

JEAN MONNET PUBLICATION



*EU and its Eastern Neighborhood:  
Fostering deeper Europeanization  
of Moldova*



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CZU 3(082)=135.1=111=161.1  
E 89

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**EU and its Eastern Neighborhood: Fostering deeper Europeanization of Moldova**

**Editors:** Olesia SIRBU, Silvo DEVETAK, Rodica CRUDU

DESCRIEREA CIP A CAMEREI NAȚIONALE A CĂRȚII

EU and its Eastern Neighborhood: Fostering deeper Europeanization of Moldova / Jean Monnet Publication ; ed.: Olesia Sirbu [et al.]. – Chișinău : Impressum, 2016. – 307 p, 17.32 c.a.

Texte : lb. rom., engl., rusă. – Rez.: lb. engl., rusă. – Referințe bibliogr. în subsol.

ISBN 978-9975-3069-4-2.

3(082)=135.1=111=161.1

E 89



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Erasmus+ Programme  
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# **SECTION 1**

## **EU-MOLDOVA ASSOCIATION AGREEMENT: TOWARDS POLITICAL ASSOCIATION OF MOLDOVA WITH THE EU**

### **Introductory statement**

Silvo DEVETAK\*

**1.**

The EU-Moldova Association Agreement signed between EU and Moldova on 27 June 2014 is a very large and demanding document. It counts about 1000 pages and is comprised of:

- 7 Titles which concern General Principles; Political Dialogue and Reform, Cooperation in the Field of Foreign and Security Policy; Justice, Freedom and Security; Economic and other Sector Cooperation; Trade and Trade-related Matters (DCFTA); Financial Assistance and Anti-Fraud and Control Provision as well as Institutional, General and Final Provisions;
- 35 Annexes laying down the relevant EU legislation to be taken over by a specific date and
- 4 Protocols.

The general aim of our “participatory round table” is to review some basic political and social issues concerning the step by step political integration of Moldova with the EU space as the result of the implementation of Association Agreement.

**2.**

Moldova has adopted in recent year a great number of “strategies” and laws aimed at implementing the EU standards in the national legislative structure. In illustration I would mention the following achievements:

- Justice Sector Reform Strategy for 2011-2016 approved by Law no. 231 of 25.11.2011 and its Action Plan, approved by the Parliament Decision no. 6 of 16.02.2012
- National Action Plan on Human Rights for 2011-2014, approved by the Parliament Decision no. 90 of 15.05.2011

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\* Prof. Dr Silvo DEVETAK, EMA's Academic Coordinator

- National Anti-Corruption Strategy (NAS) for the years 2011-2015, approved by Parliament Decision no. 154 of 21.07.2011 and its Action Plan for 2012-2013, approved by Parliament Decision no. 12 of 17.02.2012

The establishment in 2011 of National Anti-corruption Centre and the National Integrity Commission (NIC); the aim of the later is to monitor the income and property of the civil servants, to detect conflicts of interest, incompatibilities in income and unjustified assets.

- The law on preventing and combating corruption of 25.04.2008
- Law on equality no.121 of 25.05.2012
- Law on the activity of the Council of preventing and eliminating discrimination and ensuring equality no. 298 of 21.12.2012
- Law on the People Advocate (Ombudsman) of 3.4.2014
- Law on civilian control over the respect of human rights in detention institutions no. 235 -XVI of 13.11.2008
- Law on personal data protection no.133 of 08.07.2011
- Law on special investigation no. 59 of 29.03.2012
- Establishment on 25 July 2011 of the Audio-visual Coordination Council in the form of webpage ([www.cca.md](http://www.cca.md)).

### 3.

Nevertheless it will be commendable that we take as the basis of our discussion the recommendations included in the Country Progress Report for Moldova of 25 March 2015. The European Commission recommended several actions to be undertaken by the Republic of Moldova in this year, amongst others:

- To revise the Constitution in order to prevent further institutional deadlocks. This process should be conducted in an inclusive manner. Parts of Moldova's political spectrum and the Council of Europe's Venice Commission will need to be consulted on constitutional reform;
- To continue to improve media freedom by making media ownership more transparent, ensuring the independence of the Audio-visual Coordination Council, and adopting a new Audio-visual Code;
- To complete the reform of the Ombudsman, consolidate the system of human rights protection and ensure that the National Human Rights Action Plan is implemented fully;
- To intensify the fight against corruption and focus on corruption prevention. It is particularly important that Moldova reforms the public prosecution service and the judiciary and ensures that the National Anti-corruption Centre and National

Integrity Commission are fully independent;

- To continue to reform the legal framework for elections in line with recommendations by the OSCE/ODIHR and the Council of Europe's Venice Commission, in particular strengthen campaign finance regulations;
- To make firm progress on justice and law enforcement reform. This will involve consistent and forceful implementation of the Justice Sector Reform Strategy and continue the reform of the Ministry of Interior and other relevant bodies;
- To eliminate failings in the legal system that allow money laundering and 'raider attacks' to take place;
- To continue progress on sectorial reforms and to bring Moldovan law into line with the EU acquis to implement the AA/DCFTA; to raise public awareness and visibility of the merits of the Association Agreement;
- To provide better public services by deepening and strategically steering the reform of public administration and implementing the decentralisation strategy in an inclusive manner;
- To continue to engage proactively with the Transnistrian side to promote a mutually acceptable vision for a common future, and to create conditions enabling the application of the AA/DCFTA to the entire territory of Moldova;
- To continue to integrate national minorities. This will include ratifying the European Charter for Regional and Minority Languages and further developing and implementing a strategy on the integration of national minorities, in close cooperation with the OSCE High Commissioner on National Minorities, and finally
- To adopt the necessary measures for implementing fully the new Education Code, and to start to implement the vocational education and training restructuring plan.

#### 4.

This round table gives us the opportunity for thoroughly examine particular questions concerning the support of political integration of Moldova in the EU space and to elaborate recommendations in this regard to both, the Moldovan national, regional and local authorities and to the relevant EU bodies as well.

Dear colleagues, I am sure that the results of this round table will be registered as an important event on the long way that is in front of Moldova for its integration with the EU space.



# Realising the Charter of Fundamental Rights of the European Union in National and European Fora

Jernej LETNAR CERNIC\*

## Abstract

*This article explores how the Charter of Fundamental Rights of the European Union is implemented in domestic legal orders, whereas the last part is dedicated to its application in the Slovenian legal order. In this context, the article also analyses whether the Charter brings any added value to the protection of human rights on the European continent. Following a brief introduction, section 2 describes the Charter's content and considers its importance for the European legal order. Section 3 presents and analyses the relationship between the Charter and the European Convention for the Protection of Human Rights and Fundamental Freedoms and we thereafter critically analyse opinion No. 2/13 of the European Court of Justice. Section 4 discusses and analyses the way the ECJ applies the Charter. Finally, Section 5 raises the question of how the Charter is realised in domestic jurisdictions. It is concluded that only time will tell if the Charter is to mature into an authoritative document that will be respected and implemented in national and international legal orders by state and non-state actors.*

**Keywords:** EU Charter of Fundamental Rights, human rights, European Court of Human Rights, European legal order, national legal systems

## 1. Introduction

The protection of human rights and fundamental freedoms is deeply rooted in the heritage of European civilization.<sup>1</sup> One cannot imagine the European Union without the rule of law, protection of human rights and separation of powers. The European system

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<sup>1</sup> P. Jambrek, J. Letnar Čerňič. Theory of rights: theory of human rights and fundamental freedoms - behavioral, social and normative approaches, (Collection Slovenia 1945-2015). 1st ed. Nova Gorica: European Faculty of Law; Kranj: Graduate School of Government and European Studies, 2014.

for the protection of human rights, with the European Convention for the Protection of Human Rights and Fundamental Freedoms at the centre, is probably one of the most effective, if not the most effective worldwide system for human rights protection. What is more, the EU Charter of Fundamental Rights has strengthened the human rights protection on the European continent after it has become legally binding.<sup>2</sup> The Charter was proclaimed already on 7 December 2000, but it for first nine years of legal bounded only the European institutions. For the Member States it become legally binding with the entry into force of the Lisbon Treaty.<sup>3</sup> Its Article 6 provides in the first paragraph that the Charter of Fundamental Rights of the European Union has the same legal value as the fundamental treaties.<sup>4</sup> The adoption of the Charter was therefore certainly an important step for the protection of human rights and fundamental freedoms in the European public space. Human rights have previously been protected only as part of the general principles of European law.<sup>5</sup>

The European system for the protection of human rights consists of several parallel systems. It is, on one side, dominated by the legal system of the Council of Europe with the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>6</sup> at the forefront and the case law of the European Court of Human Rights and the legal system of the European Union with EU Charter of Fundamental Rights as a central document on the other side. Among them, of course, there are important differences. The most important is the fact that an individual can access the European Court of Human Rights on the basis of the right of individual application, while an individual can only access the European Court of Justice by preliminary references of domestic courts. Although the two systems are theoretically complementary and mutually reinforcing, in practice, this is usually not the case, as they often compete in the standards of human rights protection.

This article explores how the Charter of Fundamental Rights of the European Union is implemented in domestic legal orders. In this context, the article also analyses

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<sup>2</sup> The Charter of Fundamental Rights of the European Union (2010/C 83/02). UL L C 83/389, 2010.

<sup>3</sup> Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, ULL 2007/C 306/01, 17. 12. 2007. URL: <http://eur-lex.europa.eu/legal-content/SL/TXT/PDF/?uri=OJ:C:2007:306:FULL&from=SL>.

<sup>4</sup> Charter, Article 6.

<sup>5</sup> See, for example, C-377/98 Netherlands v Parliament and Council.

<sup>6</sup> Uradni list RS (13. 6. 1994) MP, št. 7–41/1994 (RS 33/1994).

whether the Charter brings any added value to the protection of human rights on the European continent. Following a brief introduction, section 2 describes the Charter's content and considers its importance for the European legal order. Section 3 presents and analyses the relationship between the Charter and the European Convention for the Protection of Human Rights and Fundamental Freedoms and it thereafter critically analyses opinion No. 2/13 of the European Court of Justice. Section 4 discusses and analyses the way the ECJ applies the Charter. Finally, Section 5 raises the question of how the Charter is realised in domestic jurisdictions. It is concluded that only time will tell if the Charter is to mature into an authoritative document that will be respected and implemented in national and international legal orders by state and non-state actors.

## **2. The content and legal nature of the Charter**

The Charter is divided into seven chapters and fifty-four articles, which includes chapters on the issue of dignity (Articles 1-5), freedoms (Articles 6-19), gender (Articles 20-26), solidarity (Articles 27-28), rights of citizens (Articles 39-46) and justice (Articles 47-50). Individual articles are similar or even identical to those of the European Convention, while arrangement of articles of the Charter is quite conspicuous mostly quite vague. It starts with the provision of human dignity, but for example, one of the fundamental human rights, the right to an effective remedy and a fair trial, are included at the end of the Charter, in Article 47.<sup>7</sup> Some argue that the Charter represents a European consensus on the rights it includes.<sup>8</sup> If the European Convention and the case law of the European Court have developed the lowest common denominator of the legal systems of all 47 members of the Council of Europe, is then the Charter based on the lowest common denominator of the 28 Member States of the European Union? Perhaps. The drafters of the Charter have from the outset fought allegations that its adoption was unnecessary, because all of European Union Member States are also Parties to the European Convention on Human Rights and Fundamental Freedoms.<sup>9</sup> Since the Charter was adopted more than half a century later, its text understandable

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<sup>7</sup> Ibid, Article 47.

<sup>8</sup> K. Lenaerts in JA. Gutiérrez-Fons, 'The Place of the Charter in the EU Constitutional Edifice', v S. Peers, T. Hervey, J. Kenner in A. Ward (eds.), *The EU Charter of Fundamental Rights*, Hart Publishing, 2014, 1560.

<sup>9</sup> See also F. Ferraro in J. Carmona, *Fundamental Rights in the European Union, The role of the Charter after the Lisbon Treaty*, European Parliament, March 2015. K. Lenaert, JA. Gutiérrez-Fons, 'The Place of the Charter in the EU Constitutional Edifice', in S. Peers, T. Hervey, J. Kenner in A. Ward (eds.), *The EU Charter of Fundamental Rights*, Hart Publishing, 2014, 1560. es and Transformations in Comparative Perspective, Oxford University Press, Oxford, 2014.

modern, since it also contains some of the modern human rights, but its wording on the social and economic rights is still of programic nature.

The European Convention for the Protection of Human Rights and Fundamental Freedoms contains the most basic type of both substantive and procedural fundamental human rights and freedoms. However, each student human rights law can quickly notice that from the wording of some of the main human rights omitted. On the one hand, its current text includes a large number of political and civil human rights, while on the other hand, neglecting the economic, social and cultural human rights. The European convention thus only partially provides normative protection of economic, social and cultural rights. The Charter has also partly followed the trend to include a series of economic and social human rights.<sup>10</sup> Although it included certain economic, social and cultural rights, it does not guarantee the protection of those rights would be *prima facie* most needed protection. International human rights law recognizes, *inter alia*, the right to food and water as fundamental human rights, but the text of the Charter does not include them. The Charter should have been one of the essential documents of the European Union to emphasize the link between the fight against poverty and the protection of economic, social and cultural rights, as they are the foundation of a true and stable development of each country and can greatly contribute to achieving the UN Millennium Development Goals.<sup>11</sup> The provisions of the Charter should be as broad as those in the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>12</sup>

Civil and political rights and economic, social and cultural rights are equal and indivisible and they should be treated as a whole if we are to achieve the full enjoyment of all human rights in Europe.<sup>13</sup> Normative protection of human rights is only one side of the protection of human rights. Equally or perhaps even more important is the effective protection of rights. If the European Union guarantees everyone the human rights and fundamental freedoms, it must also ensure equality, integrity and indivisibility of both civil and political rights, as well as the most basic economic, social and cultural rights.

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<sup>10</sup> See S. Peers, T. Hervey, J. Kenner in A. Ward (eds.), *The EU Charter of Fundamental Rights*, Oxford, Hart Publishing, 2014.

<sup>11</sup> M. Safjan, 'Fields of application of the Charter of Fundamental Rights and constitutional dialogues in the European Union', *EUI LAW; Centre for Judicial Cooperation DL*, 2014/02.

<sup>12</sup> JP. Jacqu , 'The Explanations Relating to the Charter of Fundamental Rights of the European Union', v S. Peers, T. Hervey, J. Kenner in A. Ward (eds.), *The EU Charter of Fundamental Rights*, Hart Publishing, 2014, 1715ff.

<sup>13</sup> F. Fabbrini, *Fundamental Rights in Europe. Challenge*

The time has come for the European Union to ensure a high and internationally comparable protection of all human rights, both at the normative level and in particular also in their implementation using both domestic as well as European law. The main provisions of the Charter in the chapter on equality are to be found between Article 20 and 26, which protect the equality before the law; prohibition of discrimination; cultural, religious and linguistic diversity; equality between women and men; the rights of the child; the rights of the elderly; and inclusion of people with disabilities.<sup>14</sup>

All in all, the Charter is slowly gaining an equal footing in the mosaic of the European protection of human rights and fundamental freedoms. The Charter is, despite its weaknesses, probably the most advanced legal text, in the field of international and European human rights protection. This is understandable, since it was written and developed only at the beginning of the new millennium. Its potential effect for the effective protection of human rights is still unclear, as depends on the usage and interpretation of the ECJ and national courts. It must be emphasized that the Court of Justice of the European Union should not reduce the existing standards protecting human rights, arising from the case law of the European Court of Human Rights and the highest domestic courts.

### **3. The relationship between the Charter and the European Convention for the Protection of Human Rights and Fundamental Freedoms**

The Court of Justice of the European Union delivered at the end of 2014 the opinion that the draft Agreement on the Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms opposes its founding treaties. Could such an opinion shaken or even strengthen the European system for protecting human rights?. In this context, the Court examined “whether the legal arrangements proposed in respect of the EU's accession to the ECHR are in conformity with the requirements laid down and, more generally, with the basic constitutional charter, the Treaties.”<sup>15</sup> The Court in its opinion no. 02/13 of 18 December 2014, specifically stated that “the agreement on the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms is not compatible with Article 6(2) TEU or with Protocol (No 8) relating to Article 6(2) of the Treaty on European Union on the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental

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<sup>14</sup> Charter, Chapter 3

<sup>15</sup> Opinion 2/13 of the Court, 18 December 2014.

Freedoms.”<sup>16</sup> The Opinion contradicts the preliminary opinion of the Advocate General Juliane Kokott, which recommended to the Court to decide that the draft Agreement is consistent with the basic treaties of the European Union.<sup>17</sup> She noted that “there is, moreover, no doubt that within the EU, as compared with the present legal position, the accession of the EU to the ECHR will also strengthen Member States' ties to the ECHR. As mentioned above, on the EU's accession, the ECHR will be an integral part of the EU legal order and, in accordance with Article 216(2) TFEU, the primacy of EU law over national laws will extend to it”<sup>18</sup>, however “in most cases this should have virtually no practical effect, since, irrespective of the EU's accession to the ECHR (Article 6(2) TEU), numerous fundamental rights offering at least an equal, if not higher, level of protection than those of the ECHR are guaranteed under EU law, either in the framework of the Charter of Fundamental Rights (Article 6(1) TEU) or in the form of general legal principles (Article 6(3) TEU). All Member States are in any event bound, without restriction, to respect these fundamental rights of the EU when implementing EU law, as provided for in Article 51(1) of the Charter, regardless of whether or not they have, as contracting parties to the ECHR, made reservations under international law in respect of comparable provisions of the ECHR or the additional protocols thereto.”<sup>19</sup> The Advocate General stressed that the normative protection of human rights in the legal order of the European Union is not even today formally lower as that guaranteed by the European Convention.<sup>20</sup> Despite the well-reasoned opinion of the Advocate General Kokott, the Court's opinion was not unexpected, at least in corridors of the European bureaucracy. The Opinion has been subject of severe criticism of European experts in the field of human rights, since the Court favored the primacy and autonomy of European law<sup>21</sup> over the protection of human rights.

The Court, for example, in paragraph 194 of the opinion noted that “in so far as

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<sup>16</sup> Ibid, para. 258.

<sup>17</sup> View of Advocate General Kokott delivered on 13 June 2014 (1), Opinion procedure 2/13, 13.6.2014.

<sup>18</sup> Ibid., para. 266.

<sup>19</sup> Ibid., para. 267.

<sup>20</sup> View of Advocate General Kokott delivered on 13 June 2014 (1), Opinion procedure 2/13, 13.6.2014.

<sup>21</sup> E. Muir, 'The Fundamental rights implications of EU legislation: some constitutional challenges', *Common Market Law Review* 51 (2014): 219-246. See also M. Poiares Maduro, 'Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism', *European Journal of Legal Studies* 1.2 (2007).

the ECHR would, in requiring the EU and the Member States to be considered Contracting Parties not only in their relations with Contracting Parties which are not Member States of the EU but also in their relations with each other, including where such relations are governed by EU law, require a Member State to check that another Member State has observed fundamental rights, even though EU law imposes an obligation of mutual trust between those Member States, accession is liable to upset the underlying balance of the EU and undermine the autonomy of EU law".<sup>22</sup> The question that arises here is whether mutual trust is more important than the effective protection of human rights in the European legal system and the possibility that an individual may appeal to the European Court of Human Rights against the judgment of the Court of Justice of the European Union.<sup>23</sup> In essence, one cannot be too critical of the Court's decision in this case as one cannot describe it as a dispute between two parallel systems of human rights protection in the European legal order. It was something else. It used diplomatic rhetoric to justify the primacy of European law. It was primarily a political decision, and less legal. Therefore, the opinion should be understood primarily as an internal critique, though probably more effective to the outside because the surface constitutes the Court as an enemy of effective protection of human rights within the Union.

What does opinion 2/2013 signify for the functioning of the European system for protecting human rights? Both legal order will continue to exist side by side with this opinion does not mean that otherwise prepared agreement could not be consistent with the basic treaties of the European Union. The legal order of the European Union today, at least at the legislative level, ensure an equivalent level of protection of Human Rights and Fundamental Freedoms and the European Convention. The differences comes in the jurisprudence of both courts. The European Court of Justice, however, only indirectly acknowledges that the European Union is committed to accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Court should demonstrate that it is committed to the effective protection of the EU Charter of Fundamental Rights and that in its case-law does not derogate from the law of the European Court of Human Rights. Until the accession of the European Union to the European Convention will probably only happen when the draft Agreement takes into account the specificity of the *acquis communautaire* to such an extent that it will not

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<sup>22</sup> Opinion no. 2/13, para. 194

<sup>23</sup> See, for example, C-571/10, Kamberaj [2012] ECR 000.



threaten its existence and will abide by its legal nature. Surely, the Court will be in the future even more scrutinized in order that its protection of fundamental rights will not unduly deviate from the standards of domestic legal systems and the European Court of Human Rights.<sup>24</sup> This obviously means that the institutions of the European Union are obliged to implement the Charter in its operations.<sup>25</sup>

#### **4. The Court of Justice of the European Union and the Charter**

The Court of Justice of the European Union is certainly not human rights court to the extent that the Strasbourg Court has been. Notwithstanding this, as well as protection of human rights is not foreign concept to the Luxembourg court, at least since Defrenne decision and subsequent cases that authoritatively shaped the protection of the principle of equal treatment.<sup>26</sup> It is true that its judges are primary experts on European law. One of the most difficult issues has therefore been how to unify the legal standards for the protection of human rights. Is it, for example, the Court of Justice bound to interpret the rights in the Charter in accordance with the case law of the European Court of Human Rights? Does the Court of Justice I related cases refer to Strasbourg Court? The main question is whether the Charter is to improve the protection of human rights on the European continent? Or what are the rights of individuals that are better protected than before its adoption?

Individuals now have more means in exercising their rights against alleged violations in the implementation of European law in the Member States.<sup>27</sup> The Charter is certainly applicable in relation to public authorities when they apply European law. In this light, it is increasingly accepted that the Charter also protects the rights in the horizontal relationships between individuals. The former Advocate General Verica Trstenjak noted in her opinion in Dominguez that “it is possible to take the view that the traditional 'public/private' juxtaposition is no longer appropriate in a modern State. It is indeed possible to conceive of cases in which protection of fundamental rights vis-à-vis private bodies would appear every bit as essential as against public authorities, so that failure to afford protection of fundamental rights would be tantamount to a breach of

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<sup>24</sup> See also opinion of Advocate General Bota in C-362/14 Maximilian Schrems v Data Protection Commissioner, 23. 9. 2015.

<sup>25</sup> E. Muir, 'The Fundamental rights implications of EU legislation: some constitutional challenges', *Common Market Law Review* 51: 219- 246, 2014, 223-226.

<sup>26</sup> C-43/75, Defrenne v Sabena (No 2) (1976)

<sup>27</sup> J. Letnar Črnič, 'Delo agencije EU za temeljne pravice v letu 2010'. *Dignitas, Revija za človekove pravice*. 2011, 49/50, 272–276.



fundamental rights.”<sup>28</sup> The Charter can also be used in relations between individuals, if European law is applicable.<sup>29</sup>

The Court of Justice has generously interpreted some of the basic concepts in the field of fundamental rights. The Court has for example, on 7 November 2013 in Case C-199/12, C-200/12 and C-201/12 found that homosexuals form a social group in the process of determining refugee status.<sup>30</sup> In a similar case of Puid in the field of refugee law, the Court confirmed the principle of non-refoulement and noted “where the Member States cannot be unaware that systemic deficiencies in the asylum procedure and in the conditions for the reception of asylum seekers in the Member State initially identified as responsible in accordance with the criteria set out in Chapter III of the Regulation provide substantial grounds for believing that the asylum seeker concerned would face a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, which is a matter for the referring court to verify, the Member State which is determining the Member State responsible is required not to transfer the asylum seeker to the Member State initially identified as responsible and, subject to the exercise of the right itself to examine the application, to continue to examine the criteria set out in that chapter, in order to establish whether another Member State can be identified as responsible in accordance with one of those criteria or, if it cannot, under Article 13 of the Regulation.”<sup>31</sup>

The Court of Justice of the European Union has in 2014 set high standards in the matters of privacy protection at least as regards the retention of data, when the case of Digital Rights Ireland annulled Directive 2006/24 / EC of the European Parliament and of the Council of 15 March 2006 on the retention of data, whereas it noted that “does not lay down clear and precise rules governing the extent of the interference with the fundamental rights enshrined in Articles 7 and 8 of the Charter. It must therefore be held that Directive 2006/24 entails a wide-ranging and particularly serious interference with those fundamental rights in the legal order of the EU, without such an interference being precisely circumscribed by provisions to ensure that it is actually limited to what is

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<sup>28</sup> C-282/10, Dominguez, 8. 9. 2011, opinion of General Advocate Verice Trstenjak, para 117.

<sup>29</sup> See also J. Folkard, Horizontal Direct Effect of the EU Charter of Fundamental Rights in the English Courts, UK Constitutional Law Association, 23.9.2015, <http://ukconstitutionallaw.org/2015/09/23/joshua-folkard-horizontal-direct-effect-of-the-eu-charter-of-fundamental-rights-in-the-english-courts/> (last visited: 25.2.2015).

<sup>30</sup> C-199/12, C-200/12 in C-201/12, 7.11. 2013, para. 79.

<sup>31</sup> C-4/11, Puid, 14.11 2013, para. 36.

strictly necessary.”<sup>32</sup> The Court has in the contemporary context of privacy protection in case Google decided that the European legal order includes the right to oblivion.<sup>33</sup> What is more, it decided in the case of *Kücükdeveci* C-555/07 of 19 January 2010 in conjunction with the Charter stated that “the principle of equal treatment in employment and occupation, and that the principle of non-discrimination on grounds of age is a general principle of European Union law in that it constitutes a specific application of the general principle of equal treatment”.<sup>34</sup> It further noted that “it for the national court, hearing a dispute involving the principle of non-discrimination on grounds of age as given expression in Directive 2000/78, to provide, within the limits of its jurisdiction, the legal protection which individuals derive from European Union law and to ensure the full effectiveness of that law, disapplying if need be any provision of national legislation contrary to that principle.”<sup>35</sup>

National courts must also ensure that the Charter is not violated, however so far only in cases where the European law is applicable. The Court has also been very active in some areas of the protection of fundamental rights, and less in others, such as the protection of social rights in Europe during the economic crisis.<sup>36</sup> The references to the Charter have increased exponentially in the four years since its introduction. The Comparison of recent years shows (Picture 1), that the Court of Justice has often in its decisions referred to the Charter. The number of references increased from 47 in 2011 to 210 in 2014, which could mean that the Charter is gaining important ground.<sup>37</sup> The Court decisions in an increasing number of cases relating to the protection of fundamental rights, particularly with regard to refugee law and social security law. It is true, as stated by De Burca in her article, that references of the Court to the ECHR and the case law of the ECtHR have decreased.<sup>38</sup>

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<sup>32</sup> C-293/12 and C-594/12 *Digital Rights Ireland and Kärntner Landesregierung*, 8. 4. 2014, para. 65.

<sup>33</sup> C-131/12 *Google Spain in Google*, 13.5.2014.

<sup>34</sup> C-555/07, *Kücükdeveci*, 19. 1 2010, para. 50.

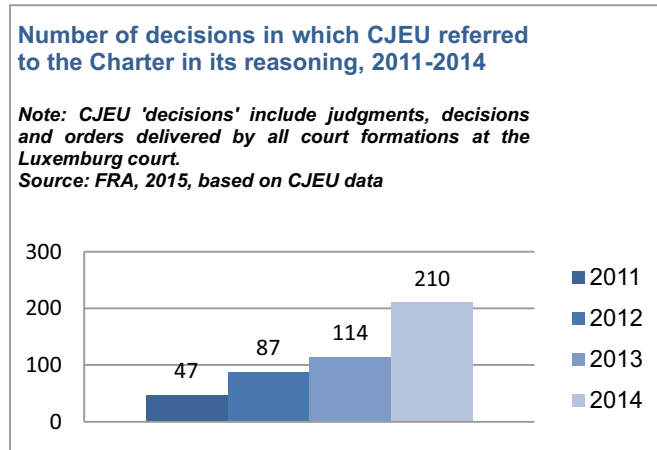
<sup>35</sup> *Ibid*, para. 51.

<sup>36</sup> C-128/12, 7.3. 2013.

<sup>37</sup> European Commission, 2014 report on the application of the EU Charter of Fundamental Rights, European Union, 2015.

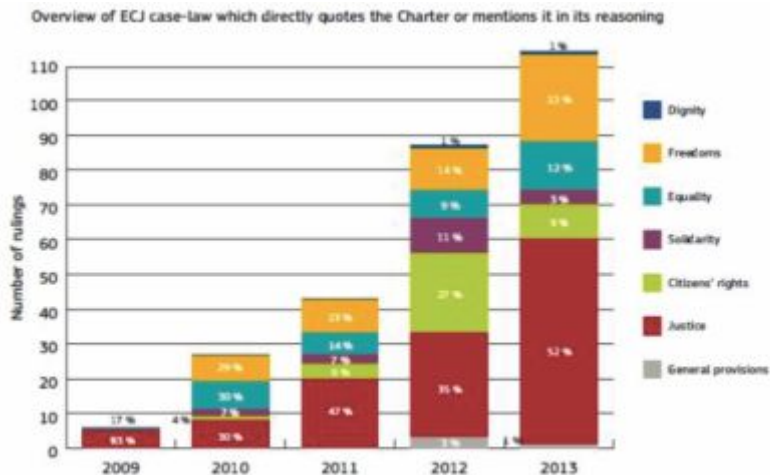
<sup>38</sup> G. de Búrca, 'After the EU Charter of Fundamental Rights: The Court of Justice as a Human Rights Adjudicator?', NYU Law Public Law & Legal Theory Working Paper No. 13-51; 7-9. See also: G. de Búrca, 'After the EU Charter of fundamental rights: the Court of Justice as a human, rights adjudicator?', *Maastricht Journal of European and Comparative Law*, Vol. 20, 2013.

**Picture 1: Number of references of the Court of Justice to the Charter** (Annual Report of the Fundamental Rights Agency of the European Union for 2014, 144)



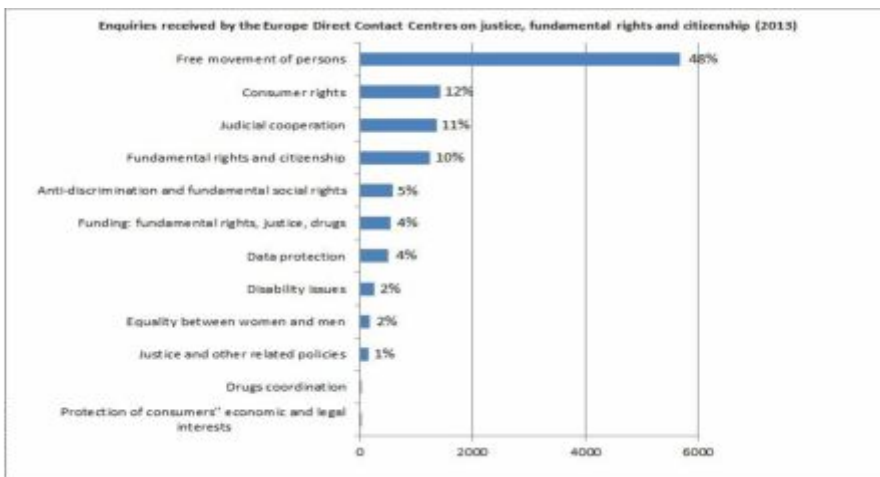
In this light, it is also interesting to examine which rights does the Court of Justice refers to. From Figure 2 it shows that the Court has often referred to the Charter concerning the right to judicial protection and the protection of various freedoms, while references to the provisions of the Charter of human dignity and economic and social rights are only a few.

**Picture 2: The nature of references of the European Court of Justice to the Charter** (European Commission, «Fundamental Rights: Importance of EU Charter grows as citizens stand to benefit», Press Release, 14.4.2014).



In 2014, the number of inquiries and references to fundamental rights has increased in the before the Europe Direct Contact Centres, as shown in picture 3. The latter data indicate that the population of the European Union has been increasingly sensitive of the protection of human rights, but the knowledge of instruments and forums to enforce their violations has been lacking.

**Picture 3: Questions received by the Europe Direct Contact Centre** (European Commission, »Fundamental Rights: Importance of EU Charter grows as citizens stand to benefit«, Press Release, 14.4.2014.



## 5. Implementation of the Charter in the domestic legal orders

The European Union Member States are obliged to implement the Charter in domestic jurisdictions. Article 51 of the Charter in the first paragraph of the Charter provides that » the provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.« Paragraph 2 of Article 51 even more clearly states that »the Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties.« Despite this it is one of the problems the unclear legal status of the Charter within domestic jurisdictions. The Charter can only be used in the implementation of European law. The Court noted in the case of Melloni that

“Article 53 of the Charter confirms that, where an EU legal act calls for national implementing measures, national authorities and courts remain free to apply national standards of protection of fundamental rights, provided that the level of protection provided for by the Charter, as interpreted by the Court, and the primacy, unity and effectiveness of EU law are not thereby compromised.”<sup>39</sup> The Court went even further by noting that “since the fundamental rights guaranteed by the Charter must therefore be complied with where national legislation falls within the scope of European Union law, situations cannot exist which are covered in that way by European Union law without those fundamental rights being applicable. The applicability of European Union law entails applicability of the fundamental rights guaranteed by the Charter.”<sup>40</sup> The Court noted at the same time that “where a court of a Member State is called upon to review whether fundamental rights are complied with by a national provision or measure which, in a situation where action of the Member States is not entirely determined by European Union law, implements the latter for the purposes of Article 51(1) of the Charter, national authorities and courts remain free to apply national standards of protection of fundamental rights, provided that the level of protection provided for by the Charter, as interpreted by the Court, and the primacy, unity and effectiveness of European Union law are not thereby compromised.”<sup>41</sup>

Using the Charter in domestic settings is quite limited, because the current interpretation relates only to European law, whereas it can only be subsidiary applied in domestic law.<sup>42</sup> The interpretation given by the Court of Justice of the European Union in the case of Melloni and Fransson from the perspective of the protection of human rights is not conclusive. It is difficult to understand that the fundamental principles of European law prevail over national standards for the protection of human rights. It appears that the Court of Justice of the European Union in these cases exceeded its jurisdiction and misinterpreted the situation of human rights in the European architecture. The latter has been repeatedly highlighted by the German Constitutional

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<sup>39</sup> C-399/11, Melloni, 26 February 2013, para. 60.

<sup>40</sup> C-617/10, 26 February 2013, para. 21.

<sup>41</sup> Ibid, para. 29.

<sup>42</sup> Cf. D Spielmann, 'Allowing the Right Margin the European Court of Human Rights and the National Margin of Appreciation Doctrine: Waiver or Subsidiarity of European Review?', CELES Working Paper Series, UC Faculty of Law, Centre for European Legal Studies, Cambridge CB3 9DZ; February 2012. 30.

[http://www.cels.law.cam.ac.uk/cels\\_lunchtime\\_seminars/Spielmann%20-%20margin%20of%20appreciation%20cover.pdf](http://www.cels.law.cam.ac.uk/cels_lunchtime_seminars/Spielmann%20-%20margin%20of%20appreciation%20cover.pdf), 14. 12. 2014, (last visited, 10.8.2015).

Court, most recently in Case No. 1215/07.<sup>43</sup> At the same time, it is possible to interpret more convincingly that the Charter would have an advantage whenever the domestic legal systems provide less protection of human rights.<sup>44</sup> Some authors consider that the Court of Justice has hindered domestic courts from broader application of the Charter in cases of domestic legal sources.<sup>45</sup> This is also linked to one of the key problems of the Charter, which is individuals' access to justice for violations of the Charter. Individuals currently do not have the right to bring individual complaints of alleged violations of the Charter before the European Court of Justice.<sup>46</sup> They can only access the European Court of Justice through the national courts. In most cases, national courts must safeguard the implementation of the Charter in domestic jurisdictions.<sup>47</sup> For example, Individuals may in Slovenian law invoke before the ordinary courts an alleged breach of the specific provisions of the Charter in the application of European law. Violations of the Charter, if there European law is not applicable, cannot be invoked before the ordinary courts and the Constitutional Court, because the complainants must refer to one of the provisions on the protection of human rights in the second chapter of the Slovenian Constitution. The key for long-term survival of the Charter is probably that its application is extended to all domestic law sources.

The domestic courts have differently treated the legal nature of the Charter.<sup>48</sup> The Austrian Constitutional Court has in case U 466 / 11-18, U 1836 / 11-13 of 14 March 2012 recognized the constitutional character of the Charter. In contrast, the Constitutional Court decision U-I-146/12 of 17 December 2013, missed the opportunity to rule on the legal status of the Charter in the Slovenian constitutional order.<sup>49</sup> Notwithstanding perhaps a missed opportunity, it is clear that the documents in the Slovenian legal order, is directly applicable and subject only Slovenian

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<sup>43</sup> See, for example, 1 BvR 1215/07, 24. 4. 2013.

<sup>44</sup> A. Ward, 'Article 51', v Steve Peers, Tamara Hervey, Jeff Kenner in Angela Ward (eds.), *The EU Charter of Fundamental Rights*, Hart Publishing, 2014, 1560.

<sup>45</sup> F. Fontanelli, 'National Measures and the Application of the Charter of Fundamental Rights of the European Union - Does curia.eu Know iura.eu?' (2014) *Human Rights Law Review* 14(2) 231-265.

<sup>46</sup> S. Iglesias-Sanchez, 'The Court and the Charter: The Impact of the Entry into Force of the Lisbon Treaty on the ECJ's Approach to Fundamental Rights' (2012) 49 *Common Market Law Review* 1565.

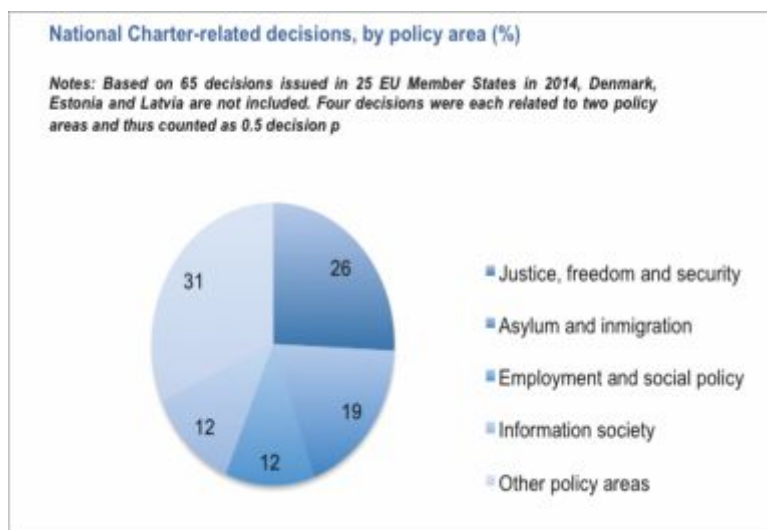
<sup>47</sup> F. Fontanelli, 'Hic Sunt Nationes: The Elusive Limits of the EU Charter and the German Constitutional Watchdog' (2013) 9 *European Constitutional Law Review* 315.

<sup>48</sup> M. Avbelj, 'Konstitucionalizacija listine EU o temeljnih pravicah, Ustavno sodišče Republike Avstrije'. v: *Pravna praksa. GV Založba*. 2012, št. 19, 26-27.

<sup>49</sup> Ustavno sodišče RS, odločba U-I-146/12, 17. 12. 2013.

Constitution. The Czech Constitutional Court has ruled that Article 38 of the Charter on the consumer rights is not of horizontal nature, which is not an individual human right, which was directly achievable.<sup>50</sup> The Croatian Supreme Court has in judicial cooperation in criminal matters relied extensively on the right to a fair trial and to judicial protection.<sup>51</sup> The domestic courts in recent years raised several preliminary issues with the application of the Charter. In this instance, in 2014 domestic courts from Belgium, Bulgaria, Ireland, Italy, Germany, Romania and Spain were particularly active.<sup>52</sup> The maximum number of preliminary references of questions still comes from Germany, Italy, Estonia and the Netherlands.<sup>53</sup> Many domestic highest courts apply the Charter to reason their decisions in various areas of human rights protection. The number of references of the highest domestic courts to the Charter has been also increasing, which is probably due to its maturation, as well as promotional activities for the popularization of the Charter. The domestic courts, as is apparent from the picture 4 below, mostly rely on the Charter in cases on refugee law and the right to justice.

**Picture 4: Areas of reference to the Charter** (Annual Report of the Fundamental Rights Agency of the European Union for 2014, 152)



The Charter has remained, despite efforts to increase its visibility in domestic systems, quite unrecognizable or most frequently mentioned together with the European

<sup>50</sup> Czech Constitutional Court, III. ÚS 3725/13, 10.4.2014.

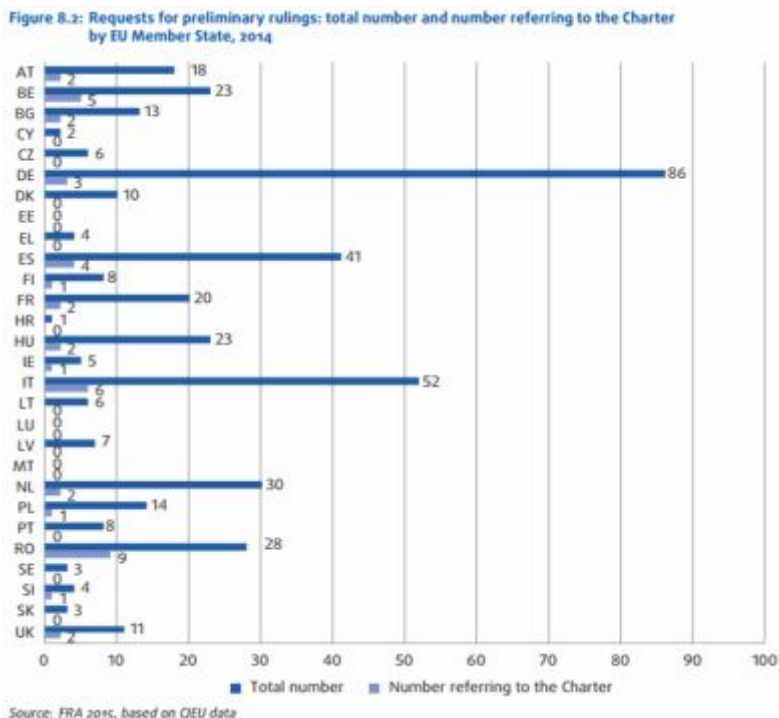
<sup>51</sup> Vrhovni sud Republike Hrvatske, VSRH Kž eun5/2014-4, 6.3.2014

<sup>52</sup> Annual Report of the Fundamental Rights Agency of the European Union for 2014, 146.

<sup>53</sup> Ibid.

Convention on human rights and fundamental freedoms. Despite the various incentives to increase its visibility, including a mobile smart application,<sup>54</sup> its scope remains relatively narrow. The reasons for the lack of visibility could lie in the fact hyperinflation domestic and international instruments for the protection of human rights are mutually duplicated. Thus, the rights protected by the Charter can be found in a number of other domestic and European legal sources. An individual is often confused in choosing the legal basis for the effectuation of alleged violations and often rely primarily on domestic sources of law. At the same time, the domestic courts are often not aware of the usefulness, the nature and extent of validity of the Charter, and probably most of them, especially lower domestic courts do not know what to do with the arguments of the alleged violations under Charter. For these reasons, the effectiveness of the Charter is much lower than it could be, which also derives from picture 5 below.

**Picture 5: Number of preliminary references of domestic courts: the total number and the number of references to the Charter of the domestic courts** (Annual Report of the Fundamental Rights Agency of the European Union for 2014, 146).



