the EU and the USA markets is still weak.

The greatest Asian countries (China, India, Indonesia, South Korea, Philippine and Vietnam) continued to grow during the global crisis, but they achieved low growth rates.

The real challenge for the world economy is the new crisis in Japan which is far away from a national economic crisis: it is a global crisis with ecological, political and economic impact.

But this new crisis is supported by the latest events in the Arabian countries, and the crisis has, maybe for the first time in history, a complete approach: economic, political, environmental and military. This is the greatest challenge for the planet, nowadays.

### **References**

- Bara R., Marincea O. (2008), Ten economic areas in the beating of financial crisis, in *Adevarul*, 03.11;
- Enache Bogdan (2009), Securing mortgage: first step to subprime, in *Prima Casă*, 24<sup>th</sup> of May;
- European Commission, *European Economic Forecast - spring 2010*, Brussels, 2010;
- Geithner Timothy (2009), US are largely responsible for global recession, *Economic Club*, Washington, 22.04;
- IMF - *Global Financial Stability Report*, New York, April 2009;
- Ionescu R., *European Business Environment*, GUP, Galatz, 2010;

- James John, African Economy to Grow 4.5% in 2010, in The Wall Street Journal, 24<sup>th</sup> of May 2010;
- Lee Peter, China has a Congo copper headache, in China Business, Mar 11, 2010;
- Nola Nouck Lucien, Is The Financial Crisis Playing Against China In Africa?, in Ufahamu: a Journal of African Studies, Volume 36, Issue 1, 2009;
- Vienna Institute for International Economic Studies (WIIW) Handbook of Statistics 2009: Central, East and Southeast Europe, 2009;
- W.T.O., World Trade Overview, New York, 2010;
- [www.census.gov/const/uspriceann.pdf](http://www.census.gov/const/uspriceann.pdf).



## COMPARATIVE ANALYSIS OF THE PAYMENT SYSTEMS ACROSS THE EU27

Romeo IONESCU\*

### Abstract

*The basic idea of the paper is that the wage is very different across the EU and in time. As a result, the first part of the paper deals with the analysis of the wages in Romania during 1990-2010. The second step is to present the wages and the pay system in different member states and to realise their critical analysis.*

*A distinct part of the paper realises the analysis of the minimum wages across the EU27, according to the latest Eurostat information.*

*The main conclusion of the paper is that the pay system and the minimum wage especially represent important elements which dimension the labour market and the free labour movement, and are able to potent the economic growth.*

*The analysis and the conclusion are supported by the latest European statistical database, diagrams and pertinent tables.*

**Keywords:** *pay system, minimum wage, labour market, regional economic growth.*

**JEL Classification:** *J30, J31, J38.*

### 1. General framework

Specialists in human resources group the reward system components into direct and indirect rewards.

The main objective of the payment is the insurance of those incentives and rewards able to support the growth of the organisational performance using individual competencies and contributions. The payment covers all employees and it is focused on their motivation in order to insure the success of the organisation by:

- increasing involvement and organisational identification;
- recognising and rewarding contribution;
- implementing noticeable differences and achieving a fair;
- facilitating recruitment and retainment of quality employees;
- costs' flexibility;
- providing pay related to the organizational performance.

---

\* Ph.D Professor, Faculty of Judicial, Social and Political Sciences, "Dunărea de Jos" University of Galați, Romania, Email: ionescu\_v\_romeo@yahoo.com.

The main arguments supporting performance related payment are money motivation and employees wanting more than food and shelter.

Performance related payment represents the most common form of variable pay in the public administration sector. Romania is not able to have a real performance payment system in public administration yet.

Another payment form is the skill related payment. The wage growth under this system of payment is related to the number, type and depth of skills that individuals acquire. The payment is focused on person, not on workplace. The employees are paid for the abilities they use and the payments require learning and acquiring various capacities. This is a way to develop the organisation's human resources. Last, another payment system used in the European public administration is the competence related payment. It is used when the competences can be clearly defined.

## **2. The Romanian payment system during 1990-2010**

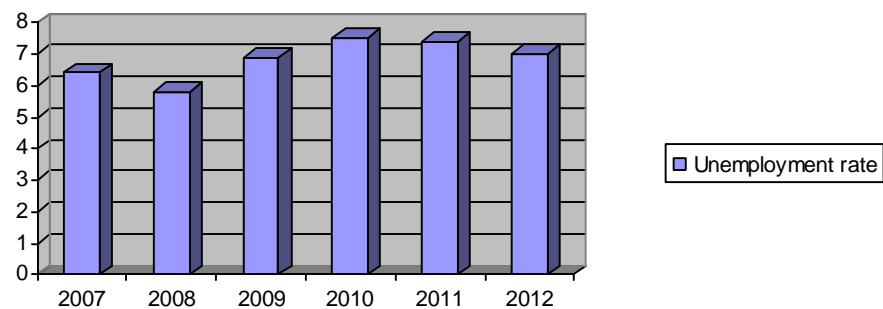
The Romanian economy is outdated, almost medieval: 46% of the inhabitants live in rural areas and 30% of the labour force works in agriculture. The problem is that agriculture covers only 14.7% of the GDP. In 1989, Romania had no foreign debt, but it achieved a general government gross debt of 30.4% of the GDP in 2010 (European Commission, 2010: 133).

The present economic situation in Romania is the result of a long list of political and economic mistakes made in the last 20 years. The first mistake was to pay the Romanian employees for taking part in the December 1989 events, even if they did not work. The second mistake was related to the privatisation under privatisation coupons, which affected 30% of the Romanian national wealth. The State Property Fund, which covers 70% of the national wealth, was used in order to satisfy the needs of the customer policy. Moreover, the Romanians became shareholders, but almost all had no economic knowledge to manage their stocks. As a result, they sold the stocks and brought goods, increasing consumption. The economic evolution faced the problem of the assisted persons. About 50% of the Romanian inhabitants were socially assisted. Their number did not decrease because the economic policy was based on company closures and unemployment growth. Moreover, closing the public companies, the government gave severance payments from the budget to the people made redundant. But this money did not come back to the real economy, because they were used to buy goods and to grow consumption. The unemployment became a great problem for the Romanian economy. The economic measures implemented by the government during 1990-

2000 supported the growth of the retired who exceeded the number of employees.

On the other hand, the private investment and saving systems were implemented too late in Romania, when the purchasing power decreased. A great mistake was the early retirement of those persons which passed the period of unemployment aid, even for 40 year olds. Another aberrant measure was the great wages increase for some budget professionals. As a result, services staff in ministries and the MPs drivers had wages greater than university professors, doctors, engineers and scientists. A lot of scientists and young graduates left Romania and worked abroad. The money they sent to their families also supported the Romanian economy. Under the present global crisis, the foreign currency stopped to enter Romania and the effects are important.

The protracted economic recession led to higher unemployment in 2010 and a substantial correction in wage growth. The unemployment rate has been declining somewhat since the second quarter, but most of this could be statistical as those who lose their unemployment benefit do not seem to have an incentive to register for work. The unemployment rate achieved 7.4% in 2010, up from 6.8% in 2009, and then to diminish slowly in 2011-2012 (see figure 1).

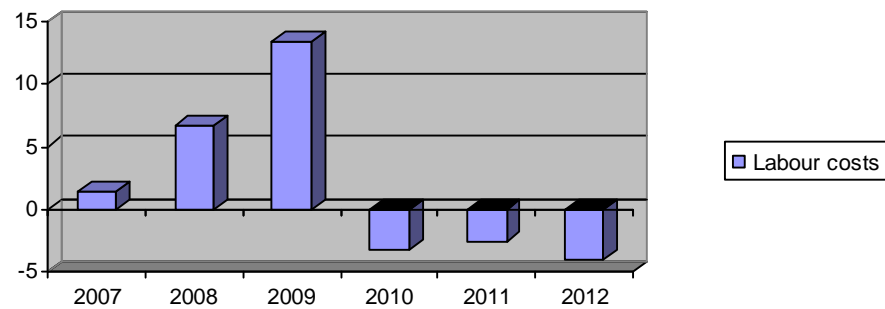


**Figure 1: Unemployment rate trend in Romania (%)**

Source: personal contribution

On the other hand, the real unit labour costs decreased in 2010 and they will continue to have the same trend in 2011-2012 (see figure 2).

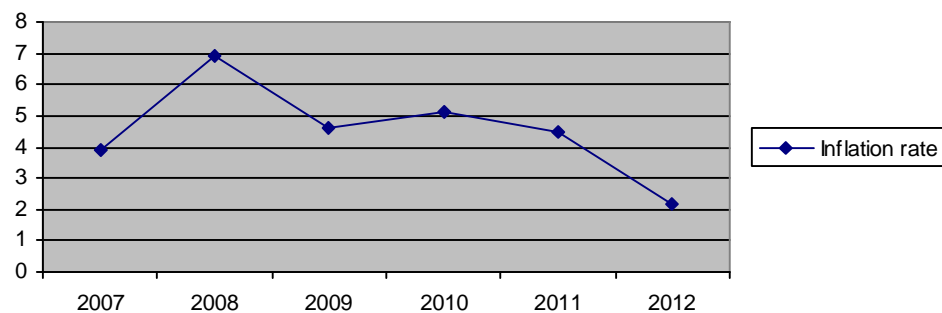
The labour costs grew during 2007-2009 as a result of the growth of the wages in the public sector (13.4% in 2009, for example) without any economic growth support.



**Figure 2: Real trend of unit labour costs in Romania (%)**

Source: personal contribution

After the signing of the agreement between IMF and Romania, the government was forced to decrease the wages of the public administration staff. This decrease was made under an important inflation rate (see figure 3).



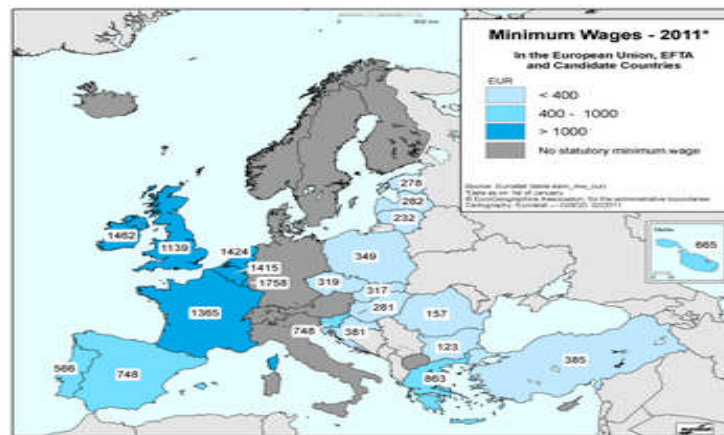
**Figure 3: Inflation rate trend in Romania (%)**

Source: personal contribution

The future decrease of the inflation rate will be supported by the wage moderation (Ionescu, 2010).

### 3. European payment system

The payment system starts from the establishment of the minimum wage. Nowadays, there are 20 EU member states (Belgium, Bulgaria, the Czech Republic, Estonia, Ireland, Greece, Spain, France, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia and UK) and two candidate countries (Croatia and Turkey) that have national legislation or intersectoral agreements related to the minimum wage (see figure 4).



**Figure 4: Minimum wages in the EU, EFTA and candidate countries, January 2011 (EUR)**

Source: Eurostat, 2011, p.1.

The minimum wage intersectoral agreements are used in Belgium and Greece.

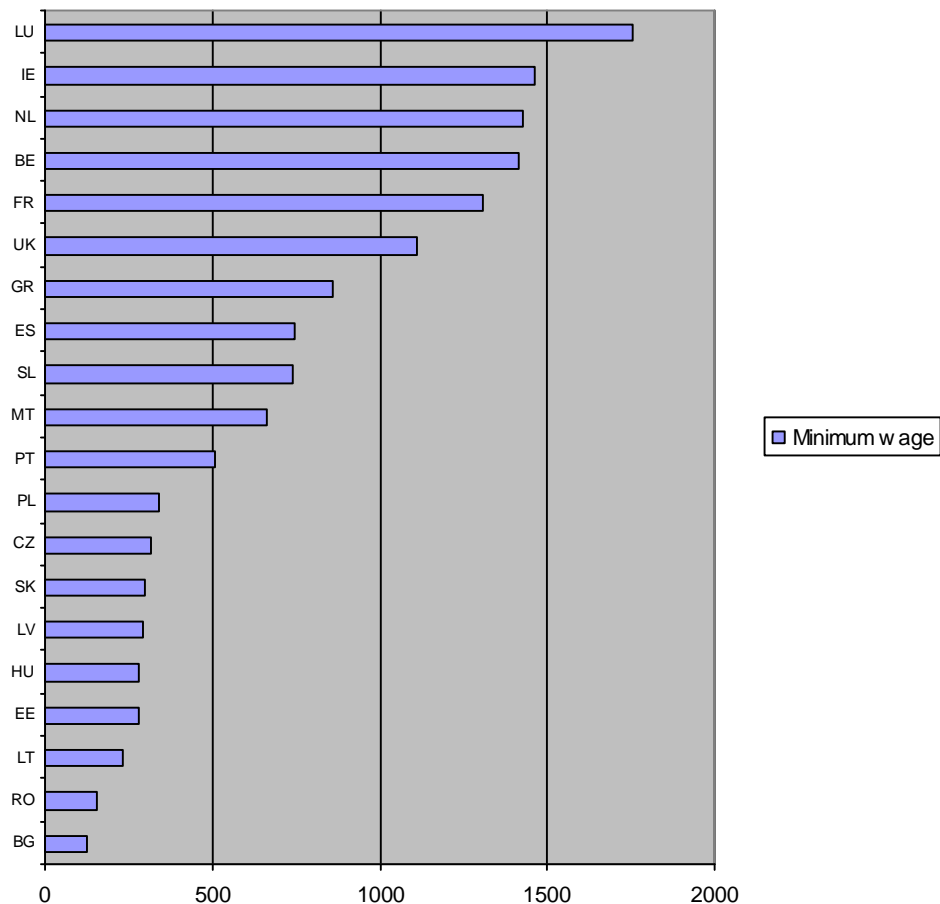
There are great disparities between the minimum wages across the EU. The lowest minimum wage is in Bulgaria (123 Euros) and the highest in Luxembourg (1642 Euros). A candidate country (Turkey) has a minimum wage higher than 9 member states, while the minimum wage is 844 Euros in the USA.

Only six member states (UK, France, Netherlands, Belgium, Ireland and Luxembourg) have minimum wages higher than the USA.

Regarding the minimum wage, Romania is ranked the second lowest, with 152 Euros. The minimum wage in Luxembourg is 14 times greater than in Bulgaria.

Using the minimum wage as a criterion, the EU member states can be divided into three categories:

- countries with minimum wages less than 400 Euros: Bulgaria, Romania, Lithuania, Latvia, Hungary, Estonia, Poland, Slovakia and the Czech Republic;
- countries with minimum wages between 400 and 800 Euros: Portugal, Malta, Slovenia, Spain, Greece;
- countries with minimum wages higher than 1000 Euros: UK, France, Germany, Netherlands, Ireland and Luxembourg (see figure 5).



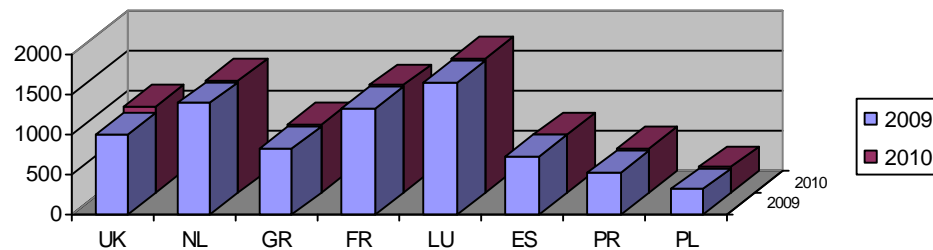
**Figure 5: Minimum wages in EU Member States, January 2011 (EUR)**

Source: personal contribution using Eurostat database

The above analysis has to be corrected, because the minimum wage is paid 14 times a year in Greece, Spain and Portugal.

Almost all EU member states pay the minimum wage monthly. A few use a minimum hourly rate and the number of working hours per week: 35 hours in France, 39 hours in Ireland or 38.1 hours in UK.

As a result of the crisis overcoming, the most developed member states grew the minimum wage in 2010 (see figure 6).



**Figure 6: Minimum wage growth in EU Member States in 2010 (EUR)**

Source: personal contribution using Eurostat database

In Slovenia, the minimum wage increased with 1.3% in August 2009, to 597 Euros per month (3.45 Euros per hour). In March 2010, a new increase of 23% supported a minimum wage of 734 Euros per month (4.24 Euros per hour). The Slovene companies in trouble can opt for a gradual increase over two years. Belgium froze the minimum wage, but Netherlands and Luxembourg adjusted it according to indexation. France limited the minimum wage to the legal minimum requirements of indexation. There were no more increases since July 2007 in Ireland. The minimum wage increased with 1.2% in 2009 in UK, for the first time with 0.9 percentage points below inflation. Estonia and Lithuania froze the minimum wages in 2009, while the Czech Republic froze the minimum wage for the third year in a row. In December 2009, the Romanian government decided to postpone the increase of the minimum average. In the same year, against the vote of the unions, the Bulgarian government decided to freeze the minimum wage.

### Conclusions

Some specialists consider that, instead of freezings and cuts, more substantial increases of the minimum wage are needed (Schulten, 2010: 23). The main arguments in favour of such measures are

- to make the minimum wage a “living wage”, able to allow a decent work standard;
- to limit low payment and reduce the overall wage dispersion in order to promote a more egalitarian distribution of income;
- to stabilise private demand;
- to support the function of wages as a nominal anchor for the price level against deflation.

Maybe the best solution would be a European Coordination of National Minimum Wage Policy.

**References**

- European Commission (2010), *European Economic Forecast - Autumn*, Brussels, p. 133;
- Eurostat (2011), *Minimum wage statistics*, Brussels, February, p.1.
- Ionescu R. (2010), *European Business Environment*, Ed. Galati University Press, p.111;
- Thorsten Schulten (2010), *Recent Developments of Minimum Wages in Europe under the Conditions of the Crisis*, Brussels, 13<sup>th</sup> of April, pp. 1-23.



## REALISATION DES PRINCIPES D'AUTONOMIE LOCALE EN REPUBLIQUE DE MOLDOVA: LE CAS DE GAGAOUZIE.

Sergiu CORNEA\*

### Abstract

*There are examined the aspects of practical realization of the principles of local autonomy and the particularities of the local public administration reform making in the Republic of Moldova. This study also analyses the correspondence between the rules laid down in national legislation on local autonomy and the European standards.*

*The particularities and the consequences of creating the autonomous territorial unit with the special legal status – Gagauzia have been presented.*

*The prerogatives of the People's Assembly of Gagauzia and in particular to adopt the "local laws" have been critically examined. There is no such category of "local laws" under the Constitution, in the Republic of Moldova. The constitutional text expressly provides that the laws can be: constitutional, organic and ordinary. The author mentions the fact that the areas where the Gagauz People's Assembly is empowered to adopt "local law" are regulated by organic laws.*

*One insists on the fact that the local autonomy is a general principle of democratic administrative policy, whose application can not be subject to ethnic or other criteria. Local autonomy serves all citizens, provides more resources, and amplifies the local administration's initiative to improve the living standards. Using the principle of local autonomy as an opportunity to encourage the ethnic autonomy is a prerequisite for separatism and segregation, acts contrary to democratic society.*

**Keywords:** *local autonomy, special legal status, "local laws"*

L'autonomie locale, représente une modalité d'intégration harmonieuse d'intérêts des collectivités locales avec les intérêts généraux d'ordre matériel, territorial ou juridique d'Etat. Suivant les règlements internes de République de Moldova, l'autonomie locale représente pas seulement le principe d'organisation et fonction d'administration publique, mais aussi un droit d'autorités publique locale exercé au nomme et l'intérêt des collectivités locales.

Pour l'établissement clair du sens du mot d'autonomie locale on impose les précisions suivantes :

- a) autonomie locale ne représente pas seulement un droit mais aussi et une responsabilité pour les autorités locales de solutionner les problèmes des collectivités locales ;

---

\* Ph.D Assistant Professor, „B.P.Hasdeu State University” Cahul, Republic of Moldova,  
Email: s\_cornea@yahoo.com

- b) les autorités locales actionnent en mode indépendant, mais dans l'intérêt des collectivités locales laquelle on le représente ;
- c) les autorités d'administration publique locale représentative porte la responsabilité politique et juridique pour leur activité (du point de vue politique, répondent a ceux qui l'on choisie, mais du point de vue juridique, on répond devant l'état);
- d) la compétence des autorités représentative locale ne comprend pas tous les problèmes d'unité territoriale administrative respective, « que juste une partie importante des affaires publique »;
- e) l'autonomie locale n'est pas seulement administrative et financière et pas politique; réalisation pratique des principes d'autonomie locale ne peut pas affecter le caractère unitaire d'état.

L'analyse comparée du contenu de la notion d'autonomie locale d'après le Livre Européen d'autonomie locale et des règlements établis à la législation nationale permet de constater les faits suivants:

- a) le principe d'autonomie locale est reconnu par Constitution de la République de Moldova et la législation nationale;
- b) conformément à la Constitution de la République de Moldova et la législation nationale du domaine, les citoyens réalise l'autonomie locale par l'expression directe d'autorités publique locale, critère d'éligibilité étant obligatoire.

Donc, les revendications constitutionnels de la législation internes conformément a la définition du concept d'autonomie locale ne contrevienne pas a la Charte européenne d'autonomie locale. En réalité, implémentation des principes d'autonomie locale en République Moldave débit très lentement. La particularité distinct du processus de reforme d'administration publique locale de République de Moldova en esprit d'autonomie locale est déterminé de l'incompatibilité entre possibilités matérielles et financières des autorités locales et les attributions qui on été conférés par l'intermédiaire des actes normatives. La crise économique, l'instabilité politique, l'inflation et le niveau faible de la protection sociale de la majorité de population ont entravé le processus d'établissement des certains conditions optimales pour la réalisation des autorités administratives publiques locales des fonctions assignées mais ont érodées la confiance des citoyens dans la capacité d'autorités locales de solutionner les problèmes existantes.

Il faut mentionner et le fait que l'implémentation d'autonomie locale dans la société moldave n'a pas constitué le résultat d'une politique administrative cohérente d'état. La réalisation de cette idée a été profondément marquée du facteur politique, les évolutions dans le domaine donné étant en liaison directe avec le rapport des forces en parlement au moment de l'adaptation de la Constitution et la législation dans le domaine d'administration publique locale. Entre les représentants

d'élite politique moldave n'existe pas un consensus visant le rôle d'autonomie locale dans le processus de l'édification d'état Moldave contemporain. La réforme du pouvoir locale est traitée par classe politique comme un procès de redistribution des sources. L'affirmation réelle d'amélioration d'autonomie locale est traitée des certains politiques et fonctionnaires du sommet de la pyramide administrative comme une imposition de céder certains prérogatives, en effet comme une atteinte des intérêts propres. Ce traitement primitif de la réforme du système d'administration publique locale a des conséquences graves sur le développement sociale-économique d'état. L'analyse du processus contradictoire de réforme d'administration publique locale de la République de Moldova nous permette de constater que pour la compréhension adéquate des idées d'autonomie locale n'est pas préparée la plus part de la population et un nombre considérable des fonctionnaires des différents niveaux. Etant élevé au sein des traditions du système administratif ils sont convaincus du fait que le processus d'affirmation d'autonomie locale va mener a la subversion de l'indépendance parce que sans la «verticalité du pouvoir», sans les directives du centre est impossible d'administrer les travaux publiques au niveau local. L'expérience des démocraties occidentales nous démontre le contraire: notamment dans les conditions d'affirmation d'autonomie locale les collectivités locales utilisent plus efficacement les diverses possibilités pour l'amélioration de leur situation économique et la qualité de la vie.

Je constate encore que les dispositions légales concernant l'autonomie locale ne se réalisent pas uniformément sur le territoire de Républiques de Moldova. Je fais référence aux districts a gauche de la rivière Nistru, ou la législation de la République de Moldova n'est pas reconnue en plus la Gagaouzie, qui bénéficie d'un statut spécial d'autonomie qui a la base le critère ethnique.

La Gagaouzie, unité territoriale autonome avec le statut juridique spécial, représente dans vision du législateur moldave, formulée dans l'article N1De la loi visant le statut juridique spécial de Gagaouzie (Gagauz-yeri) nr.344-XII de 23.12.1994, une forme de l'autodétermination des Gagaouzes.

Dans la compétence de cette entité territoriale-administrative ont incluse 32 des localités: le municpe Comrat, 2 villes (une localité incluse), 23 des villages (communes) qui concerne 28 des localités. La règle générale d'inclusion des localités en Gagaouzie a été établie a la condition que le numéro des Gagaouzes de la localité doit être plus grand de 50%.