<sup>54</sup> Agency for Fundamental Rights of the European Union, <http://fra.europa.eu/en/charterapp>, (last visited: 10.8.2015).



## 6. Conclusion

The Charter is gradually becoming a full piece in the mosaic of European protection of human rights and fundamental freedoms. The European Court of Justice and domestic courts have often referred to the Charter in their case law. Its potential for effective protection of human rights seems unlimited. It depends primarily on the European Court of Justice and national courts how will it be used in the future. Certainly it is true that neither the Court of Justice nor the domestic courts should not compromise existing standards of protection of human rights, arising from the case law of the European Court of Human Rights. A lot also depends on the potential accession by the European Union to the European Convention on Human Rights and Fundamental Freedoms. It is equally important at the same time that the applicability of the Charter should extend to all areas of domestic law, since only then it will slowly reach at least the same value as the European Convention. The contents of the Charter is to be interpreted broadly as the narrow interpretation would only protect various political interests.

Time will show whether the Charter will mature into an authoritative human rights document that will be respected and implemented both by national and international bodies. This is essential for long-term survival of the Charter, which is currently still insufficiently known among the ordinary people. The challenge arises how to effectively incorporate it into national systems. Some domestic legal systems already refer to it, whereas others still have long way to go. The numbers and quality of references to the Charter thus depends on the nature of the judicial decision-making and legal culture in a particular legal system. In the systems that are full of the formalism, monism and lack of creativity, it is difficult to imagine that the courts will open themselves to pluralism in the use of domestic and foreign legal sources.

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# Legal Norms and Standards on the Protection of the Rights of Children in the European Union

Francesco CECON\*

## Abstract

*The rights of children have been acquiring more space and attention in the legal and policy framework of the European Union and, with the entry into force of the Lisbon Treaty in 2009, have become one of its leading objectives. This work briefly provides an overview of the evolution of the status of children's rights in the internal and external policies of the European Union. In particular, this work aims to identify the existing gaps in the protection and promotion on the rights of the child at all levels and to provide possible recommendations for a more coherent protection framework. To this end, reference is made to the existing international and regional human rights instruments containing strong and clear standards on the protection of the rights of children.*

*Moreover, particular attention is given to the process of enlargement of the European Union towards the East and the potential positive impact that this process may have in addressing issues concerning and affecting children.*

*Keywords:* Rights of Children, European Union.

## 1. Introduction

The United Nations Convention on the Rights of the Child and the protection of children's rights at the international and regional level.

In 2015, the United Nations Convention on the Rights of the Child (the UNCRC) has reached almost universal ratification, with the United States being the only State not party to it.<sup>55</sup> It goes without saying that the UNCRC constitutes the most comprehensive international instrument on the protection of the rights of children and applies almost everywhere. Every person who is under the age of 18, as defined in article 1 of the

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<sup>55</sup> See the United Nations Convention on the Rights of the Child (UNCRC): <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

UNCRC,<sup>56</sup> is entitled to the enjoyment of the rights covered in the Convention.

The Convention entered into force in 1989 and it “requires policy and law makers to ensure that the best interests of children are the primary consideration in all actions that may affect them”. Furthermore, the international instrument has three Optional Protocols (OPs) that extend its coverage to other issues concerning children. Namely, the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC),<sup>57</sup> the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC),<sup>58</sup> and the Optional Protocol on a Communication Procedure, most known as OP3.<sup>59</sup> The UNCRC, and its OPs, have the ambition of facing two main challenges: to confirm the status of the child in the world and to offer universal coverage of all rights to which a child is entitled to.

As aforementioned, the Convention aims at having States ensuring that the best interest of the child is respected and promoted by all States parties. Children are indeed entitled to this principle under article 3 of the Convention and its application is strongly related to the enjoyment of children's right to participate and to be heard, as stated in article 12<sup>60</sup> of the same instrument. Children's voices and opinions have therefore to be heard during all phases of policy, law and budget making.

Moreover, children's rights related issues are mainstreamed through other international human rights instruments. Article 7 of the UN Convention on the Rights of Persons with Disabilities, article 16 of the UN Convention on the Elimination of All Forms of Discrimination Against Women, the Universal Declaration of Human Rights and the Two International Covenants all grant protection on children's associated

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<sup>56</sup> Note 1 supra, article 1: “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”

<sup>57</sup> See the Optional Protocol on the Involvement of Children in Armed Conflict: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

<sup>58</sup> See the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

<sup>59</sup> See the Optional Protocol on a Communications Procedure: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=A/RES/66/138&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=A/RES/66/138&Lang=en)

<sup>60</sup> See note 1 supra, article 3: “1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration [...]”, and article 12: “1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child [...]”.

subjects.<sup>61</sup> On the same line, two Conventions of the International Labour Organisations grant protection to children in labour matters.<sup>62</sup>

Interestingly, all Member States of the European Union (EU) are part to the UNCRC and thus must comply with the principles and standards enshrined by the Convention. Whilst the EU is not a party to the UNCRC, as only States can accede to it, it has been recognised by EU institutions in different occasions. For instance, the EU Commission stated that “the standards and principles of the UNCRC must continue to guide EU policies and actions that have an impact on the rights of the child”<sup>63</sup> and the Court of Justice of the EU (CJEU) required the Union's law to take proper account of the Convention on the Rights of the Child.

The rights of children receive a further layer of protection at the regional level, where different instruments encompass provisions in this respect. The European Social Charter (ESC) does provide for the protection of the rights of children and young people in its article 7,<sup>64</sup> which is further promoted in article 17.<sup>65</sup> In the auspices of the Council of Europe, the European Convention on the Exercise of Children's Rights constitutes another instrument in the advancement of the best interest of the child, with a precise attention on this principle in family proceedings.<sup>66</sup> Similarly, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>67</sup> and the European Convention on the Repatriation of Minors<sup>68</sup> constitute other thematic tools at

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<sup>61</sup> The text of all the Conventions mentioned can be found on the website of the Office of the High Commissioner for Human Rights (OHCHR):

<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

<sup>62</sup> The 1973 ILO Minimum Age Convention (No. 138) and the 1999 ILO Worst Forms of Child Labour Convention (No. 182): <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

<sup>63</sup> See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52011DC0060>

<sup>64</sup> European Social Charter (ESC), article 7: “With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake: to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education; [...]”.

<sup>65</sup> European Social Charter (ESC), article 17: With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed [...]”.

<sup>66</sup> See: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007cdaf>

<sup>67</sup> See: [http://www.coe.int/t/dg3/children/1in5/Source/Lanzarote%20Convention\\_EN.pdf](http://www.coe.int/t/dg3/children/1in5/Source/Lanzarote%20Convention_EN.pdf)

<sup>68</sup> See: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680072d3c>

the disposal of States at the regional level.

Even though there is no explicit mention to the rights of the child, the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) apply and are pertinent to children. Most importantly, it permits States, and citizens (in definite situations), to sue other States for violations of human rights. Violations of articles of the ECHR relevant to children can therefore be brought before the European Court of Human Rights.

### **EU child rights related initiatives before the entry into force of the Lisbon Treaty**

Before 2009, the year of the entry into force of the Lisbon Treaty,<sup>69</sup> actions taken by the EU in the arena of children's rights were highly reliant on a 3-pillar configuration,<sup>70</sup> with the area of child protection fitting principally in the third pillar. The main consequence of such system was that acting on this subject was possible merely on the basis of intergovernmental cooperation.

However, some initiatives in this field were taken even before 2009. Three Directives<sup>71</sup> relevant to children's rights were issued by the European Union: the Toys Directive (2009/48/EC), the Citizenship Directive (2004/38/EC) and the Universal Service Directive (2002/22/EC).<sup>72</sup> Additionally, in 2006, the European Commission (EC) released a Communication called 'Towards an EU Strategy on the Rights of the Child' (2006 Communication) and offered to “establish a comprehensive EU Strategy to effectively promote and safeguard the rights of the child in the European Union's internal and external policies and to support Member States' efforts in this field”.<sup>73</sup> It had 7 specific objectives that went from identifying priorities for future EU actions to

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<sup>69</sup> See Lisbon Treaty:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:ai0033&from=EN>

<sup>70</sup> The system of 3-pillar decision was firstly introduced by the Treaty on European Union of 1992, with the first pillar corresponding to the 3 EU communities: the EU Community, EURATOM and ESC; the second to a common foreign and policy and security; and the third one to police and judicial cooperation in criminal issues.

<sup>71</sup> Directives are laws binding on Member States with the aim of achieving a specific goal that must be translated into national law to become applicable.

<sup>72</sup> Toys Directive: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0048](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0048;);

Citizenship Directive: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0038R\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0038R(01)); and the Universal Service Directive: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A124108h>

<sup>73</sup> Communication from the Commission, Towards an EU Strategy on the Rights of the Child, see: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006DC0367>

designing a communication strategy on the rights of the child.<sup>74</sup> The communication represented the first major step forward in the realisation of the rights of children within the context of the European Union. The drafting process saw the involvement of organisations working in children's rights and the development of child-friendly versions by Save the Children and Plan International. Nevertheless, children were not able to provide inputs directly on the draft and wider consultations with children were not carried out.

Other bodies of the European Union did likewise take some initiative in the field of the rights of the child. For instance, the European Parliament adopted a series of resolutions on promoting the protection of children, a programme of community action in the field of public health, and, in line with the 2006 Communication, it endorsed a resolution defining priorities.<sup>75</sup> The Daphne Programmes I, II and III are also products of the European Parliament before 2009.<sup>76</sup>

And, although lacking binding force, the 2007 Recommendation on the 'Prevention of Injuries and the Promotion of Safety'<sup>77</sup> promoted by the Council of Europe, led to the development, by the EU, of the 2007 guidelines supporting the rights of the child.<sup>78</sup> Lastly, the protection of children's rights was further recognised and mainstream through the decisions<sup>79</sup> of the Court of Justice of the European Union (CJEU).

### **The protection of children's rights as a leading objective of the EU: the Lisbon Treaty**

With the entry into force of the Lisbon Treaty, the two founding treaties of the EU, the Treaty on European Union (TEU)<sup>80</sup> and the Treaty on the Functioning of the

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<sup>74</sup> Others objectives of the communication are: capitalising on existing activities while addressing urgent needs, mainstreaming children's rights in the EU actions, promoting the rights of the child in external relations and establishing efficient coordination and consultations mechanisms.

<sup>75</sup> Priorities included actions in the fields of: violence, child poverty, child labour, health, education, asylum seeking children, and birth registration.

<sup>76</sup> Programmes meant to combat violence against children, youth and women.

<sup>77</sup> See: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007H0718\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007H0718(01))

<sup>78</sup> See: <http://www.consilium.europa.eu/uedocs/cmsUpload/16031.07.pdf>

<sup>79</sup> See, for instance, the decisions taken by the CJEU on the following cases: C-491/10 PPU, C-34/09, C-497/10 PPU, C-400/10 PPU, C-211/10 PPU, C-256/09.

<sup>80</sup> Treaty on European Union (TEU), also known as the Treaty of Maastricht (1992): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:en:PDF>



European Union (TFEU)<sup>81</sup> had been subject to a series of important amendments. The rights of children became explicitly recognised and became one of the primary objectives of the European Union in both its internal and external interactions. Article 3 of the TEU states that “the Union shall promote the protection of the rights of the child” and that “in its relations with the wider world, the Union should contribute to the protection of human rights [and] in particular of the rights of the child”. The respect of fundamental human rights is also stated as to be as one of the central principles of the EU in article 2 of the same Treaty.<sup>82</sup>

The Lisbon Treaty further brought about change by abolishing the Pillar system, meaning that the Member States of the EU were now able to adopt mandatory acts in the grounds of freedom, security and justice, which became in fact areas of common competence within the European Union.

It is also important to note - and to retain - that after 2009, article 216<sup>83</sup> of the TFEU permitted the EU to sign and conclude international human rights instruments within the context of its strategies and goals.

Furthermore, thanks to the Lisbon Treaty, the 2000 'Charter of Fundamental Rights of the European Union'<sup>84</sup> (the Charter) was officially integrated in the legal framework of the EU, under article 6 of the TEU.<sup>85</sup> In the Charter, there are specific

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<sup>81</sup> Treaty on the Functioning of the European Union (TFEU) <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>, signed in Rome in 1958.

<sup>82</sup> Note 26 supra, article 2: “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”

<sup>83</sup> Note 27 supra, article 216: “1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope; 2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States”.

<sup>84</sup> See Charter of Fundamental Rights of the European Union (the Charter): [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf) \

<sup>85</sup> Note 26 supra, article 6: “1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties. The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties. The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application

provisions aiming to protect children's rights,<sup>86</sup> and its article 24 clearly states that “in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration”. Consequently, all phases of EU policies that may concern or affect children are to be designed and implemented in line with the best interests of the child. Yet, the Charter in itself does not increase the areas of competence of the EU as stated in the Treaties, nor it permits for cases to be taken right to the CJEU. Thus, the areas of competence of the institutions of the EU continue to be restricted to those listed in articles 81, 82.2 and 83.1 of the TFEU<sup>87</sup> (several of which are subjects related to criminal proceedings). In this regard, it is worth to note that the area of child-friendly justice is an area where progress has been made by the Member States of the European Union.<sup>88</sup>

### **The advancement of children's rights in the European Union policies and the gaps in the implementation of the UNCRC principles**

After 2009, several policy and law instruments have been introduced in the European Union and in February 2011, the 'European Union Agenda for the Rights of the Child'<sup>89</sup> (the Agenda) was approved. Entrenched in the principles of the UNCRC, it clearly acknowledges the commitments of the EU regarding children's rights. Indeed, the Agenda incorporates obligations towards guaranteeing that the rights of the child become an essential element of the Union's policy of Fundamental Rights. Data collection for the formulation of evidence-based policies and legislative acts does, in this regard, become a central condition thanks to the Agenda. The Agenda also reaffirms the cooperation space provided by the Forum for the Rights of the Child (initially set up by the 2006 Communication), and includes actions in 7 different areas.<sup>90</sup>

The process leading to the preparation of the 2011 Agenda included a series of open consultations with relevant stakeholders and, above all, children themselves. Yet, the lack of transparency and the lack of feedback to participants raised criticism on the

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and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions [...]”.

<sup>86</sup> Note 30 supra, articles 14, 24 and 32.

<sup>87</sup> Note 27 supra, articles 81, 82.2 and 83.1

<sup>88</sup> See Fundamental Rights Agency (FRA): [http://fra.europa.eu/sites/default/files/fra-2015-child-friendly-justice-professionals\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2015-child-friendly-justice-professionals_en.pdf)

<sup>89</sup> See the “European Union Agenda for the Rights of the Child” (the Agenda): [http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm)

<sup>90</sup> In the areas of: unaccompanied minors, missing children, child-friendly justice, Roma children, bullying, children affected by armed conflict, and the implementation of the EU guidelines.

manner the process was implemented. The Agenda had also been criticised for the absence of effective monitoring mechanisms. Although based on the UNCRC, it does not reflect the Convention's provisions on monitoring and reporting.<sup>91</sup> In this regard, some steps were taken in 2009 by the EU Fundamental Rights Agency (FRA), which issued a report<sup>92</sup> including indicators on the defence, advancement and application of children's rights across the Members of the Union. The indicators covered the four main grounds of protection from exploitation and violence, adequate standards of living, family environment and alternative care, to the fields of education, citizenship and cultural undertakings. The indicators have not yet led to the formulation of policies and laws of the EU concerning the rights of children and did not plainly outlined accountabilities and structures for data collection on issues affecting children's rights. Indicators should be further used in all phases of law and policy-making and should be therefore integrated in the phase of impact assessment of laws and policies as well.

This process could be definitely supported and improved by establishing a clear role for civil society and on how the EU institutions can cooperate with it. The 2006 Communication did indeed set up the Forum on the Rights of the Child, which includes representatives of the Member States, Ombudspersons for children, representatives of the EU Parliament, UNICEF, NGOs, the Council of Europe, the European Economic and Social Committee, and it is presided by the Children's Rights Unit. Most importantly, the Communication also provided for the effective inclusion of children in the very Forum and it made precise mention to article 12 of the UNCRC.<sup>93</sup> Yet, child participation has not happened in a significant manner so far. Other basis for cooperation with civil society organisations can be found in the following supporting instruments: the 'White Paper on an European Communication Policy'<sup>94</sup> insisting on the importance of a "partnership approach"<sup>95</sup> and the 'EU's Action Plan on Children's Rights in External Action',<sup>96</sup> reminding the EU to "regularly liaise with children's

<sup>91</sup> See General Comment No. 5 of the UN Committee on the Rights of the Child: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en)

<sup>92</sup> See: [http://fra.europa.eu/sites/default/files/fra\\_uploads/358-RightsOfChild\\_summary-report\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/358-RightsOfChild_summary-report_en.pdf)

<sup>93</sup> Note 1 supra, article 12

<sup>94</sup> See 'White Paper on an European Communication Policy', 2006: [http://europa.eu/documents/comm/white\\_papers/pdf/com2006\\_35\\_en.pdf](http://europa.eu/documents/comm/white_papers/pdf/com2006_35_en.pdf)

<sup>95</sup> Ibid., p.2.

<sup>96</sup> See 'EU's Action Plan on Children's Rights in External Action': <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52008SC0136>

representatives, children's Ombudsmen when present, relevant UN representatives and other international organisations".<sup>97</sup>

In spite of these provisions, the power of civil society to actually be able to condition the substance and process of formulation of policy papers depends on the type of document.<sup>98</sup>

### **The place of children's rights in the budget of the European Union**

"States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation". The text of article 4 of the UNCRC clearly insists on the need, for States party to the Convention, to allocate resources for the realisation of children's rights. Guidance indicators on how governments can ensure effective investment in children's rights have been also developed by the Committee on the Rights of the Child in its 2015 Draft General Comment on 'Public Spending and the Rights of the Child'<sup>99</sup> and also received international attention during the 2015 Annual Day on the Rights of the Child at the 28th Regular Session of the Human Rights Council.<sup>100</sup>

For what concerns the European Union, some factors need to be kept in mind before discussing the budget allocated by this regional organisation to the fulfilment of the rights of children. By being the major international donor in the world, with a further high sum of money spent in the territory of the European Union and its vicinities, the EU spends resources in many areas that affect, in different measure, children. Funds are particularly allocated to accession countries and immediate neighbours of the EU.

In the wider external relations realm of the EU, children have received more attention recently, with the European Commission's Humanitarian Aid and Civil Protection Department (ECHO) increasingly focusing on children's rights in emergencies. The allocation of the funds received thanks to the Nobel Prize, which the EU received in 2012, to the project 'EU Children of Peace: Educating Children in

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<sup>97</sup> Ibid.

<sup>98</sup> See: <http://resourcecentre.savethechildren.se/sites/default/files/documents/4412.pdf>

<sup>99</sup> See: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19&Lang=en)

<sup>100</sup> See: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/28RegularSession.aspx>

Conflict Zones<sup>101</sup> is, in this merit, telling. Geographic prioritisation instruments and budget lines for children are not, however, visibly established.

Generally, the budget of the European Union does not per se comprehends an explicit “children's budget” in both its domestic and external undertakings, and there is a lack of indicators on how the best interest of the child guides the decisions taken by the institutions of the Union in terms of resources distribution and investments.

Establishing a clear budget for children and having clear indicators on the allocation of resources in this field would, in turn, create a monitoring mechanism on how resources are spent and the impact of these. The European Parliament did include some budget lines for the rights of children in its budget, but these were later removed because of a lack of competence by Member States in this subject.<sup>102</sup> Moreover, there is a need for an information-sharing platform, where States and institutions could share lessons and challenges in the design and implementation of a budget for children. Actors who have been effectively implementing these measures in their own territory or under their own competency could accordingly share best practices for their duplication in the activities carried out by the EU.

In any case, the design of effective budget lines and programmes cannot be successfully commenced without the active participation of the actors concerned and affected by their implementation. Child participation thus becomes an essential part of this process and the European Union should foster operational apparatuses so that its facilitation can be guaranteed before budgetary strategies are decided and realised.

### **Moving towards the mainstreaming of the rights of children: child participation and the coordination of children's rights responsibilities-holders within the European Union**

The creation of structures allowing children to participation in decision-making processes is essential not only for decision regarding the allocation of financial resources, but also for all policies and programmes that might have a direct or indirect impact on children. Besides, article 12 of the UNCRC affirms that children “shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”.

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<sup>101</sup> See: [http://ec.europa.eu/echo/what/humanitarian-aid/children-of-peace\\_en](http://ec.europa.eu/echo/what/humanitarian-aid/children-of-peace_en)

<sup>102</sup> Measures to support families and children (DG Social Affairs), B7-624 Integration of Children's Rights, 2003.

Some structures facilitating the direct and indirect participation of children in the European Union are present but these should be further developed in a systematic and consistent fashion. Instances of initiatives taken include the European Youth Portal,<sup>103</sup> the YES Forum<sup>104</sup> (dealing with themes related to children's social disadvantage and exclusion), the European Youth Parliament<sup>105</sup> (developed in 1987) and the EU Youth Summit that took place in Rome in March 2007.<sup>106</sup>

The place occupied by children's rights in the institutions of the EU is not only blurred in terms of children's participation in policies affecting their rights, but also in the coordination of the different institutions and bodies dealing with them. The main responsibility for policies relating to children falls under the Commissioner for Justice<sup>107</sup> and in its Children's Rights Unit,<sup>108</sup> resulted from the 2006 Communication. This Unit was intended to act in the role of a coordinator in matters relating to children's rights and it is placed in the Directorate-General (DG) of Justice. In fact, the majority of the DGs now include a 'focal point' for the rights of the child, who by gathering each semester,<sup>109</sup> share information on the protection and promotion of children's rights in their work.<sup>110</sup> Nonetheless, the meetings of these focal points happen intermittently and in absence of a clear format. Furthermore, "there is still a clear tendency, particularly within the DG Justice, to pursue children's rights rather too much in isolation from other DGs".<sup>111</sup> The mainstreaming of the rights of the child across different DGs and different areas of work of the Union is consequently made extremely challenging to achieve.

The process of mainstreaming does in fact requires for different elements to come together. The questions of coordination, monitoring, budgetary plans, participation and cooperation, all discussed above, form the basis for the effective mainstreaming of children's rights in the work of the EU. While this process has began in matters regarding the involvement of children in armed conflict, it is still lacking in other areas of competence of the EU institutions, in spite of the provisions of article 3 TEU.

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<sup>103</sup> See: [https://europa.eu/youth/EU\\_it](https://europa.eu/youth/EU_it)

<sup>104</sup> See: <http://www.yes-forum.eu>

<sup>105</sup> See: <http://eyp.org>

<sup>106</sup> See: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=URISERV%3Ac11103>

<sup>107</sup> See: [http://ec.europa.eu/justice/index\\_en.htm](http://ec.europa.eu/justice/index_en.htm)

<sup>108</sup> See: [http://ec.europa.eu/justice/fundamental-rights/rights-child/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm)

<sup>109</sup> In a format known as the Inter-Service Group.

<sup>110</sup> The main purpose of these meetings is the mainstreaming of children's rights across the work of the different EU DGs.

<sup>111</sup> Helen Stalford, *Children and the European Union: Rights, Welfare and Accountability*, Hart Publishing, First Edition, 2012, p.228.

### **Filling the gap: recommendations for the enhancement of children's rights in the legal framework of the European Union**

With the entry into force of the Lisbon Treaty, the European Union acquired the possibility to conclude international human rights instruments, in light of article 216 of the TFEU, with the effect of having the “agreements concluded by the Union [...] binding upon the institutions of the Union and on its Member States”. As all Member States of the EU are already parties to the UNCRC, the ratification of the Convention by the European Union would make its institutions accountable for their actions in the field of children's rights. The EU did already accede the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and could, likewise, accede to the UNCRC through a unilateral declaration. Even though the accession of the EU to this international instrument would neither increase its authority or competency in the field, it would bring about several positive changes in the European Union's approach toward the rights of children. First and foremost, and besides the strong symbolic significance, this ratification would ascertain the accountabilities of the EU vis-à-vis children's rights in a precise way and to a more consistent attitude in their defence and promotion. Additionally, it would probably trigger the distribution of more funds and the formation of a children's budget to attain children's rights and respect the commitments under the Convention. On the same line, the provisions of the Convention would make the Union be part of the reporting obligations before the Committee on the Rights of the Child. Such an obligation would require the EU to create appropriate structure for the monitoring of the situation of children's rights across the European Union's territory and to collect data for each reporting cycle.<sup>112</sup> Reporting on the situation of children in the EU before the UN Committee on the Rights of the Child would further increase the knowledge and competence in the field of those responsible for programmes affecting children. The guidance and expertise of the UN Committee members received during the periodic review<sup>113</sup> would in fact serve as a basis for the development and improvement of the EU's laws and policies in child rights related matters. It is important to keep in mind, however, that the ratification would have to be restricted to the articles where no reservations were expressed by Member States of the EU. The same would be

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<sup>112</sup> To learn more about the reporting cycle and the Committee on the Rights of the Child, see the Committee's working methods:

<http://www.ohchr.org/EN/HRBodies/CRC/Pages/WorkingMethods.aspx>

<sup>113</sup> For more information on the functioning of UN Treaty Bodies, please visit: <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>



applicable to the Optional Protocols to the Convention to which the Member States are not a party.

The added value of this accession would lie in the possibility for the European Union to check its legal and policy frameworks against the principles of the UNCRC and to detect the remaining gaps for the fulfilment of the rights of children. The gaps in the mainstreaming of children's rights across different sectors could be also filled by ensuring that trainings on children's rights are provided to all the European Union's officials working in matters concerning or affecting children.

Moreover, as discussed in the introduction,<sup>114</sup> the ECHR constitutes a powerful instrument in the safeguard of human rights and could therefore serve as additional tool for the advancement of the Union's policies towards children. Article 59.2 of the ECHR does, in this regard, permit “the European Union [to] accede this Convention”, hence permitting the regional organisation to become part of it.

## **Conclusion**

The application of a child rights-based approach by the European Union in its neighbourhood: the case of Romania as instance of positive change.

The European Union plays an important role in the region of Europe, not only in terms on investment in neighbouring countries, but also at a political level. In fact, neighbouring countries willing to join the European Union are subject to a principle of conditionality that is applied in both economic and political terms. This means that accession countries have to meet certain criteria and standards to be able to accede to the regional configuration. In this sense, the enlargement of the EU towards the Eastern part of the continent shaped the incorporation of the European Union law into the domestic legislations of the new acceding countries. Having children's rights in the conditions for acceding to the EU would therefore mean having a process of regulation and improvement of domestic laws and policies concerning children.

Child protection constituted one of the conditions for accession in the case of Romania, and the conditionality principle applied to the country in this regard led to a real change in the situation of children. The capacity of Romania to meet the standards set by the European Union during the accession negotiations was heavily subject to the improvement of the situation of children living in institutions and later on the legal status of adoptions.

Although these conditions were part of the European Union's accession agenda

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<sup>114</sup> See *supra* Introduction, p.1.



in regard to Romania, the EU lacked legal competence in this merit. The major push for having child protection at the heart of the agenda was due to the efforts and pressure exercised by the European Parliament's Special Rapporteur for Romania, Baroness Emma Nicholson. The European Commission per se did not have competence on the subject and had therefore to implement an institutional restructuring to be able to assist the authorities of Romania in order to modify the child protection mechanisms in the country. The whole process was a learning process, where the EU was able to assist the country and to acquire expertise on children's rights matters at the same time. The restructuring process resulted in an increased knowledge and stronger legislation of the EU in this respect. The Union developed new policy instruments grounded on the principles of the UNCRC, reformed the child protection measures by requiring the closing of obsolete institutions for children and, in 2001, issued a moratorium on the question of inter-country adoptions.<sup>115</sup> All the innovations and changes undertaken had a positive boomerang impact on the European Union, with the rights of the child becoming part of the accession criteria in the broader expansion practice. Meaningfully, this also created an entry point for the placement of children's rights in the domestic strategies of the EU.

The internal changes in terms of expertise and attitude towards the rights of children guided the European Union to some of the current child rights mechanisms discussed previously in this work. The awareness created around this topic during the Romanian negotiations led to the 2006 Communication and the further development of the Child Rights Unit in the DG Justice, the Inter-Service Group, and the EU Forum on the Rights of the Child.

Progress still needs to be made in terms of the mainstreaming of the rights of children across policies, laws and programmes of the EU but the beneficial consequences of the successful inclusion of these rights in the accession agenda with Romania are significant. Besides the positive internal adjustment of the European Union's bodies and structures, the inclusion of children's rights in the EU membership criteria does undeniably represent a powerful and effective use of the European Union's role in the region for the protection and promotion of the rights of the child.<sup>116</sup> This is moreover translated into a monitoring of children's situations in those countries

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<sup>115</sup> Ingi Iusmen, *Children's Rights, Eastern Enlargement and the EU Human Rights Regime*, Manchester University Press, 2014.

<sup>116</sup> See: [http://ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index\\_en.htm](http://ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index_en.htm)

candidate to accession.

Nevertheless, the monitoring of children's rights in the Eastern enlargement of the EU should be based on standards set in line with the provisions enumerated by the UN Convention on the Rights of the Child. The case of Romania constitutes a glaring example of how the enlargement process can lead to a positive change in the internal structure and expertise of the EU, but these could be initially developed with the ratification of the UNCRC. The clarification of the child rights obligations of the European Union would not only benefit the overall approach of the regional body towards the protection of children's rights, but would also allow the European Union to effectively mainstream across accession standards and criteria the protection and promotion of the best interest of the child.

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## **New Challenges for the European Human Integration in the Context of the Present Financial, Socio-Economic and Political Crisis**

Silvo DEVETAK\*

### **Abstract**

*European integration is an economic, social, political (and sociological) process interwoven with elements, which emanate from the cultural, racial, ethnic, linguistic, religious and regional diversity of Europe. The efficiency of economic and political action, both on the EU and national level, is thus interdependent with the stability of inter-ethnic, inter-racial, inter-religious and centre-region relations within the Community and in each of the member states as well.*

*After noticing the main achievements of the EU after the dissolution of the Cold War in Europe the author came to the conclusion that raising trends of xenophobia, discrimination and violence are present in Europe. He put forward five outstanding social, political and security problems within the EU: 1) uncontrolled Islam phobia, 2) everywhere present Roma-phobia, 3) immigration phobia, 4) »traditional« intolerance toward ethnic and religious minorities, and 5) disguised (because of historical reasons) anti-Semitism.*

*There is an urgent need for re-considering the implementation of the EU basic principle of »unity in diversity«. An inter-related and coordinated program of actions of all pertinent European social and political factors and especially of governments is needed. The EU structure has limited possibilities; the main responsibilities are in the hands of governments. The spreading of negative political environment within the EU countries is not an encouraging factor for the future. The last years were good for racists, populists and right-wing radicals across Europe.*

**Keywords:** European Union, unity in diversity, xenophobia, racism, intolerance, Islam, ethnic minorities, Roma, anti-Judaism, migration.

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## Foreword

Viewed from the political aspect – which is not a subject of this analysis – is the EU a conglomerate of political positions which are firmly anchored in the “national interests” of the states' members and combined into common decisions of EU institutions exclusively in accordance with European contractual law. Cultural, ethnic, linguistic, religious and regional diversity is a strong characteristic defining the demographic composition of about 510 million populations of the 28 state members of the European Union.<sup>117</sup>

A distinctive “geographical diversity” is another phenomenon of Europe. As a result of historical reminiscences, or of political processes of decentralization of the governments, 268 regions exist in the EU. Regional identity is in some of the EU countries the prevailing identity of the population (for instance, Bavaria in Germany, Piedmont and Lombardy in Italy or Carinthia in Austria). It is very strong especially in those regions, which have been established on ethnic basis, like Catalonia, the Basque country and Galicia - Spain; Flanders and Wallonia - Belgium; Scotland and Wales - UK; South Tyrol - Italy; Hargita and Kovasna - Romania. Regionalism represents in the EU a political, economic and sometimes a geopolitical aspect of diversity that must be taken into account when making decisions both at national and EU level. In some cases regional identity is linked with religious affiliation (for instance, Catholicism in Bavaria, or Protestantism in Hargita and Kovasna in Romania).

European integration is hence an economic, social, political (and sociological) process interwoven with elements, which emanate from the cultural, racial, ethnic, linguistic, religious and regional diversity of Europe. The efficiency of economic and

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<sup>117</sup> The population of the Union in 2005 spoke more than 90 languages, 53 of them are „stateless languages”: Frisian, Welsh, Catalan, Sorbian, Roma languages, etc. The most widespread languages were English (spoken by 38% of the EU population), French and German (14% each) and Spanish and Russian (6% each). Some 40 million people living in the union speak a regional or minority language. There are presumably 94 ethnic and national groups who live as minorities in another EU country. 23 national languages are official languages of the EU. But statistical data show that the meagre knowledge of „other languages” represents a divisive factor within the union. In 2005, for instance, the majority population in eight EU states did not speak a foreign language (Ireland 66%, UK 62%, Italy 59%, Portugal 58%, Hungary 58%, Spain 56%, Romania 53%, and Turkey as a candidate state, 67%). Some experts are therefore proposing building up of the system of learning of „other” languages as a tool for promoting the principle of „unity in diversity” that should constitute in practice a binding factor of EU societies.

political action, both on the EU and national level, is thus interdependent with the stability of inter-ethnic, inter-racial, inter-religious and centre-region relations within the Community and in each of the member states as well.

The 'management' of the European Union's racial, ethnic, cultural (and religious) diversity is composed of balanced elements of national and supranational, in many cases linked involvements. They could be defined in the following way:

First, the Union has great competencies in regard to ensuring equality without ethnic, racial or religious discrimination, and in supporting the underdeveloped regions through special funds.

Second, the Union and National states have linked competences in regulating migration and integration issues, and the balanced development of regions in accordance with financial and economic possibilities (and political will of the national elites).

Third, the competencies of member states are unchallenged concerning such matters as the preservation of cultural or ethnic identity, including the rights of national minorities, territorial ethnic and other autonomies, and similar issues.

The current financial and economic crisis has opened a Pandora box, which has put forward serious dilemmas for the present (balanced) division of powers between the Community and Nation states and will push under pressure the functioning of the present pattern of democracy both on EU and national levels. The contemporary realities of deteriorated financial, economic and thus social circumstances represent – in the context of race, ethnic, religious diversities - a serious risk for the political stability and development potential of the EU as a whole and for relevant member states in particular. The animosities produced by different position of political elites of economically advanced regions concerning migrants what is based on their racial, ethnic and religious differences constitute the source of conflict and instability as well.

In the first part of the article we are dealing with achievements that were reached after the end of the cold war, while in the second we are putting forward ardent problems concerning cultural, ethnic and religious divisions and in concluding we are considering what should and could be done for the social and political stability that is a *conditio sine qua non* for the “solution of the crisis” and thus for unhampered development opportunities of the EU and its member states as well.

## **ACHIVEMENTS AFTER THE DISSOLUTION OF THE COLD WAR DIVISION OF EUROPE**

The process of political and economic transition of ex-communist countries and

transformations regarding the new patterns of European West-East relations as well has open an impetus also for the development of democracy and human rights. This evolution was especially focused on 10 countries that have become members of EC in 2004. The Balladur Pact on Stability of 1994, aimed at stimulating these countries for undertaking the necessary reforms (concerning the rights of ethnic minorities in particular) and to settle their bilateral disputes before entering the Community had an important role in designating the obligations of the candidate states formulated by the twelve “old” EC members with Copenhagen criteria's in 1993.

The Pact on stability of 1994 contains “a list” of more than twenty bilateral agreements that were signed stipulating co-operation between neighbours and the rights of minorities – for instance, agreements signed after 1990, such as the German-Polish agreements and the agreements of Hungary with its neighbours.

### **Improvement of the rights of ethnic minorities**

In continuation I will confine myself to the rights of minorities and prohibition of discrimination. Since the dissolution of the cold war division of Europe, there have been significant achievements, especially in Eastern European states (later new members of the EU) concerning the legal regulation of the status and rights of members of national minorities.

The European law on ethnic minorities is composed of norms adopted at national and bilateral levels or within the Council of Europe, while the EU has not (yet) adopted its own legal standards on the status and rights of ethnic minorities.

New constitutional and legal provisions stipulating the status, rights, self-managing organizations and institutions, legal representation and the inclusion of minorities in decision making processes were adopted, for instance, in Hungary, Slovenia and Romania. The result of political movements was the improvement of territorial ethno-political autonomies, for instance, in Spain (Catalonia, Galicia, Basque lands) and United Kingdom (Scotland, Wales), which added a new political value to the traditional European territorial autonomies in South Tyrol/Alto Adige in Italy and the Aaland islands in Finland. More than twenty bilateral agreements were signed stipulating co-operation between neighbours and the rights of minorities – for instance, agreements signed after 1990, such as the German-Polish agreements and the agreements of Hungary with its neighbours.

The main sources of European law on the rights of ethnic minorities are international instruments adopted within the Council of Europe. Some general human rights that have a value also for members of minorities are included in the European

convention on human rights - ECHR (for instance art. 11 of the ECHR, the importance of which for establishing minorities' political organizations was confirmed also by decisions of the ECHR in Strasbourg).<sup>118</sup> Several efforts to adopt an additional protocol to the ECHR, which would have evaluated minority rights as a constituent part of the ECHR failed.

The progress concerning the development of minority law within the Council of Europe was first of all the result of bewilderment among European political elites with the bloody confrontations on the basis of different ethnicity and religions, firstly in the Caucasus area and later in the Balkans.

The Framework convention on the rights of national minorities (1995) is a pragmatic compromise between advanced proposals included in the draft Convention prepared by the Venice "Commission on democracy through law", which is an consultative body with the Council of Europe, and the attitude of non-recognizing the existence of minorities exercised by some European states; in the first rank are France and Greece, but Bulgaria is also among them.<sup>119</sup>

The European Charter for Regional or Minority Languages (1992) is a positive achievement of the Council of Europe, but opened the possibilities that the states "select" the provisions which will be binding, thus creating double standards for the states members of the Charter.<sup>120</sup> Regardless of the shortcomings have members of minorities been in the recent twenty years provided with new mechanisms for

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<sup>118</sup> Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state. <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CM=8&DF=10/5/2008&CL=ENG> (accessed on 3 September 2013).

<sup>119</sup> Still very accurate in this regard is the statement made by the Greek Helsinki Monitor to the UN Working Group on Minorities, 7th session, Geneva, 14-18 May 2001: „Partly or fully unrecognized national minorities” [http://www.greekhelsinki.gr/bhr/english/special\\_issues/CEDIME-unwgm2001.html](http://www.greekhelsinki.gr/bhr/english/special_issues/CEDIME-unwgm2001.html) (see among “statements by NGOs”; accessed on 3 September 2013).

<sup>120</sup> Council of Europe, 1992 (entered into force 1998). European Charter for regional or minority languages (Cets no.: 148) <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=148&CM=7&DF=3/6/2008&CL=ENG> (accessed on 25 February 2011).



protecting their rights, both on international and domestic level.

The new political behaviour of the EU was manifested also through criteria which the EU put forward for the recognition of new states and as conditions for the acceptance of new states in the EU. These criteria were: 1) human rights and minority protection standards as a condition for EU recognition of newly established states,<sup>121</sup> 2) human rights, minority protection and good neighbourhood relations as a part of the so-called Copenhagen criteria for examining the preparedness of states for EU membership,<sup>122</sup> and 3) stimulation and the conclusion of bilateral agreements on neighbourhood cooperation and minorities' protection, which were later included as an integral part in the Balladur pact of 1994<sup>123</sup> that was initiated in order to "prepare" the countries on the list for the EU fifth enlargement that happened in 2004 for the negotiating process. The EU established in that time a "reflection group on long-term implications of EU enlargement", which examined minority rights and EU enlargement.

Nevertheless were the responses of the EU to the needs for international protection of the rights of ethnic and religious minorities not at all adequate. In addition there is a great disparity between the use of minority rights as a tool of EU foreign and enlargement policy and the political willingness of the EU to elaborate its own standards on minority rights. The lack of political willingness to adopt legally binding norms has been shown also in the rejection of modest attempts for the contractual regulation of these issues during negotiations for the European constitution, which was later not accepted because of the negative votes on the referenda on that issue in France and Netherlands. In the new Treaty of Lisbon of 13 December 2007 some progress was achieved. Article 1 (8) of the Treaty of Lisbon provides that article 6 (1) of the Treaty on European union is to be replaced by the following: "the Union recognizes the rights, freedoms and principles set out in the Charter of Fundamental rights of the European union of 7 December 2000, as adapted in Strasbourg, on 12 December 2007, which

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<sup>121</sup> See the EC declaration on „The Guidelines on the recognition of the new states in Eastern Europe and former Soviet union and Yugoslavia”, adopted on 16 December 1991. <http://207.57.19.226/journal/Vol4/No1/art6.html> (accessed on 3 September 2013)

<sup>122</sup> More on the conditionality for the EU membership can be consulted on: <http://ec.europa.eu/enlargement/policy/conditions-membership/> (accessed on 3 September 2013). The Minority protection as EU accession criterion was monitored and elaborated by several experts (EU Map 2001 and 2002).

<sup>123</sup> The French proposal, prepared under the premier Eduard Balladur, was first discussed at the European Council meeting in Copenhagen, June 21-22. The inaugural conference of the Stability pact was held in Paris on May 26-27 1994.

shall have the same legal value as the treaties.”<sup>124</sup> The Charter does not include an obligation of EU member states to ensure the rights of minorities. It only stipulates that “the Union shall respect cultural, religious and linguistic diversity” (art. 22) and that “any discrimination based on any ground such as . . . ethnic or social origin . . . language . . . membership of a national minority . . . shall be prohibited” (art. 21).<sup>125</sup> In addition the new treaty stipulates the 'collective membership' of the EU in the ECHR. The provisions of the Charter do not extend in any way the competences of the Union as defined in the treaties. The obligations of members will be confined to the promulgation of EU law and standards. In the case of minority rights, these are articles 21 and 22 of the Charter.

Progress has been shadowed by the requests of Poland, UK, Czech Republic and Ireland not to be bound by the Charter on basic rights. These requests have introduced new divisions in the pattern of European identity. Nonetheless, it is the first time in EU history that the prohibition of discrimination because of a “membership in a national minority” and respect of cultural and linguistic diversity are the legally binding obligations of the EU and of its member states respectively.

With the transformation of the European centre on racism and xenophobia into the EU agency for fundamental rights (FRA), on 1 March 2007, the EU established a watchdog for human rights and freedoms, which is otherwise a consultative body with no decision making competencies.<sup>126</sup>

### **The European law on elimination of discrimination on the basis of race or ethnicity**

An important step forward toward the equal status of the inhabitants of the EU regardless of their ethnic and racial origin has been the acceptance (on the basis of art. 13 of the EU treaty)<sup>127</sup> of Council directive 2000/43/EC of 29 June 2000 ensuring the

<sup>124</sup> Official Journal of the European Union, 17 December 2007. Treaty of Lisbon amending the treaty on European union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007. [http://europa.eu/lisbon\\_treaty/full\\_text/index\\_en.htm](http://europa.eu/lisbon_treaty/full_text/index_en.htm) (accessed on 25 February 2008).

<sup>125</sup> European parliament, Council, Commission, 14 December 2007. Charter of Fundamental rights of the European Union (2007/C 303/01). <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0001:0016:en:PDF> (retrieved on 3 September 2013).

<sup>126</sup> The European Monitoring Centre on racism and Xenophobia became the European Union Agency for Fundamental rights (FRA) on 1 March 2007 based on the Council regulation (EC) no 168/2007 of 15 February 2007. <http://fra.europa.eu/en> (accessed on 3 September 2013).