Mais la loi nr.344-XII de 23.12.1994 prévoit que les localités ou les Gagaouzes constituent moins 50 % de la population peut être inclus dans la composante de Gagaouzie au faits de l'accepte de la majorité des

électeurs, librement exposées dans le cadre du referendum local, effectuant de l'initiative au moins d'une troisième des électeurs de localité respective (art5, point2). Ainsi, en Gagaouzie ont inclus et localités ou le numéro des Gagaouzes e plus petit de 50%. C'est le cas de s localité suivante: Svetlii-35,4%, Ferapontievca-27,9%, Chirsova - 45,5%, Chioselia Rusa -25,1% de Gagaouzes<sup>1</sup>.

Par conséquent avec la création de Gagaouzie a eu lieu et la fragmentation territoriale des unités territoriales limitrophes. Les localités qui en résultat de referendum du 5 mars 1995 ont déçu d'entrer dans la composition de Gagaouzie ne sont pas positionnées compact et comme conséquence du ce phénomène c'est le fait que Gagaouzie, les districts Cahul et Taraclia, sont fractionnés en quelques régions territoriaux. Cette ile composante, de deux districts et de la Gagaouzie impose des grands problèmes aux autorités et en égale mesure des inconvenances pour les citoyens.

Je souligne le fait que d'après le numéro de la population, la Gagaouzie avec 160,1 milles de citoyens est comparable avec les certaines districts, même la façon dont on présente d'après la reforme de : 2003 Orhei-125,9 milles, Cahul-124, 4 milles, Hancesti-122,8 milles, Ungheni-117,4 milles citoyens<sup>2</sup>.

Centre administratif de la Gagaouzie, a été établi, par le referendum, le municpe Comrat. Il faut mentionner que par l'article 8 de la loi nr.764 du 27.12.2001, le numéro des municipes ont été réduit de 3 fois, (15 au5). Le statut du municpe a été maintenu pour Chisinau, Balti, Bender, Tiraspol et Comrat avec une population de juste 25000 citoyens<sup>3</sup>. Il est nécessaire de remarquer le fait que le critère déterminant dans l'attribution du statu de municpe pour localité Comrat a été ce politique, ou mieux dire, la qualité de centre administratif de Gagaouzie.

Dans ce contexte, j'accentue que conformément à la *Loi visant l'organisation administrative- territoriale de la République de Moldova* nr. 764 de 27.12.2001 le municpe est une localité de tip urbain avec un rôle essentiel dans la vie économique, social- culturel, scientifique, politique et administratif du pays, avec importantes structures industrielles, commerciales et institutions du domaine d'enseignement, protection de la santé et de la culture.

Je constate le fait que de telles villes comme Cahul avec 40.700 des hab. Ungheni avec 38.000, Soroca avec 37200, Orhei avec 33300, ont été privé du statut de municpe<sup>4</sup>.

---

<sup>1</sup> <http://www.statistica.md/pageview.php?l=ro&idc=295&id=2234>

<sup>2</sup> <http://www.statistica.md/newsview.php?I=ro&idc=168&id=2905&parent=0>

<sup>3</sup> Les dates conformément au recensement de 2004

(<http://www.statistica.md/pageview.php?l=ro&idc=263&id=2208>)

<sup>4</sup> Ibidem

Si on compare, cette villes avec le municipe Comrat, ont déduit que le numéro de la population ou leur rôle dans la vie économique, sociale – culturelle, scientifique, politique et administrative du pays n’ont pas été des facteurs déterminants dans l’attribution du statut de municipe pour elle.

L’assemblée populaire de Gagaouzie, conformément aux dispositions d’art. 11, point1 de la *Loi visant le statut juridique spécial de Gagaouzie* (Gagauz-yeri) nr. 344-XII de 23.12.1994, on été attribué la prérogative d’adopter « des lois locales» dans les domaines suivantes :

- a) science, culture, enseignement;
- b) foyers municipaux et urbains;
- c) protection de la santé, du sport
- d) activité budgétaire-financière et fiscale locale;
- e) économie et écologie
- f) relations de travail et d’assistance sociale.

En ce contexte c’est important de mentionner que« les lois locales», conformément a la Constitution, en République de Moldova n’existe pas. Le texte constitutionnel prévoit exprès que les lois peuvent être: constitutionnels, organiques et ordinaires. On rappelle et le fait que les domaines dont L’assemblée Populaire de Gagaouzie est habilitée d’adopter « les lois locales» sont réglementées par lois organiques.

La prérogative de L’assemblée populaire de Gagaouzie d’adopter «des lois locales» ne peut pas être encadrée du tout dans la logique d’institution de la délégation législative, prévue dans la Constitution de la République Moldova dans l’article 106. L’institution de la délégation législative étant appliquée que de gouvernement et pas des autorités publiques locales.

Est inexplicable et la situation prévue dans l’article 13, p4 de la loi nr.344-XII ou les lois et les décisions de l’assemblée populaire sont transmise au Parlement au Gouverne de République de Moldova en termes de 10 jours de la date d’adaptation, avec le titre d’information. Tout ca en conditions dans lesquelles L’office territorial de Comrat, avec la siège en Comrat et qui sert l’Unité territoriale autonome la Gagaouzie (Gagauz-Yeri)<sup>5</sup>, conformément aux dispositions d’article 8, lit. g du Règlement visant l’organisation et fonctionnement d’offices territoriales de la Chancellerie d’Etat (approuvé par la décision du Gouvernement de la République de Moldova nr. 845 de 18.12.2009) est autorisée d’effectuer le contrôle obligatoire, sous l’aspect légale des actes normatives émises par l’Assemblée Populaire, le gouvernement et le Comité exécutif de l’unité

---

<sup>5</sup> La décision du Gouverne de la République de Moldova visant les offices territoriaux de la Chancellerie d’état nr.845 de 18.12.2009, l’annexe III

autonome de Gagaouzie.

Dans ce contexte, il est nécessaire de préciser que l'autonomie locale ne peut pas être réalisée qu'au sein des principes du statut de droit, le principe d'autonomie locale étant l'un de ces principes. Alors du ce fait on résulte qu'il faut exister une liaison organique entre l'autonomie locale et légale, entre les intérêts locaux et intérêts nationales exprimées par la loi. Comme ça on explique, considère A.Iorgovan, pourquoi dans tous les états démocratiques, aux niveaux d'unité administrative – territorial avec le plus grand degré d'extension est un représentant d'état, plus exactement d'exécutif central, avec le rôle du contrôle sur l'application de la loi des autorités d'administration publique locale, inclusif des communautés autonomes. (Iorgovan, 2005)

On attribue à l'assemblée populaire de Gagaouzie et des compétences législatives en matière d'organisation administrative du territoire de Gagaouzie. L'article 12, on stipule que sous la compétence de l'Assemblée Populaire de Gagaouzie tient la solution dans les conditions de la loi des problèmes d'organisations administratives sur le territoire de Gagaouzie, l'établissement et la modification de la catégorie des localités, des limites (bords) des districts, des villes, des villages et leurs noms.

Les dispositions respectives sont en contradiction flagrante avec les revendications constitutionnelles et légales visant l'organisation administrative de la République de Moldova. En conformité avec les dispositions constitutionnelles (66, lit. «d» et art. 72, paragraphe 3, lettr. «f», l'organisation d'administration locale du territoire, et le régime générale visant l'autonomie locale, constitue l'une des attributions de base du parlement et se est réglementé par la loi organique. En développent les revendications constitutionnelles, la loi visant l'organisation administrative-territoriale de la République de Moldova nr.764-XV du 27.12.2011, stipule que la formation, dissolution et l'échange du statut d'unité territoriale-administrative sont effectuées par le Parlement d'après la consultation des citoyens. On peut déduire juste que le Parlement, en sa qualité d'organe législatif, a la prorogative d'adopter par des actes législatifs visant l'organisation d'administration publique locale (art.18).

En nous référant à la compétence en matière de délimitation administrative du territoire d'état je mentionne que en conformité avec les dispositions du Règlement visant la façon de solutionner les questions d'organisation administrative- territoriales de la République de Moldova approuvée par la loi nr 741 du 20.02.96 de la compétence du Parlement tient:

- a) La formation et annulation des unités territoriales autonomes avec le statut juridique spécial et les rayons, établissement et le transfère des leurs centres administratives. Le parlement décide les problèmes énumérées à la proposition d'autorité représentative

d'unité territoriale autonome avec le statut juridique spécial ou du conseil du district, le Président de la République de Moldova ou des députés en Parlement, en commencement par des intérêts nationales et opportunité, en même temps tenant compte et des intérêts économiques des unités territoriales administratives primaires. Les questions d'organisation territoriale-administrative des unités territoriales autonome avec le statut juridique spécial sont solutionnées conformément les lois visant le statut juridique de ces unités.

- b) La formation, fusion, l'annulation des communes et des états (comme unités territoriales territoriale-administratives) l'établissement et le transfère des leurs centres administratives, établissement et la modification des limites, (bords des districts) des communes et des états (comme unités territorial-administrative), à la recommandation des conseils locales respectives.
- c) La formation et l'annulation des localités qui ne constitue pas une unité territoriale-administrative, et l'échange de leur subordination, à la recommandation des conseils locaux respectifs.
- d) Le transfère des communes et des états d'un rayon dans un autre ou d'un municipale, à propos des conseils communales et de villages, des conseils des districts et municipales respectives.
- e) La formation et l'annulation des secteurs municipales, à la recommandation du conseil municipal<sup>6</sup>.

Une condition obligatoire, pour la solution du Parlement des toutes les cas mentionnés, c'est la consultation des citoyens. Les autorités représentatives centrale et locale peuvent adresser au Parlement des propositions qui tiennent de la délimitation territoriale locale qu'après l'information donnée et le renseignement concernant les modifications territoriales préconisées. Ces réglementations légales visant la consultation légale de la population sont conformes avec les revendications de la *Charte européenne de l'autonomie locale*, qui dans l'article 5 établie que pour chaque modification des limites territoriales locales les collectivités locales respectives doivent être consultées en préalable, peut-être sur le chemin de referendum, si la loi le permet.

En ce sens, j'aimerais faire quelques précisions concernant la structure d'état. Je connais le fait que les états, d'après leurs structures, ils sont unitaires et fédératives.

L'état unitaire se caractérise par le fait que le pouvoir est structuré sur un seul palier. L'état unitaire suppose l'existence d'une volonté politique unique qui est imposée aux citoyens par le biais d'un appareil administratif vérifié au centre.

---

<sup>6</sup> Publié dans le Moniteur Officiel de la République de Moldova, nr.20-21 de 04.04.1996

L'état unitaire, même s'il est délimité en unités territoriales-administratives qui peuvent être relativement autonomes, cette autonomie ne correspond pas avec l'autonomie interne: les organes délibératives locales n'ont pas le pouvoir législatif, leur l'autonomie étant consacrée et ses limites étant établie de la constitution adoptée au niveau central - la seule existante - et des lois émises du pouvoir centrale. Les états unitaires ont et beaucoup de particularités distinctes, fait qui permet leurs classification d'apes certaines principes.

Ainsi, en dépendance de l'existence (non-existence) des territoires autonomes, les états unitaires peuvent être: simple et composées.

Les états unitaires simples sont les états qui n'ont pas des autonomies territoriales ou le territoire des états respectifs n'est pas délimité dans des unités territoriales administratives (dans le cas d'états petite comme territoire superficie occupé), ou sont délimités que dans des unités territoriales administratives ( France, Pologne, Algérie, Columbia etc.).

Les unités territoriales administratives peuvent être formées en 2, 3 niveaux: locale - régional, ou en 4 niveaux en France.

Les états unitaires composés sont les états qui ont une ou q quelques autonomies territoriales (Azerbaïdjan, Danemark, Espagne, Chine. L'autonomie dans le domaine de la construction d'état visant la délimitation il faut prendre en compte les particularités nationales, culturelles, historiques, géographiques, locales.

Les autonomies peuvent être territoriales et extra- territoriales. L'autonomie territoriale représente une entité territoriale créée en vertu des particularités mentionnées, en offrant a la population de résoudre certaines problèmes d'une importance locale.

Normalement, l'autonomie territoriale est donnée à la population qui à certaines particularités d'ordre économique et culturel déterminées des facteurs historico- géographiques. L'autonomie nationale- territoriale est donnée à la minorité nationale compacte établie sur un territoire quelconque. L'autonomie territoriale peut être: politique ou administrative. La différence essentielle entre eux, avec une certaine dose de relativité consiste en faits suivantes: l'autonomie politique peut créer son propre système législatif, mais l'autonomie administrative ne bénéficie pas de ce droit.

L'autonomie extra territoriale (est nomme encore et autonomie ethnoculturelle ou nationale- culturelle) ne suppose pas la division territoriale. Ce type d'autonomie est accordé aux minorités nationales dispersées sur le territoire d'état et se matérialise par la création des organisations propres qui promeuve les valeurs de la minorité respective et défend les intérêts. (Cornea, 2010)

Par l'accord du régime juridique spécial le législateur moldave a



démontré une interprétation préférentielle de la notion d'autonomie locale. A une collectivité locale du niveau secondaire (II) a été fourmi a base du principe d'ethnie, un degré élevée d'autonomie, en comparaison avec les collectivités similaires.

Conformément aux revendications constitutionnelles l'autonomie concerne en tant l'organisation et le fonctionnement d'administration publique locale, que la gestion des collectivités locales dont elle représente (art. p109). En ce contexte il faut mentionner que le droit de participer a l'administration des besoins publics et par les représentants c'est l'un de droit fondamental des cytoiens de la république de Moldova. L'autonomie consiste dans le partage du pouvoir de la décision entre la gouverne centrale d'une cote , et l'administration publique d'autre cote , qui a une indépendance face a des autorités centrale. L'indépendance relative des autorités d'administration publique locale suppose l'autonomie administrative et financière. L'autonomie locale établie par une modalité licite doc elle est une expression de volonté du pouvoir législatif. Dans les états contemporains l'autonomie locale se réalise avec la condition du respect du caractère unitaire d'état. Cette chose est stipulée et dans la Constitution de République de Moldova, le troisième aliénait de l'article 109 prévoit que l'application des principes d'autonomie locale ne peut pas affecter le caractère unitaire d'état.

L'autonomie locale ne doit pas être cofondée avec l'indépendance totale face a des autorités. Elle est conçue comme une possibilité des collectivités locales d'actionner dans une modalité libre dans le cadre de la loi, dans tous les problèmes d'intérêts locales. En même temps, les collectivités locales compris en subdivisions territorial-administratives d'état, en réalisant le droit d'auto administration contribue a la réalisation d'intérêts générales d'état. L'état étant le facteur le plus important qui assure et garantie l'autonomie locale, est directement intéressée dans le maintien d'équilibre et de la collaboration des autorités publiques des différents niveaux dans la solution des problèmes tant d'intérêts locales que d'intérêts nationaux. La constitution d'un certain système fonctionnel des autorités locales est une étape absolument nécessaire dans le travail de l'édification d'état de droit. L'activité efficace des autorités locales contribue a une combinaison harmonieuse des intérêts générales avec ceux locales.

Dans ce contexte on mention que l'autonomie locale est un principe général de politique administrative démocratique, laquelle application ne peut pas être conditionné de trois critères ethniques ou d'autre nature. L'autonomie locale sert a tous les citoyens, elle offre plus des ressources et amplifie l'initiative d'administration locale pour l'amélioration des standards (des conditions) de la vie. L'utilisation du principe d'autonomie locale comme prémisses pour l'encouragement

d'autonomie par critères ethniques est une action pour le séparatisme, fait confirmé par l'évolution ultérieure de Gagaouzie. Les tendances séparatistes, alimentées abondamment de l'extérieure, sont en permanence à l'ordre du jour en Gagaouzie.

Ainsi en février 2010, dans une lettre adressée au président du Parlement Mihai Ghimpu, le bashkan de Gagaouzie, M. Formuzal a proposé d'adopter par un referendum une nouvelle constitution pour régler le problème d'union d'état fédératif constituée de trois parties composantes : la Moldavie, la Gagaouzie, la Transnistrie. Dans le cadre de la fédération, considère M. Formuzal, il faut déterminer les droits et les obligations des sujets (composants) de la Fédération en même temps il faut consolider dans une modalité constitutionnelle et le statut de la langue russe comme langue officielle.

Une commission spéciale, constituée en Janvier, la Gagaouzie a présentée 70 des notifications et modifications de la Constitution de la République de Moldova. En spéciale la commission se prononce pour l'élection directe du président, et pour qu'à la formation du Parlement cinq de 101 députés seront élus conformément aux revendications unionales du territoire de la Gagaouzie.

Egalement, la Gagaouzie insiste sur l'introduction dans la Constitution d'une revendication dans le cas quand le statut de la République de Moldova ne changera pas comme état indépendant, le peuple de l'autonomie garde le droit de l'autodétermination externe<sup>7</sup>.

Le 19 avril 2010, dans le cadre d'une conférence de presse, le leader du Mouvement « L'action Européenne », Veceaslav Untila affirme « Sous le pouvoir du bashkan de Gagaouzie Mihail Formuzal, a l'intention d'attirer dans la compétence d'autonomie quatre localités du district Taraclia et d'avoir l'accès à la frontière avec l'Ukraine.

C'est le premier pas pour qu'UTA Gagaouzie demande son indépendance, ceux qui représentent un péril pour l'intégrité la République de Moldova ». Dans le rapport du procureur du district Taraclia, V. Stoinov, déposé sur le nomme du procureur générale V. Zubco et dans lettre adressée aux leaders d'Alliance pour Intégration Européenne par le président du district, V. Plagov, on affirme qu'à l'ordre des autorités Gagaouzes on forme des groupes d'initiative, qui plaident pour l'issue des certains villages comme Tvardita, Valea-Perjei, Cairaclia et Corten dans le composant du district Taraclia et l'adhésion des ces territoires à l'autonomie de Gagaouzie<sup>8</sup>.

Par rapport des conciliés locales qui travaillent dans le domaine dans Conseils locales et des districts, les députés de l'Assemblée

---

<sup>7</sup> <http://www.azi.md/ro.story/9118>

<sup>8</sup> <http://unimedia.md/?mod=news&id=18382>

Populaire de Gagaouzie sont salariés et ne peuvent pas exercer une autre fonction rémunérées dans d'autres autorités locales, institutions publiques et structures d'entrepreneuriat. C'est évident que grâce à cette discrimination, les députés de l'Assemblée Populaire de Gagaouzie, étant salariées, ont un rendement beaucoup plus grand dans la solution des problèmes locaux comparatifs avec les conciliés du district, qui activent impayées et sans être dégrevés de leurs fonctions ou leurs activités.

Si la Gagaouzie a été créée dans le but de la défense du peuple dans le sens des conservations des traditions et de la culture, donc pour quoi on n'utilise pas la langue Gagaouze dans les institutions d'enseignement ? A l'Université du Comrat les programmes d'étude sont en russe. La langue officielle de la République de Moldova est le roumaine (moldave conformément à la Constitution). Alors on met le point d'interrogation: quelle est la logique de préparer des spécialistes qui ne connaissent pas la langue officielle du pays? Quelles sont leurs perspectives d'engagement dans le champ du travail? Et si les absolvent respectifs n'ont pas l'intention d'activer dans la République de Moldova, alors quelle est la raison que l'état Moldave finance la formation des cadres qualifiés pour autres états ?

La République de Moldova ne doit pas suivre l'idée d'offrir des différents types d'autonomies spéciales, basées sur les principes politiques ou ethniques, mais d'approfondir la réforme d'administration publique locale dans l'esprit d'assurance du respect des principes de la Charte européenne d'autonomie locale.

La plus effective forme du développement d'identité ethnique est l'autonomie culturelle. L'autonomie culturelle n'est pas offerte à quelqu'un spécialement, pour une autonomie culturelle sont créés des conditions nécessaires pour en avoir la liberté d'existence et développement en mode égal avec toutes les membres de la société, indifférent de l'appartenance ethnique ou religieuse. (Galiman, 2009).

L'option européenne dans la République de Moldova impose le déplacement des accents vers l'initiative locale et le renforcement des centres régionaux, étant nécessaire une repense de la structure territoriale administrative existante. C'est évident le fait que la fragmentation territoriale actuelle ne contribue pas au développement économique locale et ne favorise pas l'affirmation des certains rapports de collaboration entre les autorités centrales avec celles locales.

La nécessité de la reformation de la structure territoriale administrative est évidente, mais en même temps j'insiste sur le fait que la réforme territoriale-administrative demande une préparation approfondie. Il est nécessaire d'assurer la base politique, économique, sociale, financière. Il est nécessaire de renoncer à la pratique de l'attribution, en base des certains principes sans fondement et ambigües, aux

différents « autonomies avec le caractère spéciale». Une telle « autonomie» crée en base du principe ethnique est la plus sûre route vers le séparatisme. En plus que pendant les années 80-90 les leaders du Comrat coordonnent les activités de la recherche d'autonomie de Gagaouzie avec les leaders du Tiraspol, soutenue massivement par les forces politiques influentes de la Russie. (Angheli, 2006)

La variante optimale pour la solution « du problème de la Transnistrie» et celle de la Gagaouzie est la régionalisation du pays en bases des principes énoncées dans la carte Européenne d'autonomie locale dont la République de Moldova fait partie. La création des quelque un régions (7-9) districts, avec un grand potentiel humain, matériel, financier seront une solution viable pour la solutions des problèmes existantes.

#### **Références bibliographiques :**

- Cornea S., Cornea V. Autoadministrarea colectivităților locale: aspecte teoretico-practice. Cahul: US „B.P.Hasdeu”, 2010.
- Galiman, S. Autonomia culturală - mecanism de dezvoltare a identității etnice. în: Revista Națională de Drept, nr.8/25, 2009, p.25.
- Iorgovan, A. Tratat de drept administrativ. Vol.I. Ed. A IV-a rev.- București: ALL Beck, 2005.
- Ангели, Федор (Angheli F.) Гагаузская автономия. Люди и факты (1989 - 2005 гг) - Кишинев, 2006.

## COMPARATIVE ANALYSIS OF THE REVENUE AND EXPENDITURE BUDGET EXECUTION OF GALATI COUNTY COUNCIL ON THE 2009-2010 BUDGET YEARS

Neculina CHEBAC\*

### Abstract

*After having elaborated the draft budget (first stage) and after having debated and approved it (the second stage), the budget execution is the third stage of the budget process and it consists of collecting revenues and perform the payments authorized by the Parliament by approving the budget laws.*

*In Romania, the house budget execution, meaning the proper collection of the revenues and the payment performing giving the resources allocated, was provided by the National Bank in cooperation with the specialized banks until 1992, when this task was took over by the Treasury of public finance.*

*The budget execution consists of two parts, namely, the revenue execution and the expenditure execution. The Ministry of Public Finance holds the attribute of tracking and permanent supervising the budget execution using for this purpose the quarterly accounting reports of the credit release authorities.*

*At the end of the budget year, the Ministry of Public Finance has to prepare the annual general account of the state budget execution and the Execution account of the social security state budget having as annexes, the execution annual accounts of the special funds budgets and the budgets of the main credit release authorities with the proper annexes. The Court of Accounts performs the further control of the budgetary execution Account in every public institution, regarding the legality, the reality, the efficiency, the effectiveness and the economic aspect.*

**Procesul bugetar** reprezintă fazele sau etapele în care se elaborează proiectul de buget, dezbateră și aprobarea lui, execuția și încheierea exercițiului bugetar. Așadar, **execuția bugetului de venituri și cheltuieli** reprezintă a treia etapă a procesului bugetar după elaborarea proiectului de buget (prima etapă) și dezbateră respectiv aprobarea bugetului (a doua etapă).

**Execuția bugetară** - reprezintă operațiunea de încasare a veniturilor și de efectuare a cheltuielilor autorizate de Parlament prin aprobarea legilor bugetare și revine ca sarcină Guvernului, sarcină pe care o realizează prin Ministerul Finanțelor Publice (MFP) ca organ specializat al acestuia.

În România, execuția bugetară sau execuția de casă a bugetului, până în anul 1992 a fost asigurată de Banca Națională în cooperare cu

---

\* Ph.D Assistant Professor, Faculty of Judicial, Social and Political Sciences, "Dunărea de Jos" University of Galați, Romania, Email: neculinachebac@yahoo.com

băncile specializate, după care a fost preluată de Trezoreria finanțelor publice.

Execuția bugetară cuprinde două părți și anume, *execuția părții de venituri* și *execuția părții de cheltuieli*.

**În cadrul execuției părții de venituri**, au loc operațiuni diferite în funcție de natura veniturilor respectiv sub forma procedurilor fiscale și a celor nefiscale.

**Procedurile fiscale** diferă în funcție de clasificarea impozitelor în directe și indirecte. Astfel, pentru impozitele directe procedurile implică două faze și anume:

- Faza deciziilor administrative;
- Faza deciziilor contabile.