<sup>127</sup> See Treaty of Amsterdam amending the Treaty on European Union, the treaties establishing the European communities and related acts, Official journal c 340, 10 November 1997.

principle of equal treatment of persons irrespective of racial or ethnic origin<sup>128</sup> and Directive 2000/78/EC of 27 November 2000 on the elimination of discrimination in employment.<sup>129</sup> The racial equality directive prohibited discrimination on grounds of racial or ethnic origin in a wide range of areas including employment, vocational training, education, social protection, housing and the provision of goods and services. The employment equality directive prohibited discrimination on a longer list of grounds (religion or belief, disability, age and sexual orientation), but across a more limited material scope (employment and vocational training). We will present only the contents of these directives, which is relevant for this article with emphasis on the directive on equal treatment of people irrespective of their racial or ethnic origin.

Directives have established a large concept of discrimination. They include the “direct” and “indirect” discrimination, harassment and instruction to discriminate. The genuine novelty in the definition of discrimination in the Directive under consideration is the proposal to create a fifth limb to the concept of discrimination which would be “denial of reasonable accommodation” (article 2/2). Directive on racial and ethnic equality protects “all persons” as regards both the public and private sectors, including public bodies (art. 3). Protection against discrimination “covers”:

§conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;

- access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
- employment and working conditions, including dismissals and pay;
- membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;
- social protection, including social security and healthcare;

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<sup>128</sup> Official journal of the European Communities, 19.7. 2000. Council directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:180:0022:0026:en:PDF> (accessed on 3 September 2013).

<sup>129</sup> Council directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML> (accessed on 3 September 2013).

- social advantages;
- education;
- access to and supply of goods and services which are available to the public, including housing (art. 3/1).

But the Directive does not cover the difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of the third country nationals and stateless persons on the territory of Member states, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned (art. 3/2).

Member states shall take the necessary measures to ensure that:

- any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- any provisions contrary to the principle of equal treatment which are included in individual or collective contracts or agreements, internal rules of undertakings, rules governing profit-making or non-profit-making associations, and rules governing the independent professions and workers' and employers' organisations, are or may be declared, null and void or are amended (art. 14).

Member states shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended (art. 7/1).

Member states shall designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights (art. 13/1).

An important tool for combating discrimination is Protocol no.12 to the ECHR of the Council of Europe, which was adopted in 2000. It stipulates for members of minorities living in countries that will ratify it, among other, the possibility of “suing” at the European Court of Human Rights a country which commits a discriminatory act towards them on ethnic and racial grounds concerning all norms of the ECHR.<sup>130</sup> This is perhaps a reason why the members of the EU didn't show great eagerness to join this

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<sup>130</sup> Council of Europe, 2000 (entry into force 2005). Protocol no. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (Cets no.: 177). <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=177&CM=7&DF=3/6/2008&CL=ENG> (accessed on 13 August 2011).

instrument. Until 15 January 2015 only 8 out of 28 EU members ratified and thus assumed obligations under this Protocol (Croatia, Cyprus, Finland, Luxembourg, Netherlands, Romania, Slovenia and Spain), 12 countries signed but not (yet) ratified it, while Bulgaria, Denmark, France, Lithuania, Malta, Poland, Sweden and UK didn't even sign this important legal tool for combating discrimination concerning all rights enshrined in the ECHR.

### **Prohibition of discrimination on the basis of religion or belief**

The religious composition of the European population is also a rainbow of varieties. Christianity is roughly comprised of Roman Catholicism, Orthodox Christianity<sup>131</sup> and Protestantism. Of about 750 million Europeans (living on the continent) 269 million are Catholics, 171 million Orthodox, 79 million Protestants, and 28 million Anglicans. Active participation in faith-based organizations in the EU is not largely a function of a society's level of trust in them; there is also a great disparity between belief and weekly attendance at religious services.<sup>132</sup> In 2002 the EU had roughly over a million Jews. It was estimated that 16 million Muslims live in 2006 in the

<sup>131</sup> Orthodoxy is the largest single religious faith in Belarus (88%), Bulgaria (83%), Republic of Macedonia (80%), Republic of Cyprus (80%), Georgia (89%), Greece (98%), Moldova (98%), Montenegro (84%), Romania (87%), Serbia (84%), Russia (80%), and Ukraine (80%). The number of eastern Orthodox adherents represents about 31% of the population in Bosnia and Herzegovina. As the dominant religion in northern Kazakhstan, it represents 40% of the Kazakhstan, and 4% of Lithuania, 9% of Latvia, and 13% of the Estonian population.

<sup>132</sup> According to the spring 2004 Eurobarometer survey Denmark has the highest level of confidence in religious institutions at 74%, yet a meagre 3% of Danes attend church at least once a week (5% of Swedes and 5% of Finns). Swedish citizens express the lowest level of trust in religious institutions at 21%, while Finland's population, like Denmark's, expresses one of the highest levels of trust at 71%. Among the other old EU countries, weekly attendance at religious services is below 10% in France and Germany, while in Belgium, the Netherlands, Luxembourg, and the United Kingdom between 10% and 15% of citizens are regular churchgoers. Among the Catholic old member countries, Austria is closest to the more secularized protestant countries in weekly church attendance, with 18% attending at least weekly twenty-one percent of Spaniards attend at least weekly, and just under a third of Portuguese (29%) and Italians (31%) do so. Only in Roman Catholic Ireland do a majority of residents (54%) still go to church weekly the only orthodox country among the old members – Greece - has a weekly church participation rate of 27%. according to the spring 2004 Eurobarometer survey, Malta and Poland have the highest percentages of weekly churchgoers in Europe with 75% and 63%, respectively. Estonia and Latvia, the two Baltic countries with protestant traditions, are among the most secularized in Europe with only 4% and 7% of residents attending services once a week. The Czechs (11%), Hungarians (12%), and Lithuanians (14%) are also in the more secular camp. 18 % of people in Catholic Slovenia attend church weekly, while orthodox Cyprus (25%) and the dominantly Catholic Slovakia (33%).

EU (3.2% of the total population) and in particular countries the percentage was much higher (in France, for instance, 8-9%).<sup>133</sup> Tens of other minor religious groups were established and “registered” in accordance with the norms on the freedom of religion enshrined in the Universal declaration on Human rights (art. 18).

Belief is nowadays developing in Europe essentially through individualized and deregulated forms which are no longer under the control and mediation of organized political and spiritual institutions. The EU is a secular body, with no formal connections to any religion and no mention of religion in any current treaty. Discussions of the draft texts of the European Constitution and later the Treaty of Lisbon have included proposals to mention Christianity and / or God in the preamble of the text. However, this idea faced opposition and was dropped.

The EU in its Declaration No. 11 on the status of Churches and non-confessional organisations, annexed to the Final act of the Amsterdam treaty of 3 October 1997, has explicitly recognised that it respects and does not prejudice the status of Churches and religious associations or communities under national law in the Member states and that it equally respects the status of philosophical and non-confessional organisations.<sup>134</sup>

The 2000 Directives on racial and ethnic discrimination and on the discrimination in employment have always carried an aura of unfinished business. No coherent argument of principle was advanced as to why the prohibition of racial discrimination was much more extensive in its application than that which applies to the other grounds. As to discrimination on the ground of religion or belief, for instance, only the directive on equality in employment declares as its purpose to “lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member states the principle of equal treatment”.<sup>135</sup>

This is a reason for the preparation of new Directive on elimination of discrimination on the ground of religion or belief, disability, age or sexual orientation.

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<sup>133</sup> Russia, including Siberia and Chechnya, has 25 million Muslims, more than any other European country. She is followed by France (5 million), and Germany (3.5 million). Muslims hold the majority in Turkey, Albania and Bosnia. In some countries, they have overtaken Protestantism as the second largest religious constituency behind Catholicism. This is the case in Belgium, France, Italy and Spain. In Austria, the number of Protestants and Muslims are roughly the same. Muslims come second to the Orthodox Church in Bulgaria, Greece, Macedonia, Russia and Serbia. <http://www.stanet.ch/APD> (accessed on 3 Oct. 2008).

<sup>134</sup> See Treaty of Amsterdam amending the Treaty on European Union, the treaties establishing the European communities and related acts, Official journal EC 340, 10 November 1997, Declaration no.11.

<sup>135</sup> Ibidem.

The draft of Directive was presented on 2 July 2008.<sup>136</sup> Since then a large discussion has been developed on this item, including the consideration in the European parliament. Nonetheless this Directive is not yet adopted.

The UN GA Declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief (1981)<sup>137</sup> declares that everyone has “the right to freedom of thought, conscience and religion”. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practices and teaching art. 1), the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- to worship or assemble in connexion with a religion or belief, and to establish and maintain places for these purposes;
- to establish and maintain appropriate charitable or humanitarian institutions;
- to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- to write, issue and disseminate relevant publications in these areas;
- to teach a religion or belief in places suitable for these purposes;
- to solicit and receive voluntary financial and other contributions from individuals and institutions;
- to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels. (art. 6).

For the stand of the members of the EU concerning religious freedoms and rights represent moral and political standards the principles, which were adopted at the Vienna meeting of CSCE in 1989. The participating states had confirmed their obligations, which emanate from the UN Declaration elaborated above, and has expressed in addition their determination to inter alia:<sup>138</sup>

<sup>136</sup> European Commission: “Proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation”, CoM(2008)426.

<sup>137</sup> Declaration on the elimination of all forms of intolerance and discrimination based on religion or belief adopted by the UN GA at the 73rd plenary meeting, 25 November 1981.

<sup>138</sup> Concluding document of the Vienna Meeting 1986 of representatives of the participating



- take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition and to ensure the effective equality between believers and non-believers (16.1);
- foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers (16.2);
- respect the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others (16.6);
- in this context respect, inter alia, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions (16.7).

The European convention on basic freedoms and human rights (1950) confirms the religious freedoms and rights enshrined in the UN Declaration on human rights (1948) and stipulates that “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance (art. 9/1). The enjoyment of freedoms and rights from the Convention should be ensured to everyone without discrimination, including discrimination on the ground of religion or belief (art. 14). These two articles have been in combination with others a legal basis for a great number of cases at the (old) European Court of Human rights.<sup>139</sup>

### **UNDER THE SURFACE OF EUROPEAN HARMONY EXIST DANGEROUS REEFS**

Political rhetoric on human rights in Europe is different from daily reality. Almost every politician is on record as favouring the protection of freedom and justice. “Standards on human rights have been agreed at European and international level; many have been integrated into national law; but they are not consistently enforced. There is an implementation gap” says Thomas Hammarberg, the former Council of Europe Commissioner for human rights. Many problems also regarding inter-ethnic and inter-religious relations exist within the EU and its neighbourhood; some of them constitute a source of possible conflict. On the all-European level, many ethno / race /

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states of the Conference on security and co-operation in Europe held on the basis of the provisions of the Final act relating to the Follow-up to the Conference (Vienna 1989).

<sup>139</sup> See among other: Sara Vann, European court final judgments on religious freedom issues 1964-2001, Human rights without frontiers.



religion based negative activities have been noted that could be transformed into sources of political instability and social insecurity (for instance, racism, xenophobia, racist motivated crime, neo-Nazi ideologies and the similar).<sup>140</sup> These trends could be accelerated beyond the authorities' control in the circumstances of economic and social disorder in which is the main victim the poor and especially the young population who has not realistic prospects for their successful and profitable life. The political elites - and the financial power holders realising their interests directly or through influencing / controlling the democratically elected political structures - are obsessed with "searching solutions" for the sources and consequences of the present financial, economic and political crisis.

They are not aware at all (or are not willing to admit) that if the inter-racial, inter-ethnic and inter-religious conflict situations that are present in the today European social fibres could over-night develop in uncontrollable social disorder especially in the cases when the victims of social injustice could be identify with particular race, ethnicity or religion. Or, on the other side, when the leading strata of population creates a stereotype that particular race, ethnic or religious groups (including migrant population) is a "cause" of social and economic grievances with which they are confronted.<sup>141</sup> The situation is even more disastrous where the (corrupted) political and financial / economic elites use these stereotypes as a way for diverting from them the responsibility for pushing the population to backward social circumstances and in many cases poverty, what represents an unacceptable contrast with the accumulated wealth of tiny strata of population. The abyss between "have" and "have not's" is becoming greater and greater and transforming the European societies in the pressure cooker without the necessary "valves", which could avoid its chaotic explosion.

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<sup>140</sup> The FRA published in August 2007 the „Report on racism and Xenophobia in the Members states of the EU”, in which it is stated that, in spite of the EU's anti-discrimination legislation, ethnic discrimination and inequalities in employment, education and housing still continues. Significant intolerance towards Roma population is present and an increase is recorded in racist crimes. [http://fra.europa.eu/sites/default/files/fra\\_uploads/11-ar07p2\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/11-ar07p2_en.pdf) (accessed on 3 September 2013).

<sup>141</sup> Brutal attacks and hate crimes, which are racially motivated, against migrants and refugees on the basis of the colour of their skin, their religion or their country of origin have increased dramatically and have become an almost daily phenomenon in Greece is said in the statement of the United Nations High Commissioner for Refugees (UNHCR), the National Commission for Human Rights (NCHR) along with the 19 NGOs and other bodies that constitute the Racist Violence Recording Network. It was prompted by the fatal attack on a young Iraqi, on Sunday 12 August 2012, in the centre of Athens.

### **Raising trends of xenophobia, discrimination and violence in Europe**

Appalling revelations in this regards contains the May 2011 Council of Europe report on the challenges arising from the resurgence of intolerance and discrimination in Europe, under the title “Living together- Combining diversity and freedom in 21st century Europe”. It was prepared by an independent “Group of Eminent Persons” of the Council of Europe, chaired by Joschka Fischer. It finds that discrimination and intolerance are widespread in Europe. The Group identifies eight specific risks to the Council of Europe values: 1) rising intolerance, 2) rising support for xenophobic and populist parties, 3) discrimination, 4) the presence of a population virtually without rights; parallel societies, 5) Islamic extremism, 6) loss of democratic freedoms, and 7) a possible clash between “religious freedom” and freedom of expression.<sup>142</sup>

The spreading of xenophobia, discrimination and violence is closely interconnected with the deterioration of the living standard of people as a consequence of the »anti-crisis« policies and regulations of the European governments. On one side are the majority of people to whom the governments are reducing the social rights while on the other side the economic, financial (and political) elites exist who are not willing to renounce their privileges in spite of the world crisis.

The financial reforms and the adaptation of public spending to the real capabilities of countries should not be realised in the way, which is producing more and more poverty among »have not's« - people living on the social margins while the privileged strata of population – the »haves« - lives more or less »intact«. This could be the nucleus of a new class stratification of the European societies, which could be developed as a political movement if there will be people who will be able to create a political concept for it.

As has been shown in the social unrests in 2005 in France and in 2011 in the United Kingdom are in the front-line of the street riots the young population in general and that belonging to racial and religious minorities in particular. They are prepared to use violent actions, including destroying the property and committing robbery as a mode of protest against the society in which they could not see any optimistic prospects for their lives.

The European governments either don't have a political will or are not able to create new opportunities for the population. Unfortunately there neither a political consensus exists on the common EU measures, which are necessary for the beginning

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<sup>142</sup> Living together. Combining diversity and freedom in 21st century Europe. Report of a group of eminent persons of the Council of Europe. Strasbourg, May 2011.

of the process of financial and economic recovery in Europe in the benefit of all population.<sup>143</sup> Long-term results cannot be achieved, of course, without basic changing of the contemporary capitalistic patterns of economic and social organization. Nevertheless this issue is not at all on the agenda of the European ruling class activities.<sup>144</sup>

### **Five outstanding social problems within the EU**

I would like to confine myself to put forward as illustration five negative phenomena which represent a serious challenge for the political stability, security and development prospects for the EU. All of them are to my mind the visible expression of the failure of the human dimension of the so far European integration.

Firstly, uncontrolled Islam phobia: Thomas Hammarberg, the former Council of Europe Commissioner for Human rights says that Islam phobia and anti-Muslim prejudices continue to undermine tolerance in Europe. There is a widespread myth in Europe that because of the great birth-rate of the Islamic population it is becoming a “Muslim continent”. This phobia was also the “ideological background” for the mass killer in Oslo. Some sociological research is taking ground to this obsession. At last count, for instance, Algerian women living in France averaged an estimated 2, 57 children, or only slightly above the French rate. Moreover, the fertility rate of North African women in France has been falling since 1981.<sup>145</sup> Furthermore, also the myth of widespread “Islamic fanaticism” does not have a realistic ground. It is estimated that 15 to 20 per cents of French Muslims do not practise Islam at all... Only about 70 per cents

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<sup>143</sup> For instance, since the outbreak of the financial crisis the European Union (EU) has been engaged in an ambitious wide-ranging legislative programme intended to reform European financial regulation. Financial industry pressure, international competition considerations, and the ambivalent attitude of European governments towards the transfer of regulatory and supervisory authority to the European level, have slowed down progress and undermined the effectiveness of the agreed reforms. This is worrisome because the stability of an increasingly integrating European financial marketplace requires the establishment of an integrated European regulatory and supervisory framework.

<sup>144</sup> For instance, Europe will have to establish such an agency as is the International monetary fund. Europe has to achieve a fiscal integration, issue its own bonds, etc. But the main obstacle is that it is necessary to obtain to consensus of member states for any intervention within the EU, and the consensus of all member of the Euro club when Euro is at stake. This could not be compared at all when the decision making in the EU world competitors – USA, China or Russia.

<sup>145</sup> The EU demographic report for 2010 shows how Europe's population growth is still fuelled mainly by immigration. Non-EU citizens have been joining EU countries at a rate of 1 to 2 million per year and intra-EU mobility has also increased. By 2060 the proportion of migrants and their descendants will double. Although net immigration to the EU halved following the crisis the total number of non-EU nationals within EU borders still continued to rise.

claim to fast during Ramadan.

It is questionable if the recent challenges to the Islamic cultural identity have contributed to the “security” and human rights of Islamic women. One symptom is the debate about banning the burqa and niqab in public places. The reasons given for prohibition vary. Legal bans on face-covering clothing are often justified on security grounds, as an anti-terrorism measure. In the context of European toughening on the approach to integrating Muslim immigrant communities, the French lawmakers - on the eve of Bastille Day, 13 July 2010, when France celebrates the birth of what was to become a staunchly secular republic - voted overwhelmingly (335 votes to one) to ban the wearing of face-covering veils in public spaces. The French Interior Ministry has estimated the number of French women who wear burkas at precisely 367 (!).

This motion has been followed by Belgium, Italy and Switzerland. The lower chamber of the Swiss Parliament has in 2011 adopted a law proposed by the deputy Oskar Freysinger of the extreme right wing Peoples party (SVP) that requested by "everyone who will have contacts with federal, provincial or communal authorities to present itself with the uncovered face". Burqa will be forbidden also in public transport; the representatives of authorities "will have the authority, on the ground of security, to forbid or restrict the access to public buildings of persons with covered faces". The Spanish Congress has in 2011 rejected the relevant law but some cities adopted, within their competences, the prohibition to wear burqa and niqab in their premises. Loud voices in countries such as Austria, Denmark and Netherlands are demanding similar methods. In northern Italy an old anti-terrorist (sic!) law against concealing the face for security reasons, has been used by some local authorities to punish women with full-cover veils. Penalizing women who wear the burqa for sure does not liberate them!

The Muslim architecture is also a nuisance in some of the European countries. In a referendum in November 2009, Swiss voters imposed a constitutional ban on the construction of minarets, the prayer towers of mosques. Switzerland has only four minarets and Muslims make up roughly 5% of the population yet referendum sponsors warned that the interests of Swiss residents "who are disturbed by specific kinds of religious land uses" had not been "taken seriously".

Perhaps it is necessary to see these phenomena in the context that radicalized individuals, born and bred in the West who were involved in major terrorist attacks carried out in Europe since 9/11, such as the Madrid train bombings of March 2004, the London bombings of July 2005, as well as the 30 major failed plots discovered in the continent in the five years following 9/11. This phenomenon has been the reason for spreading of the European “nightmare” of the home-made “Islamic” terrorism.

The data on the participation of people from Europe (and USA) in the cruel war waged by ISIS for the establishment of Muslim caliphate (and transforming the present Arab regimes) in the Middle East is obsessing the European government. The nightmares produce especially the possibilities that these people could be the nucleus of further Islamic extremism within Europe.

To disclose the radices and social circumstances that breeds the creation of groups who are prepared to sacrifice also their life for “fighting” the “enemy” and “changing” the existent societies is a complex task for the ruling political and social elites of the European countries. The “anti-terroristic” policies and the increasing of actions of law enforcing agencies of the states should be in this process only the short-term actions that could not achieve the longstanding goals without identifying and step by step eliminating the political, social and similar circumstances that represent the “social fabric” for developing of terrorism.

Secondly, everywhere present Roma-phobia: The situation of members of the biggest European national minority, Roma and Sinti (11 to 12 million people) is the most outstanding case of discrimination in Europe. This was confirmed at the first EU Roma summit held on 16th of September 2008 in Brussels under the joint patronage of the EU Commission president Barroso and the French presidency of the European Council. According to the OSCE report, the Roma and Sinti populations continue to face discrimination and remain divided from mainstream society across Europe. Significant gaps exist in areas such as education, housing, employment and access to social services and justice.<sup>146</sup> The expulsion of Roma population from France, Italy and some other countries in recent years put under question, among other, the EU principle of freedom of movement and settlement within the Union.

The Roma settlements in many countries are from time to time the object of racist attacks of organized rightest groups. In illustration we barely mention the “state of emergency” in Cegled (Hungary) on 19 August 2012 after the right-wing extremists stated that the Hungarian Guard and the police were attacked by the Roma. The Pest County Police refuted that any disorderly conduct or assaults occurred, but the rumour was enough to mobilize a nationwide call of neo-fascists to continue terrorizing the Roma through internet web-sites. Hundreds of people flooded into Cegled. Many of the Roma families fled in fear, many to their relatives. “The government should act against the continual physical threats against Gypsies. It is intolerable that the right-wing forces

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<sup>146</sup> 2008 status report on fulfilling the commitments made in the action plan published on 2 October 2008 by the OSCE office for democratic institutions and Human rights. <http://www.osce.org/odihr/33500> (accessed on 3 September 2013).

besiege and blockade Hungarian citizens and families in their homes”, was said in the statement issued by Roma organizations in Hungary.<sup>147</sup>

Thirdly, the immigration phobia: Europe now matches North America in its significance as a region of immigration. Net immigration in Europe in 2001 stood at 3.0 per 1,000 inhabitants, compared to 3.1 in the United States (OECD 2004). The region now hosts a population of about 56.1 million migrants, compared to 40.8 million in North America (IOM 2003). There is every indication that Europe's importance as a region of destination will increase, as European countries recruit migrants to fill the labour and skills shortages that are predicted to rise in the coming decades.

The imminent result of the deepening of the social and political crisis is the fast growing negative attitude of the population towards migrants, which are taken as an escape-goat for the unemployment, increasing criminality and other grievances of a great number of populations of the countries, which have been affected by the crisis. The hostile campaign against migrants has always a racist connotation as migrants are people of different race, ethnic and religious origin. In crisis circumstances are people an easy prey for extreme rightist political groups, which pretend to “defend their interests” as are Jean-Marie Le Pen's National Front in France, Geert Wilders Freedom party in the Netherlands, “Rights Finns” in Finland, Northern League in Italy, Jobbik in Hungary or Chrysi Avgi (Golden dawn) in Greece. The alarming fact for the EU security and stability is the rise of violence against migrants, which in many cases is not met with adequate legal actions of the authorities concerned.

With an estimated eight million illegal migrants within the EU in 2011 (many of them are asylum seekers),<sup>148</sup> stemming the flow has become a priority for many member states. But the problem in front of the EU is that the population of Europe is projected to slide over coming decades, and in some countries the decline will be dramatic.<sup>149</sup> In addition are Europe's workers are rapidly ageing. EU is pushing forward policies aimed at keeping people in the workplace for longer. Getting Europe's workforce to work longer will nevertheless in isolation not be enough to solve Europe's manpower problem.

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<sup>147</sup> [http://groups.google.com/group/romano\\_liloro?hl=en](http://groups.google.com/group/romano_liloro?hl=en). The right wing groups web-sites: barikad.hu, kuruc.info, and szentkoronaradio.com (accessed on 22 August 2012).

<sup>148</sup> In general, the scale of asylum seeking across western Europe is now down to a level last seen in the mid- to late 1980s. The continuing drop in numbers in recent years has been due to a combination of factors: a stricter asylum policy in the receiving countries and greater political stability in some of the major source regions, including Afghanistan, Iraq and the Balkans.

<sup>149</sup> Germany, currently the largest country in the 27-member European Union, with over 80 million inhabitants, could find itself with just 25 million people at the end of the century, some estimates suggest.

According to Nicholas Eberstadt, a demographer at the American Enterprise Institute, only allowing a greater inflow of immigrants would keep the population growing. If allowed to fester, it will put a strain on Europe's tax-financed pension and health care systems and risk undermining the Continent's competitiveness against other major economies, like that of the United States, whose population is still growing at a healthy clip. More broadly, it could also diminish Europe's weight on the international stage at a time when booming populations have bolstered the political confidence of countries like China and India.

Nevertheless the European voters are reluctant to embrace either of the two options that could bolster their economic might and help preserve their critical mass on the world stage: Turkey's membership in the EU, and more liberal immigration rules. Kenneth Rogoff, a professor at Harvard and former chief economist of the International Monetary Fund said that the problem is that "Europe has an immediate demographic problem and is very hostile to immigration." While the advance of the market economy has led to a gradual liberalization of goods and capital, the movement of labour has been restricted.

Fourthly, "traditional" intolerance toward ethnic and religious minorities: The ethnic factor as a source of misunderstanding could be discerned in bi-lateral relations between some of EU countries, for instance, sensitive Hungarian-Slovak and Hungarian-Romanian relations concerning the huge size of the Hungarian minority in both countries, and German-Polish relations concerning property, and citizenship issues concerning Germans who were resettled from former German territories in Poland.

"Domestic" political notions developed on ethnic bases represent a serious challenge for the countries concerned (for instance, the Basque movement in Spain, the Catholic-Irish and Protestant-British divisive political patterns in Northern Ireland, the Turkish secession in Cyprus, the Corsica autonomy demands in France).<sup>150</sup> The

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<sup>150</sup> In 2002 the Committee of Ministers of the Council of Europe adopted a reply to CLRAE recommendation 43 (1998) on territorial autonomy and national minorities: <https://wcd.coe.int/ViewDoc.jsp?id=853855&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75> (accessed on 15 January 2008). The Committee of Ministers stated in the point 6 of the reply that „While it is clear that under certain circumstances and through democratic decisions taken within its constitutional framework a state might also deem appropriate to address the question of the protection of national minorities through territorial subdivision, one needs to bear in mind the need to preserve the social cohesion of the population of the country as a whole and to respect the corresponding general integration policy pursued to that end, as well as to respect the territorial integrity and national sovereignty of states.”



unresolved issues concerning the status and rights of ethnic minorities could be a “domestic source” of turmoil and instability of an EU country, for instance, the rights of Russian minorities in Estonia, Lithuania and Latvia, where they are in the latter a significant part of the population.<sup>151</sup>

Similar phenomena could be found in inter-religious relations in Europe, both on pan-European and bilateral and domestic levels (for instance, suspicious relations with the Islamic communities, ambiguous relations between Catholic and Orthodox Churches, attitude towards Judaism). This state of affairs could have a negative consequence for the rights of members of particular religions.<sup>152</sup> The recent experiences in the Balkans and elsewhere in similar circumstances have shown that the religious factor per se has not such an explosive strength as the ethno-political one, but the “spiritual strength” could be a factor that fuels negative; mostly nationalistic extremist and exclusive political behaviour.<sup>153</sup> The most controversial development has been the rise of religion-based political movements.<sup>154</sup>

Situations concerning inter-ethnic and inter-religious relations, including the status and rights of minorities, that could produce political frictions and even conflicts exist also in the relations of the EU's member states with states “on the other side” of the present and future EU external borders. For instance: concerning relations between Greece and Macedonia, Bulgaria and Macedonia, Hungary and Serbia or the Russian federation and the Baltic states. The negative political impact have also inter-religious relations in that part of Europe as for instance relations between the Russian Orthodox Church and national Orthodox Churches in the Baltic states, relations of the Romanian Orthodox Church with the Moldovan and Serbian Orthodox Churches, relations of the Greek and Bulgarian Orthodox Churches with the Macedonian Orthodox Church.<sup>155</sup>

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<sup>151</sup> For statistical data on the population structure, see the Eurostat: [www.ec.europa.eu/eurostat](http://www.ec.europa.eu/eurostat)

<sup>152</sup> See, for instance, Lucy Vikers, 2007. European network of legal experts in the non-discrimination field. Religion and belief discrimination in the enlarged EU. Brussels: European Community, directorate-General for employment, social and equal opportunities, unit G-2.

<sup>153</sup> The role of the three principal organised religions in the Balkan (the Croatian Catholic Church, the Serbian Orthodox Church, and the Islamic community) in providing a religious base for nationalist thought and movements in the recent history of the Balkan is further elaborated also in the book by Vjekoslav Perica. Perica, V., 2004. *Balkan idols: religion and nationalism in Yugoslav states*. Oxford university press, USA.

<sup>154</sup> See also “The rise of religion-based political movements”. Darwis Khudori (ed.), 2009. *Selected papers*. SIRD, Malaysia,

<sup>155</sup> Devetak, S., 2007. *Religious Freedoms in South Eastern European Countries in the Context of The Process of European Integration*, in: Polzer M., Devetak S., Toplak L., Unger F., Eder M. (eds.) : *Religion and European Integration - Religion as a Factor of Stability and Development in South Eastern Europe*. Edition Weimar, European Academy of Sciences and Arts, pp. 123-151.



Fifthly, disguised (because of historical reasons) anti-Semitism: In 2002 the EU had 1,034,400 Jews. Moshe Kantor, the European Jewish Congress President stated on June 2010 in Brussels that the European Jewry is in its most precarious position since World War II. He said that the "Jews are afraid to walk the streets in Europe with Jewish signs. Synagogues, Jewish schools and kindergartens require barbed-wire fences and security and Jewish men, women and children are beaten up in broad daylight". The Anti-Defamation League, a Jewish-American organization between December 1, 2008 and January 13, 2009 polled 3,500 adults - 500 each in Austria, France, Hungary, Poland, Germany, Spain and the United Kingdom. The survey found that anti-Semitic attitudes in these European countries have worsened due to the global financial crisis and Israel's military actions against the Palestinians, especially the last military intervention in Gaza in which nearly 3000 Palestinians, mostly civilians (among them nearly 500 children) were killed.

#### **THERE IS AN URGENT NEED FOR RE-CONSIDERING THE IMPLEMENTATION OF THE EU BASIC PRINCIPLE OF »UNITY IN DIVERSITY«**

All these deviances in the "human dimension integration" of the EU represent a permanent destructive factor for the stability and security of the Union, diminish its potentials for solving the present financial and socio-economic crisis and hence undercut its development capabilities. The uncontrollable "explosion" of these problems would push in disarray the functionality of the EU system as a whole. For the time they are these, at least on the surface, "under control".

Unfortunately the deficiencies of the EU human integration are only partially on the agenda of governments and the EU structure as well. Under the pressure of the world financial and economic crisis are the political elites investing energy first of all into the pragmatic actions, aimed at keeping the sinking economies, public finances, and a leading financial elite afloat while neglecting issues that are ruining the pillars of human dimensions of the European integration.

#### **The EU structure has limited possibilities**

According to the EU Agency for Fundamental Freedoms (FRA) the situation concerning racism, xenophobia, anti-Semitism, Islam phobia, anti-gypsyism and related intolerances remains also in 2013 a concern across the European Union, as evidenced by the Agency's annual and thematic reports. In parallel, there has been little progress regarding the collection of official data by Member States in this regard.<sup>156</sup>

<sup>156</sup> FRA's Annual Work Programme 2013 published on 20/06/2012.

What, how and by whom should be done? The policies aimed at improving the human aspects of the European integration and at 'managing' the implementation of the EU's "unity in diversity" principle is composed of balanced elements of national and supranational, in many cases linked involvements.

They could be defined in the following way:

- The Union has great competencies in regard to ensuring equality without ethnic, racial or religious discrimination,
- The Union and Nation states have linked competences in regulating migration and integration issues, and
- The competencies of member states are unchallenged concerning such matters as the preservation of cultural or ethnic identity, including the rights of national minorities, ethnic territorial autonomies, and similar issues.

The European Commission has on its disposal few instruments and policies, i.e.:

- The legislation (non-discrimination Directive 2000/43/EC, freedom of movement Directive 2004/38/EC, Framework Decision on combating racism and xenophobia 2008/913/JHA),
- The possibility to coordinate national policies, e.g. in education, employment, and social inclusion,
- The funding – namely the European Social Fund (ESF), European Regional Development Fund (ERDF) and European Agricultural Fund for Rural Development (EAFRD) – to support the implementation of national policies in these fields.

For illustration some positive actions undertaken by the EU: The Charter of Fundamental rights of the European union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, became an integral part of the Lisbon Treaty and thus a mandatory legal obligation within the EU.<sup>157</sup> On 5 April 2011 was adopted the EU Framework for National Roma Integration Strategies.<sup>158</sup> The Commission requests all Member States to develop and implement dedicated long-term strategies to promote Roma integration in four key areas - access to education, healthcare, employment and housing and essential services - and to allocate sufficient targeted resources to achieve progress. The Commission also helps exchange experience and knowledge, such as in the framework of the European Platform for Roma Inclusion, which meets twice a year.

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<sup>157</sup> Poland, UK, Czech Republic and Ireland are on their request not bound by the Charter.

<sup>158</sup> See: [http://ec.europa.eu/justice/policies/discrimination/docs/com\\_2011\\_173\\_en.pdf](http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf) (accessed on 2 August 2012).

On 24 June 2011 the European leaders endorsed the Commission's plan.<sup>159</sup>

The 10 Common Basic Principles on Roma Inclusion elaborated by the European Commission are a good basis for actions, aimed at eliminating discrimination and integrating on equal basis the European Roma population. This document is a tool for both policy-makers and practitioners managing programmes and projects. Distilled from the experience of successful policies, they provide a framework for the successful design and implementation of actions to support Roma inclusion.

This vademecum provides a practical check-list on how to implement the following 10 principles: 1) Constructive, pragmatic and non-discriminatory policies, 2) Explicit but not exclusive targeting, 3) Inter-cultural approach, 4) Aiming for the mainstream, 5) Awareness of the gender dimension, 6) Transfer of evidence-based policies, 7) Use of European Union instruments, 8) Involvement of regional and local authorities, 9) Involvement of civil society, 10) Active participation of the Roma.<sup>160</sup> An indicative document regarding the engagement of civil society in realisation of the Decade for Roma inclusion 2005-2015 was prepared by the European Roma Policy Coalition in July 2012, after the meeting with the European Commission.

In June 2008, the European Parliament passed a controversial set of EU rules for dealing with illegal immigration.<sup>161</sup> Under the new rules illegal immigrants can be detained for up to 18 months and face a five-year re-entry ban. Lawmakers backed the measures by a large majority despite opposition from many Socialist and Green parties, and condemnation from human rights groups. Member states had two years to implement the new rules. The documents lack specificity and are very vague. This often seems to lead to a non-uniform interpretation of documents from Member States and may hinder the development of coherent and effective policies. Reaching consensus on EU-wide asylum legislation has been as challenging for member countries as hammering out common policies on immigration in general. On the 15th and 16th of October 2008, on France's proposal, the European Council adopted the "European Pact

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<sup>159</sup> See [http://europa.eu/rapid/press-release\\_MEMO-11-795\\_en.htm](http://europa.eu/rapid/press-release_MEMO-11-795_en.htm) (accessed on 3 September 2013).

<sup>160</sup> The Common Basic Principles of the EU were presented for the first time at the meeting of the European Platform for Roma inclusion in Prague on 24 April 2009. On 8 June 2009 the Council of Ministers in charge of Social Affairs annexed the Principles to their conclusions and invited Member States and the Commission to take them into account.

<sup>161</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

on Immigration and Asylum”. Despite the differences, EU leaders have pledged to develop a common asylum system by the end of the decade.

The activities of the EU “watch dog” concerning the treated issues, the Agency for Fundamental Rights (FRA), are of paramount importance for registering and studying issues as are access to justice, child rights, persons with disabilities, LGBT rights, minorities, racism and xenophobia, and Roma and travellers. The European Commission propose a Multiannual Framework for the Fundamental Rights Agency for the period 2007 – 2012.<sup>162</sup> The Stockholm Programme is the European Union's multi-annual strategic work programme in the areas of freedom, security and justice. It sets out the priorities for EU action in areas that are of obvious relevance to fundamental rights, such as security, asylum, judicial cooperation, citizenship and migration. The programme also includes legislative proposals for the period 2010-2014.<sup>163</sup>

Despite the best intentions of the EU's communiqués, strategies and expert groups, the major obstacle to achieving any of this is the EU's limited mandate. A well-kept secret, the EU is powerless as any such implementation hinges on the cooperation of the Structural Funds' national managing authorities and the willing participation of the respective member states. And finally, there is an increasing disjunction between, on the one hand, the array of EU policy initiatives seeking to advance equality via positive action, mainstreaming and data collection, and, on the other hand, the actual content of EU legislation and the factual situation in particular.

Transnational support to the rule of law: To support the respect of trans-national “rule of law” in Europe should be one of the responsibilities of the EU. The slow execution of the European Court of Human Rights decisions, for instance, is a problem in a number of cases. In its recent Annual report on the supervision of the execution of judgments, the Committee of Ministers notes for instance that although the percentage of cases pending for less than two years has decreased, the percentage of leading cases under supervision for more than two years has increased in 2010, as compared to 2009. There are currently more than 9 000 cases awaiting execution.<sup>164</sup>

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<sup>162</sup> <http://fra.europa.eu/en/about-fra/what-we-do/areas-of-work/multi-annual-framework-2008-2012> (accessed on 3 September 2013).

<sup>163</sup> The Stockholm Programme-An open and secure Europe serving the citizen, Council of the European Union. Brussels, 16 October 2009. <http://register.consilium.europa.eu/pdf/en/09/st14/st14449.en09.pdf> (retrieved on 3 September 2013)

<sup>164</sup> Council of Europe, Committee of ministers, Supervision of the execution of judgments of the European Court of Human Rights, Annual report, 2010, Council of Europe, April 2011.

Some important judgments have remained unimplemented after several years despite clear guidance given by the Court and the Committee of Ministers. The Court has for example found that Roma children had been discriminated against with respect to their right to education in some member states. Three years after the first major judgment of the Court on that issue (*D.H. and others versus Czech Republic*), little has changed on the ground in these states. The Parliamentary Assembly of the Council of Europe has repeatedly criticized the worrying delays in the implementation of judgments, particularly in nine states parties: Bulgaria, Greece, Italy, Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine.<sup>165</sup>

The main reason for the reluctance of so many EU member states to adhere to the Protocol no.12 to the ECHR of the Council of Europe is the fact that it opened the procedure at the European Court on Human Rights for discrimination committed in relation to all provisions of the ECHR.

**An inter-related and coordinated program of actions of all pertinent European social and political factors and especially of governments is needed**

The responses to the present challenges to the principle “unity in diversity” that is the core issue of the European human integration are mainly in the hands of national governments. It is thus first of all up to the European governments to adopt and realise in practice efficient policies, programs and actions. In addition, the close cooperation of national governments within the EU structure and their political willingness to create common EU policies and regulations is thus the *conditio sine qua non* for searching solutions for the accumulated economic and inter-connected social problems, which represent a serious danger for the »human integration« of the EU.

The European governments have to adopt and implement adequate policies, especially on educational and media fields, aimed at raising awareness that respect of otherness is a corner stone of democracy, stability and security. As to the legal enactments strict monitoring of the implementation of the provisions of the relevant European Council directives on discrimination will contribute to the realisation of this goal. It would be recommendable that the EU states which have not yet done so, adhere to the following international standards on the elimination of discrimination and on the rights of minorities: a. Protocol 12 to the ECHR on the elimination of discrimination, b. the European charter on regional or minority languages, c. the Framework convention

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<sup>165</sup> See Parliamentary Assembly of the Council of Europe, Res. 1787 (2011), Implementation of the judgements of the European Court of Human Rights.

on the protection of national minorities. The resolution of the European parliament 'protection of minorities and anti-discrimination policies in an enlarged Europe' of 2005 is a good starting point for elaborating further EU policies in this field.

A valuable background for action is the report of the Council of Europe "wise persons" named "Living together- Combining diversity and freedom in 21st century Europe". They proposed a justified ways and means for creating a possibility for "living together" in open European societies. The Report should be an efficient platform also for the European governments and the EU as well. It identifies the main actors able to bring about the necessary changes in public attitudes: 1) educators, 2) mass media, 3) employers and trade unions, 4) civil society, 5) Churches and religious groups, 6) celebrities and "role models", 7) towns and cities, 8) member states, and 9) European and international institutions.<sup>166</sup>

Religion could be a factor of paramount importance. In elaborating fresh policies it is necessary to take into account new values which were brought into the EU with the inclusion of the large Orthodox communities of Romania and Bulgaria, which compose now together with the Orthodox population of Greece and Orthodox minorities in the Baltic states a significant proportion of the EU population. The values of large Muslim communities living within the EU should be considered as the genuine part of the European religious and cultural identity. Mutual understanding and exchange between the three religions - Christian, Jewish and Muslim, which trace their roots to Abraham's heritage - is a very serious problem of today's and the future Europe, directly linked with its identity; the atheists should be on equal basis included in this dialogue.<sup>167</sup>

Negative political environment: The spreading of the negative political environment within the EU countries is not an encouraging factor for the future. The last years were good for racists, populists and right-wing radicals across Europe. The analyses of the political background of the massive killing in Oslo have confirmed or disclosed the existence of extreme right, neo-Nazi, xenophobic and racists oriented groups, in nearly all EU member countries; in order to keep their faces clean all of them

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<sup>166</sup> Living together. Combining diversity and freedom in 21st century Europe. Report of a group of eminent persons of the Council of Europe. Strasbourg, May 2011.  
<http://book.coe.int/ftp/3667.pdf> (retrieved on 3 September 2013)

<sup>167</sup> Devetak, S., 2007. Religious Freedoms in South Eastern European Countries in the Context of The Process of European Integration, in: Polzer M., Devetak S., Toplak L., Unger F., Eder M. (eds.): Religion and European Integration - Religion as a Factor of Stability and Development in South Eastern Europe. Edition Weimar, European Academy of Sciences and Arts, pp. 123-151.

neglected any connection with the massive killer from Oslo.

Political extremism is becoming a “legitimate characteristic” of the political establishment in more or less all EU countries. Also the “political majorities” politicians are using populism as a tool for obtaining voters in the social circumstances when they are looking for “quick solutions” for their grievances. The European history has demonstrated what such “solutions” are like.

### **Conclusions**

The accumulation of unresolved problems emanating from the persistent deterioration of the life conditions and rights of a great portion of especially young population, the obvious inability of the political elite for dealing efficiently with these broad and complex problems, and spreading of political extremism, racial and social discrimination, nationalism, racism and the similar is producing greater and greater pressure in the European “pressure cooker”, which eventual explosion will produce chaos that will not be controllable and manageable by political tools. Even George Soros, the billionaire investor, has in his interview of 24 January 2012 predicted riots on the streets and global class war as the economic downturn results in a new "age of fallibility". He said that he cannot see a way to avoid a violent crisis which at its worst could result in the total collapse of the financial system. Warning that violence on the streets was inevitable unless the problems of unemployment and debt were addressed, he warned this could lead to the erosion of civil liberties and installation of a police state.

What could and should be done in these circumstances not only for keeping alive but also for developing further the EU principle “unity in diversity”, which is the main pillar of the European human dimension of integration?

This is a question with which are confronted politicians, non-governmental organizations and entities and other relevant social factors that could be involved in searching the solutions for coming out of the crisis.

Having in mind the above said we came to the conclusion that there is an urgent need that the political structure of the EU and of the member states, and the leaders and “thinkers” of civil society organizations and institutions as well take into consideration these issues as a matter of the highest priority in planning their policies and actions in circumstances of financial, social, economic and political crisis that characterize our times. The starting point for this consideration is the re-thinking of the ways and means for the implementation of the basic principle on which lays the human dimension of the European Union, i.e. that it is based on the principle of “unity in diversity”.



In this context it will be perhaps commendable also to revive the idea of establishing and organizing all-European, cross-border political parties and movements based on common – European political, social and similar interests for what the EU law provides adequate legal basis.<sup>168</sup> Developing a party system for the whole of Europe could play an important role in creating a stronger sense of a shared European identity.

The most frightening fact when being confronted with these situations is the question whether the governmental and non-governmental structure on local, regional, national and EU level is willing and first of all capable to develop coordinated policies and actions dealing with these problems, and finally to re-define the implementation of the basic EU principle “unity in diversity”?

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<sup>168</sup> A European political party, formally a political party at European level, informally a Euro party, is

a type of political organization operating transnational in Europe and in the institutions of the EU. They are regulated and funded by the EU and are usually made up of national parties, not individuals. Euro parties have the exclusive right to campaign during the European elections and express themselves within the European Parliament by their affiliated political groups and their MEPs. Euro parties, through coordination meetings with their affiliated heads of state and government, influence the decision-making process of the European Council. Europarties also work closely and coordinate with their affiliated members of the European Commission and, according to the Lisbon Treaty the Europarty that wins the European elections has the right to nominate to the European Council its candidate for the President of the European Commission.



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# EU Regional Policy with Emphasis on the Italian Regional Policy as a Model for European Integration

Ezio BENEDETTI\*

## Abstract

*This contribution aims at answering to a number of questions related with the legal principles and rules governing EU Regional Policy today. A specific attention will be dedicated at the importance of this policy in the light of the problems and slowdowns that are affecting the process of European integration in the last few years and to the possible solution regionalism could represent in this dimension. The main question this paper is trying to answer to is that of the regionalism as an idea and model to foster EU integration, considering also the differences that characterize regionalism in Europe from a member State to another. By this point of view in the second part of the proposed analysis the author will try to underline the main juridical aspects governing Italian regionalism as a model for a new EU regional approach respectful of linguistic, historical, religious and social differences which define the complexity and multiculturalism of Europe. What impact did Europeanization have on the governmental capacity of Italian regions? Are the regions successful in addressing the challenges and the opportunities of European integration? Is the participation in the EU a driving factor for decentralization in Italy?*

*Keywords:* EU Regional Policy, European Integration, Decentralization

## 1. What is it EU regional policy and why do we bother with a regional policy?

Some scholars affirmed that it is easier by a geo-anthropological point of view to define Europe as a continent made of regions rather than of nations.<sup>169</sup> This analysis has been enforced also by an international organization as the Council of Europe that stressed the need to foster regionalism to guarantee a more politically stable and socially equal continent.<sup>170</sup> If we limit our analysis to the European Union – even if this

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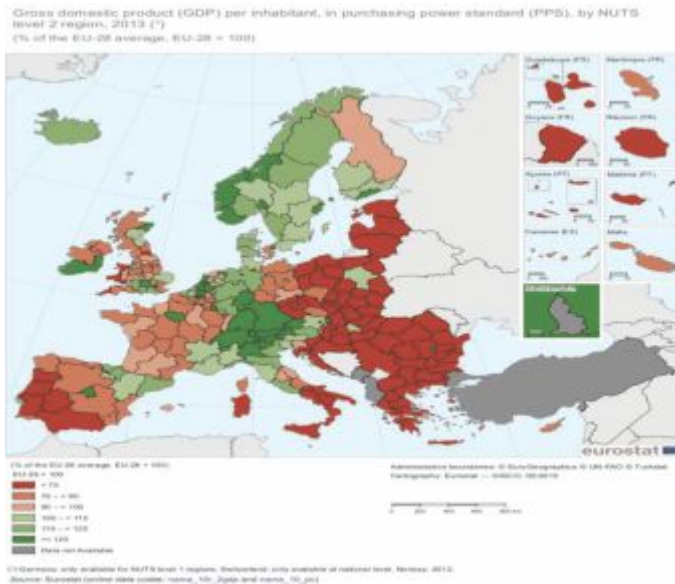
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<sup>169</sup> J. De Veer, L. Van Vissen (edited by), *Europe: One Continent. Different Worlds. Population Scenarios for the 21st Century*, European Population Conference, Dordrecht, 1999.

<sup>170</sup> Council of Europe, *Conference of Ministers Responsible for Regional/Spatial Planning (CEMAT) – Basic Texts 1970-2010*, Strasbourg, 2010.

considerations could be easily extended to all European countries, members or not of the EU it is self-evident that EU regions are still characterized both by a high number of differences in terms of socio-economic development and important disparities in terms of the degree of autonomy and self-governance delegated by central governments to regional ones.

Accordingly to EU data our continent is actually divided in 271 regions including overseas regions and territories. Within these regions there are about 60 minority languages spoken by 40 million EU citizens (roughly 8% of the total EU population) and huge differences both in terms of GDP per inhabitant and of purchasing power standards from a region to another. If we use the above mentioned indicators and we compare cases as Inner London, Île de France, Lombardia or Bavaria regions with in comparison with some regions of Romania or Bulgaria, some southern Italian regions or Greek one, we can easily see that the level of socio-economic development of these latter regions is between 10 and 50 times lower than that of the more developed European regions. In order to give a picture as clear as possible of the current situation affecting the disparities in the level of development of EU regions we are including below the 2013 official map of the Eurostat dealing with these issues.<sup>171</sup>



<sup>171</sup> [http://ec.europa.eu/eurostat/statistics-explained/images/1/1f/Gross\\_domestic\\_product\\_%28GDP%29\\_per\\_inhabitant%2C\\_in\\_purchasing\\_power\\_standard\\_%28PPS%29%2C\\_by\\_NUTS\\_level\\_2\\_region%2C\\_2013\\_%28%2B9%29\\_%28%25\\_of\\_the\\_EU-28\\_average%2C\\_EU-28\\_%3D\\_100%29\\_RYB15.png](http://ec.europa.eu/eurostat/statistics-explained/images/1/1f/Gross_domestic_product_%28GDP%29_per_inhabitant%2C_in_purchasing_power_standard_%28PPS%29%2C_by_NUTS_level_2_region%2C_2013_%28%2B9%29_%28%25_of_the_EU-28_average%2C_EU-28_%3D_100%29_RYB15.png).

Therefore, even if the EU as a whole can be considered one of the world's most prosperous economic zones,<sup>172</sup> still huge disparities exist among these 271 regions, affecting both the process of political and socio-economic integration of EU countries. Taking into consideration this evidence the EU set the political goal of reducing these disparities and therefore the gaps in development allowing a more equilibrated and fair socio.-economic growth for all European regions. As stated in the official website of the European Commission dealing with Regional Policy: "Regional policy targets EU regions and cities, boosting economic growth and improving quality of life through strategic investment. It is also an active form of solidarity which focuses support on the less developed regions".<sup>173</sup>

In order to deal with the idea to develop a specific regional policy within the process of European integration, the European Union created a Committee of the Regions,<sup>174</sup> which

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<sup>172</sup> [http://ec.europa.eu/regional\\_policy/archive/intro/working3\\_en.htm](http://ec.europa.eu/regional_policy/archive/intro/working3_en.htm).

<sup>173</sup> [http://europa.eu/pol/reg/index\\_en.htm](http://europa.eu/pol/reg/index_en.htm).

<sup>174</sup> The CoR has 350 full members and the same number of alternate members. The number from each EU country roughly reflecting the size of its population. Its members are locally and regionally elected representatives including mayors, regional presidents and councillors. The members of the CoR meet in plenary session in Brussels six times a year, to discuss and adopt opinions, reports and resolutions. The President is elected for a two-and-a-half-year term at the plenary assembly, the President guides the Committee's work, chairs plenary sessions and is the CoR's official representative. Markku Markkula (Finland / European People's Party), member of the Espoo City Council, is the current President elected on 12 February 2015 (the President is flanked by one Vice president). The Bureau is the executive body of the CoR. It comprises 63 members: the President, First Vice-President, 28 vice-presidents (one per Member State), the Presidents of the CoR political groups and 28 other members from the national delegations, enabling it to reflect national and political balances. The Bureau generally meets seven or eight times a year to draw up the CoR's policy programme and instructs the administration on the implementation of its decisions. The members of the CoR meet in plenary session in Brussels six times a year, to discuss and adopt opinions, reports and resolutions. The CoR structures its work by means of six thematic commissions, which specialise in topical areas (CIVEX: citizenship, governance, institutional and external affairs; COTER: territorial cohesion policy; ECON: economic and social policy; ENVE: environment, climate change and energy; NAT: natural resources and agriculture; SEDEC: culture, education and research). They prepare draft opinions and hold conferences and seminars focused on their areas of competence. Each commission has approximately 100 members (each member can be part of two commissions) and is supported by a secretariat within the administration. A special Commission for Financial and Administrative Affairs (CFAA) is also established to assist the CoR Bureau. The main competencies of the CoR are mainly related with opinions, resolutions and studies. All these official acts are not binding for member State and EU institutions but have to be taken into consideration by them in drafting EU legislation regarding Regions. The European Commission, Council of Ministers and European Parliament consult the CoR when drawing up legislative texts (directives, regulations, etc.) on areas affecting local and regional authorities. The draft texts are forwarded to the relevant CoR commission. A rapporteur is then appointed to draw up the Committee's opinion. This draft opinion must be adopted by the CoR commission before being discussed at the plenary session. Once it has been approved in plenary, the official opinion is sent to all the European institutions



has its Headquarters in Brussels, to represent Regions of Europe as the layer of EU government administration directly below the nation-state level. The Committee of the Regions (CoR) has been created in 1994 in order to answer to two main needs of the EU integration process. First, accordingly to the principle of subsidiarity governing the functioning of the EU,<sup>175</sup> about three quarters of EU legislation is implemented at local or regional level. With creation of this new body, that has anyway only consultative powers,<sup>176</sup> local and regional representatives finally had the possibility to have a say in the development of new EU rules and principles directly affecting and interesting the local and regional level of government. Second, at the beginning of the nineties there were growing concerns about a widening gap (the so called democratic gap) between the European citizens and the European institutions at a central level. Therefore involving the elected level of local government closest to EU citizens was allegedly considered to be one way of at least reducing this gap.<sup>177</sup> This “new” body of the EU can be seen as the assembly of local and regional representatives that provides sub-national authorities (i.e. regions, counties, provinces, municipalities and cities) with a direct voice within then 'EUs institutional framework; living to these local administrative bodies the possibility to direct interact and somehow influence EU decisions they have an interest in.

Moreover, in order to understand the importance of the CoR, we need to take into consideration also some other dimensions, more political and economic rather than legal ones, that led the EU to create this new institution in 1994 and to progressively develop more and more effective and inclusive tools and instruments governing the EU's Regional Policy. First of all we cannot forgive the historic and cultural claims for autonomy in many regions all over the EU (Basque Country, Catalonia, Alto-Adige, Scotland, Northern Ireland etc.).<sup>178</sup>

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and published in the Official Journal of the European Union. Resolutions enable the Committee to express its view on important and topical issues. For a comprehensive overview of CoR composition, functioning and competencies please see C. Panara, A. De Becker (edited by), *The Role of the Regions in EU Governance*, Verlan-Berlin-Heidelberg, 2011.

<sup>175</sup> For a detailed description of the principles related with the functioning and application of the “subsidiarity” principle in the EU please see A. Estella de Noriega, *The EU Principle of Subsidiarity and Its Critique*, Oxford, 2002; A. Biondi, P. Eeckhout, *EU Law after Lisbon*, Oxford, 2012.

<sup>176</sup> C. Panara, A. De Becker (edited by), *cit.*, p. 26-46.

<sup>177</sup> [http://eur-lex.europa.eu/summary/glossary/committee\\_regions.html?locale=en](http://eur-lex.europa.eu/summary/glossary/committee_regions.html?locale=en). See also S. Andersen, K. Eliassen (edited by), *The European Union: How Democratic is it?*, London, 1998; A.E. Stie, *Democratic Decision-Making in the EU. Technocracy in Disguise?*, London and New York, 2013; A. Kunz, *The Democratic Deficit and the “No Demos” – Thesis*, Hamburg, 2012.

<sup>178</sup> For an indepth analysis of federalism in EU and of regional autonomistic and independence movements in Europe see E. Kloots, G. DE Baere, S. Sottiaux, *Federalism in the European Union*, Oxford and Portland, 2012; J. Loughlin, J. Kincaid, W. Swende (edited by), *Routledge Handbook of Regionalism & Federalism*, Routledge, New York, 2013; E. Hepburn (edited by), *New Challenges for Stateless Nationalist and Regionalist Parties*, Routledge, New York, 2011.



On the other hand, as already mentioned above, there was and still is a general need of strengthening the political and economic situation in those regions that in comparison with other more developed EU regions has a high level of delay in socio-economic development.

At this point of our analysis there is however the need to stress that mainly due to historical reasons also at national level there are significant differences in the level of decentralization and therefore of regionalization<sup>179</sup> if we compare different EU member countries. Some nation States which historically have had a strong centralized administration have transferred political power to the regions. Examples of this include the devolution of power in the UK (the Scotland Act 1998, the Government of Wales Act 1998).<sup>180</sup> But some others are still privileging the traditional “centralized” approach instead of the federal one, and this could be the case of the current negotiations in France concerning possible increased autonomy for Corsica.<sup>181</sup> Notable by this point of view is also the refusal of countries as France and Greece to recognize specific rights and therefore competencies at a regional level for the protection of national and/or linguistic minorities living within their borders.<sup>182</sup> Some other member States have traditionally had strong regions and therefore a clearly “federal” legal system,<sup>183</sup> this is the case perhaps of the Federal Republic of Germany. Somehow in between the two models (the federal and the centralized one) we can see a country as Italy, which, as we will explain in the next paragraphs of the current analysis, could be a new model to further foster regionalization and regional policy especially in these countries which have a strong centralized historical background.

At this point of our contribution it is necessary to briefly underline the existence of other institutions dealing with regionalization in Europe that are not directly linked to the EU system but somehow contributed and still contribute to its development and enforcement. First of all there is the need to mention the Council of Europe, which also has a Congress of Local and Regional Authorities, which has similar competencies and composition as the EU's Committee of the Regions.

Of the major organizations representing the regions of Europe, the Assembly of European Regions (AER)<sup>184</sup> is the largest. Established in 1985, this organization now brings

<sup>179</sup> G. DE Baere, S. Sottiaux, cit., chapter 2 and 3.

<sup>180</sup> A. Trench, *Devolution and Power in the United Kingdom*, Manchester University Press, 2007.

<sup>181</sup> See <http://lemondepolitique.free.fr/archivesgenerales/articles/saison2/infosmai03.htm>.

<sup>182</sup> E. Benedetti, *La protezione delle minoranze in Europa e l'allargamento dell'Unione Europea: tra agnosticismo e condizionalità democratica*, in G. Cecchini, G. Calabrò (edited by), *Scritti in onore di Domenico Coccopalmerio - Liber Amicorum*, Amon ed. Padova, 2014, pp. 79-126; P. Shoraka, *Human Rights and Minority Rights in the European Union*, London, 2010; B. Bultrini, *La pluralità dei meccanismi di tutela specifica dei diritti dell'uomo in Europa*, Roma, 2004.

<sup>183</sup> E. Kloots, G. DE Baere, S. Sottiaux, cit., 2012.

<sup>184</sup> For a complete analysis of the functioning and the role of AER see: C. Jeffery, *The Regional Dimension of the European Union. Towards a Third Level in Europe?*, Routledge, New York and London, 2015, p. 176.

together over 270 regions from 33 countries, along with 16 interregional associations, across wider Europe. Apart from playing a key role as the regions' political voice on the European stage, AER is a forum for interregional cooperation in numerous areas of regional competence, including economic development, social policy, public health, culture, education and youth. The AER is also a key defender of the subsidiarity principle in Europe, lobbying for its inclusion in the EU treaties since the Maastricht Treaty in 1992 and demanding recognition of the word in dictionaries via the worldwide “Subsidiarity is a word” movement.<sup>185</sup>

Outside EU institutions, the Council of European Municipalities and Regions (CEMR-CCRE)<sup>186</sup> is the largest organization of local and regional government in Europe; its members are national associations of towns, municipalities and regions from over 35 countries. Together these associations represent some 100,000 local and regional authorities. As stated in its website “The Council of European Municipalities and Regions (CEMR) represent the interests of European local authorities and their associations in more than 40 countries. It promotes citizenship and exchange between elected representatives”. To achieve this goal it endeavors to shape the future of Europe by enhancing local and regional contribution, to influence European law and policy, to exchange experience at local and regional level and to cooperate with partners in other parts of the world.

## **2. How the Regional Policy of EU works and what are its current legal basis. Is it worth it?**

In general terms it is possible to affirm that in line with the general legal and organizational framework outlined above EU Regional policy could be considered as a strategic investment policy targeting all EU regions and local authorities (municipalities and other administrative bodies) in order to foster and support their economic growth and improve people's quality of life.<sup>187</sup> It is also an expression of solidarity, focusing support on the less developed regions.

EU regional policy can also be considered as an investment policy. It supports job creation, competitiveness, economic growth, improved quality of life and sustainable development. And as such these investments support the delivery of the Europe 2020 strategy as a whole.<sup>188</sup> As stated in the official EU website dealing with Europe 2020, it “is

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<sup>185</sup> <http://aer.eu/subsidiarity-is-a-word-for-google-or-is-it/>.

<sup>186</sup> <http://www.ccre.org/>.

<sup>187</sup> A. De Becker (edited by), *cit.*, p. 26.

<sup>188</sup> The Europe 2020 Strategy, which received the go-ahead from the Spring European Council of 2010, is to reinforce economic policy cooperation with a view to promoting sustainable growth in the EU. It succeeds the Lisbon Strategy (2000-2010) and builds on the objectives and toolbox of the revised Lisbon Strategy of 2005 (focused on growth and jobs). Like the latter, it is driven by international competitiveness concerns and the promotion of productivity, growth and sustainability. It also makes use of the same governance framework. [http://ec.europa.eu/europe2020/index\\_en.htm](http://ec.europa.eu/europe2020/index_en.htm).

the EU's growth strategy for the coming decade. In a changing world, we want the EU to become a smart, sustainable and inclusive economy. These three mutually reinforcing priorities should help the EU and the Member States deliver high levels of employment, productivity and social cohesion”.

Currently the EU regional policy funding focuses on 4 priorities: research & innovation; information & communication technologies; making small and medium-sized businesses more competitive and moving towards a low-carbon economy. In general terms it can be said that EU Regional Policy is a result oriented policy which in the previous EU financial period (2007-2012) helped EU countries to create 769000 jobs; invest in 225000 smaller businesses; fund 72000 research projects; bring broadband coverage to 5 million more EU citizens; improve quality of life in cities through 11000 different projects.<sup>189</sup>

Regional policy is delivered through the European Regional Development Fund (ERDF)<sup>190</sup> and the Cohesion Fund.<sup>191</sup> National and regional authorities, in cooperation with the European Commission, are responsible for managing the funds from day to day. These Managing Authorities select, finance and monitor the projects that can best help to serve local needs basing their choices on the subsidiarity principle. They provide information on funding opportunities to potential beneficiaries, including public bodies, the private sector (businesses), universities and associations & NGOs.

Currently boosting growth and employment are therefore central to the wider EU agenda – “Europe 2020 Strategy”. It can be said that Europe 2020 is the EU's blueprint for competitiveness, employment and sustainable growth. And its main priorities in the light also of Regional policy are increasing levels of innovation to help businesses move up the value chain and reduce unemployment rate in Europe.

What can be already said is that this EU Agenda has been also hardly criticized as it moved from the need to face with the economic and financial crisis burst up in 2008 but it was hardly criticized as “Before even having enacted the new strategy, the European Union (EU) already faces challenges of a further-reaching nature and different dimension. The economic and financial crisis has transformed into a sovereign debt crisis with the risk of contagion to other Eurozone members, calling into question not only the solvency of various member states but also many of the achievements that had already been taken for granted in the EU. It has highlighted the need for increased European economic cooperation in order to deal with the causes of the crisis (competitiveness differentials between member states and budgetary disequilibria) and impede spill over into the monetary sphere, in particular in the Eurozone”.<sup>192</sup>

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<sup>189</sup> All this data are available at [http://ec.europa.eu/regional\\_policy/index\\_en.cfm](http://ec.europa.eu/regional_policy/index_en.cfm).

<sup>190</sup> [http://ec.europa.eu/regional\\_policy/en/funding/erdf/](http://ec.europa.eu/regional_policy/en/funding/erdf/).

<sup>191</sup> [http://ec.europa.eu/regional\\_policy/en/funding/cohesion-fund/](http://ec.europa.eu/regional_policy/en/funding/cohesion-fund/).

<sup>192</sup> <http://archive.intereconomics.eu/year/2010/3/europe-2020-a-promising-strategy/>.

Nevertheless the Regional Policy is based for the period 2014-2020 on the priorities given in the Europe 2020 Strategy; which gives also the legal basis for the cohesion policy as a whole and for the implementation of a more balanced regional policy for the same period.

Now there is the need to answer to one fundamental question related with the implementation of the EU Regional Policy in the framework of this new 2020 strategy: if boosting growth and job are the main priorities of this new strategic approach, is regional policy putting this into practice? What can be stated is that there is a strong concentration of the effort on competitiveness; in fact Member States must ' earmark ' resources on such strategic investments (€230 billion now targeted on EU 2020 priorities). On the other hand, there is a concentration of resources on least prosperous Regions with GDP per head below 75% of EU average (this involves over ¼ of population) and in Member States with GDP per head below 90% of average (13 Member States with 25% of population). So, by this point of view the answer can be surely positive.

Then if we want to answer to the question of Regional policy is worth it the answer should be positive. In fact evidence suggests positive contribution to growth, national convergence and reduction of interregional disparities. Ex-post evaluations demonstrate positive employment effects and clear benefits in terms of regional governance.<sup>193</sup>

In terms of outputs Regional Policy contributed in increasing per capita GDP in Greece, Spain, Ireland and Portugal – ( Greece increased from 74% of the EU average to 92% between 1995 and 2013), in helping to reduce income disparities between richest and poorest by roughly a fifth (between 2000 and 2013) through sustained high growth. By 2016, it is estimated that regional policy will have generated an additional 440,000 jobs in Poland, as well as contributing an extra 6% to GDP and 21% to investment. Over 74,000 km of road were built or reconstructed in the period 2000-2013. The equivalent figure for rail was nearly 15,000 km. Finally it must be reminded also that EU Regional Policy through its dedicated funds supported more than 1,250,000 small businesses in the EU in the period 2007-2013.<sup>194</sup>

But if we decide to go in depth in the analysis of the added value of the cohesion policy as a whole and of Regional policy in particular we found out that even if there is a leverage effect of additional resources on disposal of EU Regions very often this is accompanied by the complexity of management and control structures, a reality on ground that can be very variable and it is still unclear in some Member States if effects are consistent or attributable to transitional policy. Finally it must be stressed also that the effectiveness of

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<sup>193</sup> [http://europa.eu/pol/reg/index\\_en.htm](http://europa.eu/pol/reg/index_en.htm).

<sup>194</sup> C. Bachtler, P. Gorzelak, Cohesion Report. Spatial Disparities and Development Policy, Brussels, European Commission, 2015.

monitoring and evaluation is very often undermined by poor data on disposal of scholars.<sup>195</sup>

Anyhow our final opinion about the effectiveness of EU Regional Policy shall be positive considering four different aspects. First of all it has successfully reduced the gaps between regions in Europe and made a major contribution to prosperity and democratic stability. Secondly it has improved management and governance in the regions by decentralising management and devolving responsibility: we must always remember in fact that it is not the Commission that select projects. In third place it must be stressed that it is, with research, the EU's biggest budget heading and, finally, it works by investing in infrastructure, training, innovation and research.

### **3. Italian Regionalism and the evolution of the system between 1948 and 2015.**

In this final paragraph of our contribution we will try to answer to three fundamental questions. What impact did Europeanization have on the governmental capacity of Italian regions? Are the regions successful in addressing the challenges and the opportunities of European integration? Is the participation in the EU a driving factor for decentralization in Italy?

We strongly believe that the case of Italy is of Paramount importance in assessing the effectiveness and also the limits of EU Regional policy on one side and to individuate Italian regionalism as a model for other Member States on the other.

First of all there some basic consideration which should not be forget. As stated by some prominent authors the “European fitness” of Italian regions is highly asymmetric and so is their responsiveness to the challenges of multilevel governance.<sup>196</sup> Moreover, while Italian regions have overall benefitted from the opportunities of European integration, there is still much to do in terms of institutional capacity, especially due to the overly complex system of intergovernmental relations.<sup>197</sup>

By an historic and legal point of view the Italian regionalization process was entangled already in its Constitution in 1948 but the Regional Reform has been enacted only in 1970.<sup>198</sup> There are 20 Regions and 4 of these regions are so-called “autonomous regions” (Friuli Venezia-Giulia, Valle d'Aosta, Sicily and Sardinia) and 2 “autonomous provinces” (Trento and Bolzano in Trentino Alto Adige region) with a different degree of autonomy due to ethnic, historical and linguistic reasons.<sup>199</sup>

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<sup>195</sup> C. Bachtler, P. Gorzelak, op. Cit., p. 114.

<sup>196</sup> S. Mangiameli, *Il regionalismo italiano tra tradizioni unitarie e processi di federalismo*. Contributo allo studio della crisi della forma di Stato in Italia, Giuffrè, Milano, 2012.

<sup>197</sup> A. D'Atena (edited by), *Regionalismo e sovranazionalità*, Giuffrè, Milano, 2013.

<sup>198</sup> S. Bartole, *Interpretazioni e trasformazioni della costituzione repubblicana*, Il Mulino, Bologna, 2004.

<sup>199</sup> G. Mor, *Le Regioni a Statuto speciale nel processo di riforma costituzionale*, in *Le Regioni*, vol. XXIV, n. 25, 1999, pp. 76-85.

The territorial design provided by the Italian Constitution is marked by a high degree of decentralization and is best described as “polycentric” rather than as a proper federal system.

Italy was the first country to experiment with devolutionary asymmetry.<sup>200</sup> After World War II, the establishment of a strong subnational level of government was inevitable in at least five territories: Trentino-Alto Adige (Trentino-South Tyrol), Valle d'Aosta (Aosta Valley), Friuli-Venezia Giulia (three relatively small alpine regioni (regions) with a relatively substantial population of ethnic minorities), Sicilia (Sicily) and Sardegna (Sardinia). These latter two are the country's main islands, both facing economic and social problems, both with strong political traditions of autonomy. In order to avoid too strong an asymmetry between these territories and the rest of the country, and to experiment with a “third way” between a federal and a unitary system, the establishment of Regioni was foreseen for the whole country, although others would enjoy a much lesser degree of autonomy than the previously mentioned five.<sup>201</sup>

The development of Italian regionalism can be roughly divided into three stages:

1) the early times (1948 – 1972),

2) the implementation of regional autonomy (1972 – 1999),

3) and the new constitutional frame (from 1999 on), which remains in the process of implementation.

The first phase started in 1948, when the democratic constitution established 20 Regioni (Art. 131 Const.), five of which enjoy a higher degree of autonomy (Art. 116 Const.). These five so-called Regioni a statuto speciale (special or autonomous regions) each have their own statute (regional basic law), approved as a constitutional law of the Italian State. Each received considerably more legislative, administrative and financial autonomy than the other Regioni, and the ability to negotiate their bylaws directly with the national government, bypassing the national parliament. The remaining 15 – the so-called Regioni a Statuto ordinario (ordinary regions) – enjoyed only a limited legislative power in specific fields identified in the national Constitution (Art. 117 Const.). They had less ability to develop autonomous Statuti, as they fell formally under the ordinary law of the State, and all had very similar if not identical governmental structures. Moreover, for complex political reasons that we do not have space to explain here in details,<sup>202</sup> the Regioni a statuto ordinario were not established before 1970. The first national laws devolving some legislative power to these Regioni a Statuto ordinario were enacted only in 1972, and the

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<sup>200</sup> S. Bartole, cit., p. 143.

<sup>201</sup> Ibidem.

<sup>202</sup> S. Bartole, cit., Chapter 2.

subsequent process of implementation took another two decades.

During the second phase (1972-1999), between 1972 and 1999, the autonomy regime was implemented in a long and complex process. In the early 1970s, the *Regioni a statuto ordinario* were established, and elections to their various bodies were held (1970 – 1972). Effective powers began to be transferred to the *Regioni a statuto ordinario* only in 1977. However, these regions lacked both political culture and governmental experience. Moreover, no specific instrument of cooperation facilitating interaction between these regions and the State was provided. The more active regions tried to “force” more autonomy from the central government, seeking a more benevolent interpretation of their individual powers, while the weaker were left behind. Thus, the case law of the *Corte Costituzionale* (Constitutional Court) ultimately became much more relevant in determining the real powers of the regions than the laws and the wording of the constitution itself.

However, many very important laws reforming public administration and the system of self-government have been approved over the last 20 years. Legislative reforms have succeeded in modifying the general administrative structure, thus encouraging the regions to develop their potential for self-government.<sup>203</sup> These laws (enacted between 1972 and 1999) constituted a substantive, if not actually a formal constitutional change, because they redesigned the division of legislative and administrative competences, enumerating the competences of the Italian State and making the regions responsible for the remainder.

The third phase started in 1999 and can be still considered not totally closed. The introduction of a *de facto* federal system by means of parliamentary (and to some extent even governmental) legislation bypassed some political problems, but obviously created legal ones. In particular, the constitutionalization of the new principles was necessary.<sup>204</sup> In 1999, in order to enhance political stability in the *Regioni a statuto ordinario*, the first constitutional reform<sup>205</sup> introduced direct elections for the *presidenti della giunta regionale* (regional presidents) and changed the procedure for approving regional statutes.

All ordinary regions now adopt their own statute by means of a special regional law, approved by the regional council (essentially a regional parliament) rather than the national parliament, as before. This is done by means of a special procedure which resembles the one governing constitutional laws at the national level: Statute must be approved twice by the regional council, each time with an absolute majority, and must go to public referendum if this is requested by a specific number of voters or by one-fifth of regional council members (Art. 123 Const.). Constitutional Law No. 1/1999 also institutionalized consultation

<sup>203</sup> Law no. 400/1988; Law No. 142/1990; Law No. 81/1993; Law No. 59/1997 so called Bassanini Reform.

<sup>204</sup> S. Bartole, *cit.*, p. 165.

<sup>205</sup> Constitutional Law No. 1/1999.



between the regions and the local authorities; in each region, a council of local autonomies is established.

The second, related, reform was introduced in 2001,<sup>206</sup> when the division of legislative and administrative powers between the State and the regions was drastically changed: From this time onward, the legislative powers of the Italian State and the fields of concurrent legislation (i.e., those in which the regions can legislate only within the framework of general guidelines established in national law) were listed in the constitution (Art. 117 Const.). All remaining legislation belongs to the regions, in a way that resembles the typical residual power clause of federal constitutions. The 2001 reform plainly qualifies the regions as “constituent parts” of the Italian Republic and as “autonomous level of government” (Art. 114 Const).

The overall outcome of the constitutional reforms was an increase in the powers of the 15 ordinary regions, reducing the gap between them and the five special ones.

However, the 1999-2001 reform is not yet fully complete, for two main reasons. First, a national strategy for the implementation of the constitutional reform is still lacking; national laws for the implementation of articles 117, 118 and 120 of the Constitution were adopted only in 2003<sup>207</sup> and in 2005,<sup>208</sup> while the financial provisions of the Constitution (Art. 119 Const.) were implemented only in 2009.<sup>209</sup> Second, regions have been slow to adopt their new statutes; as of January 2016, almost twelve years after the start of constitutional reforms, 17 out of 20 regioni have seen their new statutes come into force, with several important regions still missing.

#### **4. Impact of the EU on institutional governance capacities of Italian regions**

Overall, the EU always played a remarkable role in shaping the development of Italian regionalism. However, such role is sometimes rather perceived than real.

In the political narrative but also in the legal provisions, very often the compliance with EU obligations is identified as the main reason for action.<sup>210</sup> At the same time, especially in the less competitive regions, this proves to be rather a rhetorical exercise, and, for example, often EU funds are not properly used.

Regional governance capacity has been deeply influenced, although slowly, by the European level. More precisely, the necessity to conform to European obligations and some positive competition among the Italian regions in European issues (including in attracting

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<sup>206</sup> Constitutional Law No. 3/2001.

<sup>207</sup> Law No. 131/2003, the so-called La Loggia law.

<sup>208</sup> Law No. 11/2005, the so-called Buttiglione law.

<sup>209</sup> Law No. 42/2009.

<sup>210</sup> S. Fabbrini, *L'Europeizzazione dell'Italia: l'impatto dell'Unione Europea sulle istituzioni e le politiche italiane*, Laterza, Roma-Bari, 2003.



European funds) have produced significant and positive changes in regional policies.<sup>211</sup>

As described in the previous paragraph the relationship between the European Union and Italian regions has been formalized in the Constitution only in 2001. However, the impact of the process of European integration on Italian regionalism dates back from the beginning of the regional experience in the seventies.

In addition to the institutional dimension, the Europeanization has had a considerable impact also in economic terms, in some case providing for a considerable part of the regional budget for the economically less developed regions especially in the south of Italy.

But the perception of the European Union varies considerably from a region to another. In general, two main strands in the regional political discourse have emerged as to the role of the European Union in shaping regional potential. In some regions, particularly in those with economic problems, the EU is seen primarily as a source of possible funds; the European debate is therefore focused on how funds can be better attracted and spent. In others, especially in those with a higher economic and institutional performance, the EU is perceived as offering opportunity for local entrepreneurs to expand, and regional policies compete in offering viable conditions for access to Europe.<sup>212</sup>

Against this background, the influence that regions can exert on national EU policymaking is essentially based on political criteria.

There are no formalized bilateral mechanisms of cooperation focused on this particular point, and the multilateral forums for cooperation between the State and regions on EU issues generally have an equalizing effect.

In other words, regions pushing for specific policy choices in European affairs can have their voice heard at the national level only indirectly, by exerting political rather than institutional pressure. As to formal instruments, Article 5 of Law No. 131/2003 provides that regioni can participate in the activities of the European Council and its working groups, and can work with the Commission and its expert committees in areas of regional legislative competence (implementing Art. 117.3 and 4 Const.), following agreement in the Conferenza Stato- Regioni.

All the above considered we can make an overall assessment of the EU fitness of the Italian regionalized system. The process of European integration has generally affected the traditionally uncooperative relationship between the Italian central government and the Regions in a positive way. However, a relatively high number of conflicts remain, especially

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<sup>211</sup> S. Fabbrini, S. Piattoni (edited by), *Italy in the European Union: Redefining National Interest in a Compound Polity*, Rowmand & Littlefield Publishers, Plymouth, 2008.

<sup>212</sup> M. Brunazzo, *Le regioni italiane nella multilevel governante: i canali di accesso alla UE*, in *Le istituzioni del federalismo*, 25, no. 4, 2004, pp 623-648.

when compared to other European countries. The main conflict-prevention mechanism is the Conferenza stato-regioni (State-Regions Conference), which brings national and regional governments together to draft general policy guidelines or for specific purposes (by means of specialized sub-conferences on varying subjects). The most relevant conflict-resolution mechanism in the case of tension between the central government and the regions is still provided by the Italian Constitutional Court; many cases heard here indeed regard EU affairs. Overall, the court has safeguarded regional prerogatives against State interference, in part by ruling that it is unconstitutional for the State to use its coordination role in EU affairs to take competences away from the regions (Judgment No. 203/2003), at least without the regions' consent (Judgment No. 68/2008).

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## **Законодательство о ликвидации расовой, этнической и религиозной дискриминации в Молдове с акцентом на правовые процедуры для жертв дискриминации**

Светлана МИРОНОВА\*

### **Резюме:**

*В статье определяются основные нормативные акты, действующие в Республике Молдова, по предотвращению дискриминации. Рассматриваются виды дискриминации и называются наиболее дискриминируемые категории граждан, в том числе на примере АТО Гагаузии. Анализируются методы предупреждения дискриминации и субъекты, наделенные властными полномочиями по борьбе с дискриминацией.*

*Ключевые слова:* дискриминация, виды дискриминации, многонациональное государство, методы борьбы с дискриминацией, законодательство о равенстве.

В демократическом обществе не должно быть места дискриминации. Для борьбы с этим явлением необходимы адекватные правовые рамки. «Право всех людей на равенство перед законом и защиту от дискриминации является всеобщим правом. Оно признано Всеобщей декларацией о правах человека, Конвенцией ООН об исключении всех форм дискриминации против женщин, Международной конвенцией об исключении всех форм расовой дискриминации, пактах ООН о гражданских и политических правах, об экономических правах, о социальных и культурных правах, Европейской конвенцией о защите прав человека и его основных свободах, подписанных Республикой Молдова». В Республике Молдова только в 2012 году был принят закон, запрещающий все формы дискриминации. Положения, касающиеся принципа недискриминации, закреплены в ряде законодательных актов, начиная с Конституции, которая гарантирует, в статье 16, принцип равенства.

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С другой стороны, Республика Молдова является участником нескольких Конвенций ООН о предотвращении дискриминации (CEDAW, ICERD). Эти международные договоры имеют прямое действие и при наличии конфликта норм имеют приоритет над внутренними законами.

Закон «Об обеспечении равенства» № 121 от 25.05.2012 впервые определил на национальном уровне виды дискриминации и определил её основания. Так, предупреждение и борьба с дискриминацией, а также обеспечение равных прав всем лицам, находящимся на территории Республики Молдова, в политической, экономической, социальной, культурной и других сферах жизни независимо от расы, цвета кожи, национальности, этнического происхождения, языка, религии или убеждений, пола, возраста, ограниченных возможностей, взглядов, политической принадлежности, а также на основе любого другого подобного признака. Закон вводит такое понятие как расовая сегрегация – любое действие или бездействие, которое прямо или косвенно приводит к разделению или различию лиц по признакам расы, цвета кожи, национальной или этнической принадлежности.

Конечно, если опираться только на первую составляющую, то можно заявить об отсутствии расовой дискриминации. Однако это не соответствует действительности, т.к. Молдова является многонациональным государством, и естественно, испытывает проблемы в области этнической дискриминации. До сих пор имеются проблемы в области этнической дискриминации.

Большинство населения Молдовы считает, что чаще всего дискриминируются люди с физическими и умственными недостатками. Таково одно из заключений, сделанных по результатам исследования в области восприятия гражданами Молдовы феномена дискриминации. Эксперты в области социологии и представители Фонда Сороса в Молдове представили результаты исследования «Восприятие населением Республики Молдова феномена дискриминации».

Согласно отчету, представленному доктором хабилитат в социологии Людмилой Малкоч, на уровне восприятия 68% респондентов считают, что в Молдове чаще всего подвергаются дискриминации люди с умственными недостатками, 66% — что люди с физическими недостатками. В 59% случаев респонденты полагают, что чаще всего ущемляются бедные слои населения, в 56% — что ВИЧ-позитивные, в 50% — пожилые люди, в 49% — гомосексуалисты, в 48% — ромы, а 32% опрошенных считают, что женщины.<sup>213</sup>

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<sup>213</sup> Исследование «Восприятие населением Республики Молдова феномена дискриминации».

Чаще всего граждане Молдовы дискриминируются при трудоустройстве, на рабочем месте, в больницах и поликлиниках, в образовательных или публичных учреждениях. Если при трудоустройстве и на рабочем месте люди дискриминируются из-за состояния здоровья, сексуальной ориентации, возраста или пола, то в медицинских и образовательных учреждениях — из-за недостатка финансовых средств. Как следствие, из-за боязни быть ущемленным каждый девятый гражданин Молдовы избегает посещения поликлиники, полиции и мэрии.

Вызывает беспокойство состояние защиты прав лиц- представителей различных этносов в Республике Молдова. В связи с этим, Комитет ООН рекомендовал государству обеспечить детей этнических меньшинств получать образование на родном языке и расширять число школ с обучением на украинском, болгарском, гагаузском языках, улучшать уровень преподавания государственного языка для детей из семей этнических меньшинств. Болезненные последствия переходного периода одинаково влияют на все население Молдовы, независимо от национальности, языка, религии, пола и т.д. И все-таки, исходя из специфического статуса и положения национальных меньшинств, их представители зачастую более уязвимы в социальных, экономических, культурных и др. вопросах в сравнении с представителями национального большинства.

В этой связи обеспечение прав национальных меньшинств является одной из основ гражданского согласия в обществе. Это особенно актуально с учетом того, что в последние годы пресса и неправительственные организации констатируют определенную этническую напряженность в обществе Молдовы.

Расизм, расовая дискриминация, ксенофобия и связанная с ними нетерпимость угрожают основам нашего общества и нашим моральным принципам.

Тревожные события высветили необходимость налаживания содержательного и предметного диалога между представителями различных конфессий, культур и мировоззрений. Однако, одних декларативных норм и призывов бороться с дискриминацией и ксенофобией недостаточно. Антисемитизм и дискриминация в современной Молдове являются серьезной проблемой, игнорировать которую нельзя.

Политика государства в области прав человека должна быть подкреплена мерами, направленными на ликвидацию дискриминации и нетерпимости. Понятно, что если проблема столь серьезна, то ее нельзя не замечать на самом высоком уровне. Вполне естественно, чтобы ею занялась соответствующая

парламентская комиссия с целью выработки государственной концепции, направленной на ликвидацию и предупреждение всех форм дискриминации, ксенофобии и антисемитизма. Молдова - многонациональная страна, поэтому защита прав национальных меньшинств должна являться постоянной заботой государства.

Вызывает озабоченность констатация, что серьезным препятствием на пути полноценной интеграции и реализации своих социальных, политических и экономических прав для национальных меньшинств является низкий уровень знания государственного языка. Государство должно прилагать усилия для создания адекватных условий для изучения представителями национальных меньшинств государственного языка. Также необходимо, чтобы государство создавало адекватные условия для изучения национальными меньшинствами своих родных языков: украинского, болгарского, гагаузского, романи, польского, иврита и проч., а также обеспечить развитие национальных культур путем внедрения соответствующих существующих в национальном законодательстве механизмов. Только поддержка и развитие культурных, религиозных и лингвистических традиций данных групп обеспечивают развитие многокультурного общества.

В данном контексте считаем необходимым, чтобы государство ориентировало свои политики на развитие программ по подготовке специалистов по преподаванию родных языков национальных меньшинств.

Необходимо продвигать социальную интеграцию национальных меньшинств, поощрять активное участие представителей национальных меньшинств в общественной, экономической и культурной жизни страны, а также поддерживать местные органы власти, на территории которых проживают компактно национальные меньшинства, в социально-экономическом развитии регионов и в борьбе с бедностью.

Национальные меньшинства слабо представлены в органах власти. Согласно подготовленному Правительством РМ и ПРООН-Молдова докладу, за исключением Приднестровья, Гагаузии и Тараклийского района, с начала 90-х годов XX в. представительство национальных меньшинств в структурах государственной власти и управления на центральном и местном уровне начало резко падать до очень низких показателей.