La rândul său, faza deciziilor administrative cuprinde următoarele operații tehnice, respectiv:

- Așezarea (adică identificarea materiei impozabile și evaluarea acesteia);
- Lichidarea (adică stabilirea mărimii impozitului datorat în funcție de materia impozabilă evaluată și regimul fiscal de impozitare);
- Emiterea titlului de percepție (adică înscrierea debitului fiscal ce urmează a fi încasat într-un act sau dispoziție);

Faza deciziilor contabile sau faza execuției contabile se referă la perceperea propriu-zisă a impozitelor directe de către agenții încasatori sau contabili încasatori ai Trezoreriei statului sau unităților ce au atribuții mandatate de încasare a impozitelor.

De evidențiat este faptul că, pentru impozitele indirecte procedurile aplicate nu impun separarea funcțiilor - în acest sens se poate exemplifica faptul că pentru taxele vamale, cele trei operațiuni tehnice și anume așezarea, lichidarea și perceperea se efectuează odată la vămuirea mărfurilor și plata taxelor vamale.

**Procedurile nefiscale** sunt practicate în anumite țări prin emiterea ordinului de vărsare (încasare) confirm căruia datornicii sunt invitați să achite datoriile pe cale amiabilă. În caz contrar este sesizată instanța sau se aplică în baza unui titlu executoriu încasarea forțată.

**În cadrul execuției părții de cheltuieli** se parcurg următoarele faze după cum urmează:

- Angajarea;
- Lichidarea;
- Ordonanțarea;
- Plata.

**Angajarea** reprezintă prima fază a execuției părții de cheltuieli și cuprinde două forme:

- angajamentul legal (reprezintă orice act juridic din care rezultă o obligație pe seama fondurilor publice);
- angajamentul bugetar (reprezintă orice act prin care o autoritate competentă afectează potrivit legii fonduri publice în limita creditelor bugetare).

**Lichidarea** reprezintă faza procesului de execuție bugetară în care se verifică existența angajamentului, se determină, verifică realitatea sumei datorate precum și exigibilitatea angajamentului având la bază toate documentele justificative.

Lichidarea cheltuielilor implică două faze respectiv:

- Faza constatării faptice având la bază documentele justificative privind realizarea operațiunilor angajate.
- Faza stabilirii sumei datorate beneficiarului care coincide sau nu cu cea stabilită în momentul angajării cheltuielilor.

**Ordonanțarea cheltuielilor** – reprezintă faza procesului de execuție bugetară în care se confirmă dacă au fost efectuate livrările de bunuri și servicii, dacă au fost verificate creanțele și că plata poate și realizată, astfel spus ordonanțarea reprezintă actul prin care ordonatorul de credite dă dispoziție agentului plătitor să efectueze o plată unui terț după constatarea și individualizarea creanței asupra terțului respectiv (lichidarea).

Ordonatorul de credite poate să emită „Ordonanțarea de plată” pentru efectuarea plății.

**Plata cheltuielilor** reprezintă fază procesului de execuție bugetară adică actul final prin care entitățile publice achită obligațiile sau datoriile față de terțe persoane fizice sau juridice. Se efectuează de către persoanele autorizate care în conformitate cu prevederile legale sunt denumite contabili. Asigurarea plății cheltuielilor cade în sarcina sefului compartimentului financiar – contabilitate în limita creditelor bugetare deschise și neutilizate sau a disponibilităților din conturi.

În contextul execuției cheltuielilor bugetare trebuie definiți doi termeni utilizați, respectiv „credite bugetare” și „ordonatori de credite”. Astfel noțiunea de „credite bugetare” reprezintă suma de bani cu titlu definitiv aprobate prin bugetul public cu scopul de a acoperi cheltuielile aprobate prin bugetul respectiv. Astfel spus reprezintă drepturile bănești cuvenite în scopul acoperirii cheltuielilor aprobate.

Ordonatorii de credite reprezintă persoanele fizice având calitatea de conducători ai entităților publice finanțate din bugete. Se clasifică în trei categorii și anume: principali (sau de gradul I), secundari (sau de gradul II) și terțiari (de gradul III).

În conformitate cu prevederile Legii nr. 500/2002 privind finanțele publice ordonatorii de credite au responsabilități după cum urmează:

- Angajarea, lichidarea și ordonanțarea cheltuielilor în limita creditelor repartizate și aprobate;
- Realizarea veniturilor prevăzute în bugete;
- Angajarea și utilizarea creditelor bugetare;
- Asigurarea integrității bunurilor încredințate entității pe care o conduc;
- Organizarea și ținerea la zi a contabilității și prezentarea la termen a situațiilor financiare;
- Organizarea sistemului de monitorizare a programului de achiziții publice și de investiții publice;
- Organizarea evidenței programelor, inclusiv a indicatorilor aferenți;
- Organizarea și ținerea la zi a evidenței patrimoniului.

Cu ocazia închiderii exercițiului bugetar, Ministerul Finanțelor Publice are obligația întocmirii „Contului general anual de execuție a bugetului de stat” și „Contul de execuție a asigurărilor sociale de stat” având ca anexe Conturile anuale de execuție a bugetelor fondurilor speciale și bugetele ordonatorilor principali de credite, inclusiv anexele aferente.

Sub aspectul momentului întocmirii conturilor anuale de execuție se pot evidenția două metode și anume: metoda de gestiuni și de exercițiu.

**Metoda de gestiune** – se utilizează: când conturile bugetului se închid în ultima zi a anului bugetar iar Contul general anual de execuție va reflecta veniturile încasate și cheltuielile efectuate până la sfârșitul anului.

De evidențiat este faptul că veniturile neîncasate (cuvenite bugetului) și cheltuielile neefectuate (dar angajate) până la sfârșitul exercițiului bugetar se transmite în bugetul următor și se vor reflecta în Contul anual al exercițiului următor.

**Metoda de exercițiu** se utilizează atunci când Contul general anual se întocmește după expirarea perioadei de prelungire a execuției pentru bugetul anului încheiat și va reflecta veniturile și cheltuielile anului expirat în condițiile în care unele dintre ele s-au realizat după încheierea exercițiului bugetar.

Contul anual de execuție, conform prevederilor Legii nr. 500/2002 privind finanțele publice cuprinde:

- La partea de venituri:
  - Prevederi bugetare inițiale;
  - Prevederi bugetare definitive;
  - Încasări realizate.
- La partea de cheltuieli:
  - Credite bugetare inițiale;
  - Credite bugetare definitive;



➤ Plăți efectuate.

Comparând încasările realizate cu plățile efectuate se poate constata starea de echilibru a bugetului încheiat, iar diferențele apărute pot fi sub forma excedentului (diferență favorabilă) și deficitului (diferență nefavorabilă).

Parlamentul, după primirea Contului de execuție bugetară, transmite documentul respectiv, Curții de Conturi ca organ de control financiar extern. De asemenea Curtea de Conturi efectuează controlul ulterior al Contului de execuție bugetară la instituțiile publice în privința legalității, realității, eficienței, eficacității și economicității execuției bugetare.

În urma verificării realizate, fiecărei entități publice, Curtea de Conturi emite actul privind descărcarea de gestiune a ordonatorului de credite (conducătorul instituției publice) și întocmește „Raportul public” document ce stă la baza dezbaterilor în Parlament pentru aprobarea legilor anuale de execuție a bugetelor publice.

În conformitate cu articolul nr.57 din Legea nr.273/2006 privind finanțele publice locale, cu modificările și completările ulterioare, ordonatorii principali de credite întocmesc și prezintă spre aprobare autorităților deliberative, până la data de 31 mai a anului următor, conturile anuale de execuție a bugetelor în structura evidențiată anterior.

În lucrarea de față ne-am propus să exemplificăm pe Consiliul Județului Galați execuția bugetului local pe exercițiul bugetar 2010 comparativ cu 2009.

Trebuie menționat faptul că, bugetul inițial al Bugetului Local al CJG pe anii 2009, 2010 a fost aprobat prin Hotărârea Consiliului Județului, având în vedere prevederile Legii privind bugetul de stat pe anul 2009 și 2010.

Pe parcursul exercițiului bugetar, bugetele respective au fost modificate, ca urmare a rectificărilor bugetului de stat și a rectificărilor interne, astfel la sfârșitul anului 2009 s-a înregistrat o realizare de 93,2 % a încasărilor veniturilor și de 97,3 % pentru exercițiului bugetar 2010.

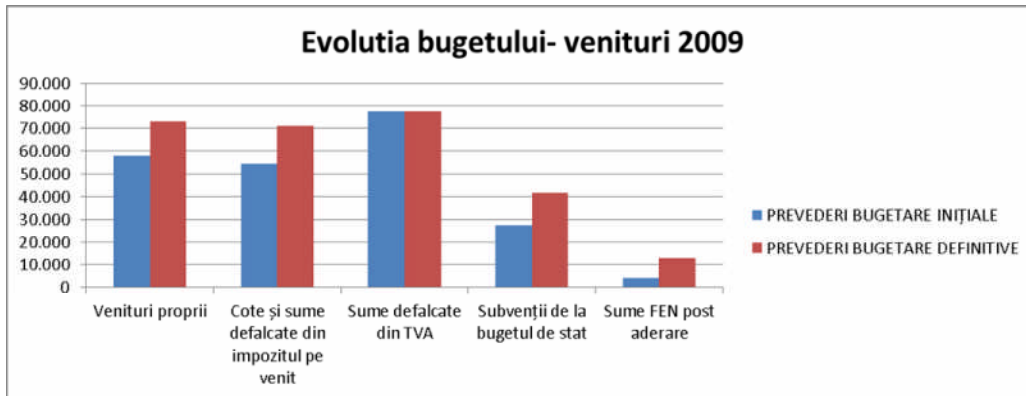
Cât privește plățile efectuate pentru 2009 acestea se încadrează într-un procent de 84,9 % și 86 % pentru exercițiul bugetar 2010.

Sintetic situația realizării veniturilor și a plăților efectuate pe anii 2009-2010 se prezintă astfel:

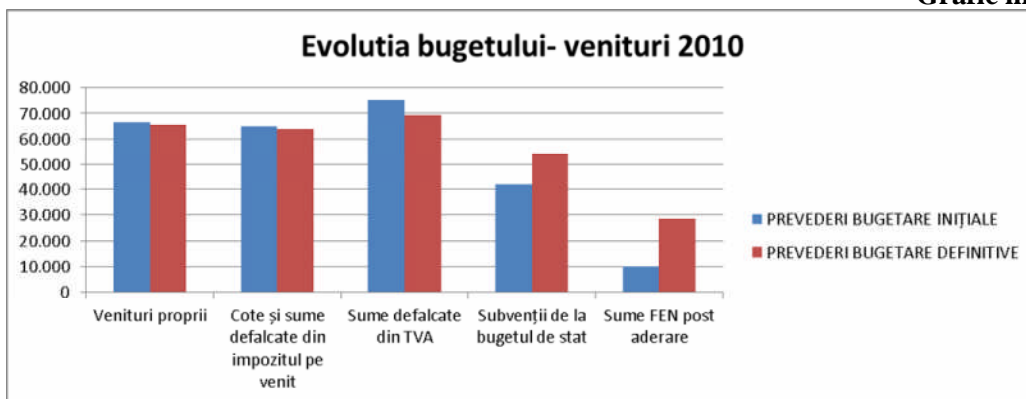
Tabel nr. 1  
- mii lei-

Nr crt	DENUMIREA INDICATORILOR	PREVEDERI BUGETARE INIȚIALE		PREVEDERI BUGETARE DEFINITIVE		ÎNCASĂRI		%	
		2009	2010	2009	2010	2009	2010	2009	2010
<b>A.</b>	<b>VENITURI, TOTAL</b>	<b>221.095</b>	<b>258.463</b>	<b>276.193</b>	<b>281.463</b>	<b>257.613</b>	<b>273.888</b>	<b>93,2</b>	<b>97,3</b>
1.	Venituri proprii	57.769	66.645	72.874	65.389	86.161	65.605	118,2	100,3
2.	Cote si sume defalcate din impozitul pe venit	54.569	64.945	71.074	63.769	48.867	63.766	68,7	99,9
3.	Sume defalcate din TVA	77.545	75.071	77.545	69.203	77.534	68.774	99,9	99,3
4.	Subvenții de la bugetul de stat	27.348	41.768	41.920	54.388	33.931	51.844	80,9	95,3
5.	Sume FEN post aderare	3.864	10.034	12.780	28.714	11.120	23.899	87,0	83,2
<b>B.</b>	<b>CHELTUIELI, TOTAL</b>	<b>163.668</b>	<b>193.518</b>	<b>202.272</b>	<b>218.735</b>	<b>171.920</b>	<b>188.124</b>	<b>84,9</b>	<b>86,0</b>
1.	Autorități publice	16.750	21.620	17.660	17.807	16.635	16.482	94,1	92,5
2.	Alte servicii publice	3.193	4.130	3.411	3.046	3.369	2.966	72,3	97,3
3.	Apărare	586	454	701	454	696	421	99,2	92,7
4.	Ordine publică și Siguranță națională	750	510	750	510	517	509	68,9	99,8
5.	Învățământ	26.168	26.933	28.262	27.729	26.780	25.542	90,1	92,1
6.	Sănătate	3.700	7.672	4.138	10.405	3.593	5.664	86,8	54,4
7.	Cultură, recreere și religie	19.775	25.340	22.459	23.495	22.031	19.134	79,0	81,4
8.	Asistență socială	63.975	71.578	77.653	72.150	76.793	69.627	72,7	96,6
9.	Acțiuni generale economice	12.645	1.590	10.255	947	7.317	999	71,3	105,4
10.	Agricultură, silvicultură	-	680	-	635	-	550	-	86,6
11.	Transporturi	16.126	33.011	36.983	61.557	14.189	46.230	38,3	75,1

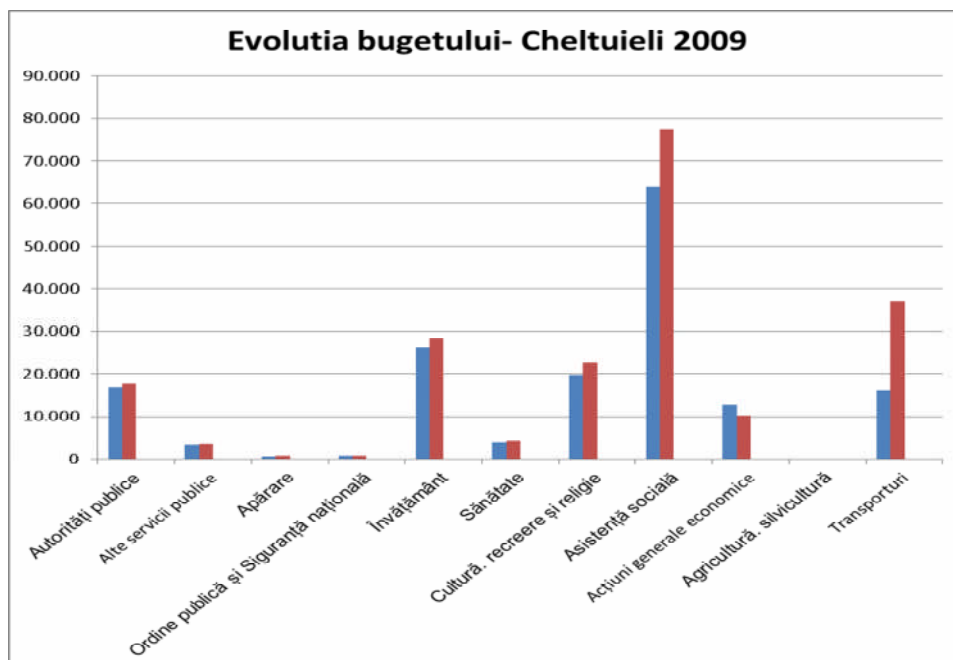
Grafic nr. 1



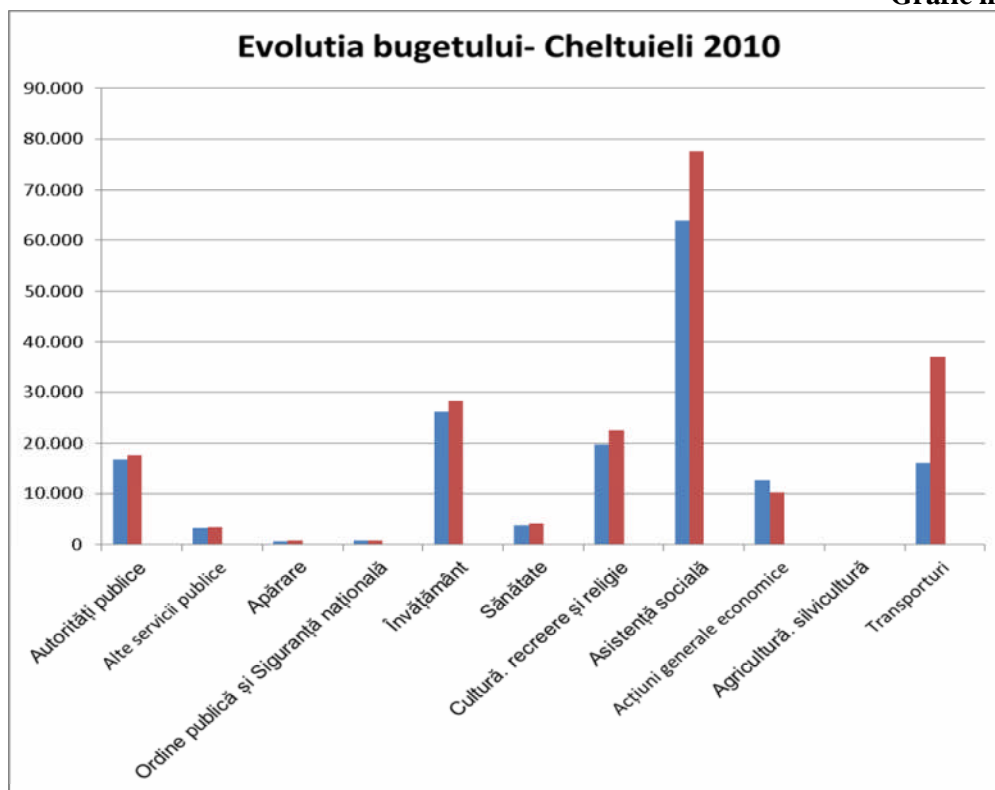
Grafic nr. 2



Grafic nr. 3



Grafic nr. 4



Din analiza datelor prezentate conform graficelor 1-4 putem concluziona următoarele:

- în cadrul indicatorilor de venituri aferente exercițiului bugetar 2009, ponderea cea mai mare este deținută de „Venituri proprii” (118,2%) urmată de „Sume defalcate din TVA” (99,9%) în timp ce ponderea cea mai mică este deținută de „Subvenții de la bugetul de stat” (80,9%).
- pentru exercițiul 2010, ponderea cea mai mare revine tot „Veniturilor proprii” (103,3%) iar ponderea cea mai mică pentru „Sume FEN – post aderare” (83,2%).
- în cadrul indicatorilor de cheltuieli aferente exercițiului bugetar 2010, ponderea în ce privește execuția cheltuielilor are cea mai mare valoare pentru capitolul de cheltuieli „Autorități publice” (94,1%) și valoarea cea mai mică de 38,3% la capitolul de cheltuieli „Transporturi”.
- comparând realizarea gradului de încasare a veniturilor (**execuția părții de venituri**) aferente exercițiilor bugetare 2009-2010 se poate concluziona faptul ca diferențele sunt minime la nivel venituri totale prezentate anterior conform tabel nr.1, respectiv 97,3% pentru 2010 comparativ cu 93,2% pentru 2009.

- execuția veniturilor proprii din total venituri însumează valoarea procentuală cea mai mare în anul 2009 (118,2%) comparativ cu 2010 (100,3%).
- se poate afirma faptul că asistăm la o execuție a veniturilor bugetare foarte bună pentru anii luați în calcul respectiv 2009 și 2010 și acest fapt s-a datorat în primul rând punerii accentului de către organele de conducere ale entității pe realizarea de venituri proprii și atragerea altor surse de finanțare.
- pentru buna desfășurare a activității entității exemplificate se impune ca prioritate atragerea în continuare de fonduri europene prin implementarea de noi proiecte fezabile și cu impact mai ales în domeniul infrastructurii.
- din analiza comparativă a plăților efectuate (**execuția părții de cheltuieli**) pe anii 2009 și 2010 se poate evidenția faptul că asistăm la o execuție bună la nivelul efectuării cheltuielilor cu diferențe mici respectiv 86% pentru 2010 comparativ cu 84% pentru 2009 (vezi tabel nr.1, partea de cheltuieli totale).
- pentru entitatea publică în cauză, se impun, ca prioritate în continuare măsuri de restricționare a cheltuielilor, de efectuare a lor în condiții de eficiență și în concordanță cu sursele de finanțare proprii sau ale bugetului de stat.

#### **Bibliografie:**

- Chebac N., *Contabilitate publică*, Editura Didactică și Pedagogică, București, 2009;
- Chebac N., *Gestiunea financiară în administrația publică*, Editura Didactică și Pedagogică, București, 2010;
- Georgescu A., M., *Administrarea finanțelor publice și a bugetului*, ediția a II-a revăzută și adăugită, Editura Pro Universitaria, București, 2009;
- Moșteanu T., coordonator și colectiv, *Buget și Trezorerie publică*, ediția a III-a revizuită, Editura Universitară, București, 2008;
- Scorțescu I.,F., Mardiros N.,D., *Contabilitate publică*, Editura „Ion Ionescu de la Brad”, Iași, 2007
- \*\*\*Legea nr. 215/2001 privind administrația publică locală, republicată cu modificările și completările ulterioare;
- \*\*\*Legea nr.500/2002 privind finanțele publice, cu modificările și completările ulterioare, Monitorul Oficial nr.597/13.08.2002;
- \*\*\*Legea nr. 273/2006 privind finanțele publice locale, cu modificările și completările ulterioare, Monitorul Oficial nr. 618/18.07.2006;

\*\*\*Legea nr.388/2006 privind bugetul de stat pe anul 2008,  
Monitorul Oficial nr.902/31.13.2007

\*\*\*Legea nr.18/2009 privind bugetul de stat pe anul 2009,  
Monitorul Oficial nr.121/ 27.02.2009

[www.cjgalati.ro](http://www.cjgalati.ro)

## RELATIONS BETWEEN SOCIAL CAPITAL AND SELF-ADMINISTRATION

Valentina CORNEA\*

### Abstract

*The study addresses the relations between elements of social capital and self-administration. The economic development of a local authority is included as a social element, being determined decisively by the social structure, especially by the size and type of capital stock. Strong social capital networks can maintain a certain degree of development in case of collapse of formal institutions and ensure on a short-term economic and social welfare. Local authorities rich in social capital have a greater capacity for self-administration.*

*The economic aspects of social capital are important because they directly affect the social structure and dynamics of political processes, promoting or diminishing public confidence in the system of institutions.*

*Institutions, mechanisms of social control, laws that reallocate benefits, the costs of collective actions create the social capital.*

*The recovery by the local authorities of public administration of the existing social capital provides a better synergy and coordination of actions aimed at satisfying the public interest. Social capital is productive, making possible the achievement of goals that could not be reached in its absence. Major effects are related to the generation of knowledge, production of public goods, and political involvement of individuals.*

**Keywords:** *social capital, confidence, capacity of self-administration, development, collateral effects.*

Insufficiently treated in specialized literature and too neglected in its manifestations, social capital is considered a "universal antidote for diseases that affect societies everywhere" (Portes, 1998). In Putnam's classic study on the effectiveness of local governments in Italy, social capital [...] is seen as "a precondition for economic development and effective governance" (Putnam, 1995). Data from recent research indicate a weak presence of various elements of social capital. Thus, many local authorities exercise local self-administration in the absence of essential resources, which challenges the inefficiency of administrative activities. Under these circumstances it is necessary to find answers to at least two major questions: what administrative behavior should the decision makers adopt in terms of reduced capital, and what are the ambivalent facets of social capital externalities.

---

\* Ph.D Assistant Professor, „B.P.Hasdeu State University” Cahul, Republic of Moldova,  
Email: valycornea@yahoo.com.

The large number of empirical analyses of social capital developed in the 90s helped to fix its conceptual and practical knowledge to the accumulation of extremely valuable information for training and use of social capital as a factor in accelerating the processes of social development.

Putnam operates the concept in a very synthetic way (trustiness and social relations), and develops the relationship between social capital and social development. Civic engagement, as Putnam shows, is what makes an effective administration, even if not a substitute. A rich community life, attracting the participation of most members, not only prevents disorder, but also helps to create public good, facilitating reproduction and development of all types of capital. However, Putnam notes, social capital is not a universal panacea for solving societal diseases, investment in its development is not an alternative, but a complementary part of a general policy of development of economic capital (physical and financial), human and social (Putnam, 2000).