Обращает на себя внимание и тот факт, что в Гагаузии отсутствует официальная статистика поступивших жалоб по дискриминационным основа-

ниям. Однако это можно объяснить лишь правовой неграмотностью населения и отсутствием финансовых средств на защиту в судебных инстанциях.<sup>214</sup>

Феномены дискриминации во всех ее проявлениях, в том числе расовой, в последнее время сильно заботят гражданское общество. Причина здесь очевидная - слишком много видов дискриминации встречаются как в Молдове, так и непосредственно в АТО Гагаузии.

Можно выразить тревогу по поводу распространения трудовой и гендерной дискриминации, дискриминации в отношении лиц с ограниченными возможностями, дискриминации по национальному признаку и другое. Большое количество жалоб ущемляемых в правах людей вызывает необходимость усиления государственных мер по недопущению дискриминации в обществе.

На данный момент являются недопустимыми случаи, когда молодых девушек обязывают не рожать детей в течение первых лет работы, когда отказывается трудоустраивать лиц старше 40-45 лет, когда социальные услуги не оказываются в полной мере из за национальности или физического состояния обратившихся.

В обществе существует стигматизация, то есть поведение дискриминируемого человека зависит от принятия или непринятия его проблем обществом. Достаточно часто страдающий человек замыкается на своих проблемах и невольно вызывает отрицательную дискриминацию в свой адрес.

В соответствии со ст. 18 Закона об обеспечении равенства установлено, что любое лицо, полагающее себя жертвой дискриминации, имеет право предъявить иск в судебную инстанцию с требованием:

- a) установления факта нарушения его прав;
- b) запрета продолжения нарушения прав;
- c) восстановления положения, существовавшего до нарушения его прав;
- d) возмещения причиненного материального и морального вреда и возмещения судебных издержек;
- e) признания недействительности акта, приведшего к его дискриминации.

Лицо, возбудившее иск в судебной инстанции, должно представить факты, позволяющие предположить факт дискриминации. Однако, при этом надо учесть, что бремя доказывания того, что деяния не являются дискриминацией, возлагается на ответчика, за исключением действий, влекущих уголовную ответственность.

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<sup>214</sup> Рапорт Центра по правам человека Республики Молдова о соблюдении прав человека в Молдове за 2014 год.

Отрадно, что в Законе №121 предусмотрены методы ликвидации дискриминации:

а) предупреждения любых дискриминационных действий посредством введения специальных мер, включая позитивные меры, в целях защиты лиц, находящихся в невыгодных по сравнению с другими лицами условиях. Позитивные меры должны применяться до достижения равенства и социальной интеграции лиц или групп лиц, находящихся в невыгодных по сравнению с другими лицами условиях;

б) посредничества в разрешении возникших вследствие совершения дискриминационных действий конфликтов мирным путем;

с) наказания за дискриминационное поведение;

д) возмещения материального и морального вреда, причиненного вследствие дискриминационного действия.

В специальных положениях Закона указаны запреты дискриминации при найме на работу, в отношении допуска к общедоступным услугам и товарам, и Запрет дискриминации в сфере образования. Законодатель акцентировал внимание к данным аспектам в силу их значительности для общества и широкой распространенности.

Субъектами, наделенными полномочиями в области предупреждения и борьбы с дискриминацией и обеспечения равенства, являются:

а) Совет по предупреждению и ликвидации дискриминации и обеспечению равенства;

б) органы публичной власти;

с) судебные инстанции.

Законом о деятельности Совета по предупреждению и ликвидации дискриминации и обеспечению равенства № 298 от 21.12.2012 установлены правовые аспекты деятельности Совета и необходимо отметить, что имеются уже и результаты деятельности в этой области.

Не стоит в стороне и вопрос совершенствования законодательства. Так, в большинство нормативных актов страны включены нормы противодействия дискриминации. Так, можно отметить в этом отношении Трудовой Кодекс Республики Молдова, Закон о социальной интеграции лиц с ограниченными возможностями № 60 от 30.03.2012, Закон о равенстве мужчины и женщины, Закон об иностранцах от 24 декабря 2010 года и др.



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## **The role of citizen in the functioning of the EU. What avenues for citizens participation were opened by the eu-moldova associationpartnership?**

Georgiana CICEO\*

### **Abstract:**

*The present article explores the avenues for citizens' participation available within the space of the European Union in order to evaluate what possibilities for citizens' involvement has opened the institutional framework created for the relations between the European Union and the Republic of Moldova and how can this contribute to reinforcing the structures of democratic governance in the country. The analysis departs from the tradition of looking top-down on how EU supports democratization processes in the neighboring countries by transfer of democratic governance provisions and aims to offer a bottom-up perspective on how the newly developed mechanisms of citizen participation reinforce the structures of democratic governance in the particular case of the Republic of Moldova. For providing a more comprehensive image we decided to adapt the existing framework on external governance by adding useful insights from the literature on citizen participation.*

*Keywords:* EU external governance, European Neighborhood Policy, Moldova, association partnership, democratic governance, citizen participation

Recollecting the situation of his country after the troublesome years of the Nazi dictatorship, the first chancellor of the Federal Republic of Germany, Konrad Adenauer, expressed the view that the most important problem of his country stemmed from the fact that "[t]he German people suffered for decades in all of their strata from a false conception of the state, of power [and] of the position of the individual person. They made the state into an idol and raised it on an altar. They sacrificed the individual and his or her worth and dignity on this altar" (Adenauer, 1987: 44). Having to carve its own way out from the Soviet system, the Republic of Moldova found itself after 1990 in a comparable difficult situation as after decades of having its citizens accustomed to the

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idea that it was the State who had to cater for their well-being and provide them with health, housing and education it had now to dramatically change this widespread perception. The provision of these basic needs to its own people enabled the Soviet leaders to claim that the State was the source of human rights, in contradiction to the common Western legal philosophy according to which it was the individual who was the beneficiary of human rights (Lambelet, 1989: 64-65). However, a people with an awry and exaggerated conception of the State, with an almost unconditional obedience towards it represented, as in the case of postwar Germany, a difficult starting point for the newly proclaimed republic. For Adenauer it was clear that democracy could not be created only by establishing a "parliamentary form of government." This needed to be "enshrined in the consciousness of individuals," the role of the State being to "awaken the creative forces of the people, to lead them and to protect them" and to raise the youth "to politically responsible people, not in the direction of a readiness to let themselves to be controlled and ruled, but to a willingness and ability as free men to responsibly integrate in the whole" (Adenauer, 1987: 45-46). Nevertheless, the situation of Moldova was compounded by the disputes between the country's political and cultural elites with regard to the basis of the State's national identity (King, 2002: 231). By the end of the Soviet rule, Moldova was one of the most Sovietized republic of the former USSR with an above the average rate of linguistic assimilation and rate of mixed marriages. Especially the relations between the majority Moldovan / Romanian population and the ethnic minorities particularly the Russian one came repeatedly to the forefront of the political battle and a heavily dependence on Russia.<sup>215</sup> To add fuel to fire, the separatist war that led to the creation of the self-proclaimed Transdnistrian Moldovan Republic deprived Moldova of most of its industrial resources. The relations between the majority Moldovan / Romanian population and the ethnic minorities particularly the Russian one came repeatedly to the forefront of the political battle and added to the already difficult situation of the Republic of Moldova by denying the Moldovan leaders the capacity of setting a path towards building a new type of governance. Embarking on a European path as far back as 1994 would have had to allow the escaping of this setback, but the evolution of these relations with certain ups and downs could contribute only to a certain extent. After 2009 a pro-European coalition of parties undertook the mission to take decisive steps for launching the country on an EU orbit, but the lack of political will to usher in the necessary reforms for

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<sup>215</sup> Depending on the source of the statistics, between 70 to 80% of the exports of the Republic of Moldova were sent to the Russian Federation.

a more democratic style of governance made Moldova plunge by the end of 2015 in a deep political crisis and the credibility of a European orientation to fall to record low levels.<sup>216</sup> The setback was even more dramatic if we take into consideration that it came in sharp contrast to the previous period when Moldova was regarded as the true champion of the Eastern Partnership and a success story in a region where Russia reasserted resolutely its own interests.

Different studies on EU external governance emerged over the years (Lavenex, 2004, 2008, 2011; Schimmelfennig, 2005, 2012; Raik, 2006; Gänzle, 2009; Korosteleva, 2012). They look through different lenses to the ways in which the European Neighborhood Policy despite its asymmetric and unilateral make up is melt down into the everyday reality of a wide range of countries with different traditions and political systems that form the European Union neighborhood. This external governance tends to follow a two-tired logic of building networks – a regulatory one and an organizational one. The regulatory processes ”allow for the extension of norms and rules” whereas the organizational processes contribute to ”participatory openness in decision-making” (Lavenex, 2008: 943). Both these dimensions are relevant for the study that we propose bellow as they can offer useful insights for the processes that accompany the changeover towards democratic governance. They are important because they support the efforts to make the public sector more transparent, accountable and accessible to citizens and facilitate better citizen participation. The 'governance' model of democracy promotion was the central focus of already a number of studies in the scientific research (Lavenex and Schimmelfennig, 2011; Freyburg et al, 2015). In comparison to other contributions that concentrate on an top-down perspective on how European Union supports democratization processes in the neighboring countries by transfer of democratic governance provisions the present article favors a bottom-up viewpoint on how the newly developed mechanisms of citizen participation reinforce the structure of democratic governance in the particular case of the Republic of Moldova against the background of its membership in the Eastern Partnership and its association with the ENP.

The present article builds on the existing literature on citizen participation and democratic governance and embeds these in the research on the external governance of the EU. It focuses on the particular situation of the Republic of Moldova by attempting to assess to what extent the EU-Moldova partnership has opened new avenues for

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<sup>216</sup> According to the Moldovan media, by the end of 2015 the support for a European orientation of the country and that for a Russian orientation were almost equal, whereas those who hesitate account for 40-50% of the electorate (Racheru, 2016).

citizen participation and how EU support for a more dynamic citizen involvement in policy making can help the democratization processes on the way in a country in search of its own identity whose European course is supported by a half of the majority Moldovan / Romanian population and to a much lesser extent by the minority groups who make up 22% of the population (Kosienkowski and Schreiber, 2014: 5-6). As such, the article will be developed in three stages relevant for presenting the results of the research. Firstly, we will discuss in general terms the mechanisms of citizen participation in a democracy. Further on, we will analyze the avenues for citizen participation opened by the European Union and the limits of their participatory capacity in order to come up next with an in-depth discussion on the mechanisms opened by the EU-Moldova relations for citizen participation in the shaping of this partnership. The analysis will be completed by a comprehensive chapter of conclusions on Moldova's advance on the path of democratic governance.

### **1. Citizen participation in a democracy**

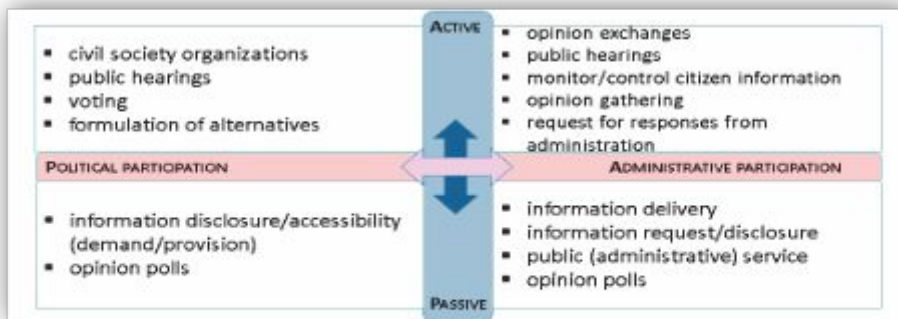
Citizen participation means an individual or collective action, with the purpose of identifying and addressing matters of public concern. It refers to a process where citizens organize themselves and their goals at the grassroots level and work together through nongovernmental community organizations to influence the decision-making process. According to Sherry R. Arnstein, citizen participation refers to the redistribution of power that "enables the have-not citizens, presently excluded from the political and economic processes, to be deliberately included in the future." Depending on the way by which citizens decide to assume a role in shaping the policymaking it is to be decided how information is shared, goals and policies are set, tax resources are allocated, programs are operated, and benefits like contracts and patronage are parceled out" (1969: 216). Participation in decision-making means an opportunity for the citizens, civil society organizations and other stakeholders to influence the development of policies and laws that impact them. By getting involved in these political processes, citizens can address and have a say in how their concerns, requests, principles are dealt with by the central/local authorities and get monitored, advanced or solved by these. Citizen participation comes about within the existing constitutional and legal framework and is not meant to touch upon the executive's or legislative's prerogatives in approving and implementing laws as well as upon the instruments of public policy currently in use, but to enable authorities to act more efficiently.

However, it is important to mention from the beginning that individual citizens may "vary a great deal in the extent to which they use what resources they have for

political purposes” (Dahl, 1961: 1340-1341). Their degree of participation can however vary along a ”ladder” from a minimalist level where citizens are just an object of ”manipulation” by the powerholders who do not seek genuinely to enable their participation, moving up to the higher levels of ”information” and ”consultation” whereby citizens may indeed ”hear and be heard”, but are lacking the power to ensure that their views will be heeded by the powerful. Citizen participation may then increase to the upper levels of ”partnership” where the citizens become able to negotiate and engage in trade-offs with traditional powerholders, that of ”delegated power” and ultimately that of ”citizen control” characterized by the citizens' capacity to obtain the majority of decision-making seats, or full managerial power (Arnstein, 1969: 217-224).

There are in essence two types of participatory activities that involve citizen involvement in decision-making – political participation and administrative participation, each of them being spread along a continuum from a passive type of citizen participation to an active one. The graphic representation of this can take the form of a matrix as in Fig. 1 indicating types of citizens activities relevant for each category of citizen participation. It may include membership in civil society organizations, participation in public hearings, voting or the formulation of alternatives as well as requests for responses from administration, opinion gathering or exchanges of opinions with the representatives of the administration. To a lesser extent citizen participation may involve information delivery or acceptance of being polled for various opinion polls.

**Figure 1: Types of citizen participation**



*Source:* Adaptation from Simon Forrester and Irem Sunar. (2011). CSOs and Citizens’ Participation. Sarajevo: Technical Assistance for Civil Society Organizations Regional Office.

Citizen participation seems to be regarded as an important prerequisite for improving the quality of governance. Its advantages are considered to be for both citizens and government and be reckoned with when taking into consideration the decision-making stage of the policymaking as well as the stage of evaluation of the outcomes (Fig. 2). The government can benefit from citizen participation by improving its capacity to learn about the needs of the society, by being able to better persuade the beneficiaries of its decisions, by building trust and last but not least by gaining legitimacy for its decisions. At the same time, with citizens participating in certain degrees in policy making, the government may be more capable to break gridlock, avoid litigation costs and find better ways for implementing its decisions. On the other side, the citizen may find also a number of evident benefits from their participation in public affairs – from being able to better inform the government and persuading and enlightening the government to gaining skills for active citizenship and further for achieving control over different stages of the policy process and then better policy and implementation decisions (Irvin and Stansbury, 2004: 56-58).

**Figure 2: Advantages of citizen participation**

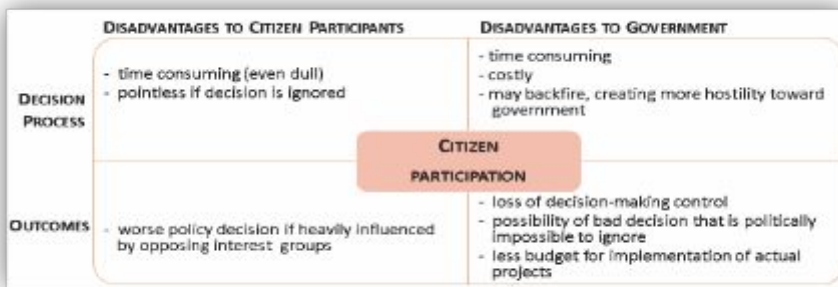


Source: Renee A. Irvin and John Stansbury. (2004). "Citizen Participation in Decision-Making: Is it Worth the Effort? ." Public Administration Review, 64: 1, p. 56.

Even though the citizen participation is regarded as a major must for better governance, a number of disadvantages also arise in connection to an increased citizen immersion in public sector activities. They too concern simultaneously the governed and those who govern and occur both in the decision-making stage of the policymaking and in the evaluation stage (Fig. 3). The government must be aware of the fact that involving citizens in the decision-making is time consuming, costly and may even backfire if its decision do not cater for the interests of opposing interest groups. It may lead to loss of decision-making control, bad decisions that may further incur political

costs and less budget for other projects regarded also as necessary. Finally, citizen participation may infer to its side loss of decision-making control or coming to a point where certain problematic decisions become unavoidable. For the citizens too a decision to get involved in public sector activities might be time consuming and even pointless if it does not lead to decisions that meet the expectations. It is also possible that the process may lead to worse decisions than in the case of non-participation if the government has to take into consideration the voice of opposing interest groups (Irvin and Stansbury, 2004: 58-60). These disadvantages need to be balanced against the potential benefits in order to establish the most effective course of action.

**Figure 3: Disadvantages of citizen participation**



*Source:* Renee A. Irvin and John Stansbury. (2004). "Citizen Participation in Decision-Making: Is it Worth the Effort?." *Public Administration Review*, 64: 1, p. 58.

Despite its relative shortcomings citizens participation, irrespective of the form or degree of implication, remains an important prerequisite of democratic governance and renders substantial benefits for reinforcing transparency, accountability and accessibility of the government activities. Participatory processes have become a transformative tool for social change. As we will discuss next, EU has integrated various tools for enabling citizens to join the policy process and was also eager to accommodate various mechanisms for citizen participation in the neighborhood partnerships concluded up to now.

## 2. Avenues for citizen participation in the European Union

The idea that the EU's democratic legitimacy rests on two complementary principles – representative democracy and participatory democracy – that were further reinforced by the ratification of the Lisbon Treaty. The former principle is elaborated in Article 10 of the Treaty, which states that "the functioning of the Union shall be founded on representative democracy." This stands in contrast to the principles of direct

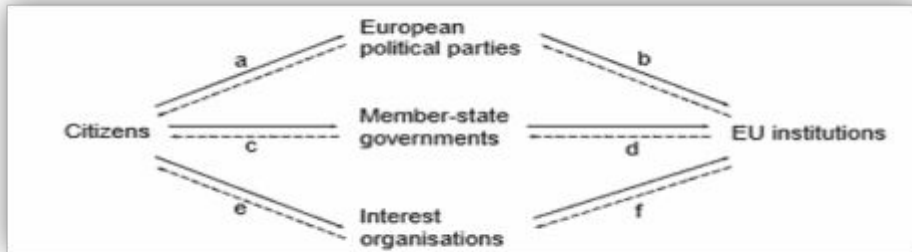


democracy and means that the elected officials represent a group of people. "Citizens are directly represented at Union level in the European Parliament," whereas Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens" (TEU, Art. 10). Citizens have the right to participate in the democratic life of the Union and decisions are taken as openly and as closely as possible to the citizen. These provisions are further reinforced by the principles of subsidiarity and proportionality also enshrined in the Treaty of Lisbon. Defined in Article 5 of the Treaty, the principle of subsidiarity ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level. The principle of proportionality provides that the need for a specific legal instrument is to be thoroughly assessed to see whether there is a less constraining means of achieving the same result. This means that framework legislation, minimum standards and mutual recognition of the Member States' existing standards should always be preferred to excessively detailed Community rules. The Protocol on the application of the principles of subsidiarity and proportionality requires that these principles are to be respected in all draft legislative acts and allow national parliaments to object to a proposal on the grounds that it breaches these principles. Article 11 in the Treaty of Lisbon introduces the principle of participatory democracy: citizens and representative associations shall be given the opportunity to express their views "in all areas of Union action"; and the Union "shall maintain an open, transparent and regular dialogue with representative associations and civil society" (TEU, Art. 11).

From its establishment, the EU has relied on three different channels of representation in order to ensure that policy making is responsive to the views of citizens. The electoral channel, which works through the European Parliament is the first. The second is the territorial channel it works through the intergovernmental institutions of the Union, such as the European Council and the Council of Ministers. The third and final channel is the interest-based one, which operates through interest organizations active at the European level. "EU's legitimacy crisis concerns how an appropriate balance might be struck between the territorial, the electoral and the interest-based channel of representation" (Lindgren and Persson, 2011: 41). In order to enhance its democratic legitimacy, EU needs to focus more "on the quality of the relationship among actors than on the quality of the social and political rules", by this meaning the interactive relationships that can be found primarily in the "coordinative" sphere of policy construction – deliberations of experts, debates of the European

Parliament and their interactions with the Council and the Commission or the engagement of organized interest groups with EU institutions (Schmidt, 2010: 8-9).

**Figure 4: Citizen participation in the European Union**



*Source:* Karl-Oskar Lindgren and Thomas Persson (2011), *Participatory Governance in the EU Enhancing or Endangering Democracy and Efficiency?*, New York: Palgrave Macmillan, p. 12..

EU sets over 70% of rules governing the production, distribution, exchange of goods, services and capital inside its space. All areas of public policy are in a way or another influenced by EU-level decisions. On average, the Council adopts 120 legislative acts per year, but it is difficult to estimate the proportion of national legislation adopted on the basis of EU law. Most of the acts adopted at EU level have direct as well as powerful indirect effects on the everyday life of EU citizens. EU decision-making is increasingly complex combining features of intergovernmentalism and supranationalism, multi-actor in character, multi-level in nature as well as multi-speed and increasingly differentiated in character. The most important problems concern the fact that different types of decisions are governed by different actors and that there are enormous differences exist between individual policy areas. In order to settle this intrinsic problem, one needs to approach EU decision-making as actor-centered, with explanations to be derived from the interests and strategies of the actors in the policy process. There are basically two main phases of the policy process in which it is important to attempt to influence EU institutions: the launching one and the implementation one.

The electoral channel showcases the European Parliament with power of control over the Union's institutions and legislative and budgetary powers shared with the Council. Ever since the entry into force of the Treaty of Lisbon, national parliaments have been given a period of six weeks to discuss a legislative proposals launched by the European Commission. At the same time, all Commission consultation documents

(green and white papers and communications) must be forwarded without delay to the national parliaments, which means that additional channels for citizen participation inside the European Union have been opened. The right of any citizen of the Union, and any natural or legal person residing here, to submit a request or complaint to the European Parliament on a matter which comes within the Union's fields of activity and which affects him directly is also expressly mentioned in the Treaty of Lisbon (TFEU, Art. 227). Then, European Parliament's Committee on Petitions considers whether such requests are admissible and draws up an opinion on a petition deemed to be admissible. It can also send the petition to other parliamentary committees for information purposes in order for them to take action or can submit a report to the Parliament for adoption in plenary session or to conduct a fact-finding mission.

Looking at the territorial channel, it is important to note that the Council adopts legislative texts, in most cases in co-operation with the European Parliament, concludes international conventions (e.g. accession, environment etc.), and it is responsible for the management of certain policy areas (e.g. foreign policy, security etc.). The Council is important to be approached at both national and EU level: national ministries and Permanent Representations. improved access to documents and transparency (helpful, e.g. to know which countries block, try to weaken a proposal): In order to facilitate citizen involvement, it was decided that the meetings of the Council are public when there is a general debate and when a proposal for a legislative act is voted on. In its Rules of Procedure, the Council of the European Union lays down the conditions under which the public may have access to its documents – votes, explanations of votes and Council minutes are public when the Council is acting in its legislative role.

European Commission is one among other EU institutions that lacks a territorial base of voters, but holds nevertheless the important right of legislative initiative and the responsibility to draft policy proposals based on which the Council and the European Parliament will further act. For these purposes, the Commission relies on civil society

actors as providers of knowledge and expertise which its own administration cannot render. Furthermore, because is lacking a democratic legitimacy, the Commission tends to encourage an increased cooperation with civil society organizations. As a result, the Commission has played an active role in the spread of civil society organizations in Brussels with which it can collaborate, not least by providing them with extensive financial support (Rodekamp, 2014: 20-21). The Commission has the duty to "carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent" (TEU, Art. 11). Interested parties are consulted through different ways: Green Papers, White Papers,

Communications, consultation documents, advisory committees, expert groups and ad-hoc consultations. European Commission works in a decentralized manner and its different services are responsible for their own mechanisms of dialogue and consultation. Engaging in a dialogue with the Commission has certain advantages as it is easier to influence a text during the drafting phase and it is important to have a sound grasp of what new initiatives are going to be launched in order to better elaborate further positions for approaching the European Parliament and the Council.

Beyond these institutional channels, the treatise foresee a number of other avenues for citizen participation in EU policy making. For the first time, the Lisbon Treaty established for the EU citizens the right to directly make proposals for future legislation by promoting a “citizens' initiative” (TEU, Art. 11). To be valid the initiative requires at least one million signatures coming from a significant number of Member States. The Commission, after checking whether the request falls within the limits of the powers conferred to it by the Treaties, is invited to officially launch a legislative proposal on the basis of the citizens' initiative. Further on, a position of European Ombudsman was established since 1992 by the Treaty of Maastricht whose role is to ensure a thorough administrative transparency at EU institutional level. The Ombudsman is empowered to receive complaints from any citizen of the Union or any natural or legal person residing in a Member State concerning instances of maladministration in the activities of the Union institutions, bodies or entities. Where the Ombudsman establishes an instance of maladministration he refers the matter to the institution concerned, conducts an investigation, seeks a solution to redress the problem and, if necessary, submits draft recommendations.

### **3. EU support for citizen participation in the Republic of Moldova**

As most of the other CIS countries, the Republic of Moldova although it has adopted “some elements of democracy”, without however to complete its transition, is regarded as “semi-free” bearing combined elements of “democratic competition” and “authoritarian leadership” (Raik, 2006b: 7-9). According to Freedom House's Nations in Transition Index (NIT), the Republic of Moldova should be considered rather a “hybrid regime” than a “transitional” one as it has witnessed “limited democratic progress” with recurrent lapses into more authoritarian tendencies (Nilsson and Silander, 2016: 50-51). EU has been interested from the beginning in increasing citizens participation in order to support the promotion of democratic governance in the Republic of Moldova. Although the pattern of this support has changed over the years (Shapovalova and Youngs, 2014), we can detect in its endeavors the very same avenues

for citizen participation as within the European Union – the electoral one, the territorial one and the interest based one. The Association Agreement provides for both institutional and interest based channels for citizens' participation that mirror the prevalent EU experience.

The electoral channel is provided by the Parliamentary Association Committee consisting of members of the European Parliament, on the one hand, and of members of the Parliament of the Republic of Moldova, on the other. Although without a decision-making power, it provides a useful forum for exchanging views and may request relevant information regarding the implementation of this Agreement from the Association Council. As a territory channel it was created an Association Council, consisting of members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of the Republic of Moldova, on the other, who supervises and monitors the application and implementation of the Association Agreement and periodically reviews its functioning in light of its objectives. It has the power to take decisions within the scope of the Association Agreement that are binding upon the two parties. An Association Committee, composed of representatives of the Parties, in principle, at senior civil servant level, was assigned to assist the Association Council in the performance of its duties.

### **Conclusion**

Moldova has failed to capitalize on "the window of strategic opportunity opened to it by the competition between the West and Russia for the EU's Eastern neighborhood, and then by the Russian annexation of Crimea and aggression in Ukraine" (Naumescu, 2015). Its elevation against this background to the status of "champion of Eastern Partnership," the signing of the Association Agreement and its awarding with a visa-free regime were supposed to be incentives for a more thorough and genuine reform course not the one mimicked by its leaders.

EU-Moldova cooperation offers a certain number of channels for citizen participation in decision-making. Nevertheless, EU-Moldova Association Agreement's joint institutions will be decided by the way in which the two sides will decide upon their involvement in the fulfillment of the common objectives. The EU support for civil society organizations in the Republic of Moldova is many-faceted and holds to the view that the existence of civil society needs a democratic setup that ensures civic freedoms and at the same time, the functioning of democracy necessitates an active and dynamic civil society. The events of last year in the Republic of Moldova showed that the civil

society is divided and still far from exercising a minimum control over power-holders for preventing the concentration and misuse of power. Especially its capacity to demand openness and accountability and expose possible misbehavior is suffering and in great demand for being strengthened.

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## Местное самоуправление и демократия в РМ и АТО Гагаузия

Людмила МИТИОГЛО\*

В Республике Молдова, как и в других европейских государствах, в последние годы происходят значительные изменения административно-политического характера, а значит, местное публичное управление претерпевает значительные преобразования.

Совершенствование системы местного самоуправления как института публичной власти — необходимая составляющая общего процесса демократических преобразований, осуществляющихся на сегодняшний день в современной Молдове.

Успешное проведение реформы местного самоуправления возможно только при системном подходе, основанном на адекватном понимании места и роли этого института не только в политико-государственной системе, не только в контексте реформирования государственной власти в Молдове в целом, на основе демократических норм и принципов, но, также, на понимании роли этих институтов для развития регионов и сохранения национальной культуры жителей Республики Молдова и национальных меньшинств. Для этого необходимо раскрыть нынешнее состояние, тенденции развития местного самоуправления, а также учесть весь комплекс правовых, организационных, политических, экономических, социальных и других факторов, влияющих на процесс реформирования в данной области.

Реализация Европейской политики соседства в Республике Молдова наиболее ярко способствовала построению широкой и прочной демократии, а также местного самоуправления в РМ (2014-2015 годы):

- Укрепляются контакты на высоком уровне между Европейским Союзом и Республикой Молдова, выполнение европейской повестки дня Правительством Республики Молдова;
- Республика Молдова и Европейский Союз подписали Соглашение об Ассоциации, в том числе, Соглашение о глубокой и всеобъемлющей зоне

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свободной торговли с Европейским Союзом, что заменило План действий в рамках Европейской Политики Соседства.

Местное самоуправление, развитие местных автономий, и, соответственно, местных сообществ, является и останется одним из ведущих приоритетов Правительства Республики Молдова. В предстоящий период в процессе управления местными делами происходят важные преобразования, связанные с проведением существенных реформ в области местного публичного управления. Конечная цель проводимой Правительством в настоящее время реформы местного самоуправления состоит в преобразовании местных органов власти современные и эффективные структуры, которые будут оказывать качественные услуг предоставляемым ими сообществам.

Местное самоуправление и децентрализация властей представляют собой один из стратегических приоритетов Программы правительства Республики Молдова на период 2011-2014 годы. Приоритеты сотрудничества на 2015 год расширились на следующие направления:

- Реформы публичной администрации;
- Сельское хозяйство;
- Реформы полиции;
- Гражданское общество.

Национальная стратегия децентрализации является основным программным документом в сфере местного публичного управления, который определяет национальные механизмы децентрализации и обеспечения подлинной местной автономии органов местного публичного управления.

Стратегия определяет среднесрочные цели и задачи (три-пять лет) по реализации приоритета, связанного с децентрализацией власти и обеспечением местной автономии в соответствии с принципами Европейской хартии местного самоуправления, ратифицированной Республикой Молдова 16 июля 1997 года.

Европейская Хартия местного самоуправления определяет сферы действий и ответственности местных властей (Страсбург, 15 октября 1985 год):

- Поддерживает введение и применение правил, гарантирующих политическую, административную и финансовую независимость местных властей;
- Ратует за передачу ответственности на уровень власти, наиболее близкий к гражданам;
- Устанавливает принципы в отношении законодательства, относящегося к местным властям, финансовым, административным и другим ресурсам.

Концепция децентрализации и задачи политики децентрализации Республики Молдова соответствуют опыту европейских стран, стремлению к европейской интеграции и двусторонним соглашениям между Республикой Молдова и Европейским Союзом.

Разработка Стратегии вытекает из необходимости стратегического планирования процесса децентрализации в целях консолидации потенциала органов местного публичного управления, улучшения менеджмента и качества предоставляемых гражданам публичных услуг.

Таким образом, вопросы демократии и местного самоуправления как никогда актуальны именно в наши дни, и эта актуальность обнаруживается не только в практической, но и в теоретической плоскости.

Результаты муниципального строительства в Республике Молдова показывают, что реформы местного самоуправления и развития демократии требуют к себе самого пристального внимания и серьезного изучения, поскольку во многом бессистемная, непродуманная и теоретически слабо обоснованная практика реформирования административно-территориальной организации нашего общества в постсоветский период привела к очевидным для всех промахам и негативным последствиям.

Более того, нельзя не отметить, что вопросы функционирования демократического государства и местного самоуправления сравнительно редко рассматривались во взаимосвязи и целостности.

К сожалению, в сознании большинства наших граждан пока еще преобладают формировавшиеся десятилетиями стереотипы по вопросам организации властных структур. Граждане слабо представляют суть местного самоуправления, а также, свою роль и ответственность как первичных субъектов самоуправления, не преодолено отчуждение населения и отдельного индивида от публичной власти, не возникло достаточных предпосылок для социальной вовлеченности граждан в решение проблем местных сообществ.

Между тем результаты преобразования любых общественно-политических отношений во многом зависят от того, насколько люди, члены общества осознают суть происходящего и их итоги. Кроме того, многие представители публичной власти, включая государственных и муниципальных служащих, обладают низким уровнем организационной культуры и до сих пор находятся в плену устаревших традиций управления, что мешает в должной мере осознать те преимущества, которые может внести в их управленческую деятельность реализация местного самоуправления.

Исходя из вышесказанного, представляется актуальным проанализировать гражданское общество в Республике Молдова:

**Национальный уровень  
гражданского общества  
Республики Молдова:**

Развивается в благоприятной среде, но по-прежнему, довольно слабо; Наблюдается прогресс в партнерстве между государственными органами и организациями гражданского общества; Повышается роль гражданского общества в процессе принятия решений (Национальный Совет по участию).

**Региональный (местный)**

**уровень гражданского общества РМ:**

Несмотря на наличие законодательной базы, способствующей развитию, НПО сектор остается слабым; Не развито гражданское участие, отсутствие общественного доверия к сектору, не серьезное отношение со стороны органов власти; Не действует механизм консультаций между властями и гражданским обществом, рекомендации НПО фактически не принимаются во внимание.

Следует отметить, что вопросы функционирования демократического государства и местного самоуправления сравнительно редко рассматривались с Молдове во взаимосвязи и целостности. В гражданском обществе еще преобладают стереотипы по вопросам организации властных структур, а граждане слабо представляют суть местного самоуправления и свою роль и ответственность в данном процессе.

Считаю важным, обсудить в своем докладе демократическое общество Гагаузии, находящейся в составе Республики Молдова, некоторые инструменты применения демократии в регионе; а также важность внедрения реформы местного самоуправления и поддержки инициатив демократии в Гагаузии и ее механизмы.

Гагаузия является территориальным образованием с особым статусом как форма самоопределения гагаузов, являющиеся составной частью Республики Молдова. Гагаузия в пределах своих компетенций самостоятельно решает вопросы политического, экономического и культурного развития в интересах всего населения. На территории Гагаузии гарантируются все права и свободы, предусмотренные Конституцией и законодательством Республики Молдова. Законодательным органом Гагаузии является Народное Собрание, которое обладает правом принятия нормативных актов в пределах своих компетенций, а

также принятия местных законов в области науки, культуры, экономики, экологии, трудовых отношений и социального обеспечения. Высшим должностным лицом Гагаузии является ее Глава (Башкан), он представляет исполнительную власть в Гагаузии.

Одной из основных проблем, с которой Гагаузия (Гагаузская автономия) постоянно сталкивается за весь период своего существования, является реализация полномочий по участию во внутренней и внешней политике страны.

Закон об особом правовом статусе, наделяя автономию этим правом, лишь в общих чертах обозначил контуры механизма его реализации. В большей степени посредством установления института представительства в некоторых структурах центральных органов исполнительной власти и отчасти в судебной.

Башкану, как главе Гагаузии, предоставлена возможность участия в принятии решений на уровне Правительства, в состав которого он (она) входит по праву. (Утверждается Указом Президента).

Руководителям отраслевых управлений автономии – право участия в подготовке решений на уровне соответствующих министерств и ведомств, в составе их консультативных органов – коллегий.

Иных форм прямого и гарантированного представительства Гагаузии в центральных органах власти, в том числе и в высшем представительном органе – Парламенте, действующее законодательство не регламентирует.

При этом следует отметить, что в некоторых центральных ведомствах государственного управления, как например, в сфере международных отношений, прямое представительство автономии отсутствует и на уровне консультативного органа.

В равной степени это касается и представительства Гагаузии в судебной власти. Оно носит откровенно декларативный характер.

Несовершенство действующих политических институтов и практик, препятствующих Гагаузии в эффективном участии на общенациональном уровне, характеризуется также усиливающейся негативной тенденцией ограничений его полномочий.

Зачастую это происходит в рамках осуществляемых в стране реформ, требующих модернизации законодательства и приведение его в соответствие с Европейскими стандартами.

Однако, надо прямо признать, что новое законодательство не всегда их учитывает. Речь идет, прежде всего, о положениях Хартии местного самоуправления, Рекомендаций Европейской комиссии по правам человека через

демократию (Венецианская Комиссия), Рекомендаций Организации по Безопасности Совета Европы (Лундские, Лублянские и др., изданные Верховным комиссаром по делам национальных меньшинств) и др. актов, устанавливающих стандарты прав национальных меньшинств и полномочий этнополитических автономий.

Мировой и Европейский опыт демонстрируют нам достаточное множество положительных примеров решений проблем в сфере взаимоотношений центральных и автономных этнополитических образований. Европейские структуры, ОБСЕ, Венецианская комиссия и другие предлагают различное множество моделей, гарантированного представительства в государственных органах. Среди них, гарантированное представительство в законодательном органе, наиболее важном элементе участия национальных меньшинств в общественной жизни страны.

Опираясь на вышесказанное, следует также отметить и выделить следующие выгоды и преимущества местного самоуправления:

- Местные нужды лучше всего знакомы местным жителям, участвующим в избрании органов местного самоуправления;
- Развивает в гражданах самодеятельность, энергию, предприимчивость и ведет к развитию общественных сил. Люди перестают ожидать блага от правительства, привыкая полагаться на самих себя;
- Общественная жизнь при наличии местного управления равномернее распределяется по всему государству, не стягивается искусственно к центру, оставляя регионы бессильными;
- Местное самоуправление связывает администрацию с народом. Наряду с частными интересами у гражданина появляются общественные интересы. Принимая участие в управлении, гражданин готов содействовать ему всеми силами, как собственному делу;
- Местное самоуправление дает гражданам практическое знакомство с общественными делами;
- Наконец, местное самоуправление является подготовительной школой для государственным деятелей высшей категории.
- Важно также отметить неизбежность передачи ответственности гражданскому обществу, в следующих целях:
- Создание предпосылок для социальной включенности граждан в решение проблем местного сообщества, без навязывания реформ сверху вниз;
- Создание механизмов, где гражданское общество принимает участие в

принятии решений, осуществлении контроля над деятельностью власти на региональном и местном уровнях (наблюдение за властями, применение механизма экспертизы обществом, посредники в процессе принятия решений, работа в комиссиях);

- Гражданское воспитание общества, в особенности молодежи и развитие критического мышления у общества.

Все вышеизложенное позволяет сделать вывод о том, что управление на местном уровне представляет собой самое приемлемое пространство для развития и проявления всех форм демократии. Соответственно, именно с этого уровня должна начинаться и демократия в Республике Молдова.

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## **Соглашение ЕС-Молдова Ассоциация: к политической интеграции Молдовы различиях между теорией и практикой - проблемы болгар и других меньшинств (с акцентом на с. Кирсово и близлежащих болгарских сёл в АТО Гагаузия)**

Татьяна РАКОВЧЕНА\*

### **Резюме**

*Данная публикация нацелена на представление аспектов условий социальной, экономической, культурной, политической и друг сфер общественной жизни меньшинств болгарской национальности в Республике Молдова. В статье кратко представлен информационный материал в Республике Молдове о: численном составе болгар; об общественных деятелях болгарской национальности; об условиях создания, укрепления, поддержки и развития всех необходимых и оптимальных условий для меньшинств болгарской национальности.*

Современные болгары, как народ, возникли в период раннего средневековья в результате смешения трех существовавших ранее этносов [2]:

- болгар (тюркского этноса);
- племен славян, обитавших на землях нынешней Болгарии, куда, собственно, и пришли булагры;
- а также живших на землях нынешнего болгарского государства фракийцев.

Спасаясь от османского ига, многие жители северо-восточной части Балканского полуострова искали приют на землях Бужакской степи. Южная часть Молдовы и южно-западная часть Украины стали пристанищем для выходцев с болгарской земли. А также Кирсово — одно из немногих мест, где гагаузы и болгары многие годы совместно проживают. При этом они составляют две примерно равные по численности части села. Общение между жителями обеих половин было очень ограничено, межэтнические браки были запрещены.

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Такое положение вещей сохранялось и в советское время. Традиционные молодежные встречи «хоро», существовавшие в культуре обоих народов проводились отдельно, случались межэтнические драки из-за девушек. В селе было организовано два мононациональных колхоза. Сегодня этническая граница между болгарами и гагаузами в селе гораздо менее жесткая. Однако, Кирсово, как феномен одновременно совместного, но этнически четко разделенного населенного пункта сохраняется.[1]

По переписи 2004 года болгарский язык указали родным 53 178 чел., или около 1,1% населения республики. Для болгар республики характерна высокая доля сохранивших родной язык: болгары с родным языком болгарским составили 81,0%, и 13,9% родным языком указали русский язык[1]. Несмотря на это, каждый третий болгарин обычно разговаривает на русском, а 7,1% болгар — на молдавском[1].

69,23% болгар-горожан и 90,55% болгар-селян называют родным болгарский, хотя обычно на нём говорят гораздо реже[2]. Русский язык назвали родным 9 134 болгарина. При этом 25,08% болгар-горожан и 4,83% процента болгар-селян считают русский родным. Молдавский язык назвали родным 2 766 человека, или 4,21% болгар Молдовы, в том числе 4,91% горожан и 3,64% селян.

### **Географическое распределение**

Всего в республике Молдова (исключая ПМР) по переписи 2004 года проживало 65 тысяч болгар. Наиболее высокая концентрация болгарского населения в Тараклийском (65,6% или 28,5 тысяч) и Бессарабском районах (5,33%), в автономном регионе Гагаузия — 5,2% или 8 тысяч. По переписи 2004 года 44% болгар республики проживало в Тараклийском р-не. В нём же расположены два города с болгарским большинством: Твардица (91,7%) и Тараклия (78,0%).

### **Политическая активность**

В условиях независимой Молдовы болгарская община остаётся

политически активной. Представители общины успели провести успешный референдум по отделению от Тараклийского р-на от Кагульского, а также два общереспубликанский собора (второй прошёл 14 апреля 2014 года), на которых обсуждались вопросы сохранения национально-культурной автономии, а также возможного вхождения в состав АТО Гагаузия

### Население Гагаузии

Численность населения автономии по данным переписи 2004 года составила 155 646 чел.[5]. По оценкам 2012 года население Гагаузии составляет 162,200 тыс. чел.

| Народ     | Численность | 100%   |
|-----------|-------------|--------|
| Гагаузы   | 127 835     | 82,1 % |
| Болгары   | 8013        | 5,1 %  |
| Молдаване | 7481        | 4,8 %  |
| Русские   | 5941        | 3,8 %  |
| Украинцы  | 4919        | 3,2 %  |
| Другие    | 1457        | 1 %    |

Где сегодня живут болгары в Молдове? Конечно, основная их масса обосновалась в Тараклии. А также в АТО Гагузии\_это Комрат, Кирсово, Чадър-Лунга, Светлый, Леове, Кантемире, Кагуле, Каушанах, Кишиневе и Приднестровье.

Во времена раскулачивания жесткие меры применялись и к болгарам, проживавшим на территории нынешней Молдовы. Однако из ссылок они возвращались не на Черноморское побережье Болгарии, а на ставшие родными земли Молдовы.

Сегодня в нашем солнечном Молдавском крае живет около 90 тыс. болгар, из которых 70 тысяч – на правом берегу Днестра, и 20 тысяч, соответственно, – на левом.