Although classic sociologists such as Durkheim or Marx use similar concepts and content, social capital began to be used under this label over the last two decades of the twentieth century, and has been strongly influenced by the works of Bourdieu and Coleman. In their view, social capital takes the following forms:

1. prevalence of obligations, expectations and confidence in social structures, dominated by the principle of reciprocity, reflecting reward safety efforts invested in building and maintaining social relationships;
2. its reflection by „the potential of information included in social relations”;
3. its assumption by institutionalized rules and sanctions of social relations;
4. its participation in the development and organization of activities, primarily those of a voluntary nature, non-profit, and also informal life of organizations with economic profit aims (Bourdieu, 1986).

The existence of social capital in a local territorial community is as important as the existence of economic capital. Several features make of social capital a similar capital with economic characteristics. Among the defining characteristics of economic capital, we mention the following: it can satisfy some needs (has the potential of serving); it is durable, flexible, interchangeable; it is subject to wear; it can create capital, and can be used for ethical or unethical objectives (Robinson, 2000). Social capital acts in a similar way: it is durable, being the product of long effort and has a great dull. It has a particularly high potential for serving and can facilitate to obtain economic services (through access to resources controlled by others), involving certain social integrated rewards and recognition (by



the fact that social interactions are based on frequent social interactions), but serves as catalyst as regards the process of informing the individuals. The flexibility of social capital derives from the possibility to be used to obtain a wide range of services, or replace any type of capital, either directly or through conversion.

The maintenance of social relationships leads to physical capital depreciation, while their monotony can lead to obsolescence by saturation.

Relations between social capital and self-administration are focused on the control, help and support of relationships.

The mechanisms that facilitate the control of relationships derive from properties of social capital, treated as a characteristic of communities: generalized reciprocity strengthens rules. Stocks raised by social capital require trust and social solidarity, and, above all, compliance. Disorder or deviant behavior have social costs: exclusion from social networks, lack of access to goods supplied by them. The competence of local authorities in guaranteeing the existence of public goods and services reduces deviant behavior.

Aid and support of relationships derive from the ability to cooperate better, to produce common/public goods. Strong connections with the town hall, with local authorities, and with elected representatives can provide benefit for community members by mutual supply of information. The surplus of information can lead to the avoidance of losses due to incomplete knowledge of the problems.

A simple exercise in contraposition of the two concepts - social capital and self-administration, reveal a reciprocal relationship. Social capital consists of informal norms and values that make possible collective actions in society, whereas the autonomy of the administration means the right and effective capacity of local authorities to conclude and endorse locally an important part of political affairs under their own responsibility and in the local public interest. Both concepts claim collective action. Collective action assumes that individuals are endowed with free will in that they know how to define their interests, to develop strategies and how to mobilize to defend them. Being called into Weberian classification, they relate a unique goal, a value, a condition or tradition. Therefore, the existence of norms and networks that teach people how to act collectively will ensure a better self-administration, and vice versa, institutions, mechanisms of social control and laws reallocate the benefits ensured by the creation of social capital.

According to Putnam's theory, a community (society), which can be said to have the main contribution in social capital, would be characterized by the following elements:

1. civic engagement: citizens actively participate in the public domain, following their interests in the broader context of society, understanding the interests of others;
2. political equality: the community is connected by relationships of reciprocity and cooperation, not by relations of authority and dependency. People are involved in the process of self-administration, following norms of reciprocity;
3. solidarity, trust and tolerance: citizens are active, equal, help each other, are observed, trust each other, even if they have different opinions, are tolerant with their opponents (Putnam, 1993).

Empirical evidence indicates a reduced capital in most local authorities in Moldova. Involving citizens in solving public problems works like a variable indirectly measuring the potential civic participation. This is what sociologists call the citizen competence and dependent /administrative (Sandu, 2005). Individuals are considered competent as citizens or subjects if they are able to affect governmental decisions through political influence: by forming groups, by the threat of withdrawal of voting or other reprisals. As competent subjects, they are considered able to use a set of common laws and systematic contacts that they have with the government officials (Sandu, 2005).

Moldovans have kept their stereotypes and typical attitude during the Soviet period when the state was pervasive and took care of everything. The population have had the same expectations from the state: to make the most important decisions, to provide jobs, to propose solutions to any problem at local level, to improve the economic and social situation of the country, to intervene in the economy, etc. This type of mentality hinders the development of individual initiatives and is widespread in most social strata. In the Moldavians' vision, the state is the welfare state. On the other hand, state institutions do not enjoy public confidence, in the top of trustiness being Church (81%), followed by the media (59%) and the Town Hall (50.2%). A consequence of this complex opposite passive political system, but also regarding the formulation and implementation of public policies is the citizens' inability to identify themselves as active citizens. 79% of ordinary citizens believe that they can influence to a little extent or not at all important decisions of local or central public administration and political decisions at national level. Especially people aged between 30 and 59 believe that their influence on national decisions is almost nonexistent. The percentage is lower, about 70%, when people refer to decisions at the local level (Mocanu, 2007). Unwillingness of citizens to assume the functions of self-administration is correlated with the formation of an unnecessary sense of participation in certain forms of political action. They show a limited degree of control that shows that Moldovan citizens towards political and social processes. In

1995 the percentage in local elections is 60,02%, in 1999 – 58,45%, in 2003 – 58,66%, in 2007 – 52,34%<sup>1</sup>.

The dimension of institutional cooperation is also quite insignificant, since the local administration have limited levers to fully exercise the functions of policy formulation and implementation of local development policies. Cooperation to ensure quality public services is proving to be difficult because the realities of public administration system currently existing local authorities a representative role rather than real provider of public service.

According to the Law on Local Public Administration, the local public authorities can “decide, as provided by law, association with other local public administration authorities, including cross-border cooperation, for carrying out some work and services of public interest, promoting and protecting the interests of local authorities, as well as collaboration with economic agents and public associations from the country and abroad, for the achievement of the actions or work of common interest”. However, inter-cooperation, which is often nominated as one of the possible solutions, even intermediate of the problem of territorial fragmentation of municipalities, is a rare exercise in Moldova. Some exceptions have been caused by conditions of funding for border cooperation projects supported financially by the European Union, which led local administrations to join for submission of proposals for funding as well as conditions to finance projects from the National Fund for Regional Development. There are quite few examples of public-private initiatives, partly due to the legal framework. For example Law no. 179 of July 7, 2008 on public-private partnership, aimed at attracting private investment for public projects, remained inoperable since its adoption. The requirements that the participants in such partnerships have to meet discouraged the emergence of public-private initiatives and determined the examination of the possibility to amend the legal framework not yet implemented.

The cooperation of local public authorities with NGOs is more frequent. The explanation is that, not having sufficient leverage and resources to influence the local economic development, local administrations were forced to seek outside resources. Having restricted budget resources, and respectively, enjoying limited opportunities to bank borrowing, local public authorities have turned to the donor community. In many cases, however, local administrations are not eligible for funded projects, which have spurred the cooperation with the civil society (Berbeca, 2011).

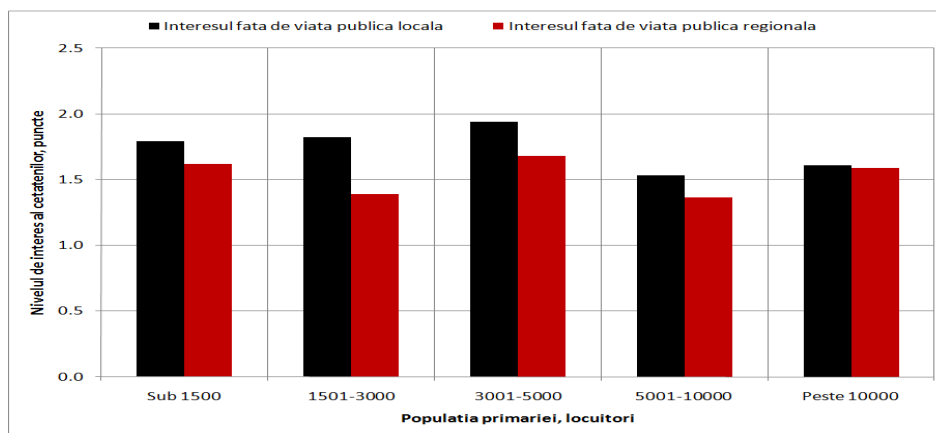
Being productive, social capital makes it possible to achieve goals that could not be reached in its absence. This reasoning dominant does not

---

<sup>1</sup> [www.alegeri.md](http://www.alegeri.md).

exactly reflect the externalities that may have social capital at the level of local territorial communities. Assumption is given even define its multiplicity. Formally, social capital refers to interactions in which individuals participate, being included in social networks and their associated rules, manifested by the participation of individuals in the formation and functioning, in confidence of these institutions, in other individuals or groups of individuals. If the self-administrated institutions follows similar rules of formation, not the same occurs at the operating level. The participation of individuals has the leading role in the functioning of this institution. The constant interaction between one individual, as social capital property, is different, and largely determined the habitat area. Social capital, reduced to a highly synthetic speech (norms and networks that teach people to act collectively, confidence and social relations, and a prosaic principle (“it does not matter what you know but whom you know”) makes it difficult to explore in sign the same scientific approach in different local authorities, primarily as a territory and population numbers.

#### CITIZENS LEVEL OF INTEREST IN LOCAL AND REGIONAL PUBLIC LIFE IN UNITS TYPE I



Source: *Audit of the democratic system of the Republic of Moldova. Antologies of studies on governance* (Berbeca, Ciurea, Gurin et al., IDIS Viitorul, Ch. : IDIS “Viitorul”, 2011)

Effects of social capital, also called externalities, are reflected especially in the generation of knowledge and training of public goods. The mechanisms by which these results can be provided are:

- Monitoring the performance of public authorities;
- Cooperation in solving common problems;

- spread of innovations by increasing connections between individuals;
- reducing imperfections of information and expanding the range of enforcement mechanisms, thus increasing production transactions, credit and labour markets;
- providing informal between households, allowing households to pursue higher profits, activities and production techniques (Narayan, 1997).

It is useful to note that as near the possible there are negative externalities. Those who have more information/knowledge have higher income levels and more valued positions in society, where the tendency of the poorest is tend to adopt strategies with positive effects on development. On the other hand, social networks typically include individuals with the same level of knowledge. Thus, individuals with poorer information and skills will interact mainly with their similar ones, having to reach a successful model to copy. Externalities related to the formation of public goods and collective action occur because the organization and functioning of public services is provided in a complementary manner by both public expenditure and private expenditure. The lack of resources makes the poor to be covered only by public expenditure, thus becoming the favorite victims of crime. Consequently, the creation of public goods and the effective functioning of public institutions favor especially the poor, bringing them a level of safety more important in relative terms than that brought to richer members of society. On the other hand, formal leaders of communities are chosen from the rich in social capital and material, then they are likely to pay more attention blanket of origin, disadvantage of giving the poor (Collier, 1998). This last argument is debatable: generally ensure representation of vote, the candidates are forced by competition rules to address problems equally less affluent voters.

Regarding the policy for the development of social capital, specialized literature systematizes several ways (Narayan, 1997). Two great principles rule the projects proposed:

- a first mechanism consists of the development of mechanisms for the inclusion of those excluded from formal financial systems, education and government. More complete information tends to eliminate conflicts by reducing uncertainty caused by ignorance of the intentions of others and allow the development of relations between groups in order to exploit structural holes. Promoting tolerance leads to increase social relations, as well as a report between connecting social capital and separated. An immediate effect of decentralization is that the center of power moves closer to the individual objectives of political decision making them more

tangible and more attractive in terms of participation in the creation and management of public property. The increase of transparency of the decision-making process and with it, of the confidence in institutions and even individuals;

- the second important mechanism is the investment in the organizational capacity of the poor, both at the micro (direct support to the poor) and the macro social levels (encouraging business associations). It implies direct intervention in the development of social networks, by facilitating connections, identifying and supporting network nodes and conflict mediation. Active agents of development of community social capital may become small and medium enterprises and entrepreneurs in the countryside.

Maintaining, reviving or creating social capital need two types of actions (Sztompka, 1999):

- the first involves the action of five macro variables:
  1. simple, coherent and steady legislation, transparency, and consistency in regulatory non-contradictory;
  2. accurate behavior of the political class, correctness of governmental decisions and firmness of its actions providing social representation that the government knows what it wants, contributing to the stability of social order;
  3. pluralism and freedom of the press, continuous monitoring of the public opinion through polls that support the transparency of social organization;
  4. behavior of those who come into direct contact with the public (civil servants, nurses, priests, and teachers) is very important for the perception of the social environment as well as familiar;
  5. reluctant justice to establish a climate of trust.
- the second involves the actions intended to target individuals as themselves: better education, a normal family life, and an education promoting tolerance, public debate continues to changes, etc.

## **BIBLIOGRAPHY**

Berbeca, V., Ciurea, C., Gurin, M. [et al.] *Auditul sistemului democratic în Republica Moldova. Antologie de studii asupra guvernării.* ; IDIS "Viitorul". - Ch. : IDIS "Viitorul", 2011;

- Bourdieu P. The Forms of Capital. In Handbook of Theory and Research for the Sociology of Education, New York: Greenwood, ed. JG Richardson, 1986, pp. 241-58;
- Collier, P. Social Capital and Poverty, Social Capital Initiative WP No 4, The World Bank, Washington DC, USA. 1998, pp.8-12
- Mocanu, G. (coord). 100 cele mai stresante probleme ale Republicii Moldova în 2007. - Ch.:Bons Offices, 2007, p.28;
- Narayan, D and Pritchett, L. Cents and Sociability: Household Income and Social Capital in Rural Tanzania, World Bank, Washington DC, USA, 1997;
- Narayan, D and Pritchett, L. Cents and Sociability: Household Income and Social Capital in Rural Tanzania, World Bank, Washington DC, USA, 1997
- Portes, A. Social Capital: Its Origins and Applications in Modern Sociology. Annual Review of Sociology, Vol. 24. 1998, pp. 1-24;
- Putnam, D. Robert. Bowling Alone. The Collapse and Revival of American Community. New York: Simon and Schuster, 2000;
- Putnam, D. Robert. Economic growth and social capital in Italy. Eastern Economic Journal. Vol. 21, nr. 23, summer, 1995, p.295;
- Putnam, D. Robert. The Prosperous Community: Social Capital and Public Life. The American Prospect, vol:13, Issue:4. Publisher: ISLAND PRES, 1993, pp.35-42;
- Robison L., Schmid A., and Siles M., Is Social Capital Really Capital? Review of Social Economy, LX (1), 2002, p.1-21;
- Sandu, D. Dezvoltare comunitară: cercetare, practică, ideologie. - Iași: Polirom, 2005, p.169;
- Sztompka, P. Trust : a sociological theory. Cambridge; New York : Cambridge University Press, 1999.





## **THE FORMATION TERRITORIAL UNIT - ADMINISTRATIVE UTAG GAGAUZ. LEGAL STATUS**

Oleg BERCU\*

### **Abstract**

*In the present article the author focuses on the creation of the Territorial Administrative Unit of Gagauz Yeri in the framework of the constitutional system of the Republic of Moldova. One can see that it had some stages before coming into existence. The first stage refers to its unconstitutional period since the establishment of Gagauz Republic in August 1990 when its status was unconstitutional. And the second stage, since the adoption of the Gagauz Yeri status as an integral part of the Republic of Moldova and according to its fundamental law*

Soviet space is starting an increasing movement of national assertion that led to the collapse of the Soviet Union and the formation of a number of independent states in this space. But in some newly formed states were continued separatist trends. The same situation has created after declaration of state independence in the Republic of Moldova (August 27, 1991). Transnistrian Conflict (1992) and tensions between Chisinau and Comrat had a major influence on the policy of the Government of Moldova to the Gagauzian nation in this period. Although, in both cases, were formed the separatist tendencies of some political circles in these regions, the leaders in Chisinau saw their solutions differently. Consequently, in 1994, were formed the Administrative - territorial unit of Gagauzia (ATUG).

### **ATUG premises and formation:**

After the mid-1980s in the USSR Gorbachev launched "Perestroika", the Soviet space also begins a series of national revival movements, which later turned into national liberation movements. In this context also include the formation of administrative - territorial unity - Gagauzia, and, special status of that entity.

Spring 1988, in Comrat was established a cultural club, which, next year, turns into an umbrella association called "Gagauz Halki" (Gagauz People)<sup>1</sup>. The main goal of this organization was to familiarize the population in rural Gagauzian culture, to develop Gagauzian language and aspects of the history of this people, etc. Similar organizations have

---

\* Ph.D Lecturer, Email: [bercuoleg@gmail.com](mailto:bercuoleg@gmail.com)

<sup>1</sup>Charles King, *Moldavians, Romania, Russia and cultural policy*, Chisinau, 2002, p. 217.

emerged in 1989 and elsewhere in south regions, such as in Ciadar-Lunga - the name of "Birlic" (Unity) and in Vulcanesti - "Vatan" (Motherland)<sup>2</sup>.

Initially, the leaders of the movement "Gagauz Halki" were in partnership with the Popular Front of Moldova. Multiethnic cooperation within Popular Front proved to be fragile and, after being introduced Romanian as official language, in August 1989, in the relations between the leaders of the movement "Gagauz Halki" and the Popular Front appeared divergences. Moreover, these divergences were deepened by some nationalist statements, exclusive of the Popular Front leaders; sometimes offensive to Gagauzian people (Dabija says this kind of declarations). Consequently, all three organizations, "Gagauz Halki", "Birlic" and "Vatan" carried out an intense promotion among the minority population in the South of Republic, against formation of the Gagauzian or Gagauz-bulgarian autonomy. Although, in the initial period, Gagauzians and Bulgarians have formed a common front, however, over time, between the leaders of these nations appears some divergences. Bulgarian leaders feared that instead of so-called Moldovan nationalism in the South of Republic will appear the Gagauzian nationalism.

During the 1990, movement "Gagauz Halki" intensified activity, which was culminated with the first organization of the congress of Gagauzians, on August 19, 1990, where Gagauzian leaders proclaimed the Soviet Socialist Republic of Gagauz<sup>3</sup>. This declaration was cancelled next day by Moldovan SSR Supreme Soviet as illegal<sup>4</sup>.

At the same time, new proclaimed republic was not recognized by the Soviet authorities<sup>5</sup>. Since, neither of the parties fails choosing the Gagauz Republic, but the Government from Chisinau not recognized it, the events have been aggravated. Therefore, some political circles in the capital have organized so-called "campaign in the South". This led to the involvement of the Fourteenth Army, which had prevented an armed conflict between volunteers and the Gagauzian part. Also, Fourteenth Army involvement comes to show that separatism in Gagauzia and Transnistria, was directly guided by Moscow. In this regard an additional argument is: "...On November 4, 1990, Snegur run to Moscow to ask Gorbachev's help: sanctioning of separatists from Transnistria and Gagauzia. Being in the presence of three satraps of the Porte – Gorbachev, Rajcov and

---

<sup>2</sup> Fedor Angheli, *Gagauz autonomy, people and facts (1989-2005)*, Chisinau, 2006, p. 19.

<sup>3</sup> *Declaration of state sovereignty of Gagauz Republic*, Comrat, 1990.

<sup>4</sup> *President decision of the Moldovan SSR Supreme Soviet "Within the declaration of the "First Congress" of deputies from all level territorial parts with gagauzian population"*, from August 20, 1990.

<sup>5</sup> M. Gorbachev, *Decree of the President of the Union of Soviet Socialists Republics On measures to normalize the situation in Moldovan SSR, „Lenin's words"*, Comrat, No.155, December 25, 1990, p.1.

*Kriucikov, our Moldavian hadn't the arguments. Gorbachev ordered "Quit you separatism to the Union and you will never have so many republics"..."*<sup>6</sup>. This quotation reveals in detail Moscow's policy towards Moldova in 1990, which continues till present.

Importantly, in this period, Gagauzian separatists received weapons from Transnistria. Also, for self-defense, they organized a paramilitary unit, known as "Bugeac Battalion". However, the Gagauzian leadership was not united in their opposition to Chisinau. There were two main trends: first current was represented by former party elite, whose representatives were Topal and local parliament spokesman, Mihail Kendighelean, they wanted to maintain control over local resources in a Soviet Union that was limb; the second current was represented by Konstantin Taushanghi and Leonid Dobrov, who wanted to initiate a national revival of the Gagauzians.

Although, between leadership among self-proclaimed Republic of Gagauzia (Gagauz Yeri) existed some divergences, yet, they actively support the secessionist movement of self-proclaimed *Transnistrian Republic*, as well as failed *putsch* from Moscow in August 1991. The declaration of Independence of the Republic of Moldova deepened the rift between Chisinau and Comrat, because the Gagauzian leaders considered "putsch" in Moscow timely and struggling to stop the Soviet Union collapsed<sup>7</sup>. Thus, relations between Chisinau and Comrat remained quite tense. In these circumstances, appeared different scenarios to resolve the conflict. An important step in this direction was the adoption of a special decision of the Parliament of Moldova in 1993 – "On the creation of a parliamentary committee to solve problems in the eastern districts and the locations inhabited by the Gagauzians from the Republic of Moldova"<sup>8</sup>. The committee under paragraph three of that decision has the following powers: "Commission will undertake the necessary measures to improve socio-political situation in the eastern regions and localities, which are compact inhabited by the Gagauzians, will prepare draft legislation on the special legal status of these districts and towns, and will submit to Parliament for consideration in the tenth session"<sup>9</sup>.

A special interest to the Gagauzian ethnic affected the Turkish Republic. During the President of Turkey visit, Suleyman Demirel, in his speech said, that on the territory of Moldova live a special branch of the

---

<sup>6</sup> Viorel Patrichi, *Mircea Druc or fight with the last empire*, Bucharest, 1998, p. 391.

<sup>7</sup> Charles King, *Op. cit.*, p. 219.

<sup>8</sup> „*Official Monitor of the Republic of Moldova*”, No. 3, 1993, Chisinau, March, 18, 1993.

<sup>9</sup> *Idem*, p. 45.

Turkish nation, which can spur Turkey to have closer relations with Moldova.<sup>10</sup>

Turkish officials linked the ATUG development with the progress of the Republic of Moldova, and did not support the separatist tendencies of some political circles in Comrat. Also, Turkish delegation made a visit to Comrat and Ciadir - Lunga. Within these visits Suleyman Dimerel said that between the Governments of these two states must be signed a special agreement. According to those words, Republic of Moldova had to receive 35 million dollars for social - economic development of regions populated mostly by Gagauzians<sup>11</sup>.

In 1994 was adopted the Constitution of the Republic of Moldova<sup>12</sup>, where, in Article 111 was stipulated that: Localities from the left part of the Dniester, and some localities in southern Moldova, may be assigned special forms and conditions of autonomy after special statutes adopted by organic laws. While, in paragraph of Article 111 was stipulated that such laws may be amended by a vote of three fifths of the elected members.<sup>13</sup>

The Article 111 of the Constitution of the Republic of Moldova gave the possibility to be adopted the organic law No. 344 - XIII, on special status of Gagauzia (Gagauz Yeri), voted by Moldova's Parliament on December 23, 1994<sup>14</sup>, implemented by the Parliament Speaker Petru Lucinschi on December 23, 1994<sup>15</sup> and promulgated by the President Mircea Snegur on January 13, 1995<sup>16</sup>. In Article 12 paragraph 3 of this law stipulates that the competence of the Popular Front of Gagauzia takes: solving problems of territorial organization of Gagauzia, under the law, establishment and modification of class settlements, the boundaries of districts, towns, villages, and their names. Also, the Popular Front may participate in internal and foreign policies of the state only in matters concerning the interests of Gagauzia, can pass laws that do not contravene the local Constitution of Moldova, etc.<sup>17</sup>

From this law, we conclude that the Government of Gagauzian autonomy was vested with very broad powers in the Republic of Moldova.

---

<sup>10</sup> *Speech by President of Turkey, E. S. Mr. S. Dimirrel, said in the Parliament of Moldova, „Sovereign Moldova”, June,4, 1994, p. 2.*

<sup>11</sup> *Visit of Turkish delegation in Comrat and Ciadir – Lunga, „Sovereign Moldova”, June, 4, 1994, p. 2.*

<sup>12</sup> *The Constitution of the Republic of Moldova, Adopted on July, 29, 1994.*

<sup>13</sup> *Idem, p. 35.*

<sup>14</sup> *OM RM, No. 1, 1995, p. 136-137.*

<sup>15</sup> *Idem, p. 137.*

<sup>16</sup> *Ibidem.*

<sup>17</sup> *OM RM, No. 1, 1995, p. 132 – 133.*

In 1998, Turkish President Suleyman Demirel, undertakes the second visit to Moldova. The Turkish delegation was comprised of many businessmen and scientists from Turkey. This visit was made with the aim to sign “...*Agreement on avoiding double taxation and prevent tax evasion...*”<sup>18</sup> Also, business people from Turkey were aware of the investment climate in Moldova.