Именно на левом берегу Днестра находится самое большое болгарское село

— Парканы, где проживает 9,5 тыс. представителей этой национальности.

Я считаю, что «Болгарам, проживающим в Молдове, удалось сохранить свою народность, язык, культуру, обычаи, на бытовом уровне в семьях этнических болгар говорят на языке прадедов».

Так, и в сегодняшние дни под Новый год в болгарских селах (Московей, Парканы, Кортен, Твардица и многих, многих других) слышны колядки на родном языке. А 21 января, как и в старину, женщины собираются вместе на Бабин день. 14 февраля болгары отмечают их традиционный праздник Трифон Зарезан. День первой лозы, когда виноград уже можно подрезать. Это праздник виноградарей, а сегодня и садовников, и огородников. А вот 1 марта болгары празднуют Мартеницу. На праздник принято дарить друзьям и близким символы весны — мартенички, сплетенные из белой и красной нитей. Традиции и обычаи молдавские болгары постарались сохранить в том виде, в каком перенимали их от прадедов.

В некоторых селах Республики Молдова открыты для посещения этнографические музеи болгар, такие села как: Твардица, Кирсово, Г.Чадър-Лунга рассказывающие о жизни выходцев с северо-восточной части Балканского полуострова на землях Буджакской степи. Там можно увидеть орудия труда, старинные фотографии посуду, одежду, которыми пользовались болгары еще 200 лет назад.

Почти во всех населенных пунктах компактного проживания болгар в детсадах есть группы, а в школах классы с преподаванием на болгарском языке. В Кишиневе есть болгарский теоретический лицей им. Василия Левского. В Молдове появился первый болгарский университет — Тараклийский государственный университет им. Григория Цамблака [1]. Более того в Комратском Государственном Университете, Педагогическом Университете им. И. Крянгэ этнические болгары и представители других национальностей имеют уникальную возможность получать высшее образование по специальностям: болгарский язык и литература. Выходцы с Балканского полуострова сохранили язык, на котором еще 200 лет назад говорили их предки.

Ежегодно Республика Болгария выделяет около 100 бюджетных мест в вузах страны для этнических болгар, проживающих в Молдове.

Первой болгарской организацией, официально зарегистрированной в Молдове, была Республиканская этнокультурная организация болгарского общества «Возрождение», которой уже 22 года.

С гордостью говорим, что в феврале 2004 года и в АТО Гагаузии открыта и по сей день, плодотворно функционирует ОБЩИНА Болгар Гагаузии. Нашими

целевыми приоритетами являются: сохранение и развитие традиций и культуры болгарского народа, компактно проживающих в Буджакской степи;

- Защита Прав и свобод болгарской части населения АТО Гагаузии;
- Осуществление доступа к информации о болгарях АТО Гагаузии

Каждый второй вторник месяца на канале Moldova 1 в 17.40 можно посмотреть телепередачу «На буджакской волне» на болгарском языке, в которой рассказывается о культуре и обычаях жителей северо-восточной части Балканского полуострова.

А каждую пятницу на радио Moldova в 20.00 идет передача «Мегдан», тоже на болгарском языке. И конечно хотелось бы отметить очень важный момент работы и развития общины в Комрате, которая благодаря Фондации Болгарская память-учредителем, которой является доктор Милен Врабевски, который финансирует много проектов связанные с евроинтеграцией. Уже на протяжении на протяжении 9 лет-г-ном Врабевским были реализованы множество проектов и хотелось отметить некоторые из них: 200 детей ежегодно из Болгарии и других диаспор с болгарским происхождением из Молдовы, Украины, Македонии западной части Болгарии, имеют возможности участвовать на семинар по евроинтеграция в г.Варна „Сильная национальная идентичность – сильная европейская идентичность“.



Мы стараемся научить молодых людей жить вместе под лозунгом европейской культурной идентичности, и через встречи с успешными болгарями, и научить их как мотивировать ценности для своего собственного удовлетворения и как добавить их значение в жизни других людей. Исключительной привилегией

внимательно следить, как болгары из пяти стран обсуждают на родном языке болгарском языке о ценностях и перспективах европейской интеграции ". И хотелось бы отметить непосильный вклад г-на Врабевского в осуществлении 16 ти таких семинаров, и поэтому д-р Милен Врабевски, в 2013 году был награжден за « сильную национальную идентичность - сильную европейскую идентичность » премией « Гражданин Европейского парламента » за « выдающийся вклад в укрепление взаимопонимания и интеграции между гражданами ЕС ».



Благодаря вот такого рода семинаров дети берут для себя очень многое, т.е. что такое евроинтеграция.

Республика Молдова гордится известными на весь мир болгарами:

Иваном Забуновым — доктор истории, бессменный председатель этнокультурной организации болгарского общества «Возрождение».

Нико Стояновым — поэт, писатель, журналист, переводчик. Член Союза журналистов Молдовы, член Союза писателей России, член Союза писателей Болгарии. Заслуженный деятель искусств Молдовы, удостоен звания *Om emerit* (1995 год).

Дмитрием Пейчева — художник. В 1996 году награжден орденом *Meritul Civic*. В 2003 году стал лауреатом премии Союза художников РМ в номинации изобразительное искусство. Его работы находятся в коллекциях музеев Молдовы, России, США, Франции, Германии, Израиля, Бельгии, Японии, Болгарии, Румынии, Украины.

Хочу подчеркнуть, что Исполнительный Комитет АТО Гагаузии, встречает официальные делегации из Болгарии, Как старых, добрых друзей: хлебом и солью. Стремление Болгарии и Гагаузии к развитию торгово – экономических, культурных и образовательных отношений начало реализовываться с сентября 1997 года, когда было подписано Соглашение о побратимстве и сотрудничестве между примарией г. Чадыр – Лунга, г.Комрат и властями г. Каварна. Нельзя не отметить тот факт, что экспорт продукции товаропроизводителей Гагаузии в Республику Болгарию ежегодно возрастает и импорт из Болгарии в автономию составляет более 5 млн. леев. Так же возрастает и уровень культурного

сотрудничества. Артисты из Болгарии и Гагаузии принимают участие в международных фестивалях.

Как председатель Общины Болгар в Гагаузии считаю, что в Республике Молдова необходимо и далее создавать, укреплять, поддерживать и развивать все необходимые и оптимальные условия для меньшинств Болгарской Национальности, а именно:

- В контексте Культуры: способствовать созданию театров на территории АТО Гагаузия, подобных Болгарскому драматическому театру им. Олимпия Панова, в Тараклии; библиотеки Болгарской литературы территории г.Комрат Молдовы, подобной библиотеке болгарской культуры и литературы имени Христо Ботева в г. Кишинев; материальной поддержке болгарских этнофольклорных коллективов, их в Молдове насчитывается 46 единицы, и все они практически функционируют на собственном энтузиазме, как говорится, «выживают как могут»;
- И хотелось бы отметить большой вклад и помощь Министерства образования Р.Болгарии в укреплении преподавания болгарского языка в Молдове и приобретения болгарских национальных костюмов и народных инструментов по проекту «Родной язык за пределами Р.Болгария.»
- В контексте Науки: укрепление государственной поддержки, выраженной в целевом финансировании специализированного отдела при Академии наук Молдовы осуществляющего научные исследования по истории, языку и культуре болгарского населения Республики Молдова [3];
- В контексте Образования: дальнейшее совершенствование куррикулумов по изучению болгарского языка для 1-12 классов; усиление работы по подготовке учебника для изучения курса "История, культура и традиции болгарского народа"; укрепление собственной базы по подготовке педагогических кадров для учебных заведений, где изучаются болгарский язык. Дальнейшее развитие Практики повышение квалификации учителей по болгарскому языку в Республике Болгария. Увеличение квоты мест для обучения выпускников Молдовы в ВУЗах Республики Болгария; И конечно же благодаря непосильному вкладу проекта «Роден език зад границата», который реализуется уже на протяжении пяти лет» и финансируемый Министерством образования Р.Болгария- обеспечения болгарскими национальными костюмами, курсы для по болгарскому языку для поступающих в вузы Болгарии, и финансирования ряда дисциплин ,как история болгарского народа, География, и др.

- В контексте Доступа к информации: важно отметить, что Соблюдение Законов, постановлений Парламента, указов Президента, постановлений и распоряжений Правительства, актов Конституционного суда и др. важных и судьбоносных для болгарского населения Республики Молдова документов, может быть обеспечено и далее, при гарантии их публикации в Официальном мониторе Республики Молдова на государственном языке, а также русском - основном языке межнационального общения и понятного для абсолютного большинства представителей национальных меньшинств. А официальные сообщения и другая информация общенационального значения, так же в дальнейшем, с гарантией, должна публиковаться на молдавском и русском языках в "Независимая Молдова", «Экономическое обозрение», а также ряде других печатных изданий.
- В контексте Средств массовой информации: Гарантия правительства Республики Молдова периодической трансляции на всю территорию республики компанией "Телерадио-Молдова" теле- и радиопередачи на болгарском языке, наряду с другими языками национальных меньшинств, в рамках программы "Под единым небом", «На Буджакской волне». Более того, , на территории АТО Гагаузия (Гагауз Ери) Государственной компании "Телерадио Гагаузии" вышла передача «Български прозорец» на болгарском языке вещания и ряду других теле- и радиостанций региона, учитывая компактное проживание болгарской народности в Буджакской степи, рассмотреть возможность и выпускать в эфир, к примеру, передачу «Ние говорим български език» на болгарском языке. Община Болгар Гагаузии, в свою очередь, гарантирует предоставление компетентных специалистов GRT, в области болгарской филологии и лингвистики. И, безусловно, продолжать стабильно и гарантийное, вещать в районе Тараклия, с покрытием зоны вещания в болгарских селах - на болгарском языке.
- В контексте Участия граждан болгарской национальности в экономической и общественной жизни Республики Молдова: И далее гарантировать, проживающим на территории республики гражданам болгарской национальности:
  1. Возможность осуществления профессиональной деятельности во всех сферах национальной экономики - промышленности, торговле, здравоохранении, сельском хозяйстве; культуре и образовании.
  2. право, на объединение в общественные неправительственные организации;

3. при Департаменте межэтнических отношений Республики Молдова, обеспечивать Руководителям аккредитованных республиканских неправительственных этнокультурных болгарских организации, членство в Координационном совете этнокультурных организаций, как совещательного органа при Департаменте межэтнических отношений. И особо важно: в заседаниях этого совета обеспечивать активное принятие участия депутатов Парламента Республики Молдова, представителей министерств и ведомств. И, по мере возможностей, встреч с Президентом Республики Молдова;
  4. Этнокультурным болгарским организациям, аккредитованным при Департаменте межэтнических отношений, бесплатно предоставлять помещения для размещения своих методических центров, бесплатно предоставлять залы для проведения различного рода мероприятий, оказывать организационно-методическую и, по возможности, финансовую помощь;
  5. органам местного публичного управления, опять, таки, по мере возможности, оказывать поддержку, в том числе финансовую, местным этнокультурным болгарским организациям для реализации их уставных целей;
  6. обеспечивать гарантию возможности поддерживать этнокультурным болгарским организациям связи с учреждениями и ведомствами этно-исторической родины: Республики Болгария, с дипломатическим представительством Республики Болгария в Молдове, с администрациями регионов, различными благотворительными организациями, организациями, занимающимися поддержкой своих диаспор, учебными заведениями в Республике Болгария;
- В контексте Представительства граждан болгарской национальности в органах власти Республики Молдова:

Представительство лиц болгарской национальности в Парламенте и местных советах, должно достигается в результате выборов, в соответствии с Кодексом о выборах, согласно которому граждане Республики Молдова имеют право избирать и быть избранными независимо от расы, национальности, этнического происхождения, языка, религии, пола, взглядов, политической принадлежности, имущественного или социального происхождения (ст. 3). На сегодняшний день, граждане болгарской национальности, за некоторым исключением, представлены в районных советах, а также в местных советах



городов, муниципиев, сёл и коммун, в том числе и в должности примаров, в которых они составляют значительную часть населения. Важно, отметить, что в исполнительном комитете и Народном Собрании АТО Гагаузии, не осуществляют свою профессиональную деятельность граждане болгарской национальности.

В то же время, в ныне функционирующем Парламенте Республики Молдова от партии ДПМ, ЛПМ, ЛДПМ, ПСРМ и ПКРМ не представлено в депутатском корпусе ни одного парламентаря болгарской национальности. Очевидно, правящим партиям Главного Законодательного Органа Молдовы, учитывая, что болгары – составляют 1,9% от населения Молдовы (находясь на 6-м месте), не была рассмотрена возможность представительства граждан болгарской национальности в их «проходных» партийных списках.

И все же...

В заключение, своего доклада, хотелось бы подчеркнуть:

Вышеприведённая информация наглядно не совсем свидетельствует о том, что Республика Молдова не только гарантирует и соблюдает права и законные интересы лиц, принадлежащих к национальным меньшинствам, но и не предпринимает практические меры по созданию действительно реальных условий для сохранения, развития и свободного выражения этнической, культурной, языковой и религиозной самобытности национальных меньшинств, проживающих на территории республики, неукоснительному соблюдению принципа равенства всех граждан перед законом.

Мы, представители болгарской народности, верим, что, Учитывая полиэтничный характер населения Республики Молдова, правительство нашего государства, региона АТО Гагаузия, и далее будет проводить взвешенную политику в области межэтнических отношений, направленную на сохранение этнической, культурной, языковой и религиозной самобытности национальных меньшинств, проживающих на территории республики, на сохранение этнокультурного разнообразия и межэтнического мира. И надеюсь, что в нашей как и в странах ЕС будут иметь квоты в Парламенте страны и в Народном собрании АТО Гагаузия, национальные меньшинства будут иметь дотации со стороны правительства Р. Молдовы, следуя по пути евроинтеграции.

Мы болгары миролюбивый и трудолюбивый народ! И хотим чтоб нас уважали все народы проживающие на территории Молдовы. Верим в том, что наши права будут сохранены.

Ние българите, сме миролюбив и трудолюбив народ! Искаме да бъдем уважавани от всички народи, които живеят в Молдова. И вярваме в това, че

нашите права и свобода ще бъдат съхранени. Мир, здраве, щастие и всичко най-добро на всички!

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## Гагаузия: Некоторые достижения и проблемы функционирования особого правового статуса автономии

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### Abstract

*The paper examines the process of implementation of the special legal status of Gagauzia by the regional authorities within the legal framework of the Republic of Moldova. In order to achieve objectives of this paper the provisions of the Constitution of the Republic of Moldova and national legislation related to the special status of Gagauzia have been studied. Authors highlight challenges of implementation of regional self-government, which occur within the existing autonomy regime. In the study were identified problems of implementation of the legal competence of Gagauzia and the legal status of its local laws; some contradictions between the national legislation concerning the special status of the autonomous unit, which need the amendment of its provisions, especially the Law on local public authorities and the Law on administrative decentralization. In order to resolve the problem of contradictions within the national legislation the special status of the organic Law on the special legal status of Gagauzia is required.*

*Keywords:* regional self-government, autonomy, regional public authorities, competences, Gagauzia

Основы устройства автономно-территориального образования закрепляются в конституционно-правовом порядке государства. Согласно Хельсинской Декларации о региональном самоуправлении, принятой Советом Европы в 2002,<sup>217</sup> государства, реализующие принцип регионального самоуправления, придают особый правовой статус регионам в рамках Конституции и/или законодательства. Особый правовой режим призван гарантировать региональным органам власти

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<sup>217</sup> Helsinki Declaration on Regional Self-Government, 2002

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1095808&SecMode=1&DocId=1350404&Usage=2>

право на самостоятельное решение проблем соответствующей территории в пределах своих компетенций. Так, региональное самоуправление признается частью демократического управления в Европе.

Республика Молдова, предоставив территории с компактным проживанием гагаузов право на региональное самоуправление, стала на постсоветском пространстве одним из немногих примеров достижения межэтнического согласия мирным путем. Принятый Парламентом Республики Молдова Закон об особом правовом статусе Гагаузии от 23 декабря 1994г. является основой для функционирования органов власти автономии в рамках обозначенных в нем компетенций. Закрепление в 2003г. статуса региона в Конституции обеспечило гарантию его существования как формы самоопределения гагаузов.

Несмотря на определенные гарантии конституционных и законодательных положений о праве Гагаузии на самоуправление, на практике возникают проблемы реализации статуса автономии и, как следствие, противоречия между центральными и региональными органами власти.

В данной работе проводится анализ политико-правовой ситуации, возникшей в процессе осуществления органами власти Гагаузии особого правового статуса. Для достижения цели были изучены правовые основы функционирования автономии в рамках Конституции и национального законодательства РМ и обозначены некоторые проблемы реализации регионального самоуправления, которые возникают в сложившемся правовом режиме. Учитывая комплексность и сложность вопроса о функционировании особого статуса Гагаузии, в данной работе изучение ситуации ограничивается анализом отдельных положений в законодательстве и связанным с ними кругом проблем. Все же, анализ вопросов нормативно-правового характера и политической ситуации, влияющих на функционирование органов власти автономии, требует более детального и глубокого подхода.

Правовые основы функционирования автономии Гагауз Ери были заложены в 1994г. принятием Парламентом Республики Молдова органического закона «Об особом правовом статусе Гагаузии (Гагауз-Ери)» «в целях удовлетворения национальных потребностей и сохранения самобытности гагаузов, их наиболее полного и всестороннего развития, обогащения языка и национальной культуры, обеспечения политической и экономической самостоятельности».<sup>218</sup> Законом

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<sup>218</sup> Закон №344-ХІІІ об особом правовом статусе Гагаузии (Гагауз Ери) от 23.12.1994 в Monitorul Oficial Nr. 003.

<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=311656&lang=2>

регламентируется порядок формирования и деятельности органов власти на территории Гагаузии, установления границ автономного образования, определены языковой режим и формы взаимоотношений с центральными органами власти РМ.

Согласно Ст.2 Закона Об особом правовом статусе Гагаузии (далее- Закон от 23 декабря 1994г.), управление в Гагаузии осуществляется на основе Конституции Республики Молдова, настоящего закона и других законов Республики Молдова (с исключениями, предусмотренными настоящим законом), не противоречащих им Уложения Гагаузии и нормативных актов Народного Собрания (Халк Топлушу) Гагаузии.

Несмотря на отмеченное положение Ст.2 Закона от 23 декабря 1994г. с оговоркой на применение законов РМ с учётом исключений, предусмотренных настоящим законом, существует ряд противоречий в национальном законодательстве, которые не обеспечивают осуществление данного принципа на практике. В связи с тем, что за Законом от 23 декабря 1994г. не признан специальный статус среди органических законов,<sup>219</sup> берутся за основу положения принятых позже законов в ущерб его исполнению. Примерами могут послужить принятые закон о деятельности полиции и статусе полицейского от 27.12.2012 и новый закон о прокуратуре от 2016г., которые входят в противоречие со Ст. 24(4) Закона от 23 декабря 1994г. о назначении начальника муниципальной полиции и Ст. 21(3) о назначении нижестоящих прокуроров Гагаузии. В результате, принятые позже законы не позволяют осуществлять отмеченные пункты.

Обращаясь к конституционным нормам об особом правовом статусе Гагаузии, следует отметить внесенные изменения и дополнения в 2003г.<sup>220</sup> в Конституцию, в Ст. 73, Ст.110 и Ст.111, в которых непосредственно были указаны некоторые положения о функционировании устройства автономии.

Ст. 73 Конституции наделяет Народное Собрание правом законодательной

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<sup>219</sup> Хотя, квалифицированное большинство (3/5 голосов избранных депутатов Парламента) необходимо для внесения изменений в Закон от 23 декабря 1994г. отличает его от других органических законов РМ, данное положение не обеспечивает Закону особый статус в иерархии законодательных актов.

<sup>220</sup> Изменения в Конституцию обсуждались в рамках рабочей группы между центральными органами власти и органами власти автономии в 2001г. Проект конституционного закона получил экспертизу Венецианской комиссии в 2002г., мнение которой по многим пунктам не были учтены. См. подробнее: Мнение Венецианской комиссии №191/2001 об изменениях и дополнениях к Конституции Республики Молдова, в частности касающийся статуса Гагаузии Венеция, 8-9 марта 2002.

<http://halktoplushu.md/index.php/mnenie-venitsianskoj-komissii-venice-8-9-march-2002/945-mnenie-venitsianskoj-komissii-venice-8-9-march-2002>.

инициативы в Парламенте наряду с депутатами Парламента, Президентом и Правительством РМ. Таким образом осуществляется зафиксированное в Законе от 23 декабря 1994г. право на участие Гагаузии в осуществлении внутренней и внешней политики Республики Молдова по вопросам, касающимся интересов автономии. Однако применение положения о праве законодательной инициативы Народным Собранием было неэффективным. С 2003г. Ниодна законодательная инициатива Собрания до 2015г. не была включена в повестку дня Парламента по причине их низкого качества.<sup>221</sup>

В Ст. 110 Конституции в административном отношении выделяется автономно-территориальное образование Гагаузия помимо других территориальных единиц, как села, города, районы. Законом об административно-территориальном устройстве РМ от 2001г. подкрепляется данный принцип положением о территориальном образовании, которое обособляет автономно-территориальное образование от других административно-территориальных единиц, таким образом, подчеркивая наличие у Гагаузии особого правового статуса.

В Ст. 111 (1) Конституции зафиксировано, что «Гагаузия - это автономно-территориальное образование с особым статусом как форма самоопределения гагаузов, являющееся составной и неотъемлемой частью Республики Молдова, которое самостоятельно, в пределах своей компетенции, в соответствии с положениями Конституции Республики Молдова, решает вопросы политического, экономического и культурного характера в интересах всего населения». Данное положение предопределяет необходимость выработки центральными органами власти особого подхода в решении вопросов политического, экономического и культурного характера с учетом наличия определенных полномочий региональных органов власти в рамках административно-территориальных границ.

Исходя из положения Ст.111 (3) Конституции, определяется функционирование представительных и исполнительных органов власти на основе закона. Согласно Закону от 23 декабря 1994г., представительным органом Гагаузии является Народное Собрание, обладающее правом принятия нормативных актов и местных законов в пределах своей компетенции, обязательных на территории

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<sup>221</sup> См. подробнее: Е. Куйжуклу, М. Сиркели. Освоение статуса автономии Гагауз Ери: вызовы и перспективы, Июнь, 2015. <http://pilgrim-demo.org.md/wp-content/uploads/2015/07/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D1%82%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%B0%D1%8F-%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D0%B0.pdf>

автономии. Исполнительным органом власти автономии является Исполнительный комитет во главе с Башканом, избираемым на основе прямых всеобщих выборов. Высшим должностным лицом Гагаузии является ее Глава (Башкан), которому подчиняются все органы публичного управления автономного образования.

Порядок организации и функционирования органов публичного управления в Гагаузии также регламентируют Закон о местном публичном управлении от 2006г.<sup>222</sup> и Закон об административной децентрализации от 2006г.<sup>223</sup> Согласно положениям Закона о местном публичном управлении, органы власти автономии относятся к органам местного публичного управления второго уровня, как и районные советы, советы муниципиев Кишинэу и Бэлць. Следует отметить, что в двух указанных законах, в которых прописаны полномочия и сферы принятия решений местными органами власти второго уровня, отсутствуют положения о правовом статусе Башкана и Народного Собрания Гагаузии. Очевидно, что данные законы, регламентирующие деятельность органов власти автономного образования, не учитывают специфические отличия, отмеченные в Законе от 23 декабря 1994г.

Согласно Ст. 111 (6) Конституции, контроль деятельности представительных и исполнительных органов власти автономии за соблюдением законодательства РМ осуществляется Правительством в соответствии с законом. Данное положение находит отражение в законе о местном публичном управлении, в Ст. 2(3) которого указано, что контроль за соблюдением законодательства в автономных территориальных образованиях с особым правовым статусом осуществляется Правительством через центральные отраслевые органы. Контроль законности принятых нормативных актов органов власти Гагаузии обеспечивается Территориальным бюро Государственной канцелярии РМ в г. Комрат на основе обращения в судебную инстанцию первого уровня.

Отмена положений нормативных актов и местных законов, принятых Народным Собранием, в результате осуществления Правительством контроля вызывает противоречия в отношениях между центральными органами власти и органами власти Гагаузии. Одной из причин противоречий является отсутствие положений в Конституции и национальном законодательстве положений (помимо

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<sup>222</sup> Закон о местном публичном управлении Nr. 436 от 28.12.2006, В: Monitorul Oficial Nr. 32-35 статья №: 116, 09.03.2007

<sup>223</sup> Закон об административной децентрализации №435-XVI от 28.12.2006. В: Мониторул Официал № 29-31/91 от 02.03.2007

Закона от 23 декабря 1994г.) о законодательной компетенции Народного Собрания. Эксперты отмечают наличие проблемы статуса местных законов в иерархии национальных законодательных актов.<sup>224</sup> Так, в Ст. 60 и Ст. 66 Конституции единственным законодательным органом является Парламент РМ, принимающим конституционные, органические и ординарные законы. В Ст.111 Конституции также не указано, что Народное Собрание имеет право принимать законы. В национальном законодательстве, а именно, в Ст. 9 Закона о нормативных актах Правительства и других органов центрального и местного публичного управления, в Ст. 10(3) Закона о Правительстве отсутствует понятие местных законов Собрания, которое зафиксировано в Законе о правовом статусе автономии. В соответствии с положениями данных законов, в Гагаузии действует представительный (но не законодательный) орган, издающий нормативные акты подчиненного характера актам высшего уровня, и которые не должны им противоречить. К актам высшего уровня относятся законы и нормативные акты, изданные Правительством и другими органами центрального публичного управления.<sup>225</sup>

Другой проблемой возникновения противоречий выступает неясность положений Ст. 12(2) Закона от 23 декабря 1994г. об областях принятия местных законов Народным Собранием Гагаузии. В ряде случаев, относительно исполнения данного пункта закона нормативные акты Собрания аннулируются судебной инстанцией из-за отсутствия в национальном законодательстве положений, позволяющих принятие местных законов в конкретных областях. Например, в области трудовых отношений, законодательство РМ не обеспечивает возможность принимать местные законы, которые не отражают положений или выходят за

<sup>224</sup> См. подробнее: Мнение Исполнительного директора Пилигрим-Демо относительно вопроса № 2 «Pentru aprobarea proiectului de lege cu privire la acele normative», включённого в повестку дня заседания Правительства РМ от 5 февраля 2014 г.

<https://gagauzautonomy.wordpress.com/p-d-research/opinion-on-2-in-agenda/>.

<sup>225</sup> Е. Куйжуклу, М. Сиркели. Освоение статуса автономии Гагауз Ери: вызовы и перспективы, Июнь, 2015.

<http://piligrim-demo.org.md/wp-content/uploads/2015/07/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D1%82%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%B0%D1%8F-%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D0%B0.pdf>.

Е. Куйжуклу, М. Сиркели. Освоение статуса автономии Гагауз Ери: вызовы и перспективы, Июнь, 2015, с. 6. <http://piligrim-demo.org.md/wp-content/uploads/2015/07/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D1%82%D0%B8%D1%87%D0%B5%D1%81%D0%BA%D0%B0%D1%8F-%D1%80%D0%B0%D0%B1%D0%BE%D1%82%D0%B0.pdf>.



рамки Трудового кодекса РМ.

В этой связи, исследователи отмечают круг факторов, влияющих на реализацию полномочий Гагаузии, и указывают на неизбежность возникновения противоречий между центральными и региональными органами власти.<sup>226</sup> Как отмечает О. Протсык, «в процессе установления автономии слишком широко были сформулированы пункты об ее экономическом функционировании и налогообложении, а также компетенции, связанные с передачей полномочий Центром региону». Проблема функционирования автономии выражается также в том, что начиная с 1994г., все принятые законы и постановления Правительства и резолюции, которые в большинстве своем не имеют прямого отношения к автономии, в результате создали эффект сокращения пространства для самоуправления Гагаузии.<sup>227</sup> «Данные условия становятся почвой для возникновения противоречий, которые усугубляют отношения между центральной властью и автономией и, что немаловажно, дают возможность для формирования негативных стереотипов у населения о Гагаузии».<sup>228</sup>

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<sup>226</sup> Protsyk O. Gagauz autonomy in Moldova: the real and the virtual in post-Soviet state design//<http://www.policy.hu/protsyk/Publications/ProtsykGagAutonomy09fx.pdf>.

Wolff S. Conflict Management in Divided Societies: The Many Uses of Territorial Self-governance, In: International Journal on Minority and Group Rights, 20(2013)1, pp. 27–50; available at <http://booksandjournals.brillonline.com/content/10.1163/15718115-02001003>.

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<sup>227</sup> См. Подробнее: Protsyk O. Gagauz autonomy in Moldova: the real and the virtual in post-Soviet state design//<http://www.policy.hu/protsyk/Publications/ProtsykGagAutonomy09fx.pdf>.

<sup>228</sup> Куйжуклу Е. ОПТИМИЗАЦИЯ И РЕАЛИЗАЦИЯ АВТОНОМИИ ГАГАУЗ ЕРИ: ТЕОРЕТИЧЕСКИЙ АНАЛИЗ И ПРАКТИЧЕСКИЕ РЕКОМЕНДАЦИИ, 2014. <https://gagauzautonomy.wordpress.com/activity/research/optimizatsia-realizatsii-gagauz-yeri-2014/>

Помимо проблемы функционирования статуса Гагаузии, возникающей на основе противоречий в национальном законодательстве, регион сталкивается с необходимостью решать задачи регионального характера при содействии центральных органов власти РМ. Среди них особо следует отметить языковую проблему. Несмотря на возможность применения на территории автономного образования особого языкового режима, регион сталкивается со сложной задачей, которую могут решить центральные и региональные органы власти только совместным путем. В условиях устойчивого русско-гагаузского и гагаузско-русского билингвизма населения<sup>229</sup> и установления официального гагаузско-молдавско-русского триязычия автономии, остро поднимается вопрос о развитии гагаузского языка и увеличению усилий по преподаванию государственного языка в автономии. Проблема развития гагаузского языка требует развития терминологической базы для более широкого применения языка и возможности перевода на гагаузский язык некоторых предметов из школьного материала. Повышение уровня владения государственным языком среди населения также является одной из важных задач для центральных и региональных органов власти. Опросы населения автономии указывают на осознание необходимости знания государственного языка,<sup>230</sup> однако за последнее десятилетие уровень знания незначительно вырос. Очевидно, что усилий по преподаванию языковых курсов недостаточно, и требуются совместные долгосрочные программы региона и центральной власти по повышению знания государственного языка и развитию гагаузского языка.

Исходя из выше обозначенных положений национального законодательства и проблем, возникающих на основе их противоречия в отношениях между центральными и региональными органами власти, можем сделать вывод о необходимости осуществления ряда изменений в законодательство относительно особого правового статуса Гагаузии. К ним относятся:

1.Изменение в законодательство, касающееся порядка организации и

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<sup>229</sup> Никогло Д. Языковая ситуация в Гагаузии: проблемы и перспективы. În: Moldova Noastră <http://www.mdn.md/ru/print.php?id=2464&lang=ru>, (vizitat: 09.03.2006).

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<sup>230</sup> Институт Публичных Политик, Интеграция этнических групп и консолидация гражданской нации в Республике Молдова, Chişinău, 2012, <http://www.ipp.md/lib.php?l=ro&idc=171&year=2012>

деятельности органов власти Гагаузии, необходимы в Закон о местном публичном управлении и закон об административной децентрализации относительно правового статуса региональных органов власти автономии и областей в принятии решений.

2. Придание особого статуса Закону от 23 декабря 1994г. в общей иерархии законодательных актов РМ.

3. Внесение изменений в Конституцию и законодательство, регламентирующее иерархию законодательных актов, с целью признания законодательной компетенции Народного Собрания Гагаузии включения понятия «местных законов».

4. Уточнение компетенций Народного Собрания в Законе от 23 декабря 1994г.

5. Необходимость решения проблемы развития гагаузского языка и повышения уровня владения государственным языком среди населения в регионе совместными усилиями центральных и региональных органов власти. Задача может быть выполнена посредством разработки государственных программ развития языков.

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## **SECTION 2**

### **EU TRADE POLICY: LOOKING TO EASTERN NEIGHBORHOOD**

#### **DCFTA Implementation in Ukraine: Main Opportunities and Challenges**

Oleksandr KUBATKO\*

The EU and Ukraine have signed the Deep and Comprehensive Free Trade Area (DCFTA) in June 2014. Also considering military confrontation on the East of Ukraine, political and economic challenges faced by country the EU unilaterally granted Ukraine preferential access to the EU market until the end of 2015. Deep and Comprehensive Free Trade Area goes much further than classic free trade areas, including not only the mutual opening of borders for most consumer items (both goods and services). However, DCFTA also aims at gradual approximation with EU regulation in trade and trade-related areas. DCFTA foresees conformity of many trade rules such as assessment rules, sanitary and phytosanitary rules, public procurement, intellectual property rights, trade facilitation, competition, and trade-related energy aspects, including on investment, transit and transport. According to DCFTA Ukraine and the EU will eliminate respectively 99.1% and 98.1% of duties in trade value. DCFTA consists of 15 parts, and “Trade and Trade-Related Issues” section, the last includes more than two dozens of protocols, annexes, amendments, and declarations that in a more detailed way define parameters for liberalization of bilateral trade, such as customs tariff rates and the schedule for their reduction, specification of provisions on the rules of origin and customs cooperation, the issues of harmonization (approximation) of legislation in the fields of non-tariff regulation, sanitary and phytosanitary measures, trade in services, electronic commerce, governmental procurements, competition rules, etc. (Sushko et. al., 2015).

During 2014-2015 EU become the largest Ukraine's trading partner, accounting for about 35% of its trade. It is also the EU becomes the main source of Foreign Direct

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Investment (FDI) for Ukraine. Commissioner Malmström's remarks expressed confidence in the prospects for Ukraine: “The entry into force of this trade area on 1 January 2016 creates unique opportunities for Ukraine to stabilise, diversify and develop its economy to the benefit of all its citizens. Assistance from the EU will be made available to help Ukrainian SMEs seize these new opportunities, to grow, and thereby create jobs. EU businesses will benefit as well by gaining improved access to a market of 45 million people. The change will not occur over night, it will require work and investment. Gradually, the DCFTA will contribute to a prosperous Ukraine and to stronger economic integration with the EU” (Trade part, 2016).

As for the structure of Ukrainian trade with EU it is as following, the main exports to the EU from Ukraine are raw materials (iron, steel, mining products, agricultural products), chemical products and machinery, and the main import from EU to Ukraine are machinery and transport equipment, chemicals, and manufactured goods. It seen that Ukraine imports much more technological industrial output from EU.

EU is very important partner for Ukraine, however it seen from the table 1 that the trade importance of Ukraine to EU is not very significant and Ukraine occupies position of 22-25 as trade partner rank to EU.

**Table 1. European Union, Trade with Ukraine\***

| Indicator                  | Unit      | Period | Imports | Exports | Total trade |
|----------------------------|-----------|--------|---------|---------|-------------|
| Last year                  | Mio euros | 2014   | 13,706  | 17,007  | 30,713      |
| Rank as EU partner         |           | 2014   | 25      | 22      | 25          |
| Share in EU trade          | %         | 2014   | 0.8     | 1.0     | 0.9         |
| Annual growth rate         | %         | 2013   | -       | -1.3    | -28.8       |
|                            |           | 2014   |         |         |             |
| Annual average growth rate | %         | 2010   | -       | 4.4     | -0.6        |
|                            |           | 2014   |         |         |             |

\*[http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113459.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf)

Nevertheless Ukraine being a small country, the EU is still continue its significant support to Ukraine in implementation of the DCFTA, especially in such areas like product regulations, public procurement, food safety measures, rules on competition and customs etc. In addition, the EU pays a special attention to support the private sector – the small business at the first place – so it can reap the benefits of this agreement, and generate economic growth and jobs for Ukraine. Indeed, the DCFTA will affect not only exporters to the EU, but all companies: the domestic business environment will also be progressively aligned with EU rules. These changes in the long run would create benefit to Ukraine, but in the short-term may be challenging for SMEs,

which may need extra skills and more financial resources to adapt (Trade part, 2016).

It was estimated before signing DCFTA that Ukrainian agriculture will benefit most from cuts in duties: €330m for agricultural products, and €53m for processed agricultural products. New market opportunities in the EU and higher production standards will spur investment, stimulate the modernization of agriculture and improve labor conditions.

For agricultural items DCFTA anticipates an ambitious movement in trade stimulation taking into account specific sensitivities. Thus, duty-free tariff rate quotas have been granted to the Ukraine for cereals, pork, beef, poultry and a handful of additional products, while for others the progressive elimination by the EU of the custom duties will occur over a longer transition period (generally 10 years). Actually for most vulnerable sectors in Ukraine, the DCFTA provides an opportunity for producers to adapt to a more competitive environment while offering consumers a wider choice of products at lower prices (EU-Ukraine, 2014). According to Sushko et. al. (2015) regarding certain agricultural products there is no complete abolition of duties is expected, however duty-free tariff quotas that are set for key products originating from Ukraine. In particular such quotas for duty-free exports to the EU are agreed:

- 1.6 million tons of grain in the first year of FTA provisions' coming into effect, with a gradual increase to 2.0 million tons within five years.
- 20 thousand tons of frozen chicken carcasses and 16 thousand tons of processed products in the first year, with the gradual increase to 20 thousand tons within five years;
- 3 thousand tons of eggs in shell and 3 thousand tons of processed egg products;

For Ukraine still having well developed industrial potential, the DCFTA provides an opportunity to make the country more competitive and diversify its exports within EU. As for the industrial output Ukraine and EU would liberalise trade through reducing duties on machinery and appliances by €75.2m. There are some exceptions for cars, but Ukraine will still cut duties on vehicles by €117.3m. To be more specific, Ukraine got a well-defined safeguard mechanism for trade in cars imported from the EU (the duration of specific condition is 15 years on cars). In the reference period 2002-2010, Ukraine imported on average 41.000 cars a year from the EU, 12.9% of the Ukrainian market. The textiles sector will be fully liberalised from the first of January 2016 with Ukraine and the EU cutting duties worth €8.7m and €24.4m respectively. Special conditions will apply for five years to second-hand clothing. Thus, e.g., Ukraine



will gradually eliminate import duties on second-hand clothes by reducing them by 1% during 5 years to achieve the zero duty rate in the fifth year. Reduced EU tariffs on chemicals will cut duties paid by Ukrainian exporters by €26.8m, while Ukraine will cut duties by €64.3m. (EU-Ukraine, 2014).

There is a special chapter on technical barriers to trade, which is aimed to reduce trade problems arising from Technical Barriers to Trade (TBT): technical regulations, standards, conformity assessment procedures and similar requirements. Ukraine and EU should hold their commitments under the World Trade Organisation Agreement on TBTs and agree to cooperate on TBT issues to simplify and avoid unnecessary divergence of technical requirements. Ukraine will progressively adapt its technical regulations and standards to those of the EU. Provisions on labelling seek to keep it to a minimum to make it non-discriminatory. Harmonisation and/or mutual recognition of technical standards should cut existing non-tariff barriers in the agri-food sector by half and 35% in other sectors compared to 2004.

According to official data of European Union delegation to Ukraine (trade and economic section) the whole 2014 and first quarter of 2015 trade was to many extend very difficult to Ukraine relating to many industries (table 2).

**Table 2. Exports to the EU from Ukraine – product analysis\***

| <b>Product category</b>                                  | <b>Exports in<br/>2013<br/>(m€)</b> | <b>Exports<br/>in<br/>2014 (m€)</b> | <b>Increase<br/>(%)</b> | <b>Increase<br/>(value, m€)</b> |
|--|-------------------------------------|-------------------------------------|-------------------------|---------------------------------|
| <b>Tanning or dyeing<br/>extracts, pigments</b>          | 27                                  | 7                                   | <b>-74%</b>             | <b>-20</b>                      |
| <b>Mineral fuels, mineral oils</b>                       | 310                                 | 94                                  | <b>-70%</b>             | <b>-216</b>                     |
| <b>Organic chemicals</b>                                 | 33                                  | 12                                  | <b>-63%</b>             | <b>-21</b>                      |
| <b>Cereals</b>   | 880                                 | 461                                 | <b>-48%</b>             | <b>-420</b>                     |
| <b>Oil seeds and<br/>oleaginous fruits</b>               | 172                                 | 91                                  | <b>-47%</b>             | <b>-81</b>                      |
| <b>Ores, slag and ash</b>                                | 490                                 | 270                                 | <b>-45%</b>             | <b>-220</b>                     |
| <b>Iron and steel</b>                                    | 1155                                | 733                                 | <b>-37%</b>             | <b>-422</b>                     |
| <b>Railway or tramway<br/>locomotives, rolling-stock</b> | 19                                  | 14                                  | <b>-27%</b>             | <b>-5</b>                       |
| <b>Fertilisers</b>                                       | 52                                  | 57                                  | <b>10%</b>              | <b>5</b>                        |
| <b>Glass and glassware</b>                               | 7                                   | 13                                  | <b>86%</b>              | <b>6</b>                        |
| <b>Sugars and sugar<br/>confectionery</b>                | 4                                   | 8                                   | <b>108%</b>             | <b>4</b>                        |

\*(EU delegation, 2015)

**Table 3. Exports to Russia from Ukraine – product analysis\***

| <b>Product category</b>                              | <b>Exports in 2013 (m€)</b> | <b>Exports in 2014 (m€)</b> | <b>Increase (%)</b> | <b>Increase (value, m€)</b> |
|--|-----------------------------|-----------------------------|---------------------|-----------------------------|
| <b>Mineral fuels, mineral oils</b>                   | 54.4                        | 7.3                         | <b>-87%</b>         | <b>-47.1</b>                |
| <b>Railway or tramway locomotives, rolling-stock</b> | 208.5                       | 29.4                        | <b>-86%</b>         | <b>-179.1</b>               |
| <b>Iron and steel</b>                                | 329.6                       | 102                         | <b>-69%</b>         | <b>-227.6</b>               |
| <b>Articles of iron or steel</b>                     | 162                         | 52                          | <b>-68%</b>         | <b>-110</b>                 |
| <b>Nuclear reactors, boilers, machinery</b>          | 484.9                       | 173.7                       | <b>-64%</b>         | <b>-311.2</b>               |
| <b>Electrical machinery and equipment</b>            | 178.6                       | 67.2                        | <b>-62%</b>         | <b>-111.4</b>               |

\*(EU delegation, 2015)

Thus, the most vulnerable industries in trade with EU appeared to be tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints; putty and other mastics lost 74% in trade during the 2014 and export to EU was only 7 mln. euro. Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes lost 70% in trade during the 2014 and export to EU was 94 mln. euro. Cereals lost 48%, however in absolute amount export to EU decreased on 420 mln. euro. Iron and steel export lost 37%, however in absolute amount export decrease accounted for 422 mln. euro. Due to the war on the Eastern part of Ukraine the trade with Russia reduced significantly and export of railway or tramway locomotives, rolling-stock and parts reduced by 86%, which in absolute amount accounted for 179.1 mln. euro. Nuclear reactors, boilers, machinery and mechanical appliances lost in export to Russia 64% which in absolute amount accounted for 311 mln. euro. Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers lost in export to Russia 62% which in absolute amount accounted for 111,4 mln. euro. The export to Russia of iron and steel reduced by 68% in 2014 or in absolute amount it was 227.6 mln. euro (Kubatko, 2015). The same is true for Salt; sulphur; earths and stone; plastering materials, lime and cement, Optical, photographic, cinematographic, measuring, checking, Essential oils and resinoids; perfumery, cosmetic or toilet preparations, ceramic products, paper and paperboard; articles of paper pulp, of paper or of paperboard, Inorganic chemicals; organic or inorganic compounds

Despite ambiguous influence of DCFTA implementation on Ukrainian industrial output, many SMEs should benefit out of it. There are definite opportunities for SMEs due to realization of DCFTA in Ukraine, and it is anticipated approximately €100 million of grants from the EU budget. The above mentioned grants should unlock at least €1 billion of new investments by Ukrainian SMEs, to be financed largely by new loans supported. To be more specific the funding for SMEs will:

- Help SMEs to seize new trade opportunities with the EU and within the region which have been opened up;
- Improve access to finance for SMEs, enabling them to make the necessary investments to increase their competitiveness;
- Allow SMEs to integrate into global value chains by becoming business partners of foreign direct investors;
- Enable SMEs to comply with new food safety, technical and quality standards, as well as with environmental protection measures, thereby benefiting Ukrainian customers and boosting exports to the EU and beyond.