On the second day of the visit, President of Turkey, together with the delegation accompanying him, visited the Comrat, in which, Suleyman Demirel met with Gagauzian Governor George Tabunshcic, who has made a review of the successes achieved by Gagauzia in recent years. During this meeting, has been accessed the University of Comrat, where Suleyman Demirel presented to the Rector, Stepan Varban, 100,000\$ for university development. Also, it was inaugurated a library, building reparation being made by Turkish funds. Turkey presented this library an impressive fund of books, near 20 000 of volumes.

The latest issue of the official visit program was the official project opening of the supply drinking water to the districts in southern Moldova. To the purpose has been allocated 15 million of dollars from 35 million loan offered by Turkey<sup>19</sup>. All this demonstrates that the Republic of Turkey provide a substantial aid to ATUG in the economic and cultural plan.

The press, including in Romania, widely covered developments of Gagauzia in Moldova. For example, “Cotidianul” newspaper from Bucharest reported the following: “...*The Chairman of the Popular Assembly of Gagauzian Autonomy, Michael Kendighelean, argued in the Supreme Soviet in Tiraspol, to review relations with the authorities in Chisinau. Transnistrian deputies decided to conclude a formal agreement of cooperation between the parliamentarians of Transnistria and Gagauzia. Regional parliament leader from Comrat invited the Transnistrians to present options declared that the Gagauzians will insist on the establishment of legal state relations with Moldova within the common state and within the principles of the Memorandum signed in Moscow in 1997...*”<sup>20</sup>

On July 1, 1998 in Chisinau, OSCE opened a seminar which was titled “Relations between central and regional authorities”. Within this seminar General Secretary of the OSCE launched the following ideas:

---

<sup>18</sup> Ion Strici, *Suleyman Demirel second visit in the Republic of Moldova*, „Sovereign Moldova”, June, 27, 1998, p. 2.

<sup>19</sup> Ion Strici, *A visit with an echo over times*, „Sovereign Moldova”, June, 30, 1998, p. 1.

<sup>20</sup> *Gagauzians require reviewing relations with the Republic of Moldova*, in „Cotidianul”, June 24-25, 2000, p.9.

“...One of the main tasks of the OSCE is supporting the creation of autonomy in certain areas, but while retaining the territorial integrity of States...”<sup>21</sup>.

Although, in 1994, ATUG was created and OSCE structures not endorse secessionist tendencies in post-Soviet space, some political circles from Comrat have harbored separatist tendencies for a long time.

But neither position nor recommendations of international organizations hasn't slowed the leading individual leaders from Comrat.

ATUG separatist tendencies are reflected in the draft law "The addition and change the Constitution of the Republic of Moldova", elaborated by the Comrat leadership<sup>22</sup>. In this project stipulates that the Republic of Moldova will be called *federation*, which violates the Constitution in force. However, the Comrat government proposed changes in art. 113, where was introduced point that: “...The Republic of Gagauzia carry out direct links in the economic, commercial, scientific, sports and humanitarian domains with foreign states, in connection with the regional problems and international organizations through respective representatives across the border...”<sup>23</sup>. The draft law proposed by the Gagauzian officials contradicts to the Constitution of Moldova. This allows us to support the idea that the political elite of Comrat had attacked direct on the sovereignty of Moldova. As a result, the project could not be accepted at all by the authorities in Chisinau.

A similar project was proposed by the Russian Federation to the Government from Comrat, so-called *Kozak's Memorandum*, interpreted by the Russian as a plan of "unification of the Republic of Moldova". According to this *memorandum*, Republic of Moldova must become a Federation, but Transnistria and ATUG - federation subjects and all that lies in this. Also, under this *memorandum*, was provided phased demilitarization of Moldova<sup>24</sup>.

From the stipulations of the *memorandum* appears that they perfectly agreeing separatist forces from Tiraspol and Comrat, but not the government from Chisinau, the Moldovan officials were realizing that carrying the *Kozak's memorandum* will violate the sovereignty of the Republic of Moldova. The President of the Republic of Moldova Vladimir Voronin initially postponed the signing of this *memorandum*, which led to

---

<sup>21</sup> OSCE seminar “Relations between central and regional authorities” in Chisinau, in „Sovereign Moldova”, June, 2, 1998, p. 1.

<sup>22</sup> Mihail Guboglo, *Between the Scylla of Unitarianism and Charybdis of confederalism. The pages of etchno-political development of Gagauzians. Inter-ethnic relations in post-communist states*, Chisinau, 2002, p.

<sup>23</sup> *Idem*, p. 31.

<sup>24</sup> *Russia has proposed a plan of an asymmetric federation*, in „Gagauzian news”, November, 25, 2003, p. 1.

tense relations between Chisinau and Moscow<sup>25</sup>. Given the fact that the post-Soviet governments no longer fulfill the recommendations obedient from the Kremlin, some Russian political scientists, rightly concluded: “...Russia loses authority in the post-Soviet territory, is not consulted and has to strengthen its influence with separatist forces...”<sup>26</sup>. Also, the analyst Vladimir Socor warned that the acceptance of the memorandum by Chisinau will create a dangerous precedent for the whole region<sup>27</sup>. Accordingly, the Kozak’s memorandum was abandoned by the Moldovan side.

On October 21, 2003, the Bashkan<sup>28</sup> of the Gagauzia, Gheorghe Tabunscic has met with the Extraordinary and Plenipotentiary Ambassador of Great Britain and Northern Ireland, Mr. Bernard Whiteside. Within the discussions, had found the answers to questions which have political and economic character<sup>29</sup>. In particular, the Ambassador inquired ATUG’s leadership opinion regarding the integration of Moldova into the European Union, has raised questions about conflict resolution and unification of the country, the election campaign (elections in the Popular Front) and problems connected with economic development of the autonomy, given the opportunities related to expanding economic ties with Western countries.

Answering Ambassador’s questions Bashkan stressed that: “... European integration - is not a trend, but an imperative of the time and since Moldova is a European country, it must be a part of the European Union. In this plan, Gagauzia support this direction taken by the leadership of the country towards European integration...”<sup>30</sup>. Also, he argued that ties between Moldova and the CIS must not be an obstacle to European integration.

On April 16, 2005, Gagauzia was visited by a delegation of Austrian, composed of the deputy of the Federal Parliament Anton Heinzl, the president of the Austro-Moldovan cooperation and friendship Markus Strohmer, and the representatives of municipalities, local parliaments and some professional organizations<sup>31</sup>. The Austrian was interested in founding conditions of Gagauzia, the powers of this autonomy, as well as their relations with the central government of Moldova. These questions were answered by the mayor of Comrat city. In the second half of the day, the Austrian delegation visited the University of Comrat. At the meeting,

---

<sup>25</sup> Voronin between Russia and Europe, in „Cotidianul”, November, 28, 2003, p. 3.

<sup>26</sup> OSCE vs Russia - a delicate confrontation in Maastricht, in „Cotidianul”, December, 2, 2003, p. 2.

<sup>27</sup> *Idem.*

<sup>28</sup> Bashkan – Governor ATUG.

<sup>29</sup> The Bashkan of Gagauzia press – service, The Gagauzian governor received the Ambassador of Great Britain, in „Gagauzian News”, October, 28, 2003, p. 1.

<sup>30</sup> *Idem.*

<sup>31</sup> Our guest is an Austrian delegation, in „Gagauzian news”, April, 22, 2005, p. 1.

Rector of Comrat University, Stepan Verbania, gave a speech about the establishment of the university and the successes that were achieved during his term of activities<sup>32</sup>.

### **Legal status of ATU Gagauzia**

Given the fact that the Parliament of the Republic of Moldova, on December 23, 1994 adopted the organic law on the special status of ATUG, promulgated by the President M. Snegur on January 13, 1995 and pursuant to art. 111 of the Constitution of the Republic of Moldova, the administration from Comrat had voted the Statute of Gagauzia (Gagauz Yeri)<sup>33</sup>.

That Statute contains 101 articles, divided into ten titles: "1. Legal status of Gagauzia within the Republic of Moldova (art. 1-16); 2. Rights, liberties and obligations of the man and citizens (art. 17-41); 3. Organization and functions of public authorities of Gagauzia (art.42-79); 4. Economy and finance of Gagauzia (art. 80); 5. Public local authorities (art. 81-82); 6. The courts of justice (art.83-87); 7. Prosecutor (art.88); 8. Legality and law order (art. 89-90); 9. Modification of Gagauzian Statute (art. 91-93) and 10. Final dispositions and transitory (art. 94-101)".

According to Article 1 paragraph 1 of the Statute, Gagauzia represent a territorial-administrative structure as a part of the Republic of Moldova with special legal status: is providing the right to self-determination for Gagauzian people (in case, if the Republic of Moldova will disappear as a state formation), and pursuing the activities in accordance with the Constitution of the Republic of Moldova and Moldovan law "On special status of Gagauzia (Gagauz Yeri)"<sup>34</sup>.

In accordance with the Law "On Special Legal Status of Gagauzia" and "On territorial - administrative dividing of Gagauzia", the territory of autonomy must be divided into districts, towns and villages. From the autonomous territory were made three districts (Comrat, Ceadir-Lunga and Vulcanesti). Gagauzia also included a municipality, two towns, 20 villages and three communes. An administrative center of this autonomy is Comrat city.

Gagauzia has its own symbols - a flag, an emblem and hymn - which is using in parallel with state symbols of the Republic of Moldova<sup>35</sup>. The currency of circulation in the autonomy is Moldovan Lei.

---

<sup>32</sup> *Idem*.

<sup>33</sup> *Statute of Gagauzia (Gagauz Yeri) on May 14, 1998, (trilingual edition: Gagauzian, Moldovian and Russian), Comrat, 1998.*

<sup>34</sup> *Idem*; p. 31.

<sup>35</sup> *Idem*; p. 34.



Flag of Gagauzia is a rectangular cloth of three colored strips, placed horizontally in the following order, from top to bottom: blue - 60% of the width of the flag, white and red - about 20% of the width of the flag. On the blue background are placed three yellow five-pointed stars in an equilateral triangle. I would like to mention, that in the early 90s of last century it was used another flag: rectangular cloth with blue background, but on this background in the center was created a wolf's head<sup>36</sup>.

An emblem of Gagauzia represents a shield heraldic with the blue color of the yellow crescent below a rising sun. The shield is flanked by yellow spice wrapped in the flag of Gagauzia. Under the shield is stylized image of vine leaves and grapes. Above the shield, in an equilateral triangle, are placed three yellow five-pointed stars<sup>37</sup>.

According to the law passed by the Popular Front on December 4, 1995 was established that the Gagauzian anthem will be the music of Michael Colos composer. Under the same law, the hymn of Gagauzia will be performing by regional and local radio after the hymn of the Republic of Moldova. At the same time, the anthem will be played in the local events, demonstrations and commemorative dates related to the history of the Gagauzians<sup>38</sup>.

According to the Statute, in Gagauzia are guaranteed all rights and freedoms. Also stipulates that citizens, who are living in Gagauzia, are Moldovan citizens too.

The legislative body of Gagauzia is the Popular Front (*Gagauzianin Halk Topuşlu*). The Popular Front includes 35 deputies, who are elected for a term of four years. The Popular Front Assembly activity is ensured by the President, Vice-Presidents and the Bureau of Popular Assembly of Gagauzia. The Popular Assembly has the legislative initiative in the Parliament of the Republic of Moldova.

The deputy of the Popular Assembly of Gagauzia can be elected every citizen of the Republic of Moldova with voting rights, who has attended the age 21 and lives at the time of elections in the region, which he represents<sup>39</sup>. The deputy of the Popular Assembly needs to present 5000 voters. The Popular Front of Gagauzia relates some competences: 1. adaptation and modification of the Gagauzian Statute; 2. adaptation of the local laws, which related to life and activities of the autonomy and which not contradict to the Constitution of the Republic of Moldova.

Position of the Governor (Bashkan) of Gagauzia is the most important administrative hierarchy of Gagauzia. The Governor of

---

<sup>36</sup> <http://www.gagauzia.md/pageview.php?l=ru&idc=412&nod=1&>

<sup>37</sup> <http://www.gagauzia.md/pageview.php?l=ru&idc=412&id=112>

<sup>38</sup> <http://www.gagauzia.md/pageview.php?l=ru&idc=412&id=130>

<sup>39</sup> *The Statute of Gagauzia...*, p. 41.

Gagauzia is elected for a term of 4 years, within general elections, direct and free vote. Elections can be considered invalid if the first round attended less than half the voters, but the second, a third of voters. The Governor (Bashkan) of Gagauzia is a supreme official person. All public authorities subordinate him<sup>40</sup>.

The Governor of Gagauzia is the guarantee of legislation enforcement, rights and freedoms on the territory of the autonomy within the law and the rights and freedoms. The Governor represents the autonomy as in the Republic of Moldova and well as in international relations. The Governor can be elected every citizen of the Republic of Moldova, who has attained age 35, lives or lived in Gagauzia and know the Gagauzian language. According to the Statute, nobody may hold the function of Governor more than two consecutive terms.

According to Article 69 of the Regulation, the Governor is entitled, if he disagrees with adopted local law, to submit no later than in ten days to the Gagauzian Popular Front for reconsideration. If the local law voted by two-thirds of the members again, the law is considered valid and is signed by the Governor of Gagauzia.

If the Governor of Gagauzia is unable to exercise his powers for health or other reasons, temporary the first deputy is acting as executive committee. New elections for function of the Governor of Gagauzia shall occur not later than three months after the vacancy.

The Governor of Gagauzia by a Moldova's parliamentary decree is appointed as a member of the Government of Moldova and automatically becomes one of the deputy prime ministers.

The executive body of Gagauzia is Executive Committee (Bacannâc Committee), which is acting permanent, and is approved by the Popular Front for a term of four years and chaired by the Governor of Gagauzia.

According to the Article 74 from the Regulation: "...1. *The structure of the Executive Committee is first - vice - president and vice-deputies of the Executive Committee, heads of the departments from Gagauzia, heads of district administrations of Gagauzia.*

2. *After the proposal of the Governor of Gagauzia, the heads of the respective departments enter as a part of Gagauzian branch colleges, ministries and departments of the Republic of Moldova.*

3. *Head of Justice Department of Gagauzia is appointed and dismissed from the function of Minister of Justice of the Republic of Moldova, after the proposal of the Popular Assembly of Gagauzia, and is a member of the Board of the Ministry of Justice of Moldova...*"<sup>41</sup>. It can be noted that all heads of departments and division commanders of the Carabineers troops are

---

<sup>40</sup> *Idem*, p.44-45; Eugen Patrash, *National minorities...*, p. 161

<sup>41</sup> *The Statute of Gagauzia...*, p. 49.

appointed or dismissed by the Ministries of the Republic of Moldova, after the proposal of the Governor of Gagauzia.

The Governor Mandate retiring entails the resignation of the Executive. However, the Executive Committee continues to perform its activities until the formation of the new committee.

The Gagauzia's Executive Committee ensure enforcement and compliance of the Constitution and laws of the Republic of Moldova, of the Regulation and local laws, of the decisions voted by the Popular Assembly and the dispositions and orders issued by the Governor of Gagauzia. The attributions of the Executive Committee also deals participation in the work of central public administration bodies of the Republic of Moldova, on issues concerning the interests of Gagauzia. Also, the Executive Committee covers the economical, cultural, social, etc reports, within the autonomy.

Gagauzia budget consists of all types of payments established by legislation of the Republic of Moldova and the Gagauz legislation. Report of Gagauzia budget and state budget is established according to the legislation of the Republic of Moldova. Gagauzian budget is voted by the Popular Front.

ATUG justice is administered after the name of law and only by the courts. The courts of justice are the Court of Gagauzia and courts. As the Court of Gagauzia is a part of judiciary system of Moldova, it judged within its competences, first – instance of civil, administrative and criminal cases.

\*\*\*

As a result of processes occurring after the USSR collapse in a number of former Soviet Republics, certain circles of population have destabilized their national affirmation. A similar situation was created in Moldova too, where separatist forces from Tiraspol and Comrat harbored separatist tendencies towards the young state. Consequently, the problem in these two regions was solved different:

- Till present there is a Transnistrian difference in the East of the Republic.
- But in the South of the Republic was created the Administrative-territorial unit of Gagauzia (in the region where the ethic gagauzians form the majority) with a special status within Moldova.



## CESSATION OF THE TOWN COUNCILLOR'S SEAT

Melinda CENUȘE\*

### Abstract

*Town councils represent deliberative authorities through which local autonomy is realized in villages and cities. Town councils are composed of town councillors elected through universal, equal, direct, secret and freely expressed vote. According to the law of local public authorities election, the term of a town councillor's seat is 4 years. The town councillor's seat ceases when the new town council is declared legally constituted.*

*There are situations when the cessation of the town councillor's seat is made before term. It is the case of the dissolution of the town council. There are, also, the situations of legal cessation presented in the Statute of the Local Elected Officials. The new town council, voted after the dissolution or the legal cessation of the previous, will exercise its seat until the next general elections.*

*Our study will try to present and analyze the characteristics of the cessation of town councillor's seat before term.*

**Keywords:** *deliberative authorities, seat, town counsellor, cessation, local referendum.*

**JEL Classification:** K39.

### 1. General considerations

Town councils represent deliberative authorities through which local autonomy is realized in villages and cities. Town councils are composed of town councillors, elected through universal, equal, direct, secret and freely expressed vote. According to the law of local public authorities election, their seat lasts 4 years.

In conclusion the normal period of town councillor's seat is 4 years. The town councillor's seat ceases when the new town council is declared legally constituted.

Nevertheless, there are situations when town councillor's seat ceases before term. It is the case of the dissolution of the town council. There are, also, the situations of legal cessation presented in the Statute of the Local Elected Officials.

The new town council, voted after the dissolution or the legal cessation of the previous, will exercise its seat until the next general elections.

---

\* Ph.D Lecturer, University of Petroșani, Email: melysz@yahoo.com.

## 2. Cessation of the town councillors seat through town council dissolution, according to local public administration law

The town council is dissolved by law or by local referendum.

a) *The town council can be dissolved by law* if: it does not meet for two consecutive months when summoned; if it does not pass any decision during three consecutive ordinary sessions or the number of town councillors is reduced under half and one and cannot be completed through deputy.

Regarding the situation when the town council is dissolved because it does not meet for two consecutive months, the explanations introduced by Law 59/2010, "while it was summoned", is welcome. The original stipulation "does not meet for two consecutive months" was catalogued in juridical literature as ambiguous<sup>1</sup>.

The law needed this explanation referring to the nature of meetings for two reasons. One - the mayor is the only one who can summon the town council in ordinary meetings and, if he does not do so, the councillors are not culpable for not meeting. Two - if at least 1/3 of the councillors summoned an extraordinary meeting in those two consecutive months, than the town council would not be dissolved.

Regarding the second situation (the town council is dissolved because it does not pass any decision during three consecutive ordinary sessions), the explanation "ordinary sessions" is welcome because whether the town council met in extraordinary sessions and passed decisions is not relevant. The legal requirement for the dissolution of the town council is fulfilled (Petrescu, 2009).

Regarding the third situation (the town council is dissolved because the number of town councillors is reduced under half and one and cannot be completed through deputy), it raises another question in juridical literature: What happens when the town council must pass a decision referring to the patrimony? In this particular case the law requires the vote of 2/3 of the entire number of councillors. It results that the town council is not dissolved, but it cannot approve a decision referring to the patrimony (Tofan, 2008).

We can observe that in the first and in the second case the dissolution of the town council is the consequence of exclusive guilt of

---

<sup>1</sup> A se vedea Rodica Narcisa Petrescu - Drept administrativ, Ed. Hamangiu, București, 2009, pag. 167, Rodica-Narcisa Petrescu - Unele observații cu privire la noua Lege a administrației publice locale nr. 215/2001, Dreptul, nr. 4/2002, pag. 108, Rodica-Narcisa Petrescu - Probleme actuale ale administrației publice locale în România, Revista de drept public, nr. 2/2002, pag. 57-58.

town councillors who are disinterested in the local community problems. The last case surpasses the guilt of the local councillors, because the reduction of their number can be caused by objective reasons.

The mayor, the vice-mayor, the secretary of the administrative-territorial unit, the prefect or any other person concerned can inform the court of legal department about one of the above mentioned situations. The court will bring in the verdict about the dissolution of the town council and the definitive court ruling will be communicated to the prefect.

We must underline that in the past years the Government and the prefect had an important role in the dissolution of the town council while the court ruling remained definitive and irrevocable. At this moment this responsibility belongs to the court of legal department.

The settlement that is in force now discards any abuses, because it gives the responsibility of the dissolution of the town council to an independent and neutral authority - the court of legal department. In addition, this legislative change creates the means of a true local democracy and fits in with European Union ideas about posterior legality control.

Comparing the new law of public administration with the old one (no. 69/1991) we can observe that the reasons to dissolve the town council, such as the state's general interest and the right order were replaced with new ones that show the real local representativity (Alexandru, 2009: 235).

b) *The town council can also be dissolved by local referendum*, according to the changes brought to the public administration law in 2006<sup>2</sup>. This manner is a substantial modification of Law 215/2001.

The local referendum will be organised by the prefect in accordance with the will of 25% of the total number of voting citizens. The local referendum will be valid if at least half and one of the total number of citizens vote. The councillor's seat will end before its term if it is voted by half and one of the total number of valid votes.

Regarding this possibility of ending the councillor's seat before term, in juridical literature<sup>3</sup> it was underlined that the law should provide specific situations such as an illegal or importunate activity or the

---

<sup>2</sup> Legea nr.286 din 6 iulie 2006 - pentru modificarea și completarea Legii administrației publice locale nr. 215/2001.

<sup>3</sup> Nicola Iordan - Considerații cu privire la proiectul legii de modificare și completare a Legii nr. 215/2001 privind administrația publică locală, studiu publicat în Caietul Științific nr. 8/2006, intitulat Implicațiile Tratatului instituind o Constituție pentru Europa asupra dreptului public și a serviciilor publice, editat de Institutul de Științe Administrative „Paul Negulescu”, pag. 265. A se vedea și Verginia Vedinaș - Drept administrativ, ediția a 3-a, Ed. Universul juridic, București, 2007, pag. 401- 402.

inactivity of the town council, because otherwise this procedure can become dangerous through the manipulation of the electorate.

The date for the election of the new town council will be established by the Government on the prefect's proposition. This date will be established within 90 days since the court's sentence is flat and absolute. The term of 90 days was expanded from 30 days. This modification is welcome because the 30-day term was a very short one. Until the new town council is constituted, the mayor or, in his absence, the secretary of the administrative-territorial unit, will solve the city's current problems.

### **3. The legal end of the town councillor's seat**

According to the Statute of the Local Elected Officials, the town councillor's seat legally ceases before the date of normal seat expiry in the following cases: resignation<sup>4</sup>, incompatibility, shifting of lodging in another administrative-territorial unit<sup>5</sup>, truancy from more than three consecutive ordinary town council meetings, lack of ability to exert the seat for more than 6 consecutive months<sup>6</sup>, getting a jail sentence, getting interdiction through a definitive injunction, loss of electoral rights or of the quality of member of the party on whose list s/he was elected, decease<sup>7</sup>.

In some of the cases of cessation (truancy from more than three consecutive ordinary town council meetings, shifting of lodging in another administrative-territorial unit, lack of ability to exert the seat for more than 6 consecutive months, loss of electoral rights or of the quality of member of the party on whose list s/he was elected) the councillors can take out a summons against the decision of the town council in 10 days from its communication. In these above-mentioned cases only the visaed councillor can take out such a summons.

In other cases, as underlined in juridical literature (Iorgovan, 2005: 499), anyone who considers himself blighted in his rights or legitimate interest can take out a summons against the decision of the town council.

---

<sup>4</sup> În acest caz consilierul local îl anunță în scris pe președintele de ședință, care ia act de demisie, propunând consiliului adoptarea unei hotărâri prin care se ia act de demisie și se declară locul vacant.

<sup>5</sup> Această situație poate interveni numai după efectuarea în actul de identitate al celui în cauză a mențiunii corespunzătoare.

<sup>6</sup> Singura excepție este în situația în care consilierul a fost însărcinat de către consiliul din care face parte, Guvern sau Parlament cu exercitarea unei misiuni în țară sau în străinătate, cu precizarea că pe durata exercitării misiunii încredințate exercitarea mandatului se suspendă.

<sup>7</sup> Conform art. 9, alin. 2 din legea privind Statutul aleșilor locali nr. 393/2004 republicată cu modificările și completările ulterioare.