Given the fact that 99.8 percent of companies in Ukraine fall within the category of SMEs, Ukrainian regulators focus on SMEs for developing export capabilities seems reasonable, as does its ambition to switch to production of added value items and participation in joint production chains with companies from EU member states and other EaP countries. Talks to establish a state guarantee fund for loans up to €40 million fit the same pattern (Dovė Šukyte, 2015).

During the last 2014-2015 there happened many disrupted economic problems in Ukraine, almost 20 banks bankrupted due to the worsening of general economic situations. In particular, the country's gross domestic product (GDP) fell by one-third in US dollar terms, industrial production shrank by 25 percent, real estate prices dropped by one fourth, and the external trade deficit reached about \$10 billion, while the outflow of foreign investment doubled. External support was necessary to overcome these negative macroeconomic trends, and eventually arrived in the form of \$16.5 million in IMF lending. As a result, however, Ukraine's external debt exceeded \$100 billion (Dovė Šukyte, 2015). That is today Ukrainian economy is operating in conditions of macroeconomic fluctuations the last could be measured by the following indicators as real GDP growth, changes in private consumption, public debt developments, consumer inflation, hryvnia exchange rate per USD, current account balance, foreign direct investment (table 4. ).

**Table 4. Main Macroeconomic Indicators in Ukraine\***

| <b>Main Macroeconomic Indicators</b>                             | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015f</b> |
|--|-------------|-------------|-------------|-------------|--------------|
| <b>GDP, \$ billion</b>   | 163.4       | 176.6       | 182.0       | 127.4       | 98.0         |
| <b>Real GDP Growth, % yoy</b>                                    | 5.5         | 0.2         | 0.0         | -6.8        | -11.0        |
| <b>Private Consumption, real growth, % yoy</b>                   | 15.7        | 8.4         | 6.9         | -9.6        | -17.0        |
| <b>Fiscal Balance, incl. Naftogaz and Pension Fund, % of GDP</b> | -4.3        | -6.0        | -6.5        | -11.7       | -8.0         |
| <b>Public Debt, External and Domestic, % of GDP</b>              | 36.3        | 36.7        | 39.9        | 70.3        | 94.0         |
| <b>Consumer Inflation, eop, % yoy</b>                            | 4.6         | -0.2        | 0.5         | 24.9        | 48.0         |
| <b>Hryvnia Exchange Rate per USD, eop</b>                        | 8.0         | 8.0         | 8.2         | 15.8        | 25.0         |
| <b>Current Account Balance, % of GDP</b>                         | -6.3        | -8.2        | -9.2        | -4.1        | 0.0          |
| <b>FDI (\$ billion)</b>  | 7.0         | 6.6         | 3.3         | 0.2         | 0.5          |
| <b>International Reserves (\$ billion)</b>                       | 31.8        | 24.5        | 20.4        | 7.5         | 13.0         |
| <b>Total Public and Private External Debt (\$ billion)</b>       | 126.2       | 134.6       | 142.1       | 125.9       | 138.0        |

\*the table is build on data of Sigma Bleyzer Foundation, 2015.

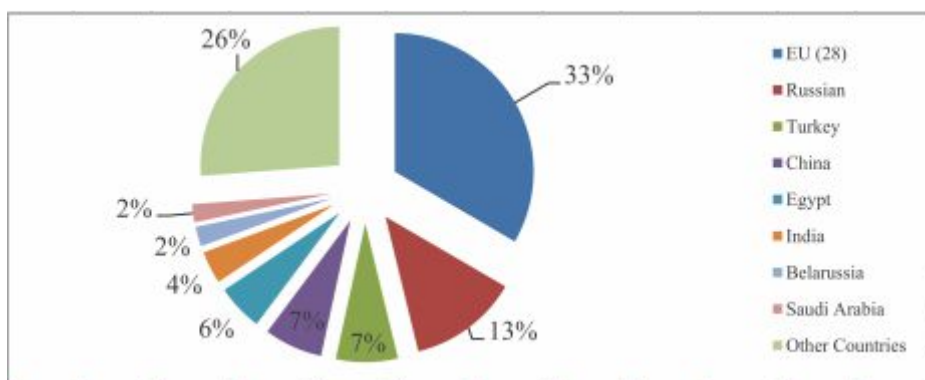
Thus during the third quarter of 2015, the rate of decline of GDP was up to 7% yoy, and according to Sigma Bleyzer prediction the GDP may fall by 11.5% in 2015 and may grow by 2% in 2016. Also it seen from the table that the majority of macroeconomic indicators were deteriorating in Ukraine within in the 2015. However, the agricultural production index rose by 0.5% yoy, compared to a 4.2% yoy decline in September 2015. Ukraine is moving in the direction of approximation to EU legislation in many areas like; competition, government procurement, and protection of intellectual property rights. It is expected that DCFTA would contribute to the modernisation and diversification of the Ukrainian economy and will create additional incentives for reform, notably in the fight against corruption. However in the conditions of macroeconomic fluctuations it is very hard to receive strong benefits due to the DCFTA implementation (Kubatko, 2015).

Currently EU exports to Ukraine amounts to EUR 17 billion and Ukraine exports to the EU equaled EUR 14 billion (data for 2014). It should be noted that main Ukraine exports to the EU metals (€ 3.5bn in 2013), vegetable products (€ 2.8bn), mineral products (€ 2.7bn), machinery and appliances (€ 1.2bn) Main EU exports to Ukraine machinery and appliances (€ 5.7bn in 2013), transport equipment (€ 2.6bn), chemicals (€ 3.7bn) and manufactured goods.

According to the official report of Ministry of Economic Development and Trade of Ukraine the main countries' partners are following: European Union (28), Russia, Turkey, China, Egypt

But during the previous years the first position was taken by Russia. The results of analyzing are showed on figure 1.

**Figure 1. The structure of Ukrainian partnership in international market during ten month of 2015 year**



According to the results EU has the huge share in international cooperation with Ukraine. And every year this cooperation improves and progress. And it is necessary to underline that it is only the first visible results towards European integration. Supported by the parliament and president, the Cabinet of Ministers is focusing on the following areas of trade and investment policy:

- Measures to prepare for the introduction of the DCFTA (harmonization of legislation, implementation of preparatory measures, further liberalization of trade, awareness-raising for businesses);
- Macroeconomic stabilization and strengthening of the national currency;
- Implementation of the package of economic reforms listed in the Ukraine 2020 Sustainable Development Strategy;
- The development of a new export strategy within the framework established in the Ukraine 2020 strategy;
- Creating an institutional basis for promoting exports to foreign markets and for protecting exporters;
- Developing small and medium-sized enterprises (SME) as a key engine for exporting high-value added items;
- Implementing further deregulation; shifting from supervising to promoting businesses, and reforming the system of supervisory agencies;
- Launching and implementing international programs to strengthen export potential and the business climate (Dovie Šukyte, 2015).

DCFTA has a special section on sanitary and phytosanitary (SPS) measures including commitment to respect the principles of the WTO/SPS Agreement; Ukrainian commitment to align its SPS and animal welfare legislation to the EU's; Setting up a rapid consultation mechanism to solve trade irritants in SPS related goods; Setting up a rapid alert and early warning system for veterinary and phyto-sanitary emergencies. Under certain conditions, the relevant EU systems for early warning could also be opened to Ukraine's participation.

According to the paper (Dovie Šukyte, 2015) for Ukraine to establish effective trade policies the following areas have to be addressed:

1. The Government has to choose several priority reforms and demonstrate real achievement within one year.
2. One of the main task set by EU is to implement anti-corruption reform, developing a system of anticorruption bodies along with radical changes to the existing judiciary and public prosecution systems.

3. The tax system reform is also on the top of priority. It should focus simplifying the economic component of taxes and duties along with the administration thereof, as well as the restructuring of taxation and customs offices. An inclusive process of reform is crucial to make sure the opinions of all stakeholders are taken into consideration.

4. The Government and Verkhovna Rada, should stimulate the transparency of regulatory bodies by creating a legislative foundation for reducing the number of such bodies and for the maximum replacement of their staff through open recruiting, while also establishing a system for planning inspections that is understandable for businesses. The administration of international assistance by the Government should be transparent, systematic, and complementary, clearly indicate the beneficiaries and results of assistance projects and their implementation.

6. The process of drafting a national export strategy and an accompanying implementation plan has to be accelerated; apart from institutional capacities, they should focus on incentives for Ukrainian companies to reach new markets with high-tech, high-value-added products.

7. Modern economic development tools should be applied to boost competitiveness and bring the national economy closer to global leaders. Practical second-level measures should include implementation of open government and e-government standards; agencies for facilitation of exports and investments, regional development, support of SMEs; reorganization of financial markets, e.g. the stock market and the banking sector.

8. The Government has to change its approach to awareness rising of business community and the public on the DCFTA and specific opportunities for increasing export capabilities. Policy implementation at the regional level can be entrusted not just to local authorities, but also to business hubs established in 15 regions as a part of the EU SURE program. In addition to their other tasks, the authorities should distribute information about the specific features of EU programs such as Horizon 2020, COSME, DCFTA Facility etc., as well as public tender procedures in EU member states.

9. Efforts are needed to finalize the reconciliation of individual regions' development strategies with the 2020 National Strategy for Regional Development as well as the new national export strategy.

10. The EU has to revise its institutional support for the Civil Platform Ukraine-EU established in 2015 as a part of the Association Agreement, with the objective of building proper expertise and developing effective methodology for monitoring the

Agreement. It is important to realize that the window of opportunity is not so wide as it was a year ago; the risk that the international community will reduce or eliminate its support for Ukraine is growing.

To conclude Ukraine should now gradually align to EU regulations and procedures so that certified products would be assumed to comply with EU requirements with no further checks. Most importantly, a selected number of Ukrainian industrial product standards need to be changed. This would reduce the cost of compliance and certification to these two different sets of rules.

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## **Foreign Trade of Georgia with EU before the Ratification of „Georgia- EU Association Agreement” and Perspectives after Ratification**

Roman MAMULADZE\*

### **Abstract**

*Historical aspects of foreign trade of Georgia and dedication of Georgian people to the West are considered in the article. Historical aspects of foreign trade of Georgia and dedication of Georgian people to the West are considered in the article. The chronology of relations between Georgia and the EU are presented. It was analyzed the main macroeconomic indicators of the country. The article focuses on the deepening of integration processes and foreign trade indicators assessment. It was presented a number of problems that exist in trade relations with the EU. There were substantiated proposals, which will improve the competitiveness of Georgian products at the European market.*

Georgia - a state located in Southwest Asia and the Middle East, in the western part of the Caucasus on the eastern coast of the Black Sea. Georgia borders with Armenia and Turkey to the south, with Azerbaijan in the south-east and Russia to the east and north. Black Sea connects Georgia with the countries of the Black Sea coast and the Bosphorus and the Dardanelles - with the Mediterranean countries. Through the Strait of Gibraltar Georgia can contact with the entire world, and through the River Danube - with the countries of eastern and central Europe.

International trade has always played a significant role in the Georgian economy. Trade relations are not simply compound the distinctive cultural and religious aspects, but also are contributed to the economic development of Georgia, establishment of statehood. International trade promotes the dissemination of Georgian culture, people, traditions and customs.

International trade in Georgia began in the VIII century BC, and from IV-III century BC trade took an international character. Strabo, in his world-famous

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"Geography", writes that one road from the Black Sea along the river Phasis (Rioni) through the fortress Sarapinis (current Shorapani) went to Iberia in the town of Mtskheta. There was also a second historical road that came from the Caucasian Albania (present Azerbaijan and neighboring territories) in Caucasian Iberia. According to Strabo, it was a third bypass road from Armenia (present Armenia) in Caucasian Iberia. There was also a fourth road, which in the opinion of Strabo and others from Tergiz gorge along the river Aragvi heading to the nearby Nordic countries, the capital of Iberia - Mtskheta.

The greatest interest has the road that led from Iberia and Colchis in India and China. It was the most important international trade route at that time. The history of the Silk Road originates from it.

From the second century BC the Great Silk Road, originating from India and China, has acquired a new function. Chinese silk import started in this way, first in Rome, after to so-called Second Roman (Byzantine) Empire, which over 1,000 years was located near the Georgia. The Great Silk Road, the revival of which is currently being implemented, taking its origin in China – Shinji and city Dunhuanide branches into two parts in the direction of the west.

In the 15th century the Great Silk Road has ceased to exist (in 1453 with the fall of Constantinople). Georgia lost its most important transit function, which consequently led to a loss of interest from European countries. From this moment, the history of Georgia is a history of defensive wars which Georgian people led to protect their independence, territorial integrity, western values, and especially the Christian faith. It was until the 90s of the 20th century.

Changes taking place on the international scene in the 90's, revealed the geopolitical role of Caucasus. Exactly at the end of the century, Georgia gains the prospects to become connecting bridge between East and West. Today, the bridge is actually restored. Significant transport and energy projects are carried out in Georgia within the framework of the TRACECA that provide electricity to much of Europe countries.

Restoring international transit function and Georgia's aspirations to move closer to the West also contain certain dangers. That is the main reason for aggression against Georgia in 90s of the 20th century. About 20% territory of our country is occupied today (500,000 people are refugees). But aggression can't effect on the desire and aspiration of the Georgian people to restore the territorial integrity of the country and become a part of the Western world

Thus, the strategic geopolitical location of Georgia and historical aspiration to

the West (European orientation) greatly determines the external political course of our country, the main priority of which is integration into the European and Euro-Atlantic structures.

The EU-Georgia relations started in 1992 following the recognition of Georgia's independence by the European Union.

Georgia started preparation process to sign the Partnership and Cooperation Agreement (PCA) from 1994. The Agreement was signed in Luxembourg on 22 April 1996. The PCA, which determines the major framework for future relations between the EU-Georgia, was signed by the EU Member States, the President of the European Commission and the President of Georgia and entered into force in 1999.

Since 1995 Georgia benefits from the EU's Generalised System of Preferences (GSP).

On 1 September 1997, in compliance with the resolution of the Parliament of Georgia, Georgia started the harmonisation process of national legislation with the EU law.

On 14 June 2004, the Council of the European Union decided to launch the European Neighbourhood Policy (ENP) for Armenia, Azerbaijan and Georgia to enhance cooperation with neighbour countries.

In 2005, Georgia was granted additional preferences offered under the Generalised System of Preferences Special Incentive Arrangement for Sustainable Development and Good Governance (GSP+). The Arrangement was valid until 2008.

The European Neighbourhood Policy Action Plan (ENP AP) between the EU and the Government of Georgia was adopted on 14 November 2006. The Action Plan provides strategic objectives of the EU-Georgia cooperation and ensures implementation of relevant political and economic priorities.

During the Russia-Georgia war the EU and the U.S. partners were actively involved in conflict resolution. The EU engagement led to the signature of "Six-point Cease-fire Agreement between Russia and Georgia". The French Republic convened the emergency EU summit on 1 September 2008. Leaders of the EU Member States condemned Russia for unilateral declaration of the independence of Georgian regions and called on other countries not to recognise their independence.

In 2008, the EU extended the General System of Preferences (GSP+) Special Incentive Arrangement for Sustainable Development and Good Governance for 2009-2011.

On 3 December 2008, the European Commission adopted a Communication on the Eastern Partnership. The Eastern Partnership is an EU policy aimed at bringing

Eastern Neighbours (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) closer to the European Union. (For further details see the Eastern Partnership).

On 10 May 2010, the General Affairs Council approved a mandate of the European Commission to start negotiations on the Association Agreement with Georgia.

On 15 July 2010, the negotiations on Association Agreement including the Deep and Comprehensive Free Trade Area (DCFTA) was launched.

The agreement on "Mutual Recognition and Protection of Geographical Indications of Agricultural Products and Foodstuffs", signed between the EU and Georgia, entered into force on 1 April 2012.

The negotiations on the Deep and Comprehensive Free Trade Area (DCFTA) Agreement between the EU and Georgia were officially launched on 28 February 2012.

On 22 July 2013, the EU and Georgia successfully concluded negotiations on the Deep and Comprehensive Free Trade Area (DCFTA), as part of the Association Agreement.

On 22 November 2013, the European Commission and the EU Member States recognised efforts by Georgia to comply with international standards on training and certification for seafarers, thus effectively allowing seafarers with Georgian certificates again to work on EU vessels

On 29 November 2013, the European Union and Georgia initialed the Association Agreement (AA), including the Deep and Comprehensive Free Trade Area (DCFTA) Agreement at the Vilnius Eastern Partnership Summit.

On 26 June 2014, the Association Agenda between the European Union and Georgia was adopted, which establishes a set of jointly agreed priorities for the period 2014-2016 with a view to preparing for the implementation of the Association Agreement, including the Deep and Comprehensive Free Trade Area (DCFTA). The Association Agenda has replaced the European Neighbourhood Policy Action Plan (ENPAP).

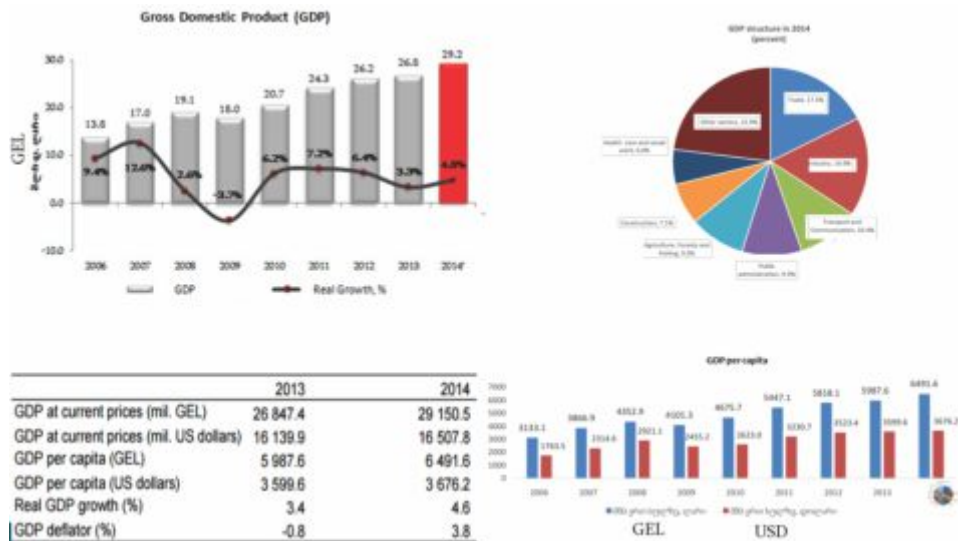
On 27 June 2014, the Association Agreement was signed between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, which aims to deepen political association and economic integration with the EU.

On 18 July 2014, the Parliament of Georgia unanimously voted in favor of the ratification the EU-Georgia Association Agreement, including the Deep and Comprehensive Free Trade Area (DCFTA).

On 1 September 2014, provisional application of the Association Agreement

started whereby 80% of the Association Agreement came into force, including the Deep and Comprehensive Free Trade Area. The process will continue until the European Parliament and national legislative authorities of the EU Member States finalise the ratification process.

The process of integration into the European Union largely determines the economic situation in the country. Macroeconomic indicators of Georgia:



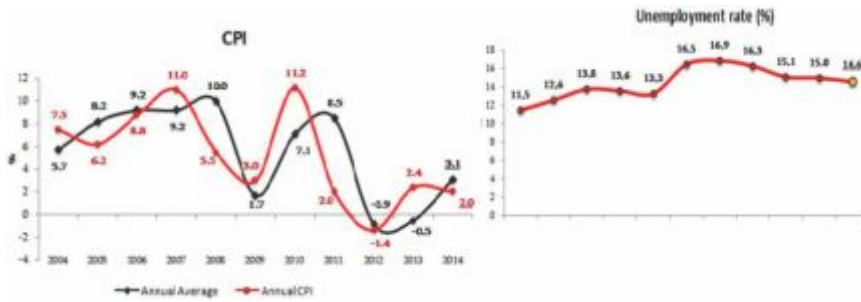
-As a result of annual adjustment, the 2014 Gross Domestic Product (GDP) of Georgia at current prices totaled GEL 29 150.5 mil., up by 8.5 percent y-o-y. In the same period the real growth of GDP amounted to 4.6 percent and the deflator increased by 3.8 percent y-o-y.

-GDP per capita in 2014 amounted to 6491.6 lari (\$ 3,676)

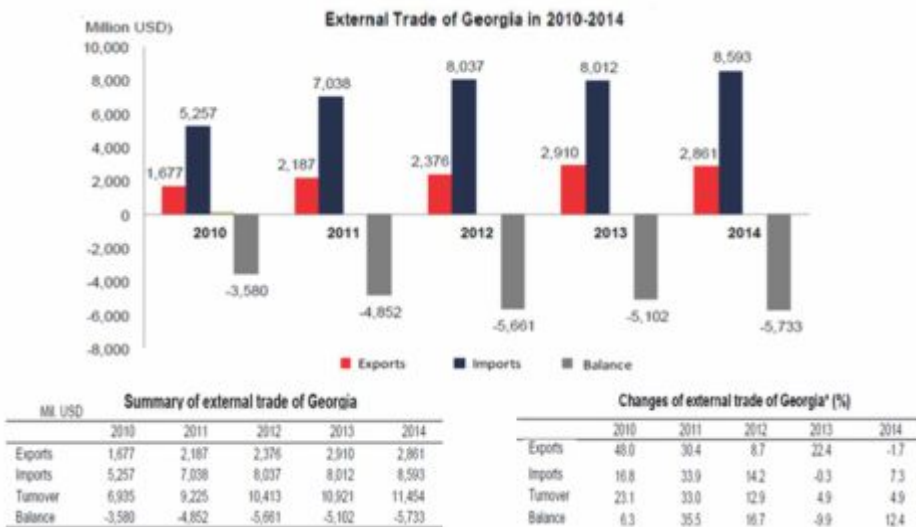
-The largest share in the sectoral structure of GDP is held by Trade services (17.5 percent) and Industry (16.9 percent), followed by Transport and communication services (10.4 percent), Public administration (9.9 percent), Agriculture, forestry and fishing (9.3 percent), Construction (7.1 percent) and Health and social work (6.0 percent).

-The average annual inflation rate in compare with the previous year grew by 3.1%, and by the end of 2014 amounted to - 2.0%.

-Also very important are the changes in the labor market. In 2013, the unemployment rate compared with the previous year decreased by 0.4% and amounted to 14.6%.



International trade plays a significant role in improving the macroeconomic indicators of the country.



In 2014 preliminary external merchandise trade (excluding non-organized trade) in Georgia amounted to USD 11457 million (preliminary data), 5 percent higher year-on-year. The exports equaled USD 2861 million (2 percent lower), while the imports stood at USD 8593 million (7 percent higher). The negative trade balance was USD 5735 million in 2014 and its share in external trade turnover constituted 50 percent.

In 2014 the external trade of Georgia with the EU countries amounted to USD 2990 million, up by 4 percent compared to the corresponding indicator of the previous year. Exports amounted to USD 621 million (2 percent higher), while import amounted to USD 2369 million (4 percent higher). The share of these countries in the external trade of Georgia amounted to 26 percent, 22 percent in exports and 28 percent in

imports (in 2013 26, 21 and 28 percent correspondingly). 30 percent of the trade deficit came to the EU countries (32 percent in 2013).

In 2014 the external trade of Georgia with the CIS countries totaled USD 3593 million (lower by 5 percent compared to 2013). Exports stood at USD 1465 million (10 percent lower), while imports equaled USD 2127 million (2 percent lower). The share of the CIS countries in the external trade of Georgia constituted 31 percent, 51 percent in exports and 25 percent in imports (In 2013 35, 56 and 27 percent, respectively). In 2014, compared to the corresponding period of the previous year, CIS countries accounted for 12 percent of the overall trade deficit (11 percent in 2013).

In 2014 motor cars reclaimed the first place in the list of top export items, equaling USD 518 million, or 18 percent of total exports. Exports of ferroalloys totaled USD 286 million, and its share in the total exports amounted to 10 percent. Copper ores and concentrates occupied the third place. Exports of this commodity group stood at USD 248 million and 9 percent of the total exports.

#### Major commodity groups by exports

|   | 2013               |                    | 2014*              |                    |
|---|--------------------|--------------------|--------------------|--------------------|
|   | Thsd. US Dollars   | Share in total (%) | Thsd. US Dollars   | Share in total (%) |
| <b>Total Exports</b>  | <b>2 908 499,0</b> | <b>100,0</b>       | <b>2 861 191,0</b> | <b>100,0</b>       |
| Of which:   |                    |                    |                    |                    |
| Motor cars  | 703 862,2          | 24,2               | 517 786,8          | 18,1               |
| Ferro-alloys  | 229 898,5          | 7,9                | 285 752,6          | 10,0               |
| Copper ores and concentrates  | 161 632,8          | 5,6                | 248 089,7          | 8,7                |
| Other nuts, fresh or dried  | 166 712,6          | 5,7                | 183 398,8          | 6,4                |
| Wine of fresh grapes  | 127 850,9          | 4,4                | 180 721,8          | 6,3                |
| Mineral or chemical fertilizers, nitrogenous                                | 130 575,5          | 4,5                | 137 622,0          | 4,8                |
| Waters, natural or artificial mineral and aerated waters                    | 106 883,8          | 3,7                | 137 123,6          | 4,8                |
| Undenatured ethyl alcohol, spirits, liqueurs and other spirituous beverages | 99 865,6           | 3,4                | 95 190,2           | 3,3                |
| Medicaments   | 52 089,3           | 1,8                | 92 065,1           | 3,2                |
| Bars and rods of iron   | 62 517,0           | 2,1                | 63 735,6           | 2,2                |
| Other commodities   | 1 066 610,8        | 36,7               | 919 704,8          | 32,1               |

The top import commodity in 2014 was Petroleum and petroleum oils, imports of which amounted to USD 918 million and 11 percent of the total imports. Motor cars commodity group followed in the list with USD 715 million, or 8 percent of imports. Petroleum gases and other gaseous came third with USD 369 million (4 percent of imports).

In 2014 share of the top ten trading partners in the total external trade turnover of Georgia amounted to 68 percent. The top trading partners were Turkey (USD 1966 million), Azerbaijan (USD 1182 million) and Russia (USD 853 million).



The European Union is Georgia's major trading partner. The trade turnover between the two hit almost 2 billion US Dollars in January-August 2015 i.e. 31% of Georgia total foreign trade. In the same period, Russia accounted for only 7.1% of Georgia's total foreign trade. Georgian exports to the EU member states doubled for the last 5 years and made up 413 million US Dollars in the first eight months of 2015. In contrast, Georgian exports to Russia amounted to 98 million US Dollars, which is 50% less compared to the same period last year.

**Major commodity groups by imports**

|   | 2013               |                    | 2014*              |                    |
|---|--------------------|--------------------|--------------------|--------------------|
|   | Thsd. US Dollars   | Share in total (%) | Thsd. US Dollars   | Share in total (%) |
| <b>Total Imports</b>  | <b>8 025 715,4</b> | <b>100,0</b>       | <b>8 596 270,0</b> | <b>100,0</b>       |
| Of which:   |                    |                    |                    |                    |
| Petroleum and petroleum oils                                    | 954 408,3          | 11,9               | 918 342,9          | 10,7               |
| Motor cars  | 710 482,7          | 8,9                | 715 050,6          | 8,3                |
| Petroleum gases and other gaseous                               | 316 726,4          | 3,9                | 368 895,1          | 4,3                |
| Medicaments   | 280 735,6          | 3,5                | 314 626,1          | 3,7                |
| Telephones for cellular networks or for other wireless networks | 152 562,5          | 1,9                | 195 565,1          | 2,3                |
| Copper ores and concentrates                                    | 113 057,0          | 1,4                | 165 285,8          | 1,9                |
| Wheat   | 184 336,6          | 2,3                | 151 717,5          | 1,8                |
| Cigarettes  | 95 690,2           | 1,2                | 115 474,2          | 1,3                |
| Automatic data processing machines                              | 90 623,2           | 1,1                | 104 114,1          | 1,2                |
| Structures and parts of structures of iron or steel             | 65 413,3           | 0,8                | 90 667,8           | 1,1                |
| Other commodities   | 5 061 679,6        | 63,1               | 5 456 530,8        | 63,5               |

Georgian exports to the EU rose by 12% in the first 6 months of DCFTA. Exports of some Georgian products, including hazelnuts, fruit juices and copper doubled or even tripled. Wine export also rose by 6%. Despite problems that caused the slowdown of Georgian economy and the reduction of overall exports by 24% in January-August 2015, export of Georgian goods to the EU did still increase by 1%.

Recently, trade relations with the European Union are strengthening, but there are a number of difficulties faced by Georgia. One of them - it is a problem related to transportation. In particular, there are quite expensive domestic transportations. Also there is no direct regular ferry service to Europe, which would create the possibility of exporting Georgian products in a timely and cost-effectively fulfill orders of European consumers.

In addition, there is a problem of information availability. Only the efforts of the government to inform the Georgian businessmen about new export markets are insufficient. According to estimates of the Georgian statistical service, from January to



October 2015, the share of 10 largest trading partners in the gross foreign trade turnover of Georgia was 64%. This means that the country still trades only with the "narrow circle" of countries.

One of the main problems of modern business is the level of staff competence. The European market is characterized by a high competition, so the products supplied to the market, should be of high quality and low cost.

Therefore, the education system in the country should provide training of highly qualified personnel in the field of business administration. Competent managerial decisions can help to organize production of competitive products. In my opinion, it is necessary to strengthen the curriculum with high share of such disciplines as "Logistics Management" and "Standardization and certification of products and services."

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## **Роль аграрных программ Евросоюза в развитии сельского хозяйства Аджарии ныне и в будущем и перспективы взаимоотношений в сфере торговли**

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Евросоюз уникальное политическое и экономическое объединение двадцати восьми стран Европы. Евросоюз высокоразвитая форма многосекторной интеграции, компетенция которого распространяется на экономику, промышленность, прав граждан, внутреннюю и иностранную политику. Евросоюз своей финансовой поддержкой и грантами обеспечивает широкий спектр программ и проектов, в том числе и в аграрной сфере. Основными бенефициарами Евросоюза являются: представители малого бизнеса, фермеры, неправительственные организации и представители гражданского сектора, молодые ученые и исследователи.

На исходном этапе независимости Грузии, в начале девяностых годов, Евросоюз был одним из первых, который начал формировать отношения с Грузией, что отразилось в последующие годы в значительной помощи Стране. Отношения Евросоюза и Грузии начались в 1992 году, а в 1995 году Евросоюз открыл представительство в Грузии.

С 1995 года Грузия пользуется обобщенной системой торговых преференций Евросоюза (GSP).

С первого сентября 1997 года согласно постановлению Парламента Грузии началась гармонизация законодательства страны в отношении законодательства Евросоюза.

Седьмого июля 2003 года Евросоюз в Регионе Южного Кавказа назначил Своего специального представителя.

Четырнадцатого июня 2004 года Евросоюз принял решение о включении Грузии, Азербайджана и Армении в Европейскую Политику Соседства (ЕПС, ENP – European Neighbourhood Policy). После этого отношения Грузии с Евросоюзом вошли в новую стадию и приняли более интенсивный характер.

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14-го июля 2011 года был подписан договор между Грузией и Евросоюзом «об обоюдной защите и признаний географических наименований сельскохозяйственной продукции и других продуктов питания», который вошел в действие с 1-го апреля 2012-го года.

28-го февраля 2012-го года официально начались переговоры между Грузией и Евросоюзом о глубоком и всеобъемлющем свободном торговом пространстве (DCFTA – Deep and Comprehensive Free Trade Area).

22-го июля 2013-го года закончились переговоры Грузии и Евросоюза об ассоциации компонента глубокого и всеобъемлющего свободного торгового пространства.

29-го ноября 2013-го года на Вильнюсском Саммите «Восточного партнерства» осуществлено парафирование соглашения об ассоциации и его компонента, глубокого и всеобъемлющего свободного торгового пространства.

27-го июня 2014-го года было подписано соглашение об ассоциации с одной стороны между Евросоюзом и Объединением по Атомной Энергии Европы и их членами государствами и с другой стороны, с Грузией, целью которой является углубление политического и экономического отношения с Евросоюзом.

Оформленное в 2014-ом году соглашение между Евросоюзом и Грузией об ассоциации включает широкий спектр отношений, в том числе компонент всеобъемлющего свободного пространства торговли в рамках возможностей экономической интеграции, который также создает перспективы поступления сельско-хозяйственной продукции на Европейском рынке.

Глубокое и всеобъемлющее свободное торговое пространство (DCFTA) это соглашение между Евросоюзом и Грузией, который предусматривает льготные торговые отношения, которые основываются на взаимовыгодных подходах, лучшие условия допущения на их рынках в отличие от других торговых партнеров в сфере торговли. Свободное торговое пространство (FTA) учитывает отмену импортных платежей на торговли товаром, улучшение экспорта с Грузии и возможностей проникновения разных компаний на соответствующие европейские рынки, как для продуктов растительного, так и животного происхождения.

Соглашение глубокого и всеобъемлющего свободного торгового пространства предусматривает выполнение определенных обязанностей, в том числе сближению законодательства Грузии с Евросоюзом по направлению продовольственной безопасности, ветеринарии и защиты растений по определенным сферам и графикам регулировки, которые со стороны Грузии ныне выполняется.

Благодаря соглашению глубокого и всеобъемлющего свободного торгового пространства развитие торговли способствует созданию более стабильного торгового режима, также будет расти приток иностранных инвестиций.

После подписания договора об ассоциации с Евросоюзом о глубокой и всеобъемлющей свободной торговле, грузинской продукции открывается путь на единый внутренний рынок двадцати восьми европейских государств.

ООН И Евросоюз с целью поддержания Грузии осуществляют разные программы. Среди них очень значительна и важна Европейская программа соседства для развития села и сельского хозяйства (ENPARD).

Европейская программа соседства для развития села и сельского хозяйства (ENPARD) это политическая инициатива, которая признает значение сельского хозяйства для продовольственной безопасности, устойчивого производства и трудоустройства села.

Программа направлена на создание информационно - консультационных центров для фермеров, живущих в селах, помощи власти принятия таких законов, которые будут способствовать созданию кооперативов среди фермеров, с целью развития села, выдачи фермерам грантов и оказания помощи в развитии ориентированной на масштабах экономики.

Программа началась в 2013 году и ее общей целью является повышение производства пищевой продукции в Грузии и устранение бедности в селах. Конкретной целью программы является продвижение осуществления национальной секторной стратегии и укрепление малых организаций фермеров.

Партнерами Европейской Программы Соседства для развития села и сельского хозяйства (ENPARD), которые в Грузии осуществляют свою деятельность, являются: OXFAM (Oxford Committee for Famine Relief - Оксфордский комитет помощи голодающим) – которая является действующей во всем мире благотворительной организацией и старается улучшить уровень жизни людей; CARE International (Cooperative for Assistance and Relief Everywhere, буквально «кооператив для содействия и помощи всюду») – ведущая крупная международная независимая неправительственная организация, целью которой является оказать гуманитарную помощь, ориентированной на борьбу с глобальной бедностью; Mercy Corps (Корпус Милосердия) - занимающаяся оказанием помощи людям, попавшим в чрезвычайной бедствии (стихийное бедствие, экономический кризис, вооружённый конфликт и т. д), живущим в разных уголках Мира.

По отдельным проектам, на основе представленной информации и данных,

в регионе осуществлены и ныне идут разные проекты:

**Проект – «Поддержка развития сельского хозяйства в Аджарской автономной республике (ENPARD – Аджария)».**

Проект ENPARD Аджария стоимостью 3 миллиона Евро Европейская программа соседства для развития села и сельского хозяйства в Автономной Республике Аджарии, которая протекает при финансовой поддержке Евросоюза и осуществляет ее Программа Развития ООН. Программа поддерживает: а) создание сервисов, предоставляющие фермерам, повышение разнообразия и качества уже представленных сервисов; б) созданию фермерских объединений, ориентированных на прибыль; в) укреплению институционального развития министерства сельского хозяйства Аджарии.

Партнерами проекта являются правительство Аджарской Автономной республики и некоммерческое непроизводственное юридическое лицо (н(н)юл) – «Агросервисцентр»

В рамках проекта осуществлены следующие вопросы:

1. Улучшился уровень подачи сервисов малым фермерским хозяйствам; Осуществлено развитие филиалов Агросервисцентра; Отремонтировано 3 и построен 1 филиал Агросервисцентра; Создана карта и пакет сельскохозяйственного обслуживания; Разработан стратегический план развития Агросервисцентра.
2. Осуществлены переподготовка, тренинги и повышение квалификации сотрудников министерства сельского хозяйства и агросервисцентра:
  - Организованы учебные туры в Польше, Литве и Армении.
  - Проведена переподготовка специалистов по искусственному оплодотворению и агрохимическому исследованию почвы.
  - Переподготовлены сотрудники по управлению питомников и садоводства.
3. По финансовой поддержке проекта ENPARD фермерам регулярно предъявляются разные типы сельскохозяйственного обслуживания:
  - В 2013 – 2015 годах более девяти тысяч фермеров получили обслуживание в агрономии, ветеринарии и искусственном оплодотворении.
  - Около десяти тысячи фермеров регулярно получают консультационное обслуживание в виде коротких текстовых сообщения (sms) и с помощью других медиа – средств.
  - Более тысячи двести фермеров посетили демонстрационные участки, созданные в рамках проекта.

4. Разработаны и осуществлены демонстрационные проекты современных технологических хозяйств:

- В высокогорных муниципалитетах устроены демонстрационные участки саженцев ореха и голубики.
- В Кобулетском муниципалитете построен на 500 кв. м. современный питомник овощных культур.
- Фермерам бесплатно переданы сепараторы, доильные аппараты, дробилки для кормовых культур, комбинированный инкубатор для инкубации и для вылупления.
- С демонстрационной целью приобретены системы гидропоники, оборудованные новейшими технологиями, с помощью которых производится зеленый корм для скота.

5. Особое внимание уделяется созданию и внедрению медиа - экстенций. В этом направлении сделано следующее:

- Подготовлено 42 учебных видеороликов по разным отраслям сельского хозяйства, которые помещены на веб-сайте Агросервисцентра.
- На аджарском телевидении проходит телевизионная передача „агросовети”, где подготовлено и передано свыше 35 тематических передач по разным направлениям сельского хозяйства.
- По аджарской радиостанции переданы более 500 передач «5 минут для фермеров»
- По аджарскому телевидению также подготовлена новая телепередача «агробизнес».
- Разработаны и напечатаны такие учебники, как «Овощеводство», «Садоводство», «Пчеловодство», «Ветеринария», «Экономическая оценка технологических процессов производства сельско-хозяйственных продуктов», «Стандартизация и сертификация», «Бухгалтерия в сельском хозяйстве», «Конкурентоспособность сельско-хозяйственного сектора Аджарии», «Выращивание клубники», «Конструкция тракторов».
- Регулярно печатается и осуществляется поставка заинтересованным организациям и лицам, информационных буклетов более 30 тематических направлений.
- Регулярно издается сельско-хозяйственная газета «Гутнеули».

6. С помощью веб-портала Агросервисцентра осуществляется т. н. поставка цифровой экстенции, в частности:

- онлайн – консультации в прямом эфире.

- подготовка и помещение в цифровой форме материалов экстенции.
  - помещение и поставка в цифровой форме сельско-хозяйственной учебной литературы.
7. Создано программное обеспечение экстенции, которое дает возможность сотрудникам министерства и агросервисцентра произвести:
- регистрацию фермеров и фермерских хозяйств.
  - регистрацию, мониторинг и оценку обслуживания экстенции.
  - подготовка анализов, отчетов и др.
8. В рамках ENPARD осуществляются развитие маточных – демонстрационных участков и связанные с ними научные исследования:
- приобретены саженцы для создания питомника ягодных культур.
  - финансируются исследования ученых в питомниках цитрусовых, плодовых культур и винограда.
9. Разработана методология получения сведений и анализа стоимости на агропродовольственных рынках и распространения методологии полученных результатов:
- происходит сбор рыночных цен и изучение.
  - результаты исследований предоставляются фермерам и заинтересованным сторонам.
10. Профессиональная переподготовка:
- На базе профессионального колледжа «Блек» г. Батуми разработаны курсы профессионального обучения по следующим специальностям:
- «специалист сельско – хозяйственных химикатов и пестицидов»
  - «специалист питомника»
  - «пчеловодство»
  - Колледж оборудован соответствующими учебными материалами, в итоге переподготовлены 126 студентов профессионального обучения и 15 тренеров.
11. Создание и развитие фермерских групп, ориентированных на бизнес. Развитие и поддержка кооперативов: по поддержке проекта созданы и получили финансирование 57 кооперативов. Фермерским объединениям поставка сервисов связанных с бизнесом осуществляется с помощью Батумского бизнес-инкубатора, который также осуществляет юридическую помощь желающим регистрации кооперативов и тренинги и консультации по направлению агробизнеса:
- проведены тренинги по агробизнесу более 213 фермерам.
  - переподготовлены 160 слушателей по бухгалтерии сельского хозяйства.

- прошли тренинги 54 слушателей по маркетингу сельско-хозяйственных продуктов.
- проведены консультации по агробизнесу 28 фермерских групп.
- с помощью юристов бизнес-инкубатора статус сельско-хозяйственных кооперативов получили 34 кооператива.

Создана функциональная модель фермерских групп / кооперативов в Аджарии;

Разработана методология для выявления целевых групп фермеров;

Разработан бизнес- и функциональная модель кооператива пчеловодства;

«Батуми, как рынок реализации сельско-хозяйственной продукции местного производства»;

«Анализ цепи ценности картофеля и помидора и их спецификация»;

В рамках проекта в периоде 2014-2015 гг. до 19-го августа, действующим в регионе сельско-хозяйственным 57 кооперативам переданы средства сельско-хозяйственного производства стоимости 417 000 евро. Общее количество членов сельско-хозяйственных кооперативов – бенефициаров проекта составляет 303 человек.

### **Институциональное развитие Министерства сельского хозяйства автономной республики Аджарии:**

- Составлен план стратегического развития министерства сельского хозяйства Аджарии.
- Создан аналитический документ модели агросервисцентра и его финансовой устойчивости.
- Разрабатывается система мониторинга и оценки министерства сельского хозяйства Аджарии и готовится ее внедрение.
- Осуществлено базисное исследование сельско-хозяйственного сектора региона.
- Проведен анализ конкурентоспособности продуктов, производимых в Аджарии и поддержки экспорта.
- Осуществлены исследования для привлечения инвестиции и поддержки по сельскому хозяйству.
- Проведено исследование нужд министерства сельского хозяйства Аджарии и на его основе подготовлен и осуществлен соответствующий план действий.
- Проведена переподготовка сотрудников министерства по стратегическому



планированию и вопросам, связанным с проведением стратегической политики.

- Подготовлено исследование структурных проблем сельского хозяйства региона.
- Подготовлена разработка и анализ бизнес-моделей тепличных хозяйств, птицеводства и животноводства в регионе.
- Проведено обсуждение и анализ цепей ценностей различной сельскохозяйственной продукции с участием приглашенных консультантов вместе с сотрудниками министерства сельского хозяйства Аджарии.