The situation of cessation of the town councillor's seat because of loss of electoral rights or of the quality of member of the party on whose list s/he was elected was introduced by modifications made to the Statute of the Local Elected Officials through Law 249/2006. This modification was the result of too many practical situations of leaving one party for another, being a law unto oneself that they used to represent another party when they were elected.

Against this legislative purview a lot of unconstitutionally exceptions were introduced. The jurisprudence<sup>8</sup> of the Constitutional Court established as a principle that the situation of cessation of the town councillor's seat because of loss of electoral rights or of the quality of member of the party on whose list s/he was elected is justified because the citizens accepted a certain political configuration giving their vote to one councillor that belonged to a certain party. Changing the party means that the councillor did not respect the citizens' will expressed through their vote (Petrescu, 2009: 170).

In light of this argument the Constitutional Court also considered that this legislative purview does not restrain the exercise of fundamental citizens rights, but only sanctions the local councillor's misbehaviour in contradiction with the elector's will.

Furthermore, the Romanian Ombudsman considers that not being a member of the party on whose list s/he was elected, the local councillor does not have anymore legitimacy and representativity.

One critique brought to this legislative purview underlined that in these situation political parties receive attributions that exceed the association right and offer them discretionary powers.

Another critique underlined that this legislative purview does not distinguish between losing the quality of party member because of resignation or exclusion. For the mayor the same law makes this determination. In its solutions, the Constitutional Court considered that there are no discriminatory situations between local councillors and mayors because they are not in identical situations.

In virtue of juridical symmetry the local councillor's seat is valid after a written confirmation given by his party; so, under the same circumstances, losing the quality of member of the party on whose list s/he was elected, the local councillor also loses his public office<sup>9</sup>.

I also consider this legislative purview a welcome measure because its aim is to sanction "political migration" and the cheating of the electors' will. I think this legislative purview wants to ensure political decency and

---

<sup>8</sup> Deciziile Curții Constituționale nr. 61/2007, 915/2007, 1167/2007, 134/2008, 485/2008, 677/2008, 779/2008, 1118/2008, 1190/2008, 68/2009, 273/2009.

<sup>9</sup> A se vedea și Decizia Curții Constituționale 98/2009.

ethics and to promote stability of the local public administration and of the political configuration resulted from the electors' will.

### **Conclusions**

This study tried to present the ways in which town councillor's seat can cease before term. The normal duration of the town councillor's seat, according to the public administration law, is four years. But, there are situations when it can be reduced because of one of the cases presented in the public administration law or in the Statute of the Local Elected Officials. In these cases the newly-elected councillors will exert their seat until the next general local elections go to the people.

Comparing the actual public administration law in force with the old one (69/1991), we can conclude that the new law found better solutions that regulate the dissolution of the town council.

In addition, we salute the dissolution of the town council by local referendum. This is a manner to sanction town councillors directly by the people who vote them. A future modification of this law should present the causes that should determine the organisation of the referendum.

### **Bibliography**

#### ***Legislation***

*Legea 215/2001* - privind administrația publică locală, republicată în M. O., partea I, nr. 123/20.02. 2007, cu modificările ulterioare;

*Ordonanța de Guvern nr.35 din 30 ianuarie 2002* - pentru aprobarea Regulamentului-cadru de organizare și funcționare a consiliilor locale, publicată în M.O. 90/02.02.2002;

*Legea 393/2004* - privind Statutul aleșilor locali, publicată în M.O. 912/07.10.2004, cu modificările ulterioare;

*Legea nr.67 din 25 martie 2004* - pentru alegerea autorităților administrației publice locale, republicată în M.O. 333/17.05.2007, cu modificările ulterioare;

*Legea nr.216 din 5 iulie 2005* - pentru modificarea Legii nr. 393/2004 privind Statutul aleșilor locali, publicată în M.O. 590/07.07.2005;

*Legea nr.249 din 22 iunie 2006*- pentru modificarea și completarea Legii nr. 393/2004 privind Statutul aleșilor locali, publicată în M.O. 554/27.05.2004;

*Ordonanța de Urgență a Guvernului nr.20 din 27 februarie 2008* - privind unele măsuri pentru organizarea și desfășurarea alegerilor pentru autoritățile administrației publice locale, publicată în M.O. 177/07.03.2008;

*Legea nr.35 din 13 martie 2008 - pentru alegerea Camerei Deputaților și a Senatului și pentru modificarea și completarea Legii nr. 67/2004 pentru alegerea autorităților administrației publice locale, a Legii administrației publice locale nr. 215/2001 și a Legii nr. 393/2004 privind Statutul aleșilor locali, publicată în M.O. 196/13.03.2008;*

*Ordonanța de Urgență a Guvernului nr.66 din 28 mai 2008 - pentru modificarea și completarea Legii administrației publice locale nr. 215/2001 și a Legii nr. 334/2006 privind finanțarea partidelor politice și a campaniilor electorale, precum și pentru modificarea Legii nr. 35/2008 pentru alegerea Camerei Deputaților și a Senatului și pentru modificarea și completarea Legii nr. 67/2004 pentru alegerea autorităților administrației publice locale, a Legii administrației publice locale nr. 215/2001 și a Legii nr. 393/2004 privind Statutul aleșilor, publicată în M.O. 409/30.05.2008.*

#### **Doctrine**

**Dana Apostol Tofan** - *Răspunderea administrației publice locale, Studii de drept românesc, nr. 3-4/1997;*

**Dana Apostol Tofan** - *Drept administrativ, vol. I, ed. 2, Ed. C.H. Beck, București, 2008;*

**Ioan Alexandru** - *Drept administrativ, ed. a III-a, Ed. Universul juridic, București, 2009;*

**Dacian-Cosmin Dragoș** - *Principalele elemente de noutate ale legii 215/2001 a administrației publice locale, Dreptul, nr. 10/2002*

**Ioan Ioniță** - *Considerații privind statutul aleșilor locali, Economie și administrație locală, nr. 5-6/2006 ;*

**Nicola Iordan** - *Considerații cu privire la proiectul legii de modificare și completare a Legii nr. 215/2001 privind administrația publică locală, studiu publicat în Caietul Științific nr. 8/2006, intitulat Implicațiile Tratatului instituind o Constituție pentru Europa asupra dreptului public și a serviciilor publice, editat de Institutul de Științe Administrative „Paul Negulescu”,*

**Antonie Iorgovan** - *Tratat de drept administrativ, vol. I, ediția 4, Ed. All Beck, București, 2005*

**Lorand Cziprian Kovacs** - *Probleme majore ale administrației publice din România, Revista Transilvană de Științe Administrative, nr. 1 (4) /2000;*

**Anton Parlagi** - *Considerații privind exercitarea mandatului de consilier local, Revista de drept public, nr. 1/1999;*

**Corneliu Manda, Cezar C. Manda** - *Dreptul colectivităților locale, Ed. Universul Juridic, București, 2007;*

- Rodica Narcisa Petrescu** - *Drept administrativ*, Ed. Hamangiu, București, 2009;
- Rodica-Narcisa Petrescu** - *Probleme actuale ale administrației publice locale în România*, Revista de drept public, nr. 2/2002;
- Rodica-Narcisa Petrescu** - *Reflecții asupra unor dispoziții înscrise în legea nr. 215/2001 a administrației publice locale*, Revista de drept public, nr. 2/2002;
- Rodica-Narcisa Petrescu** - *Unele observații cu privire la noua Lege a administrației publice locale nr. 215/2001*, Dreptul, nr. 4/2002;
- Rodica-Narcisa Petrescu** - *Reflecții asupra unor dispoziții înscrise în Legea nr. 215/2001 a administrației publice locale*, Dreptul, nr. 4/2007;
- Mircea Preda** - *Drept administrativ român. Partea generală*, Ed. Lumina Lex, București, 2006;
- Mircea Preda, Benonica Vasilescu** - *Drept administrativ. Partea specială*, ediție actualizată, Ed. Lumina Lex, București, 2007;
- Verginia Vedinaș** - *Drept administrativ*, ediția a 3-a, Ed. Universul juridic, București, 2007;
- Verginia Vedinaș, Nicola Iordan** - *Considerații teoretice și practice cu privire la O.G. nr. 35/2002 pentru aprobarea Regulamentului-cadru de organizare și funcționare a consiliilor locale*, Curierul judiciar nr. 12/2002;
- Verginia Vedinaș, Daniela Bakîrci**- *Principalele modificări aduse prin legea nr. 286/2006 pentru modificarea și completarea legii administrației publice locale nr. 215/2001*, Dreptul, nr. 11/2006.

### ***Jurisprudence***

- Decizia nr. 305 din 12 martie 2008** referitoare la sesizarea de neconstituționalitate a unor prevederi din Legea pentru alegerea Camerei Deputaților și a Senatului și pentru modificarea și completarea Legii nr. 67/2004 pentru alegerea autorităților administrației publice locale, a Legii administrației publice locale nr. 215/2001 și a Legii nr. 393/2004 privind Statutul aleșilor locali, precum și asupra neconstituționalității legii, în integralitatea sa, publicată în M.O. nr. 213/2008;
- Decizia nr. 98 din 20 ianuarie 2009** referitoare la excepția de neconstituționalitate a dispozițiilor art. 31 alin. (4) din Legea administrației publice locale nr. 215/2001, publicată în M. Of. Nr. 119/2009;
- Decizia nr. 273 din 24 februarie 2009** referitoare la excepția de neconstituționalitate a prevederilor art. 9 alin. (2) lit. h1) si

alin. (4) din Legea nr. 393/2004 privind Statutul aleșilor locali, publicată în M. Of. nr. 243/2009;

***Decizia nr. 562 din 14 aprilie 2009*** referitoare la excepția de neconstituționalitate a prevederilor art. 30, art. 31, art. 32, art. 33 și art. 34 din Legea administrației publice locale nr. 215/2001 și a celor ale art. 49 și art. 50 din Codul de procedură civilă, publicată în M. Of. 357/2009.



## RÉFLEXIONS SUR LE SYSTÈME POLITICO – ADMINISTRATIF ROUMAINE

Liviu COMAN-KUND\*

### Resume

*Les résultats de notre recherche sont organisés sous cinq titres: Le concept d'administration publique, La vision systémique sur l'administration publique, Le système politico – administratif, Le contrôle des composantes du système politico – administratif roumain et Conclusions.*

*En partant de l'observation qu'en réalité les autorités de l'administration publique ont un caractère politico – administratif, c'est-à-dire, leurs direction est située dans la zone d'interférence du domaine politique avec le domaine administratif, nous avons arrêté sur la conclusion qu'il n'existe pas un système administratif pur et simple, mais un complexe système politico – administratif.*

*Le noyau dur de notre démarche se trouve sous le titre Le contrôle des composantes du système politico – administratif roumain et consiste dans la diagnose des situations de contrôle abusif ou de non contrôle du système, notamment en ce qui concerne le pouvoir législatif, le pouvoir exécutif et la justice constitutionnelle.*

*En fin, dans les Conclusions sont exprimées nos opinions sur les remèdes du non contrôle. La principale idée est que l'efficacité des remèdes de nature technique – juridique est conditionnée par les moeurs de la société romaine, en général, et de la classe politique, en spécial.*

*De cette raison, il faut utiliser des remèdes complexes, de nature morale, psychologique et juridiques, capables de prouver à tout le monde, sans doute, que la violation des règles du jeu démocratique par les hommes politiques n'apporte pas le succès, mais des sanctions et le blâme public.*

### 1. Conceptul administrație publică

Pentru a defini conceptul de administrație publică, un autor reprezentativ, *Antonie Iorgovan*<sup>1</sup>, pornește de la premisa că administrația publică este specia fenomenului administrativ care cuprinde faptele administrative ce au ca finalitate realizarea valorilor politice. Sau, cu alte cuvinte, definiția generală a administrației publice are ca gen proxim fenomenul administrativ sau sfera faptelor administrative, iar ca diferență specifică realizarea valorilor politice, în regim de putere publică.

---

\* Ph.D Lecturer, Faculty of Judicial, Social and Political Sciences, "Dunărea de Jos" University of Galați, Romania, Email: liviukund@yahoo.com

<sup>1</sup> A. IORGOVAN, *Tratat de drept administrativ*, Ediția a III-a restructurată, revăzută și adăugită, vol.I, Ed. ALLBECK, București-2001, p.6.

Ce este însă „fenomenul administrativ” ? Într-o sinteză a doctrinei franceze, autorul menționat reține următoarele trăsături ale fenomenului administrativ:

- a) este un fenomen social alcătuit din totalitatea faptelor administrative;
- b) aceste fapte presupun organizarea unor mijloace pentru atingerea unui obiectiv (înfăptuirea unor valori);
- c) obiectivul (valoarea) este stabilit de o autoritate superioară;
- d) se extinde până la activitatea de îndeplinire materială a obiectivului.

Ce sunt însă „valorile politice” ? Cuvântul politic are mai multe înțelesuri, însă la origine însemna *referitor la „cetate”* (polis), în sensul de comunitate umană stabilită pe un anumit teritoriu (cetatea în sens de spațiu comun) organizată ca societate politică, adică societate împărțită în guvernați și guvernanți. Guvernații accepta să se supună comenzi guvernanților deoarece le recunosc acestora din urmă rolul de a descifra valorile politice, adică nevoile sociale de care depinde existența, perpetuarea și dezvoltarea comunității respective. Tot guvernanții, grupați în așa numitele *instituții politice*, au obligația de a promova și impune valorile politice. Pentru că valorile politice, expresie a interesului general, intră deseori în contradicție cu interesele individuale, guvernanții utilizează regimul de putere publică, adică pot stabili unilateral obligații în sarcina guvernaților, care dacă nu le îndeplinesc de buna voie le vor executa siliți de forța de constrângere a statului.

Deci sfera conceptului „*administrație publică*” conține faptele administrative, îndeplinite în regim de putere publică, având ca finalitate realizarea valorilor politice.

Dacă explicităm sintagma „fapte administrative” prin anumite trăsături ale fenomenului pe care îl reflectă, putem s-o înlocuim cu expresia „activitate organizată de executare a unor comandamente stabilite de o autoritate superioară”. Dar principala autoritate superioară, în cazul administrației publice, o reprezintă instituțiile politice legiuitoare. Ajungem astfel la următoarea definiție echivalentă: *administrația publică este activitatea organizată de executare, în regim de putere publică, a comandamentelor stabilite de instituțiile politice, care sunt exprimate prin lege*. Sau, mai detaliat: *Administrația publică este activitatea executivă prin care se îndeplinesc valorile politice exprimate prin lege, desfășurată de autorități sau instituții publice anume constituite, care își realizează atribuțiile în regim de putere publică*.

Din această definiție se desprind următoarele caracteristici esențiale ale administrației publice:

- administrația este un ansamblu de structuri sau forme organizatorice, care au ca trăsătură comună faptul că desfășoară



o activitate executivă, de regulă<sup>2</sup>, de pe poziții de autoritate față de particulari ;

- prin activitate executivă se înțelege activitatea de organizare a executării legii sau executarea directă a legii ;
- regim de putere publică înseamnă, în speță, atât capacitatea de a emite acte unilaterale obligatorii, cât și capacitatea de a realiza o serie de fapte sau operațiuni materiale pentru aducerea la îndeplinire a actelor unilaterale obligatorii, inclusiv constrângerea directă.

## **2. Abordarea sistemică a administrației publice - sistemul administrativ**

După cum se știe, potrivit unei definiții de maximă generalitate, statul este o societate politică, adică o societate împărțită în guvernanți și guvernați. În cazul statului, guvernanții dirijează comportamentul guvernaților pe baza reglementărilor cuprinse în norme juridice. Această caracteristică de esență a statului implică în mod necesar trei forme fundamentale de activitate: activitatea de reglementare, activitatea executivă și activitatea jurisdicțională.

Potrivit teoriei separației puterilor în stat, funcția de reglementare revine parlamentului, care exercită puterea legislativă, funcția executivă revine administrației, care pune în aplicare legea în regim de putere publică și funcția jurisdicțională revine instanțelor judiciare, care au puterea de a soluționa litigiile.

Această abordare teoretică abstractă nu se regăsește în realitate, decât în linii mari. Astfel, puterea de reglementare nu este apanajul exclusiv al parlamentului. Guvernul are, de asemenea, o importantă putere de reglementare, atât directă cât și indirectă<sup>3</sup>. Puterea de a soluționa litigii nu aparține exclusiv instanțelor judiciare, existând și autorități administrative cu atribuții jurisdicționale. Controlul constituționalității legilor, potrivit modelului european, implică existența unui organ unic, special și specializat, de natură politico-jurisdicțională, care nu se încadrează în nici una dintre cele trei forme fundamentale de activitate ale statului menționate. Mai trebuie arătat că orice activitate presupune decizie și execuție, astfel încât orice autoritate și instituție publică, fie ea de reglementare, executivă sau judiciară, are o componentă tehnico-administrativă de execuție, mai mult sau mai puțin importantă. În

---

<sup>2</sup> Spunem *de regulă*, deoarece există și relații de colaborare (caracterizate prin poziții de egalitate), spre exemplu cu diverși reprezentanți ai societății civile ( asociații, fundații), pentru realizarea unor obiective de interes public.

<sup>3</sup> Aceasta constă în dreptul de inițiativă legislativă.

fine, nu trebuie ignorată latura mai mult sau mai puțin politică a autorităților și instituțiilor statului.

Din cele prezentate rezultă că mecanismul de guvernare dintr-un stat este un sistem de autorități și instituții, mai mult sau mai puțin complexe, conceptul de sistem având înțelesul general de ansamblu de elemente **interconectate**.

Cunoașterea teoretică abstractă poate identifica în cadrul acestui sistem global, utilizând diverse criterii, anumite părți sau fragmente, care constituie la rândul lor sisteme. Așa sunt, de pildă, sistemul legislativ, sistemul judiciar, sistemul politic, sistemul administrativ etc.

Având în vedere definiția dată administrației publice, la modul teoretic abstract, prin *sistem administrativ înțelegem ansamblul autorităților și instituțiilor care desfășoară activități de administrație publică, precum și relațiile dintre ele*<sup>4</sup>. Sau, cu alte cuvinte, **sistemul administrativ este ansamblul autorităților și instituțiilor care desfășoară activități de organizare a executării legii sau de executare directă a legii, de regulă, în regim de putere publică, precum și relațiile dintre acestea**. Se încadrează în acest sistem: **șeful statului, guvernul, ministerele și alte autorități și instituții publice centrale subordonate guvernului, autoritățile administrației publice centrale autonome, autoritățile administrației publice locale**.

### 3. Sistemul politico-administrativ al guvernării reale

Pentru a cunoaște realitatea administrației publice, trebuie să luăm în considerare și latura sa politică, relațiile sale cu sistemul politic. Dar pentru aceasta trebuie să știm mai întâi ce înseamnă „sistem politic”. Ei bine, într-o abordare abstract teoretică, *sistemul politic* este ansamblul format din instituțiile politice<sup>5</sup> și organizațiile cu scop politic, precum și relațiile dintre ele, existente într-un anumit regim politic.

În ceea ce privește *regimul politic*, acesta este un concept complex, care exprimă realitatea raporturilor dintre guvernanți și guvernați sau, cu alte cuvinte, modul de realizare a puterii politice sau de guvernare, în sensul larg de dirijare a comportamentului guvernaților de către guvernanți.

Principalele elemente definitorii ale regimului politic sunt : modul de organizare a instituțiilor politice și relațiile dintre ele, metodele lor de

---

<sup>4</sup> Există trei categorii de relații: **ierarhice** (caracterizate prin poziții de inegalitate în cadrul unei structuri), **de colaborare** (caracterizate prin poziții de egalitate) și **de control neierarhic** (caracterizate printr-o investire specială expresă a controlorului).

<sup>5</sup> Prin “instituții politice” înțelegem structurile, organele prin care se realizează puterea politică, ca de pildă, parlamentul și șeful de stat. A se vedea I. MURARU, E.S. TĂNĂSESCU, *Drept constituțional și instituții politice*, ediția a IX-a revăzută și completată, Ed. LUMINA LEX, București – 2001, pp.23,24.

acțiune, locul și funcțiile partidelor politice și ale diferitelor organizații sociale, caracteristicile sistemului juridic, modalitățile de garantare și gradul de respectare a drepturilor și libertăților omului, doctrina politică a regimului respectiv, ideologia pe care o promovează, baza economico-socială pe care se întemeiază. Potrivit unui autor<sup>6</sup>, doctrina occidentală actuală folosește elementele definitorii drept criterii de clasificare, pentru a distinge trei categorii de regimuri politice: regimurile democratice, regimurile totalitare și regimurile mixte.

Un regim politic este considerat democratic, în viziunea liberală occidentală, dacă îndeplinește, în esență, următoarele condiții: respectă pluralismul politic; puterea politică se dobândește prin alegeri libere; guvernele, care nu sunt alese, răspund politic în fața parlamentelor; respectarea drepturilor și libertăților omului este o preocupare majoră și constantă a guvernanților.

**Într-un regim politic democratic, instituțiile politice sunt cele care au competența și totodată legitimitatea<sup>7</sup>, dobândită direct sau indirect prin alegeri, de a stabili care este și cum trebuie realizat interesul public, luând în acest sens decizii politice.**

Deciziile politice se pot exprima prin declarații sau hotărâri cu un caracter pur politic, care nu produc efecte juridice, ori se pot materializa în acte politico-juridice, care sunt acte unilaterale obligatorii.

În funcție de natura interesului public, pe care au competența și legitimitatea de a-l defini și promova, există:

- a. instituții politice care exercită atribuții ale suveranității naționale<sup>8</sup> (parlamentul, guvernul, șeful statului);
- b. instituții politico-administrative care exercită atribuțiile specifice autonomiei locale<sup>9</sup> (autoritățile alese administrației publice locale).

În ceea ce privește sistemul administrativ, din chiar definiția administrației publice rezultă că, la modul teoretic abstract, avem de-a face cu activități executive. În acest cadru se desfășoară întreaga gamă de activități specializate necesare pentru pregătirea, emiterea și executarea

---

<sup>6</sup> C.IONESCU, *Clasificarea și analiza tipologică a regimurilor politice contemporane*, REVISTA DE DREPT PUBLIC, serie nouă, anul I(19), Ianuarie-iunie 1995, nr.1, pp.31- 35.

<sup>7</sup> Din punct de vedere strict juridic, „legitimitate” este totuna cu „legalitate”, în sensul de conform cu legea. Noi utilizăm aici termenul în sens sociologic: „Legitimitate constă în recunoașterea (socială n.n.) de care beneficiază o ordine publică. (...) Principiile legitimității sunt mai întâi justificări ale puterii, adică ale dreptului de a comanda.” ( *LAROUSSE Dicționar de sociologie*, Ed. UNIVERS ENCICLOPEDI, București - 1996, p.151.)

<sup>8</sup> În cazul atribuțiilor care țin de exercițiul suveranității naționale, decizia politico-juridică are în vedere interesul național și nu este limitată decât de Constituție.

<sup>9</sup> În cazul atribuțiilor specifice autonomiei locale, decizia politico-juridică are în vedere interesul unei colectivități teritoriale locale și se poate lua doar în baza și în limita legii.

deciziilor politico-juridice. De aceea, în cadrul componentelor sistemului administrativ ponderea este deținută de activități cu caracter tehnic, ce presupun specializare profesională. Și la acest nivel se fac anumite opțiuni, dar puterea de apreciere, fără a-și pierde importanța, se reduce la stabilirea prin mijloace tehnice de specialitate a modalităților posibile de realizare a obiectivelor politice, precum și a măsurilor necesare în mod obiectiv pentru organizarea executării și executarea în concret a actelor normative. Evident, pentru a fi de calitate, aceste opțiuni trebuie să aibă un caracter științific, să se întemeieze pe o bună cunoaștere a realității sau a stării de fapt, cunoaștere la care se ajunge tot prin intermediul unor activități tehnice specializate.

Realitatea fenomenului european de guvernare actual, în care se încadrează și România, conține un complex de relații între ceea ce am numit „sistem politic” și ceea ce am numit „sistem administrativ”, care ajung până la existența unor zone de interferență.

Referitor la conexiunea dintre sistemul politic și cel administrativ, un reputat autor francez, Jacques Ziller<sup>10</sup>, afirmă că este imposibilă separarea instituțiilor politice, cărora le aparține decizia politică, de autoritățile administrative care au sarcina executării acesteia. Factorii politici și structurile administrative nu pot acționa decât împreună pentru rezolvarea problemelor publice, începând cu sesizarea și evaluarea acestor probleme, continuând cu elaborarea deciziei, executarea ei și evaluarea rezultatelor obținute.

În ceea ce privește interferența dintre sistemul politic și cel administrativ, același autor arată că primarul face parte atât din sistemul politic, cât și din sistemul administrativ. De asemenea, remarcăm că miniștri fac parte din sistemul politic, dar conduc autorități ale administrației publice centrale.

De aici rezultă că autoritățile administrației publice au de fapt un caracter politico-administrativ, conducerea acestora situându-se în zona de interferență dintre sfera politicului și sfera administrației publice. Instituțiile politice, la rândul lor, au o indispensabilă componentă administrativă, care se situează de asemenea în zona de interferență dintre sfera politicului și sfera administrației publice. Astfel, chiar parlamentul, instituție politică prin excelență, dispune de administrația parlamentară.

Cele prezentate demonstrează că, în realitate, nu există un sistem politic și un sistem administrativ, pure și simple, cum apar ele în abordările teoretice abstracte, ci un complex **sistem politico-administrativ**, alcătuit din ansamblul instituțiilor care posedă atât o componentă politică (rezultată direct din alegeri sau prin numire

---

<sup>10</sup> J. ZILLER, *Administrations comparées, Les systèmes politico-administratifs de l'Europe des Douze*, Ed. MONTCHRESTIEN, Paris - 1993, pp. 11,12.

discreționară pe criterii politice), cu rol de decizie și de conducere, cel puțin la nivelul superior, cât și o componentă administrativă de natură tehnică (cu recrutare și promovare pe criterii de competență profesională), cu rol de concepție și de execuție de specialitate.

Evident, caracteristicile componenteii politice și ale celei administrative, precum și ponderea pe care o deține fiecare în ansamblul activității, diferă în funcție de natura instituției.

Principalele elemente ale sistemelor politico-administrative din statele democratice sunt: parlamentul, șeful statului, guvernul, ministerele și celelalte organe centrale ale administrației de stat, precum și autoritățile colectivităților teritoriale locale.

Dacă grupăm elementele sistemului politico-administrativ după criteriul raportului dintre capacitatea de decizie politică și capacitatea de decizie și acțiune administrativă, acestea se clasifică în 3 categorii:

1. Elemente de natură eminamente politică: parlamentul, a cărui componentă administrativă este administrația parlamentară;
2. Elemente de natură mixtă, politică și administrativă în proporții imposibil de determinat cu exactitate și care diferă de la țară la țară: guvernul împreună cu aparatul său de lucru și șeful de stat împreună cu administrația sa;
3. Elemente de natură preponderent administrativă: ministerele și instituțiile subordonate, autoritățile administrative autonome centrale, autoritățile administrației publice locale.

#### **4. Controlul asupra componentelor sistemului politico-administrativ românesc**

Potrivit art.1 alin.(4) din Constituția României<sup>11</sup> „Statul se organizează potrivit principiului separației și echilibrului puterilor – legislativă, executivă și judecătorească – în cadrul democrației constituționale”. Acest text sugerează existența unor forme de control reciproc între componentele sistemului politico – administrativ, precum și a unui control asupra acestora din partea cetățenilor. Această sugestie se bazează pe teoria separației puterilor în stat, care, după cum se arată în doctrină<sup>12</sup>, a apărut tocmai ca o reacție împotriva abuzului de putere. Ea a imaginat modalități de organizare statală și funcționare a puterii care să garanteze respectarea de către guvernanți a drepturilor guvernaților. Aceste modalități se bazează pe dezmembrarea puterii suverane a statului

---

<sup>11</sup> Avem în vedere Constituția României din anul 1991, republicată în Monitorul Oficial al României, Partea I, nr.767 din 31 octombrie 2003. Următoarele trimiteri la Constituția României se referă la acest text.

<sup>12</sup> Coordonatori I. Muraru, E.S. Tănăsescu, *Constituția României – Comentariu pe articole*, Ed. C.H. BECK, București, 2008, p.13.

în putere legislativă, putere executivă și putere jurisdicțională, pe existența formelor de control reciproc dintre acestea, precum și pe formele de control democratic exercitat de către cetățeni. Să vedem, pe scurt, eficacitatea formelor de control.

Controlul cetățenilor asupra componentelor sistemului politico-administrativ se exercită doar cu prilejul alegerilor și al referendumului. Apare astfel evident că asupra Guvernului cetățenii nu au niciun fel de control. Potrivit Constituției, în România se alege direct Președintele<sup>13</sup>, se alege direct deputații și senatorii<sup>14</sup>, se alege direct primarii<sup>15</sup>, consilierii județeni și cei locali<sup>16</sup>. Constituția noastră a consacrat mandatul reprezentativ<sup>17</sup>, pentru deputați și senatori, ceea ce înseamnă că aceștia nu răspund în fața alegătorilor. Deci alegătorii nu au niciun control asupra deputaților și senatorilor pe care i-au ales. Aceștia pot fi cel mult „sanționați” la următoarele alegeri, dacă își depun candidatura în același colegiu. Astfel, în realitate, alegerile nu constituie o modalitate de control, ci reprezintă o simplă modalitate de desemnare a celor care vor exercita puterea legislativă, fără a avea obligația de a reprezenta interesele celor care i-au ales. Se afirmă la modul abstract că deputații și senatorii „sunt în serviciul poporului” dar, această expresie nu prezintă niciun interes practic, decât, cel mult pentru a justifica lipsa legăturilor cu electoratul. Pentru a avea o imagine completă a lipsei de control asupra parlamentarilor, trebuie adăugată și iresponsabilitatea acestora. Mai precis, ei nu pot fi trași la răspundere juridică pentru voturile sau pentru opiniile politice exprimate în exercitarea mandatului<sup>18</sup>, adică exact pentru fondul activității lor. În ceea ce privește răspunderea politică, singura modalitate serioasă ar fi să nu mai obțină un nou mandat. În cazul aleșilor locali, situația este diferită. Potrivit Statutului aleșilor locali, aceștia se află în serviciul colectivității locale care i-a ales și răspund față de aceasta<sup>19</sup>. Ei răspund, de asemenea, în condițiile legii, administrativ, civil sau penal, după caz, pentru faptele săvârșite în exercitarea atribuțiilor ce le revin<sup>20</sup>. Mai precizăm că aleșii locali răspund și direct în fața alegătorilor care pot

---

<sup>13</sup> Art.81 din Constituția României.

<sup>14</sup> Art.62 din Constituția României.

<sup>15</sup> Art.121 alin. (1) din Constituția României.

<sup>16</sup> Art.121 alin. (1) și art.122 alin. (2) din Constituția României.

<sup>17</sup> Art.69 din Constituția României.

<sup>18</sup> Art.72 alin. (1) din Constituția României.

<sup>19</sup> Art.3 alin. (2) din Legea nr.393/2004 privind Statutul aleșilor locali, publicată în Monitorul Oficial al României, Partea I, nr.912 din 7 octombrie 2004, cu modificările ulterioare.

<sup>20</sup> Art.55 din Legea nr.393/2004 privind Statutul aleșilor locali, publicată în Monitorul Oficial al României, Partea I, nr.912 din 7 octombrie 2004, cu modificările ulterioare.

dizolva consiliul local sau județean<sup>21</sup> și pot demite primarul sau președintele consiliului județean prin referendum<sup>22</sup>. Controlul exercitat de cetățeni prin intermediul referendumului este iluzoriu datorită mecanismelor complicate. În schimb, funcționează un control strict față de partid. Astfel, calitatea de consilier local sau județean încetează de drept în cazul pierderii calității de membru de partid<sup>23</sup>. Mandatul primarului și al președintelui consiliului județean încetează de drept, dacă aceștia își pierd calitatea de membru de partid, prin demisie<sup>24</sup>. Față de cele învederate, diferența de tratament, sub aspectul controlului și răspunderii, dintre parlamentari și aleșii locali este nu numai nejustificată, ci și jenantă.

Revoluția franceză a demonstrat cu prisosință a abuzurile unei adunări sunt mai grave decât abuzurile unei persoane. De aceea au fost imaginate mecanisme de control asupra parlamentelor. Prima modalitate de control asupra Parlamentului României este chiar structura sa bicamerală<sup>25</sup>. Aceasta permite un control reciproc între cele două camere. Formula „bicameralismului funcțional”, instaurată prin revizuirea Constituției din anul 2003, nu este cea mai fericită, deoarece forma finală a legii este stabilită de o singură cameră<sup>26</sup>. O primă autoritate care poate controla activitatea Parlamentului este Președintele României. El dispune, în acest sens, de două instrumente: dizolvarea Parlamentului și promulgarea legilor. Președintele României poate dizolva Parlamentul într-o singură situație, și anume, dacă acesta nu a acordat votul de încredere pentru formarea Guvernului în termen de 60 de zile de la prima solicitare și numai după respingerea a cel puțin două solicitări de investitură<sup>27</sup>. În legătură cu promulgarea legii, Președintele dispune de un drept de veto suspensiv: el poate cere Parlamentului, o singură dată, reexaminarea legii<sup>28</sup> și poate declanșa controlul prealabil de constituționalitate<sup>29</sup>. A doua și ultima autoritate investită cu atribuții de

---

<sup>21</sup> Art.55 alin. (1) și art.99 alin. (1) din Legea nr.215/2001 privind administrația publică locală, republicată în Monitorul Oficial al României, Partea I, nr.123 din 20 februarie 2007, cu modificările ulterioare.

<sup>22</sup> Art.70 și art.102<sup>1</sup> din Legea nr.215/2001 privind administrația publică locală, republicată în Monitorul Oficial al României, Partea I, nr.123 din 20 februarie 2007, cu modificările ulterioare.

<sup>23</sup> Art.9 alin.(2) lit.h<sup>1</sup> din Legea nr.393/2004 privind Statutul aleșilor locali, publicată în Monitorul Oficial al României, Partea I, nr.912 din 7 octombrie 2004, cu modificările ulterioare.

<sup>24</sup> Art.15 alin. (2) lit.g<sup>1</sup> din Legea nr.393/2004 privind Statutul aleșilor locali, publicată în Monitorul Oficial al României, Partea I, nr.912 din 7 octombrie 2004, cu modificările ulterioare.

<sup>25</sup> Art.61 din Constituția României.

<sup>26</sup> Art.75 din Constituția României.

<sup>27</sup> Art.89 alin. (1) din Constituția României.

<sup>28</sup> Art.77 alin. (2) din Constituția României.

<sup>29</sup> Art.146 lit. a din Constituția României.

control asupra activității Parlamentului este Curtea Constituțională. Ea poate controla în mod eficace<sup>30</sup> constituționalitatea legilor și a regulamentelor Parlamentului, în schimb, asupra ei nu se poate exercita nicio formă de control..

### **Concluzii**

În cadrul sistemului nostru politico - administrativ se întâlnesc, după cum am arătat, o serie de situații de noncontrol. Astfel:

- nu există un control al cetățenilor asupra deputaților și senatorilor;
- nu există nicio formă de control al cetățenilor asupra Guvernului;
- dacă există o majoritate parlamentară stabilă și binomul putere - opoziție funcționează orbește, comportamentul neconstituțional, abuziv al Guvernului nu poate fi controlat;
- în condițiile apatiei electoratului sau al cezarismului democratic, controlul Parlamentului asupra Președintelui României nu funcționează;
- nu există control instituțional, ci doar politic, asupra deciziilor Curții Constituționale.

Deoarece noncontrolul favorizează abuzul, de aceea situațiile de noncontrol constituie puncte slabe ale sistemului politico - administrativ românesc. Remedii tehnico - juridice pot fi relativ ușor găsite. De pildă:

- se poate institui un mecanism de control asupra parlamentarilor prin instituirea unui mandat imperativ;
- dictatura majorității poate fi contracarată prin majoritate calificată, minoritate de blocaj și moțiuni de cenzură constructivă;
- pentru controlul asupra Președintelui se poate recurge la republica parlamentară;
- pentru controlul asupra deciziilor Curții Constituționale se poate reveni la soluția dinainte de revizuirea Constituției și anume ca Parlamentul să poată înfrânge decizia Curții cu majoritate de 2/3.

Problema este că soluțiile tehnice juridice nu pot rezolva deficiențele sistemului care țin de conștiința socială, de mentalitatea clasei politice. În primul rând pentru că puterea nu le va accepta. În al doilea rând, pentru că în cultura noastră, în general, și în cultura politică, în special, nu se regăsește respectul pentru reguli, inclusiv pentru regulile jocului democratic. Simpla observare a guvernării din ultimii ani ne arată că dacă un partid de guvernământ a comis un abuz, cel care l-a succedat a preluat acel abuz cu entuziasm și la dezvoltat. Și totuși, ce este de făcut, ce

---

<sup>30</sup> În conformitate cu prevederile art.147 din Constituția României, în cazurile de neconstituționalitate care privesc legile înainte de promulgare, acestea se restituie Parlamentului pentru a le reexamina, iar în cazul controlului ulterior promulgării, dispozițiile declarate neconstituționale sunt suspendate și în termen de 45 de zile de la publicarea deciziei Curții își încetează efectele juridice.



rămâne de sperat în această situație? Ei bine, ar trebui ca puterea să ia măsuri de autolimitare începând de la vârf, pentru a limita corupția. De sus în jos trebuie să se propage evidența că nu corupția, ci respectarea regulilor duce la succes. Nu credem că așa ceva ar fi posibil de bună voie, în virtutea unor principii abstracte. Doar o conjunctură sau un eveniment coercitiv ar putea duce la un asemenea rezultat. Oricum, primul semn că s-au produs schimbări în cultura politică este ca partidul ajuns la guvernare să ia măsurile pe care le-a cerut când se afla în opoziție.



## THE COMPETITION POLICY AND THE ECONOMIC AND FINANCIAL CRISIS

Florin TUDOR\*

Ionuț JARCĂ\*\*

Andreea Loredana TUDOR

### Abstract

*The Community competition policy has undergone major changes in the last decade. Mostly these were caused by the expansion of globalization in the world, and hence the EU, and the emergence of the global economic crisis in 2007. Although this global crisis was triggered by the policies pursued by banks to grant bad loans all over the world, it was necessary to adopt measures to rescue the financial system, given that a necessary condition for business development and thus a country's economy is undoubtedly a functioning banking system. In our study we intend to identify and analyze these measures taken within the EU to rescue the banking system and their effects on the competition within the single market.*

**Keywords:** *competition policy, crisis, aid, temporary.*

### 1. Introduction

The global financial crisis has had an impact on the banking system in many EU countries. Lately there has been a general erosion of confidence in the banking system. The pervasive uncertainty about the credit risk of individual financial institutions and interbank has dried up the lending and the access to liquidity for the financial institutions in the Union has therefore been progressively more difficult, even for those who were not involved in unhealthy practices of business and which are fundamentally sound<sup>1</sup>.

Competition authorities are confronted with a massive public sector intervention in the banking system, both by the government and the central banks. The depth of recession and the extent of the public intervention records almost unprecedented levels.

---

\* Ph.D Lecturer, Faculty of Judicial, Social and Political Sciences, "Dunărea de Jos" University of Galați, Romania, Email: florin.tudor@ugal.ro.

\*\* Lawyer.

<sup>1</sup> For details see, J. Foecking, P. Ohrlander, E. Ferdinandusse, *Competition and the financial markets: The role of competition policy in financial sector rescue and restructuring*, Newsletter - Competition Policy, No. 1/2009, page 7.

## **2. The role of competition in rescuing and restructuring the financial sector**

Given the exceptional circumstances, there were numerous calls starting with 2009 to the Commission to "relax" considerably or even "suspend" the EU disciplines in the domain of state aid and merger control, at least as long as the financial crisis lasts. This was never an option. On the contrary, what is wanted is that the EU competition policy not be part of the problem, but part of the solution.

In both areas - mergers and state aid - the EU has applied strict policies to ensure that the benefits of competition are not lost due to protectionism. Abandonment by EU of the competition discipline in this time of crisis would have risked the disintegration of the single European market for the banking and financial services.

Under these circumstances, EU applied in both state aid and mergers strict policies to ensure that the benefits of the competition are not lost because of protectionism.

State aid measures aimed at the financial sector. State interventions in the financial crisis are directed primarily to ensure financial stability and to some extent to ensure availability of adequate levels of lending to the real economy<sup>2</sup>. In this way, such interventions contribute to the achievement of common interest. However, the interventions are also likely to create distortions of the competition, effects which must be minimized through instruments of state aid control.

First, distortions can occur in those countries where undue competitive advantages are given to banks, at the expense of the banks from other member states. The access to financing, capital or other forms of support with substantially lower rates than in other member states can have a significant impact on the competitive position of a bank on the wider single European market. Excessive aid granted in a state could also lead to a subsidy race among the member states and would create difficulties for the economies of the member states that have not introduced similar support schemes.

Second, the distressed banks could get an undue advantage in comparison with banks that are more performative if the measures are available for all the banks within a state, without an appropriate degree of differentiation between the beneficiary banks according to their risk profiles. This would distort competition on the market, distort incentives, increase moral hazard and weaken the overall competitiveness of banks.

Finally, the emergency rescue of banks (or, more general support for distressed banks) so far has had the effect of protecting lenders

---

<sup>2</sup> For details see, J. Foecking, P. Ohrlander, E. Ferdinandusse, *op. cit.*, page 7.

(owners and creditors) and managers of banks for past consequences, taking excessive risk, and led to an issue of moral hazard. Those measures designed to create financial stability must therefore also be designed to mitigate moral hazard problems. Restructuring the ailing bank has an important role in this regard, to ensure that owners, creditors and their managers do not benefit from these.

Through the measures taken in state aid, under financial crisis, the Commission has tried to respond as quickly as possible to the unprecedented developments in the financial sector. These have offered to Member States a framework to coordinate the national anti-crisis measures and aims to avoid harmful side effects.

*Review regarding the merger regulation in the financial sector.* In the context of the financial crisis, the bank bailouting through mergers between financial institutions has created new challenges for the application of the EU Merger control, in terms of jurisdictional, procedural and substantial issues<sup>3</sup>. However, the Commission's analysis has showed and the experience has confirmed that in any case, these challenges are not a sufficient criterion to cancel or temporarily relax the existing rules on merger control. On the contrary, the EC Merger Regulation is an appropriate and flexible enough instrument for the implementation of the merger control also in times of crisis. The overall objective consists in the application of merger control in such a way that the requirements of financial stability of the banking system are taken into account, while preventing the creation of competitive market structures.

Nationalization. Despite the quite exceptional situation of the financial markets, the experience resulted from previous crises should not be ignored and all the possible alternatives should be carefully analyzed and compared. For example, an alternative measure to cope with the crisis is the nationalization of the financial institutions. This method has been applied in many countries around the world in the 1930s, more recently in the early 1990s, in Scandinavia (when the financial institutions were temporarily under the control of the state and were privatized again after the crisis), but also in Ireland and Iceland during the current crisis<sup>4</sup>.

An open question remains: how does this solution, compared to other medium and long term solutions, affect competition. On the one hand, this method of nationalization might seem more transparent than the public funds or the public recapitalization schemes. Having the control of the institutions, the state can more easily put into effect all the necessary measures to restore long-term viability of enterprises.

---

<sup>3</sup> J. Foecking, P. Ohrlander, E. Ferdinandusse, *op. cit.*, page 9.

<sup>4</sup> Organisation for economic co-operation and development, *Competition and Financial Markets, 2009*, page 31.

In addition, however, public property is not a universal remedy in terms of efficiency and competitiveness. Because the public system, despite its indisputably relative advantage in comparison with the private one (it does not face a crisis of confidence because of the possibility of collecting taxes and issue currency), faces a greater risk, that of being extremely permissive and not rigorous enough. This may delay the moment of recovery and can induce risk taking. The state banks are also frequently driven by persons nominated on political considerations, ignoring the importance of setting efficiency targets in their political decisions. All these considerations suggest that nationalization may be a good solution to a crisis but only if it is temporary.

### **3. Temporary Community framework for state aid measures**

On November 26, 2008, the Commission adopted the Communication “A European Economic Recovery Plan” (in short, “Recovery Plan”) meant to take action in getting Europe out of the current financial crisis. The Recovery Plan is based on two mutually reinforcing main elements. First, the short-term measures aim to boost demand, save jobs and restore confidence, and secondly, “smart investment”, aimed to determine higher growth and sustainable prosperity in the longer term. The Recovery Plan will intensify and accelerate the reforms already underway under the Lisbon Strategy<sup>5</sup>.

In this context of financial crisis, the Commission, although facing the challenge of avoiding public intervention which would undermine the objective of granting state aid to fewer and more targeted, and aware of the need to grant new temporary State aid, adopted on January 19, 2009 the Communication – a temporary framework for State aid measures to support access to finances in the financial and economic crisis (“temporary Framework”)<sup>6</sup>.

The purpose of the Temporary Framework is to allow member states to adopt additional aid to facilitate access to finances for companies and encourage companies to continue investing in the future during the existence of these exceptional circumstances. By adopting this single framework applicable to all member states, the Commission encouraged the undertaking coordinated action to ensure transparency and competition conditions fair for the companies and member states on the single market.

In light of the temporary framework, it was decided that certain categories of state aid may be justified for a limited period, to overcome

---

<sup>5</sup> For details see, Commission Communication of the Temporary framework for State aid measures to support access to finance in the financial and economic crisis, 2010, page 2.

<sup>6</sup> JO C 83, 2010, page 1.

these difficulties, and that such aid can be declared compatible with the internal market under article 107 (3) (b) TFEU.

Therefore, member states must demonstrate that the state aid measures notified to the Commission under this framework are necessary, appropriate and proportionate to remedy a serious disturbance in their economy and that all conditions are fully respected.

Also, the temporary framework for state aid measures foresees, if certain conditions are met, the possibility for the company to receive a certain aid under the form of guarantees. Through this measure it is aimed to encourage further access to finances and to reduce the current risk aversion of banks; moreover, subsidized loan guarantees for a limited time may be an appropriate and well-targeted solution to facilitate access to finances for companies.

The aid in the form of subsidized interest rate represent another manner established by the Temporary Framework, which attempted to counter the financial and economic crisis. Therefore, the Commission will accept that public or private loans are granted at an interest rate which is at least equal to the central bank overnight rate plus a premium equal to the difference between the average one year interbank rate and the average of the central bank overnight rate over the period between January 1, 2007 and June 30, 2008, plus the credit risk premium corresponding to the risk profile of the recipient, as stipulated in the Communication by the Commission on the revision of the method for setting the reference and discount rates<sup>7</sup>.

The temporary framework was to expire on December 31, 2010. However, through the Communication by the Commission C 6/05/2011 and given the high volatility of financial markets and uncertainty about the economic situation, and market circumstances, an extension of certain measures provided in the temporary framework was granted until December 31, 2011, designed to facilitate the access of companies to the finances established in January 2009.

Since the adoption of the temporary framework, the member states have significantly used the possibilities provided. From the evidence gathered by the Commission it was concluded that this framework was a useful additional tool to ensure credit flows to companies during the crisis.<sup>8</sup>.

---

<sup>7</sup> JO C 14, 19.1.2008, page 6.

<sup>8</sup> For details see, Commission Communication of the Temporary framework for State aid measures to support access to finance in the financial and economic crisis, 2010, page 5.

### **Conclusion**

Given that the world economic crisis has affected the economies of EU countries, one of the major priorities of the community was to maintain effective competition rules. Thus, an effective EU policy on competition will be an essential means by which EU economies will overcome the economic crisis. This is the only way to ensure investment, growth and jobs in the future. In this context, allowing less efficient companies to be protected from effective competition – either via public or private agreements – will not be able to pass successfully through this global economic crisis.

The importance of the competition policy and state aid was emphasized by the emergence of the crisis within the European Union. The competition policy represents an important means by which the EU has tried to limit the crisis within its borders, especially by increasing situations where a member state may grant aid.

The measures taken at EU level in the last two years in the field of competition and state aid aim to try to encourage the entrepreneur's development as well as to counter the economic crisis in order to recover the economy on the single market.

The European Commission is aware that SMEs are the Union's economic locomotive and that they are facing great difficulties in obtaining financing from banks, this being the reason for the support given to entrepreneurs by the introduction of various types of aid in their favor.

### **Bibliography**

- Commission Communication of the Temporary framework for State aid measures to support access to finance in the financial and economic crisis, 2010, page 2;
- J. Foecking, P. Ohrlander, E. Ferdinandusse, *Competition and the financial markets: The role of competition policy in financial sector rescue and restructuring*, Newsletter - Competition Policy, No. 1/2009, page 7;
- Organisation for economic co-operation and development, *Competition and Financial Markets*, 2009, page 31;
- JO C 14, 19.1.2008;
- JO C 83, 2010.



## THE ROLE OF REMITTANCES IN THE WELFARE CERTAINTY OF MOLDOVA DEVELOPMENT

Ina FILIPOV\*

### Abstract

*It is shown that the migration processes reflect the population reaction to the unstable situation in the country, as well as to the socio-economic changes taking place at society level. At the same time, population migration causes changes not only of personal nature, but also in society as a whole.*

*Thus, most of the contemporary theories, commonly argue that migration has consequences both on countries of destination and on those of origin. For example, Western studies show that migration has a negative impact on the host country.*

*However, the reality is different, and the real consequences of migration are not always clear. This fact gives rise to a contradictory attitude towards it. In the socio-political debates on migration issues in Moldova, the idea of negative consequences of migration is put forward. Thus, the study will focus on identifying all socio-economic aspects of migration processes, giving them both negative and positive consequences.*

**Keywords:** *migration, migratory processes, consequences of migration*

**JEL Classification:** O15

Migrația, ca mișcare spațială, este specifică tuturor societăților contemporane. Cu toate acestea, intensitatea, direcția și continutul fluxurilor de migrație, precum și consecințele ei sociale, economice și demografice sunt diferite. Această deosebire se manifestă de la un stat la altul, cu un nivel de dezvoltare economică diferit, cu amplasare și condiții geografice diferite, dar și prin structura populației.

Cu cât statul este mai slab dezvoltat, cu atât și impactul migrației se face mai simțit pentru viața social economică a societății. La fel, pentru statele respective, procesele migraționale reflectă reacția populației la situația instabilă din țară, la schimbările social-economice care au loc la nivel de societate. Acest context este valabil și pentru Republica Moldova, care, de mai bine de două decenii urmează o perioadă dificilă de tranziție. Anume în această perioadă a luat amploare fenomenul migrațional. Fenomenul social respectiv poate fi caracterizat ca unul contradictoriu deoarece, nu pot fi ignorate nici consecințele pozitive ale acestuia, dar nici cele negative. Astfel, studiul se va concentra asupra identificării tuturor

---

\* Ph.D Lecturer, „B.P.Hasdeu State University” Cahul, Republic of Moldova, Email: inafilipov@gmail.com

aspectelor social-economice ale proceselor migraționale, prescriindu-le atât consecințe negative, cât și pozitive.

În acest context, migrației îi poate fi atribuit un caracter de continuitate, în sens că, a fost și rămâne mecanismul principal în dezvoltarea societății (Carangiu, A., 2006). Dezvoltarea se răsfrânge, atât asupra țării de origine, cât și a celei de destinație. Astfel, putem aprecia relația migrație – dezvoltare economico-socială ca una de reciprocitate. Pe de o parte, anume nivelul de dezvoltare a societății constituie cauză a migrației, iar pe de altă parte migrația, fie favorabil, fie nefavorabil, contribuie la schimbările social-economice ale societății.

În condițiile Republicii Moldova, fenomene precum situația economică și politică incertă, rata sporită a șomajului, lipsa posibilității de angajare în câmpul muncii, venituri mici în majoritatea domeniilor de activitate, lichidarea întreprinderilor de stat, calitatea educației, ponderea populației social-vulnerabile, calitatea serviciilor sunt factori care au marcat evoluția fenomenului migrațional. Într-un studiu realizat în anul 2009 de către Centrul de Investigații Sociologice și Marketing „CBS-AXA”, cetățenii Republicii Moldova au evidențiat cele mai importante probleme ale țării noastre. Astfel, 29,2% din respondenți consideră că cea mai mare problemă a statului nostru o constituie salariile mici, după care urmează șomajul – pentru care s-au exprimat 17,8%. Alte probleme evidențiate au fost: prețurile și inflația – 16,6%, corupția – 15,2%, guvernarea ineficientă – 7,1% și criza economică mondială. (CISM “CBS-AXA”, 2009)

Asemenea situație justifică calitatea Republicii Moldova ca important “exportator” de forță de muncă, de populație tânără, de specialiști în domenii importante. O asemenea situație nu este cea mai îmbucurătoare, deoarece, reducerea numărului populației economice active și creșterea continuă a numărului persoanelor migrante, proces care capătă proporții tot mai mari, constituie imaginea actuală a statului nostru. (Postolachi, V., 2009)

Cu toate acestea, rolul migrației forței de muncă este considerabil, atât sub aspect economic, cât și socio-demografic. Conform datelor Anchetei Forței de Muncă, în 2009, peste 23% din populația activă lucra peste hotarele republicii. Marea majoritate a forței de muncă care migrează peste hotare vine din zonele rurale (circa 30% din totalul populației active), mai puțin din mediul urban (15% din totalul populației active). Pe parcursul ultimilor ani, au migrat preponderent bărbații (circa 30% dintre bărbații activi), care în 2009 au început să se întoarcă acasă, atunci când femeile au continuat să plece din țară în căutarea unui loc de muncă. (Raport...,2011)

În acest context, majoritatea studiilor privind migrația evidențiază faptul că, procesele migraționale implică schimbări în structura socială și demografică a societății. Acestea se manifestă prin îmbătrânirea

demografică, creșterea inegalității în posedarea de resurse, exodul masiv de creiere și al brațelor de muncă către statele mai dezvoltate. Fenomenul respectiv, inevitabil duce la pierderea capitalului intelectual sau a specialiștilor de înaltă calificare. Ignorarea acestui fenomen de către factorii de decizie poate conduce la criza intelectuală, depășirea căreia va fi una foarte anevoioasă. Refluxul forței de muncă calificate provoacă descalificarea generală a forței de muncă. (Danii, T., 2009)

În sens opus, pentru țările gazdă, tot mai mult în ultimul timp se vorbește de contribuția migrației la depășirea crizei demografice, implicit a celei de pe piața forței de muncă, cu care se confruntă statele occidentale. Ele se manifestă prin contribuția la diminuarea deficitului de forță de muncă, a îmbătrânirii demografice (vârsta lucrătorilor migranți fiind 18-40 ani), etc. Tocmai prin asta se explică atenția demografilor asupra fenomenului migrațional. Astfel, aceștia studiază caracterul, modelul și direcția fluxurilor migraționale. Interesul sporit al demografilor este și față de caracteristica sau profilul migrantului, respectiv: vârstă, sex, genul ocupațiilor, educația, starea civilă, etc.

Spre exemplu, studiile recente arată că migrația externă este mai mare în rândul persoanelor care au vârsta corespunzătoare pentru locul de muncă. În consecință, țările de emigrare se confruntă cu un proces accelerat de îmbătrânire a propriei populații. Factorul uman este cea mai importantă sursă de creștere economică, ratele de creștere sunt așteptate a fi mai scăzute în cazul rămânerii în țara natală. O problemă care ar trebui să preocupe constă în faptul că, majoritatea celor care emigrează sunt tineri, iar procentul acestora este în continuă creștere. În asemenea condiții emigrarea afectează grupele de vârstă cu rate mari de fertilitate, reducându-se astfel potențialul de nou-născuți. (Roman, M., ..2010) Iar acest lucru este cu atât mai îngrijorător cu cât emigrarea devine permanentă.

Implicațiile fenomenului migrațional se răsfrâng și asupra structurii sociale. Aceasta, pe de o parte, poate constitui motiv al migrației, iar pe de altă parte consecință a migrației. Doar că structura socială poate cunoaște mutații diferite în funcție de localizare, care se raportează atât la țara de origine, cât și la țara gazdă. De regulă structura socială suportă schimbări în mod indirect sau implicit, în sens că se modifică simultan cu atingerea scopului financiar. Dacă în țara de imigrare, sporirea veniturilor nu obligatoriu afectează și statutul social, atunci în țara de emigrare sporul veniturilor atrage după sine și modificarea statutului social, de regulă direcționat spre o poziție socială superioară celei anterioare.

Pe lângă aspectele sociale ale fenomenului migrațional importante sunt și cele economice, care au conotații diferite de la un stat la altul. Pentru țările de destinație, migrația forței de muncă condiționează funcționalitatea unor sectoare economice precum: construcții, comerț,

transport, reparația drumurilor, agricultură, servicii de menaj, sfera socială. Spre exemplu, în Federația Rusă în anul 2008 forța de muncă străină constituia 4,8% din numărul total al populației active, iar 11% dintre aceștia erau implicați în construcții și servicii comunale. (Зайончковская, Ж., 2010) Astfel că pentru țările gazdă, efectele sunt cât se poate de favorabile.

Migrația forței de muncă raportată la gradul ocupațional al pieței forței de muncă are o influență asupra resurselor financiare ale statului. Pentru statele care importă forța de muncă influența constă în contribuția la suplینirea impozitelor. Totuși statele respective își asumă niște cheltuieli sociale în plus pentru asigurarea protecției sociale a migranților lucrători.

Pentru statele exportatoare, implicațiile asupra resurselor financiare ale statului sunt oarecum diferite. Exportul forței de muncă este însoțit de transferurile bănești, respectiv - remitențele. În cazul respectiv migranții au un rol de "taxă" pentru exportul de „marfă” - forța de muncă. Specialiștii poziționează volumul mondial al transferurilor bănești din migrație pe locul doi al comerțului internațional, după comerțul petrolier.

Astfel, asistăm la o creștere a dependenței față de factorul migrațional. Dependența este valabilă atât pentru țările de origine, cât și pentru țările de destinație ale migrației. Cert este că aceste dependențe negative (lipsa de resurse în țările de origine) și cele pozitive (beneficiile imigrației în țările de destinație) fac ca migrația să persiste și, într-un anumit sens, să devină propria ei cauză: regiunile de origine sunt dependente de remiteri, economiile țărilor de imigrare de profiturile aduse de imigrare și imigranți. (Anghel, R.G.,...2009)

Spre exemplu, într-un raport al Băncii Mondiale se arată că moldovenii au trimis acasă 8 miliarde de dolari în ultimii șapte ani. După 2003 valoarea transferurilor parvenite de la moldovenii care muncesc peste hotare, a crescut de trei ori, de la 487 milioane de dolari SUA, în 2003, până la o cifră de 1,31 miliarde de dolari estimată pentru anul 2010. În anul 2008, an ce a precedat criza, moldovenii au trimis acasă 1 miliard 897 milioane de dolari, după care în anul următor remitențele au coborât la 1 miliard 211 milioane USD<sup>1</sup>.

Migrația produce și mutații de natură socio-culturală și socio-politică. În prezent multe state, care se deosebeau printr-o structură etnică omogenă, s-au transformat în multinaționale și multiculturală. Acest lucru se explică prin faptul că imigranții aduc după sine o parte din viața de zi cu zi, tradițiile, cultura, problemele care i-au determinat să migreze. În

---

<sup>1</sup>[http://www.eco.md/index.php?option=com\\_content&view=article&id=434:banca-mondial-moldovenii-au-trimis-acas-8-miliarde-de-do](http://www.eco.md/index.php?option=com_content&view=article&id=434:banca-mondial-moldovenii-au-trimis-acas-8-miliarde-de-do)

plus, tendința lor este să se stabilească în țara de destinație, ceea ce duce la apariția minorităților.

Republica Moldova nu este atractivă pentru imigranți, dar este afectată de implicații socio-culturale în măsura în care emigranții revin în țară. Aceștia vin cu impresii despre populația și instituțiile țării-gazdă, cu o altă atitudine față de mediul înconjurător, cu alte opinii față de diferite grupuri minoritare, cu altă atitudine față de calitatea serviciilor autohtone, etc. În asemenea condiții se resimte implicarea migrantului în promovarea schimbărilor.

Însă, un studiu (CIVIS și IASCI, 2011) realizat în Republica Moldova arată că întoarcerea acasă este condiționată de o serie de factori, precum:

- Un loc de muncă sigur și bine plătit;
- Mediu economic, politic și social mai bun în Moldova;
- Atingerea obiectivelor de a face economii prin migrație și a capacității de a face economii;
- Continuarea crizei economice globale;
- Alți factori: dor de casă, starea sănătății rudelor, etc.

Acești factori impun factorilor de decizie elaborarea unei politici migraționale de susținere a celor care revin în țară. În acest sens, OIM<sup>2</sup> Moldova a asistat întoarcerea voluntară a migranților moldoveni prin implementarea proiectelor orientate spre întoarcerea și reintegrarea migranților care se întorc din țările UE (Austria, Marea Britanie, Irlanda, Elveția, Belgia, țările Europei Centrale), precum și prin acordarea serviciilor de reintegrare pentru membrii comunităților locale, oferind alternative migrației și contribuind la dezvoltarea comunității locale și la reducerea sărăciei. Toate aceste acțiuni ar trebui, de fapt, să și le asume și autoritățile centrale și locale de la noi din țară.

Migrația externă este apreciată și ca o forță social – politică care are o influență profundă asupra situației sociale și politice a țărilor implicate. În acest sens, există unele tendințe care trebuie menționate. Astfel:

- migranții care se stabilesc în țările gazdă tot mai activ participă la viața politică a statului, fapt ce determină factorii de decizie să ia atitudine în vederea instituirii unor politici migraționale.
- migranții constituie propriile organizații neguvernamentale cum ar fi asociațiile religioase, reuniuni ale diasporei, etc. Acestea activ se implică în sfera apărării drepturilor omului, respectiv a imigranților, colaborând în acest sens cu autoritățile locale.

---

<sup>2</sup>Sursă:<http://iom.md/index.php/en/programs/facilitated-migration>

- imigranții, atunci când este cazul își revendică drepturile participând la diferite manifestații, acțiuni în masă.
- Migrația are implicații și asupra activității partidelor politice ale statelor respective. În ultimii ani, problema imigranților este inclusă în majoritatea platformelor și agendelor electorale. (Мамедбекова, М.О. 2009,).

În concluzie menționăm faptul că, principalele probleme în domeniul migrației sunt:

- Identificarea barierelor legislative și birocratice a proceselor migraționale;
- Insuficiența resurselor statului pentru protecția și asistența socială a migranților;
- Lipsa unor mecanisme eficiente de creditare a migranților;
- Caracterul ilegal, neformal al afacerilor, care utilizează munca ilegală;
- Criminalizarea mediului migrațional (migrația clandestină, traficul de ființe umane, etc.);
- Agravarea tensiunilor sociale în regiuni în care există probleme grave cu ocuparea forței de muncă a populației locale ca urmare a angajării imigranților (forță de muncă ieftină);
- Dezinteresul persoanelor juridice de a legaliza lucrătorii migranți (situație mai des întâlnită în Federația Rusă);
- Lipsa politicilor de susținere a migranților reveniți în țară, etc.

Toate aceste probleme necesită intervenția guvernului prin crearea de noi programe eficiente însoțite de acțiuni economice. În plus, este necesară introducerea în politica migrațională de stat a unor mecanisme sociale puternice orientate spre gestionarea migrației. Problemele legate de emigrarea din țară trebuie rezolvate raportându-le la dezvoltarea țării în ansamblu (economice, sociale, demografice, politice, etc.). Totodată este necesară o conlucrare între organele de conducere și mediul academic pentru dezvoltarea unor mecanisme eficiente în vederea gestionării proceselor migraționale.

#### **Referințe bibliografice:**

- Caraganciu, A. Teoriile economice cu privire la procesele de migrațiune a forței de muncă. În: Revista Economică, nr. 2, 2006;
- CISM „CBS-AXA”. Impactul socio-economic al crizei economice asupra migrației și remitențelor în RM. Primii indicatori -

- primăvara 2009. Editor OIM Misiunea în Moldova. - Chișinău, 2009;
- Postolachi, V. Aspecte socio-economice ale migrației forței de muncă din Republica Moldova. În: Republica Moldova: provocările migrației: (culeg. De art.) / Inst. Mass Media din Moldova, coord.: Victor Moraru. - Chișinău: ULIM, 2009;
- Raportul Național de Dezvoltare Umană 2010/2011: Republica Moldova de la Excluziune Socială la o Dezvoltare Umană Incluzivă / Dorin Vaculovschi, Maria Vremeș, Viorica Craevschi-Toartă. - Ch. : "Nova-imprim" SRL, 2011;
- Danii, T., Plugaru, L. Migrația externă - o formă de export de capital uman. În: Republica Moldova: provocările migrației: (culeg. De art.) / Inst. Mass Media din Moldova, coord.: Victor Moraru. - Chișinău: ULIM, 2009;
- Roman, M., Voicu, C. Câteva efecte socioeconomice ale migrației forței de muncă asupra țărilor de emigrație. Cazul României. În: Economie teoretică și aplicată, Volumul XVII (2010), No. 7(548), p. 58;
- Зайончковская, Ж., Тюрюканова, Е. Миграция и демографический кризис в России. - Центр миграционных исследований. 2010;
- Anghel, R.G., Horvath Istvan. (Coord) Sociologia migrației. Teorii și studii de caz românești. - Iași: Polirom, 2009;
- CIVIS și IASCI. Consolidarea legăturii dintre migrație și dezvoltare în Moldova. Elaborat pentru: Banca Mondială în cadrul Rețelei de învățare a specialiștilor din domeniul migrației și remitențelor (MIRPAL). - Chișinău, 2011;
- Мамедбекова, М.О. Влияние миграционных процессов на развитие современного общества. В: Вестник Северо - Кавказского государственного технического университета. 2009, Nr. 3 (20).





## FINANCIAL ASSETS AND THIN CAPITALIZATION RULES

Veronika FIŠEROVÁ\*

### Abstract

*This article will define property, its structure and accounting. It will also concern purchase, submission and assessing of financial property. The centre of vision will be the principle and method of thin capitalization. It will also show the influence of incorrectness in report submission.*

**Keywords:** *book keeping reports, thin capitalization, profit, tax, managerial and financial accounting, bank, budget.*

### INTRODUCTION

Financial assets include cash, and those assets that can be converted into cash in a reasonably short period of time - one year at most, even less time in many cases. We shall study the following financial assets – cash, cash equivalents, short term investments, accounts receivable.

Financial assets represent long-term and short-term assets of a company. From an accounting view we can structure financial assets on long-term and short-term. Financial assets are cash and other assets that convert directly into known amounts of cash.

The three basic categories are cash, marketable securities, and receivables. In the balance sheet, financial assets are listed at the current value. For cash, this means the face amount; for marketable securities, current market value; and for receivables, net realizable value.

### 1. Long-term financial asset

Long-term financial assets represent in the long term fixed resources booking on the group on accounts 06 – Long term assets. This asset is needed to keep more than 12 months.

#### 1.1. Division

#### Stocks and share

---

\* Email: veronika.fiserova@abc-enterprise.cz.

Capital participation – stocks and shares establishing participation in companies with substantial or dominant effect.

Group of accounts – 061 – share stocks in companies with substantial effect (more than 40% of the voting right); 062 – share stocks in companies with dominant effect (20-40% of the voting right); 063 – sale securities which are neither used for stock dealing nor kept till maturity (less than 20% of the voting right).

### **1.2. Long-term provided loans**

These are all loans with maturity longer than one year, but also deposits of a secret partner. The company could also use fix-term deposits with maturity longer than one year, which, in the following year, could be rented asset in terms of contract about company lease. For these the group of account 069 is used (long-term financial assets).

### **1.3. Appraisalment of long-term assets**

Stocks are valued to the date of acquisition and are used at the actual price (the amount for which the asset was delivered to the company, increased by extra costs). At the other side the part of actual price couldn't be interests and costs united with holding stock.

#### **Purchase of long-term assets**

- a) Buying of share and other stock from external suppliers
- b) Subscribing stocks or obtaining business share
- c) Noncash deposits to the company

## **2. Short-term assets**

### **2.1. Stocks for commerce**

These papers are bought and kept with the intention of sale on the public market, with a profit from price differential. This horizon should not be longer than one year. It is used by/for?? the group of accounts number two.

Characteristics:

- high liquidity
- merchantability
- maturity till one year

**Short-term assests include:**

- a) cash
- b) valuables
- c) bank accounts
- d) property bonds

e) debt bonds used for commerce

## 2.2. Appraisalment of short-term assets and financial debts

Cash and valuables are appraised by the rating value, property and debt bonds are appraised by acquisition prices, and short-term financial payables are appraised by the rating value.

## 3. Thin capitalization rules

In common practice are interests from provided financial wherewithal on the side of debtor tax efficacious cost while dividends aren't. This fact says that it is better to finance investment in the form of loans than stake to the capital of the company.

The possibility of choice between financing by external or internal capital is in § 25 par. 1 voc. w) Law of income tax.

**Table 1: Period of regulation**

Agreement signed/Period	Before December 31, 2007	2008-2009	2010
before December 31, 2007	old regulation	old regulation unless an amendment has been signed	new regulation
after January 1, 2008	-	new regulation	new regulation

**Source:** Ministry of Finances

To tax effect of thin capitalization was in subject where height of received loan and credits exceed defined multiple of capital.

According to the Law on income taxes, financial costs are interest from loans and credits and related costs if they fulfil at least one of five conditions (§ 25 par. 1 voc. w):

- high interest rate,
- subordination,
- dependence on trading income,
- thin capitalization by loans and credits from dangling subjects,
- thin capitalization by loans and credits from connected subjects.

Each condition is judged separately.

**Table 2: Maximum permissible rate**

	Interests	Thin capitalization
Before December 31, 2007	Not regulated	Not regulated
Before December 31, 2008	12M PRIBOR + 4% p.a. (new loans and credits)	6-times the equity capital (new loans and credits)
Before December 31, 2009	2M PRIBOR + 4% p.a. (new loans and credits)	4-times the equity capital (new loans and credits)
From January 1, 2010	12M PRIBOR + 4% p.a. (all loans and credits)	4-times the equity capital (all loans and credits)

**Source:** Ministry of Finances

The maximum permissible rate is related to the movable rate – twelve – months PRIBOR which features the Czech Central Bank in dependence on the world currency. Interests from loans and credit definite in different currency have to be judged separately in each currency.

Loans and credits which has company during the year 2008, 2009 and 2010 we can for solution to thin capitalization divided into the following groups:

1. **the first group** includes non-interest loans, and loans and credits, where the financial costs are part of the market entry price of long-term assets.

The interests in this group are not taken as costs, therefore do not prove their tax force. The level of stock here does not affect test of thin capitalization and does not enter into the other calculations.

2. **the second group** includes loans and credits closed till the end of 2007 with non-connected subjects. Interests (or other financial costs) relating to this group are not tested on thin capitalization but they are taken as tax effectual. That is valid always it means also for case when company show minus owned capital. Loans and credits closed till the end of 2003 have to be analysed regarding the connective debtor and creditor (§ 23 para. 7 of the Law on income taxes) when the definition for connected subjects was different.

3. **the third group** includes loans and credits closed till the end of 2007 with connected subjects (§ 23 par. 7, Law on income taxes). Interests (but not other financial costs) from this group of loans and credits are tested for tax effectivity (§ 25 para. 1 voc. w) a para. 3, Law on income taxes). For exact calculation of interests Advice D-300, part § 25, item 4 a 5, Law on income taxes could be used.
4. **the fourth group** includes loans and credits closed since 1.1.2008 between non-connected subjects. Other financial costs related to this group of loans and credits are not tested and are taken as tax efficacious (§ 24 para. 1, Law on income taxes) and this is valid also for neg owned capital.
5. **the fifth group** includes loans and credits which started on 1.1.2008 (§ 23 para. 7, Law on income taxes); if the condition for the loan is to provide this loan through a connected subject, the debtor connected subject with creditor. If loans and connected spending include costs for processing this loan, then those costs are tested for tax effectivity (§ 25 para. 1 voc. w) and para. 3, Law on income taxes) respectively quadruple of owned capital with average daily level of loans and credits.
6. **the sixth group** includes loans and credits depending on profits (§ 25 para. 1 voc. zm), Law on income taxes). Financial costs from loans and credits from this group are not tax efficacious. The level of principal enter to detection rate between foreign and own capital if the loan or credit is between connected subject.

This group comprises

- natural persons (§ 2, Law on income taxes),
- non-profit organizations (§ 18 para. 3, Law on income taxes)
- stock markets.

### **Conclusion**

Financial statements contain valuable information but they must be analyzed to make relevant and correct decisions. Financial assets are a very important part on financial statements for many reasons. If the company wants to take external loans, banks always make an analysis of the asset structure.

In a technical sense, financial statements summarize the accounting process and provide a tabulation of account titles and amounts of money. Furthermore, financial statements report the financial position or financial status of a business or individual as well as the financial changes at a particular time or during a period of time. The basic purpose of financial statements is to communicate to external and internal parties information about the financial decisions that have been made.

The general purpose of financial statements is to meet the needs of many diverse users, particularly present and potential owners and creditors. Financial statements result in simplifying, condensing, and aggregating masses of data obtained primarily from the financial system. They are an output of the accounting system.

### **References**

- SKÁLOVÁ, J., ČOUKOVÁ, P. Účetní a daňové dopady transakcí v kapitálové společnosti. 2. Aktualizované vydání. Praha: Wolters Kluwer, 2010. ISBN 978-80-7357-485-7;  
STROUHAL, J., ŽIDLICKÁ, R. Účetnictví Velká kniha příkladů 2010. Brno: Cpress, ISBN978-80-251-1910-5.

### **Other sources**

Ministerstvo finanční ČR: < [www.mfcr.cz](http://www.mfcr.cz)>;  
Česká daňová správa:< <http://cds.mfcr.cz>>;  
Centrální banka ČR: < <http://cds.mfcr.cz>>.

### **Research project**

SGS Project No 232010 „Fiscal policy in the context of global crisis and its impact on business“.