Консультанты регулярно проводили рабочие встречи с сотрудниками министерства сельского хозяйства Аджарии по следующим вопросам:

- Развитие возможностей министерства по анализу политики и программному бюджетированию.
- Тренинги деятельности по маркетингу и популяризации сельскохозяйственной продукции на местном и иностранном рынках.

# Recent Trades and Challenges for Latvia's Trade to East

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## Abstract

*The aim of this paper is to analyse trends and challenges for Latvia's trade to East, particularly to the Republic of Moldova. Research methods applied: scientific publications studies, analysis of statistical data. The exports in the EU gradually improve, while the exporters focusing on the Eastern markets were affected by the worsening economic situation in Russia. Foreign trade between Moldova and Latvia increases in recent years. In 2015 Latvia's most important export product group to Republic of Moldova was products of the chemical and allied industries.*

*Keywords:* challenges, exports, imports, recent trends, trade to East

## 1. Introduction

The economic growth of Latvia closely relate to geopolitical situation. In 2015 the exports in the EU gradually improved, while the exports to East were affected by the worsening economic situation in Russia. Academic research is paying attention to export issues as it is one of the driving forces for national economy development (Adrian and Popa, 2014). Comparative studies are performed across the countries (Ignjatijević, et al., 2015), several markets (Sandu, 2014) with special attention to export analysis (Ignjatijević, et al., 2013). Different countries have different patterns and approaches and also those are studied by academic researchers (Yilmaz and Ergun, 2003), different international institutions perform different comparative studies, including designing trade maps (International Trade Organisation, 2015). Free Trade Agreements, Institutions and the Exports of Eastern Partnership Countries are on academic researcher's research interests with different research methods applications, like gravity model of trade, as well as preparation useful and reasonable suggestions for policy makers (Gulafson, et al, 2015). Comparisons of trade results in different markets

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are on researchers interest and in-depth analysis (Gavrilescu, 2014). Possibilities for integration of the Eastern Partnership countries' export into the EU markets are researched in details and made several comparisons and evaluating the trade development (Rauluskeviciene and Makuteniene, 2014).

Economic co-operation with countries outside the European Union are realised on European Union level and on national level. On national level it is realised within bilateral agreements on economic co-operation. Latvia has made bilateral agreements on economic co-operation with 13 countries – Armenia, Azerbaijan, Belorussia, Georgia, Kazakhstan, Kirgizstan, Russia, China, Moldova, Ukraine, Uzbekistan, Tadjhikistan and Turkmenistan. Those agreements are the most important agreements regulating bilateral economic co-operation in such fields as industry, tourism, transport and logistics, pharmacy, agriculture, financial services, information and communication technologies, investment attraction, innovations, etc.

Those agreements foresee also creation of Intergovernmental Committee or Joint Committee which ensures monitoring of those agreements: in Intergovernmental Committee or Joint Committee meetings issues of economic co-operation are discussed on economic co-operation aspects important for both sides – on level of governments as well as entrepreneurs.

Besides intergovernmental dialogue in co-operation with other institutions in Latvia and international partners are realised activities on economic co-operation support on entrepreneur's level, including business forums, contact stock markets and individual meetings of entrepreneurs, especially successful are state visits.

To ensure competitiveness of the national economy, for co-ordination of issues on national level for foreign economic policy it is created Council of Coordination of Foreign Economic Policy. Annually is prepared plan of work of Ministry of Economy, Latvia Investment and Development Agency, Ministry of Foreign Affairs, Chamber of Trade and Commerce of Republic of Latvia as well as other institutions.

Export support services are provided by Ministry of Economics as well the Ministry of Agriculture, the Ministry of Transport, the Ministry of Health, the Ministry of Education and Science, good support is by Ministry of Foreign Affairs.

The guidelines are approved for the promotion of Latvia's exports of goods and services and for attracting foreign investment for 2013 – 2019.

The aim of this paper is to analyse trends and challenges for Latvia's trade to East, particularly to the Republic of Moldova. Research methods applied: scientific publications studies, analysis of statistical data.

## 2. Latvia's exports and imports to East

Latvia's exports and imports of goods have increased since 1995, especially after the accession to the European Union (except 2009 year – economic and financial crisis). From 2009 to 2012 on average exports has grown by 24.6%, imports by 23.3% annually. In 2013 and 2014 export and import have grown slower. According to World Trade Organization data, Latvia rank in world trade in exports was 78, in imports – 86 in 2014. From 2012 to 2014 on average export has grown by 1.9%, import has grown by 0.6% annually (see Table 1).

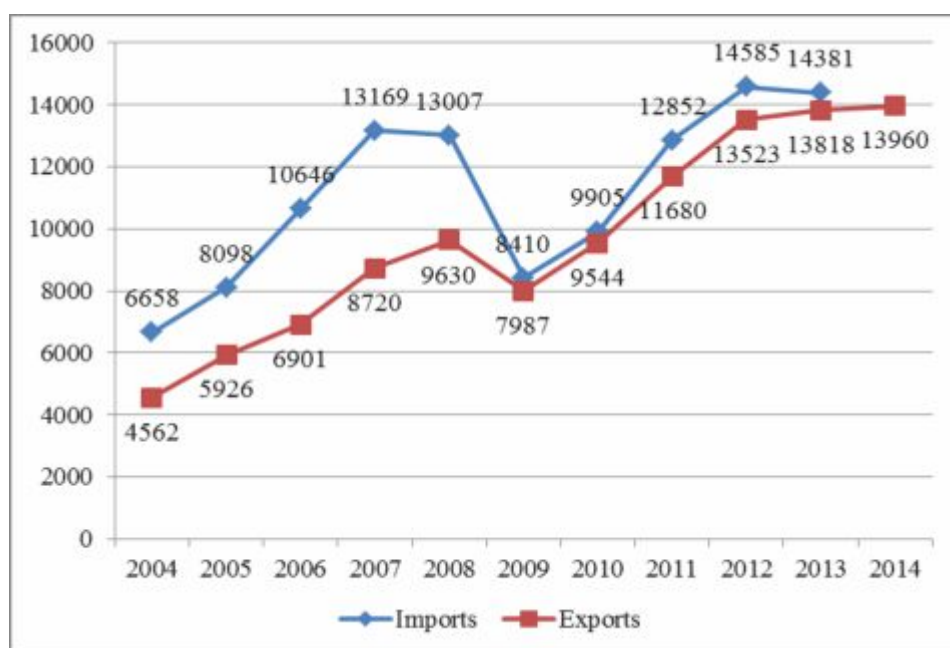
**Table 1. Latvia's imports and exports, 1992 - 2014 (total goods, thsd EUR)**

|      | Exports  | Imports  |
|------|----------|----------|
| 1992 | 814830   | 770514   |
| 1993 | 961308   | 909567   |
| 1994 | 787470   | 988310   |
| 1995 | 979523   | 1365439  |
| 1996 | 1131428  | 1818671  |
| 1997 | 1382674  | 2251484  |
| 1998 | 1520839  | 2676827  |
| 1999 | 1434729  | 2452933  |
| 2000 | 1609716  | 2751742  |
| 2001 | 1787699  | 3132545  |
| 2002 | 2004565  | 3553460  |
| 2003 | 2348635  | 4253200  |
| 2004 | 3059213  | 5414394  |
| 2005 | 4109587  | 6925133  |
| 2006 | 4685816  | 9075755  |
| 2007 | 5748819  | 11070271 |
| 2008 | 6301821  | 10710934 |
| 2009 | 5125530  | 6701412  |
| 2010 | 6680220  | 8411946  |
| 2011 | 8535119  | 10983288 |
| 2012 | 9871054  | 12512280 |
| 2013 | 10021291 | 12635139 |
| 2014 | 10248604 | 12654338 |

*Source:* Central Statistical Bureau of Latvia, 2015

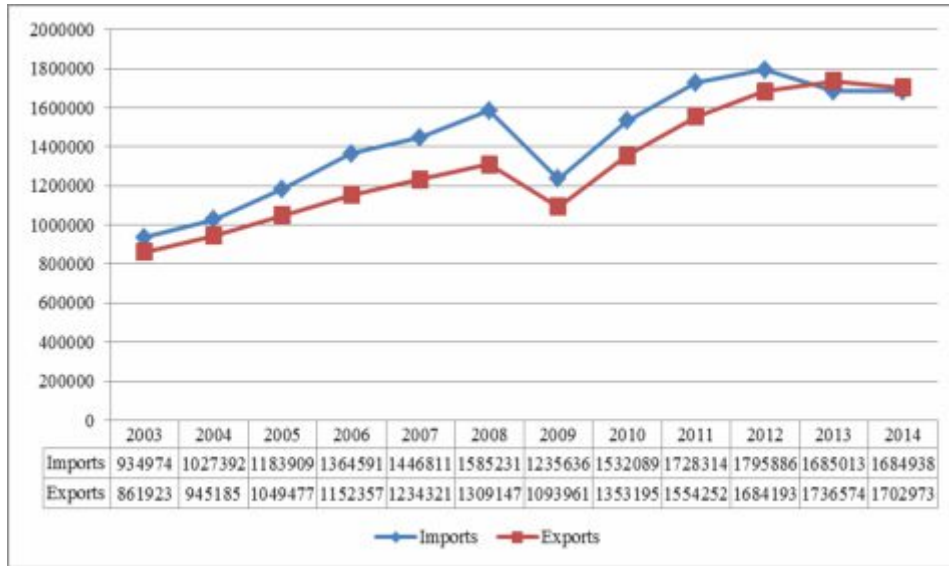
The total exports of goods and services of Latvia have increased from 2010 to 2014, the total Latvia's import decreased in 2013 by 3% compared to the 2012 year. The changes of Latvia's imports and exports of goods and services are reflected in figure 1. The total exports of goods and services of Latvia have increased from 2010 to 2014, the total Latvia's import decreased in 2013 by 3% compared to the 2012 year. The changes of Latvia's imports and exports of goods and services are reflected in figure 1.

**Figure 1. Latvia's imports and exports, 2004 – 2014 (goods and services, mln EUR)**



*Source:* Prepared by authors based on the Central Statistical Bureau of Latvia, 2015

The EU exports and imports of goods from 2003 to 2012 have increased (except 2009). In 2013 the value of exports has increased by 3%, but value of imports has decreased by 6% compared to the 2012 year. In 2014 exports and imports have decreased (exports by 2%, imports by 0.005%). The EU trade balance was EUR 51 561 millions in 2013 and EUR 18 036 millions in 2014 (see Figure 2).

**Figure 2. EU (28 countries) imports and exports, 2003 – 2014, (total goods, mln EUR)**

Source: Prepared by authors based on the Eurostat, 2015

According to the data of Latvia's Banka, Latvia's exports have increased in 2015, but imports have decreased. The export value of goods was 3.7% higher in September 2015 than in September 2014, while the import value of goods was 5.8% lower in September 2015 than in September 2014 (see Table 2).

**Table 2. Latvia's imports and exports, 2014 IX, 2015 IX**

|   | 2015 IX | 2014 IX |
|---|---------|---------|
| Exports (mln euro)  | 966.0   | 931.7   |
| Exports (changes compared with the corresponding period of previous year) | 3.7%    | 1.6%    |
| Imports (mln euro)  | 1 081.9 | 1 148.4 |
| Imports (changes compared with the corresponding period of previous year) | -5.8%   | 3.4%    |

Source: Latvijas Banka, 2015

Latvia mainly exports to the EU, about 72.6% of all exported value in 2014, to the Commonwealth of Independent States (CIS) Latvia has exported about 14.9%. In 2014 the value of Latvia's exports to the EU has increased by about 4.6%, but to the CIS has decreased by 5%, compared to the 2013 year. Latvia's exports to the EU and CIS are reflected in Table 3.

**Table 3. Latvia's exports by grouping of countries, 1995 – 2014 (mln EUR)**

|      | Total   | EU-27  | CIS    |
|------|---------|--------|--------|
| 1995 | 979.5   |        | 375.1  |
| 1996 | 1131.5  |        | 405.2  |
| 1997 | 1382.6  |        | 408.1  |
| 1998 | 1520.9  |        | 288.3  |
| 1999 | 1434.7  |        | 172.5  |
| 2000 | 1609.7  |        | 139.9  |
| 2001 | 1787.7  |        | 185    |
| 2002 | 2004.5  |        | 200.1  |
| 2003 | 2348.6  |        | 231.1  |
| 2004 | 3059.2  |        | 345.5  |
| 2005 | 4109.5  |        | 503.3  |
| 2006 | 4685.8  |        | 656.2  |
| 2007 | 5748.8  | 4377.7 | 834.4  |
| 2008 | 6301.8  | 4617.8 | 944.8  |
| 2009 | 5125.5  | 3680.8 | 713.4  |
| 2010 | 6680.2  | 4785.8 | 998.6  |
| 2011 | 8535.1  | 6186.2 | 1246   |
| 2012 | 9871.1  | 6859.8 | 1521.8 |
| 2013 | 10021.3 | 7117.8 | 1603.2 |
| 2014 | 10248.6 | 7443.8 | 1522.4 |

*Source:* Central Statistical Bureau of Latvia, 2015

The Latvia's largest export market to the Commonwealth of independent states was Russia. In 2014 Latvia's export to the Russia was about 71.6% of all exports to Commonwealth of independent states, second largest export was to the Belarus – about 11.6%, third to the Ukraine – about 5%. The exports to Russia have decreased by 65 588 (thsd euro) in 2014 year compared to the 2013 year. In 2014 year compared to the 2013 year exports have also decreased to another Commonwealth of independent states: Belarus, Ukraine, Georgia, Kazakhstan (see Table 4).

**Table 4. Latvia's exports by Commonwealth of independent states and Georgia, 2008 – 2014 (thsd EUR)**

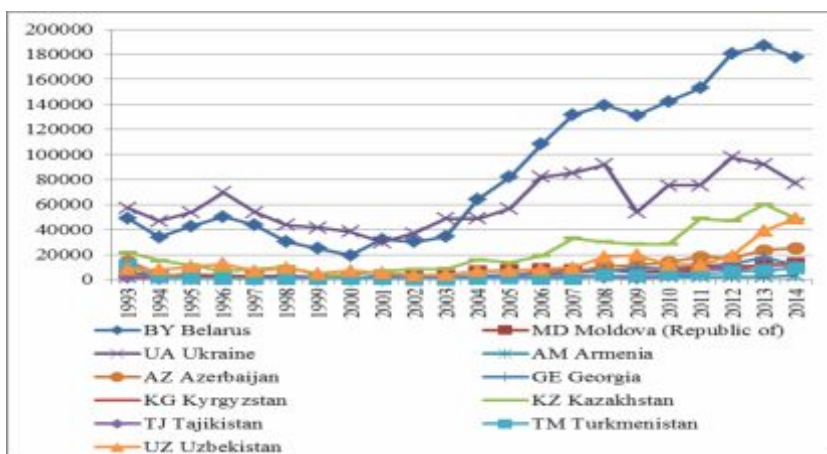
|                          | 2008   | 2009   | 2010   | 2011   | 2012        | 2013        | 2014        |
|--------------------------|--------|--------|--------|--------|-------------|-------------|-------------|
| Belarus                  | 139393 | 131165 | 142061 | 152854 | 180786      | 186866      | 177582      |
| Moldova<br>(Republic of) | 7807   | 6229   | 6824   | 9055   | 10379       | 11164       | 12597       |
| Russian<br>Federation    | 629153 | 450170 | 707364 | 901495 | 112581<br>5 | 116311<br>3 | 109752<br>5 |

|              |       |       |       |       |       |       |       |
|--------------|-------|-------|-------|-------|-------|-------|-------|
| Ukraine      | 91740 | 53628 | 75116 | 75279 | 97690 | 91735 | 76543 |
| Armenia      | 2631  | 1383  | 2160  | 2175  | 2203  | 2245  | 3081  |
| Azerbaijan   | 10805 | 11302 | 13799 | 18140 | 16946 | 23376 | 25212 |
| Georgia      | 6898  | 9428  | 8283  | 10508 | 12433 | 17656 | 11004 |
| Kyrgyzstan   | 2793  | 2779  | 3651  | 12767 | 7613  | 11788 | 12651 |
| Kazakhstan   | 30115 | 28290 | 28299 | 48836 | 47020 | 60210 | 48554 |
| Tajikistan   | 1949  | 1302  | 3358  | 8577  | 8291  | 5949  | 10479 |
| Turkmenistan | 3231  | 3046  | 3742  | 5011  | 6336  | 7599  | 9247  |
| Uzbekistan   | 18244 | 19687 | 12126 | 11822 | 18758 | 39189 | 48949 |

Source: Central Statistical Bureau of Latvia, 2015

The dynamics of Latvia's exports to the Commonwealth of independent states and Georgia (except Russian Federation) from 2008 to 2014 are reflected in figure 3.

**Figure 3. Latvia's export by Commonwealth of independent states and Georgia (except Russian Federation), 2008 – 2014 (thsd EUR)**



Source: prepared by authors based on the Central Statistical Bureau of Latvia, 2015

Latvia mainly have imported from the EU – about 79.7% of all imported value in 2014, to the Commonwealth of independent states Latvia have imported about 11.9%. In 2014 the value of Latvia's imports from the EU has increased by about 0.2%, but from the CIS has decreased by 3.2%, compared to the 2013 year. The Latvia's imports from the EU and CIS are reflected in table 5.



**Table 5. Latvia's imports by grouping of countries, 1995 – 2014 (mln EUR)**

|      | Total   | EU-27   | CIS    |
|------|---------|---------|--------|
| 1995 | 1365.4  |         | 385.3  |
| 1996 | 1818.7  |         | 464.3  |
| 1997 | 2251.6  |         | 444.2  |
| 1998 | 2676.8  |         | 428.4  |
| 1999 | 2452.9  |         | 367.5  |
| 2000 | 2751.7  |         | 466    |
| 2001 | 3132.6  |         | 462.1  |
| 2002 | 3553.5  |         | 466    |
| 2003 | 4253.2  |         | 617.1  |
| 2004 | 5414.5  |         | 887.3  |
| 2005 | 6925.1  |         | 1157.5 |
| 2006 | 9075.8  |         | 1284.4 |
| 2007 | 11070.4 | 8623.7  | 1464.3 |
| 2008 | 10711   | 8133.8  | 1702.2 |
| 2009 | 6701.4  | 5038.8  | 1063.5 |
| 2010 | 8411.9  | 6380.6  | 1276.6 |
| 2011 | 10983.3 | 8433.4  | 1605   |
| 2012 | 12512.3 | 9675.5  | 1878.8 |
| 2013 | 12635.1 | 10069.9 | 1553.7 |
| 2014 | 12654.3 | 10088.6 | 1503.4 |

From the Commonwealth of independent states Russia was the largest importer. In 2014 import from the Russia was about 67.7% of all imports from the Commonwealth of independent states, second largest importer was Belarus – about 21.2%, third Ukraine – about 7.2%. The imports from Russia have decreased by 36 483 (thsd euro) in 2014 year compared to the 2013 year. In 2014 year compared to the 2013 year exports have also decreased to another Commonwealth of independent states: Ukraine, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan (see Table 6).

**Table 6. Latvia's imports by Commonwealth of independent states and Georgia, 2008 – 2014 (thsd EUR)**

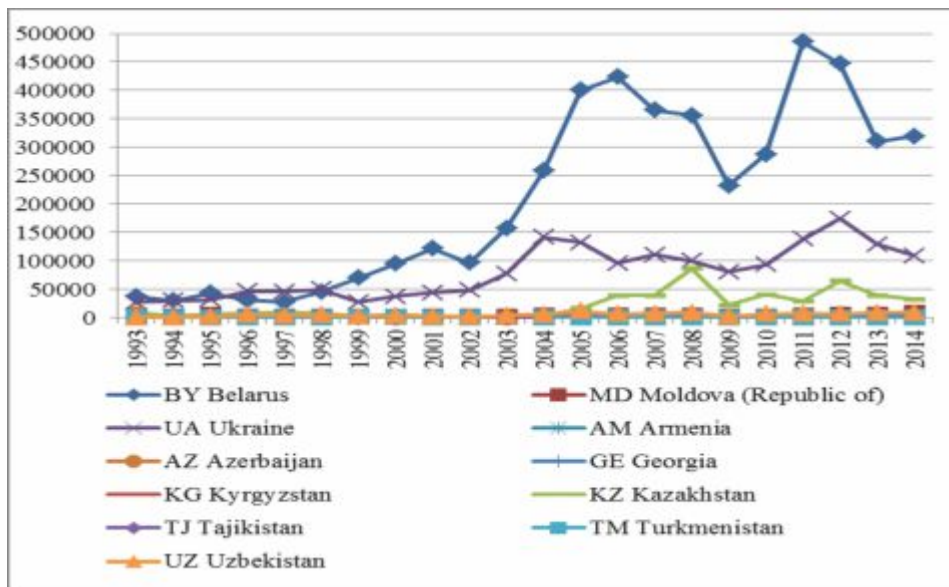
|                       | 2008    | 2009   | 2010   | 2011   | 2012    | 2013    | 2014    |
|-----------------------|---------|--------|--------|--------|---------|---------|---------|
| Belarus               | 355731  | 232290 | 288035 | 485629 | 447251  | 310333  | 319104  |
| Moldova (Republic of) | 3466    | 1679   | 2497   | 2873   | 4507    | 5656    | 8856    |
| Russian Federation    | 1140106 | 719538 | 842020 | 937860 | 1177813 | 1057667 | 1021184 |
| Ukraine               | 100392  | 81195  | 93054  | 138150 | 174542  | 129488  | 109088  |
| Armenia               | 690     | 637    | 919    | 751    | 875     | 927     | 1882    |

|              |       |       |       |       |       |       |       |
|--------------|-------|-------|-------|-------|-------|-------|-------|
| Azerbaijan   | 1736  | 1421  | 2415  | 3325  | 2038  | 1219  | 946   |
| Georgia      | 3315  | 2470  | 3482  | 3956  | 3726  | 4792  | 4943  |
| Kyrgyzstan   | 528   | 102   | 40    | 103   | 187   | 294   | 1267  |
| Kazakhstan   | 86802 | 22299 | 40792 | 28782 | 65013 | 38827 | 32103 |
| Tajikistan   | 188   | 67    | 7     | 17    | -     | -     | 3     |
| Turkmenistan | 223   | 188   | 84    | 487   | 7     | 52    | 33    |
| Uzbekistan   | 8953  | 2652  | 6750  | 7015  | 6584  | 9210  | 8951  |

Source: Central Statistical Bureau of Latvia, 2015

The dynamics of Latvia's imports from the Commonwealth of independent states (except Russian Federation) and Georgia from 2008 to 2014 year are reflected in figure 4.

**Figure 4. Imports from Commonwealth of independent states and Georgia (except Russian Federation), 2008 – 2014 (thsd EUR)**



Source: prepared by authors based on the Central Statistical Bureau of Latvia, 2015

The most important export product groups for the Latvia were machinery and mechanical appliances; electrical equipment (16.8%), wood and articles of wood (16.7%), prepared foodstuffs (9.3%), base metals and articles of base metals (9%), mineral products (8.3%) (see Table 7).

**Table 7. Latvia's Exports by commodity sections, 2012 – 2014 (thsd EUR)**

|  | 2012    | 2013     | 2014     |
|--|---------|----------|----------|
| Total  | 9871054 | 10021291 | 10248604 |
| (I) Live animals and animal products   | 430914  | 499706   | 439098   |
| (II) Vegetable products  | 721423  | 574722   | 556667   |
| (III) Fats and oils  | 31569   | 35487    | 34190    |
| (IV) Prepared foodstuffs (incl. alcoholic and non-alcoholic beverages and tobacco products)                    | 841044  | 937789   | 951137   |
| (V) Mineral products   | 858802  | 873044   | 849085   |
| (VI) Products of the chemical and allied industries  | 636874  | 673634   | 699737   |
| (VII) Plastics and articles thereof; rubber and articles thereof   | 299630  | 303659   | 320418   |
| (VIII) Raw hides, leather, furskins and articles thereof   | 33671   | 32878    | 29539    |
| (IX) Wood and articles of wood   | 1466834 | 1594003  | 1700029  |
| (X) Pulp of wood; paper and paperboard   | 197022  | 218885   | 214185   |
| (XI) Textiles and textile articles   | 386644  | 430244   | 421807   |
| (XII) Footwear, headgear, umbrellas and other articles   | 42079   | 31402    | 32395    |
| (XIII) Articles of stone, plaster, cement, glassware and ceramic products                                      | 187841  | 216781   | 228266   |
| (XIV) Precious and semi-precious stones, precious metals, metals clad with precious metal and articles thereof | 51267   | 69311    | 84282    |
| (XV) Base metals and articles of base metals   | 1381037 | 1051720  | 925169   |
| (XVI) Machinery and mechanical appliances; electrical equipment  | 1352648 | 1561027  | 1724519  |
| (XVII) Transport vehicles  | 534015  | 452399   | 528254   |
| (XVIII) Optical instruments and apparatus (incl. Medical), clocks and watches, musical instruments             | 102063  | 129347   | 150888   |
| (XIX) Arms and ammunition  | 314     | 679      | 1048     |
| (XX) Miscellaneous manufactured articles   | 260804  | 295866   | 321274   |
| (XXI) Works of art, collectors' pieces and antiques  | 282     | 394      | 806      |

Source: Central Statistical Bureau of Latvia, 2015

According to the data of Central Statistical Bureau of Latvia, in the first quarter of 2015, most exports have grown in such sectors as machinery and mechanical appliances, electrical equipment (22.4%), manufacture of articles of stone, plaster,

cement, glassware and ceramic products (16.6%), mineral products (5.3%) as well as the chemical and allied industries (5.4%).

The most important Latvia's import product groups were machinery and mechanical appliances; electrical equipment (20.1%), mineral products (14.6%), products of the chemical and allied industries (9.5%), base metals and articles of base metals (8.3%) (see Table 8).

**Table 8. Latvia's imports by commodity sections, 2012 – 2014 (thsd EUR)**

|  | 2012     | 2013     | 2014     |
|--|----------|----------|----------|
| Total  | 12512280 | 12635139 | 12654338 |
| (I) Live animals and animal products   | 430423   | 486324   | 423821   |
| (II) Vegetable products  | 511849   | 462493   | 499876   |
| (III) Fats and oils  | 130134   | 111010   | 92177    |
| (IV) Prepared foodstuffs (incl. alcoholic and non-alcoholic beverages and tobacco products)                    | 857397   | 943564   | 979918   |
| (V) Mineral products   | 2209616  | 2170813  | 1840987  |
| (VI) Products of the chemical and allied industries  | 1109778  | 1187917  | 1196339  |
| (VII) Plastics and articles thereof; rubber and articles thereof   | 645871   | 698587   | 733873   |
| (VIII) Raw hides, leather, furskins and articles thereof   | 45167    | 52999    | 49895    |
| (IX) Wood and articles of wood   | 198656   | 247971   | 330549   |
| (X) Pulp of wood; paper and paperboard   | 267062   | 299653   | 305274   |
| (XI) Textiles and textile articles   | 527049   | 601110   | 586980   |
| (XII) Footwear, headgear, umbrellas and other articles   | 110696   | 111660   | 118029   |
| (XIII) Articles of stone, plaster, cement, glassware and ceramic products                                      | 197670   | 213523   | 236444   |
| (XIV) Precious and semi-precious stones, precious metals, metals clad with precious metal and articles thereof | 60533    | 81592    | 101537   |
| (XV) Base metals and articles of base metals   | 1303649  | 1093506  | 1044407  |
| (XVI) Machinery and mechanical appliances; electrical equipment  | 2284203  | 2326927  | 2538898  |
| (XVII) Transport vehicles  | 1078260  | 967793   | 975143   |
| (XVIII) Optical instruments and apparatus (incl. Medical), clocks and watches, musical instruments             | 221139   | 236096   | 241251   |
| (XIX) Arms and ammunition  | 9938     | 11394    | 6478     |
| (XX) Miscellaneous manufactured articles   | 312478   | 329161   | 351289   |
| (XXI) Works of art, collectors' pieces and antiques  | 711      | 1046     | 1174     |

Source: Central Statistical Bureau of Latvia, 2015

According to the data of Commodity Trade Statistics Database, Republic of Moldova was the 50th largest export market for Latvia (0.1% of Latvia exports) and the 47th largest import market for Latvia (0.1% of Latvia imports) in 2014.

The Latvia's exports and imports of goods by Republic of Moldova from 2008 to 2014 have increased. In 2014 compared to the 2013 year the value of exports has increased by 12.8%, imports – by 56.6%. The Latvia's exports and imports of goods by Republic of Moldova from 1993 to 2014 years are presented in table 9.

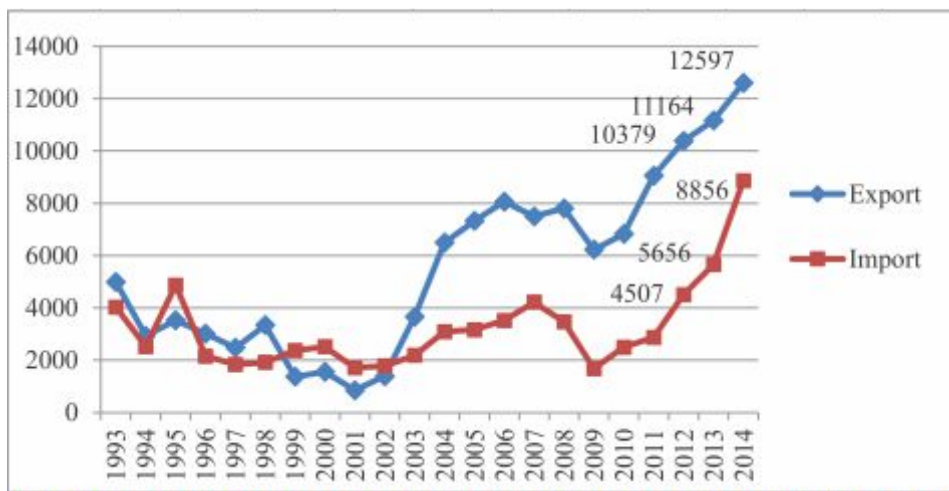
**Table 9. Latvia's exports and imports of goods by Republic of Moldova, 1993 – 2014, (thsd EUR)**

| Year | Export | Import |
|------|--------|--------|
| 1993 | 4993   | 4028   |
| 1994 | 2931   | 2520   |
| 1995 | 3526   | 4869   |
| 1996 | 3016   | 2151   |
| 1997 | 2477   | 1838   |
| 1998 | 3342   | 1915   |
| 1999 | 1365   | 2373   |
| 2000 | 1559   | 2513   |
| 2001 | 851    | 1716   |
| 2002 | 1386   | 1783   |
| 2003 | 3660   | 2181   |
| 2004 | 6495   | 3092   |
| 2005 | 7325   | 3164   |
| 2006 | 8062   | 3520   |
| 2007 | 7501   | 4216   |
| 2008 | 7807   | 3466   |
| 2009 | 6229   | 1679   |
| 2010 | 6824   | 2497   |
| 2011 | 9055   | 2873   |
| 2012 | 10379  | 4507   |
| 2013 | 11164  | 5656   |
| 2014 | 12597  | 8856   |

*Source:* Central Statistical Bureau of Latvia, 2015

In the period from 1993 year to 2014 year Latvia's exports to the Republic of Moldova grew faster than imports, average exports growth was 13%, average imports growth 11%. From 2009 to 2014 year Latvia's exports to the Republic of Moldova grew average by 15.5%, but imports by 40.5%. The dynamics of Latvia's exports and imports by Moldova from 1993 to 2014 are reflected in figure 5.

**Figure 5. Latvia's exports and imports of goods by Republic of Moldova, 1993 – 2014, (thsd EUR)**

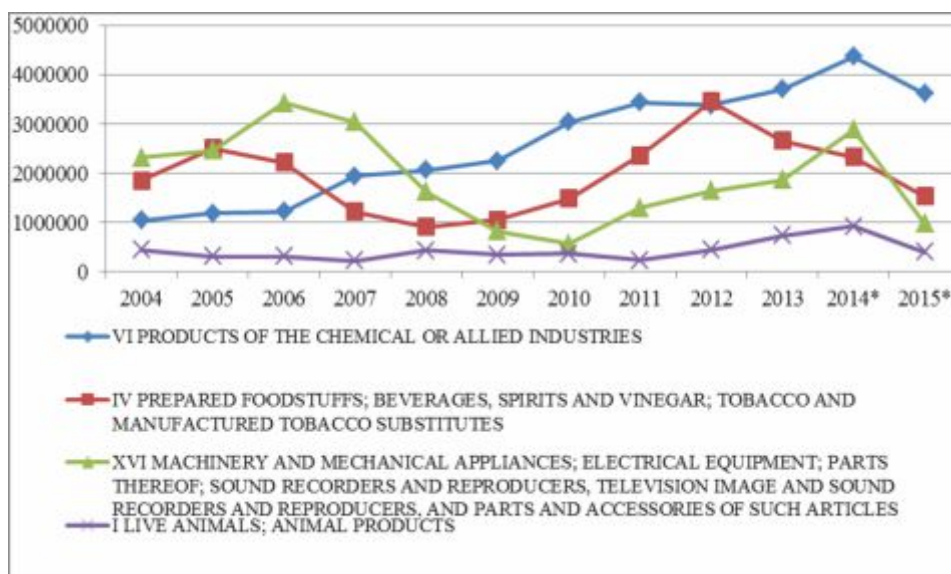


*Source:* prepared by authors based on the Central Statistical Bureau of Latvia, 2015

According to the data of Central Statistical Bureau of Republic of Latvia, in 2014 year compared to the 2013 year Latvia's exports of services to Republic of Moldova were about 2 millions EUR (an increase of 3.6%), the imports of services were about 1.8 millions EUR (an increase of 31.6%). In the first half year of 2015 compared to the first half year of 2014, Latvia's exports of goods to Republic of Moldova decreased by 11.4%, exports of services decreased by 24.4%, but imports of goods increased by 86.5%, imports of services increased by 32.5%.

In 2015 the most important export product groups for the Latvia to Republic of Moldova were products of the chemical and allied industries, prepared foodstuffs, machinery and mechanical appliances and electrical equipment, live animals and animal products (see Figure 6).

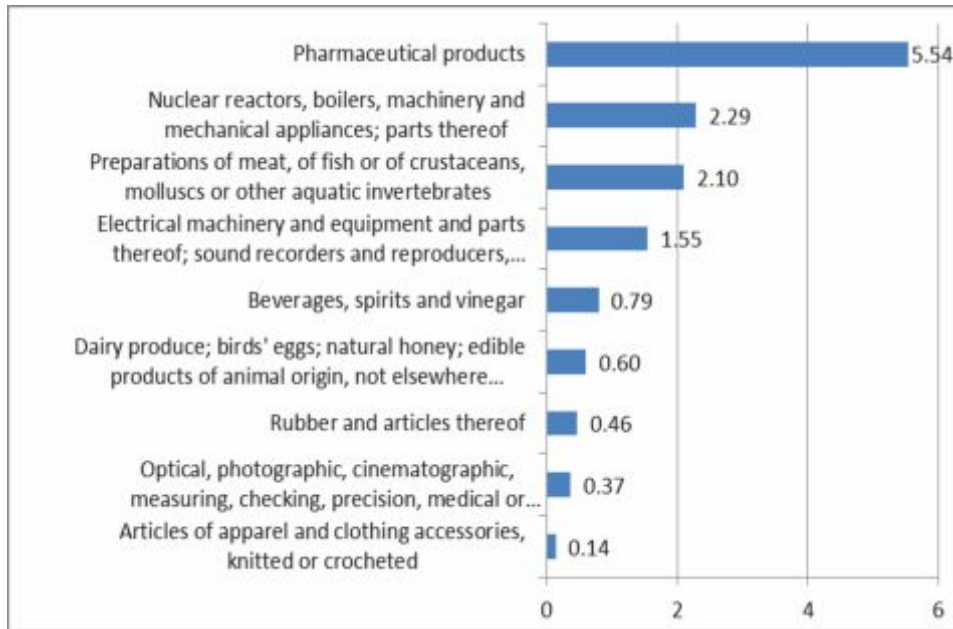
**Figure 6. Latvia's main exports by harmonized commodity system to Republic of Moldova, 2004 - 2015 (EUR)**



*Source:* Prepared by authors based on the Central Statistical Bureau of Latvia, 2015

According to the data of Commodity Trade Statistics Database, in 2014 Republic of Latvia mainly have exported to Republic of Moldova pharmaceutical products (5.54 million \$), nuclear reactors, boilers, machinery and mechanical appliances; parts thereof (2.29 million \$), preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates (2.10 million \$), electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles (1.55 million \$).

Republic of Latvia's top 10 exports of goods to Republic of Moldova are reflected in figure 7.

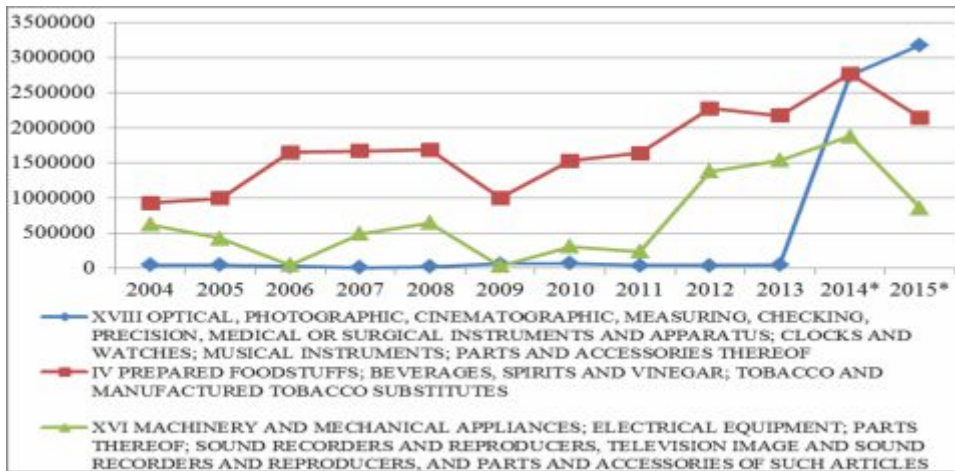
**Figure 7. Latvia's top 10 exports of goods to Republic of Moldova, 2014 (mln \$)**

*Source:* Prepared by authors based on the UN Comtrade database, 2015

In 2015 the most important Republic of Latvia's import product groups from Republic of Moldova were products of the optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof, prepared foodstuffs (including alcoholic and non-alcoholic beverages and tobacco products), machinery and mechanical appliances and electrical equipment, live animals and animal products (see Figure 8).



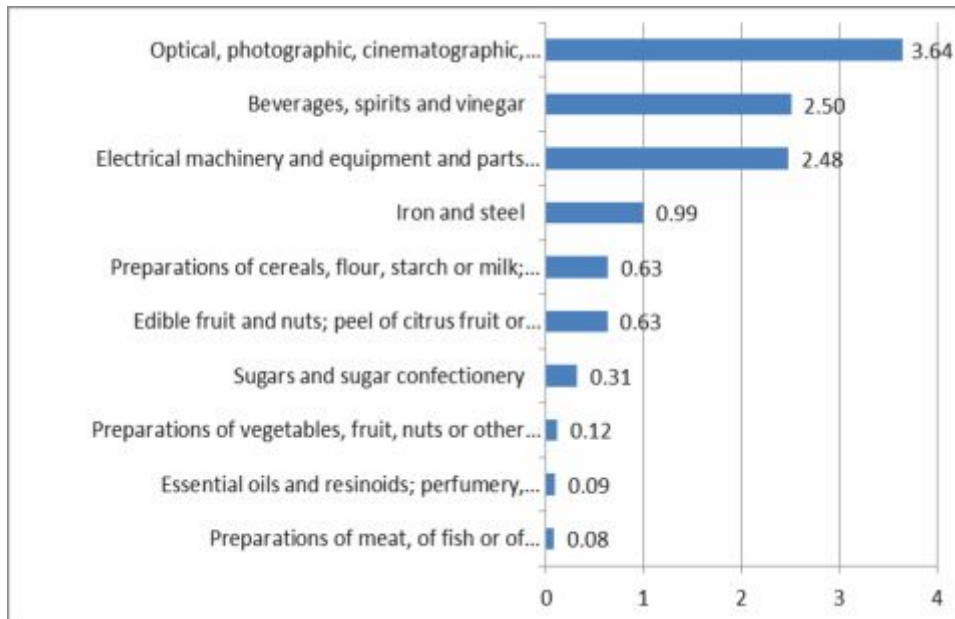
**Figure 8. Latvia's major imports by harmonized commodity system from Republic of Moldova, 2004–2015 (EUR)**



*Source:* Prepared by authors based on the Central Statistical Bureau of Latvia, 2015

According to the data of Commodity Trade Statistics Database, in 2014 Latvia mainly have imported from Republic of Moldova optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof (3.64 million \$), beverages, spirits and vinegar (2.50 million \$), electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles (2.48 million \$).

Latvia's top 10 imports of goods from Republic of Moldova are reflected in figure 9.

**Figure 9. Latvia's top 10 imports of goods from Republic of Moldova, 2014 (mln \$)**

*Source:* Prepared by authors based on the UN Comtrade database, 2015

In 2015 the exports in the EU gradually improved, while the exporters focusing on the Eastern markets were affected by the worsening economic situation in Russia. The geopolitical situation will impede the economic growth in Latvia also in 2016 year (Ministry of Economics of the Republic of Latvia, 2015).

Good co-operation in different fields, including education and science, as well as culture, motivates also economic co-operation.

### 3. Conclusions

-The exporters focusing on the Eastern markets were affected by the worsening economic situation in Russia.

-Different Governmental Committees for economic co-operation support bilateral cooperation among countries and entrepreneurs.

-Foreign trade between Moldova and Latvia increases in recent years.

-Closer co-operation in different fields, including education and science could support development of economic activities on bilateral level.

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## Analysis of Lithuania E-Commerce Situation

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### Abstract

*Rapid development of technologies, emergence of new markets and customers behavior changes led to the need of reassessment in the current electronic commerce situation. New challenges for business as well as scientific questions related to this merged. The specific aspects of nowadays e-commerce perception, consumer behavior, and e-commerce websites promotion in the web presupposes actuality of the analysis of current situation, which reveals best through the analysis of internet usage and infrastructure indicators of the country. The goal of the article is to present the current situation of Lithuanian electronic market related to e-commerce activities, despite of claiming that Internet creates possibilities for e-business without geographical and time boundaries. The e-commerce market peculiarities of Lithuania analyzed and presented in the article. The following methods as comparative analysis of the scientific literature, secondary data analysis, data comparison and logical grouping, graphical representation of data, descriptive statistics employed.*

*Keywords:* e-commerce, e-marketplace, Lithuania, electronic commerce, internet usage.

### 1. Introduction

The information society development caused by information technologies (IT) boost has a huge impact on the economy. A lot of challenges for private, public sector and science are rising, which are related to e-commerce development and to new navigation habits of consumers, new generation of information age consumers who were born in information age (e.g., they do not imagine any other way of searching for information and do not see their lives without being in the social Internet spaces, such as social networking sites, blogs, online interest groups, etc.) is growing (Davidaviciene and Davidavicius, 2014), new possibilities brought by technological tools, etc. Thus, the digital content such as social media and e-commerce solutions are pervasive in daily

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life, its influence on consumers' lives is powerful (Powers et al., 2013). Taking into consideration existing situation, it is particularly important for the organizations to take more active measures in order to understand peculiarities of changing e-marketplace. Therefore, understanding changes in e-commerce as well as identifying regional, cultural and mentality aspects should be taken into account by analyzing country statistics.

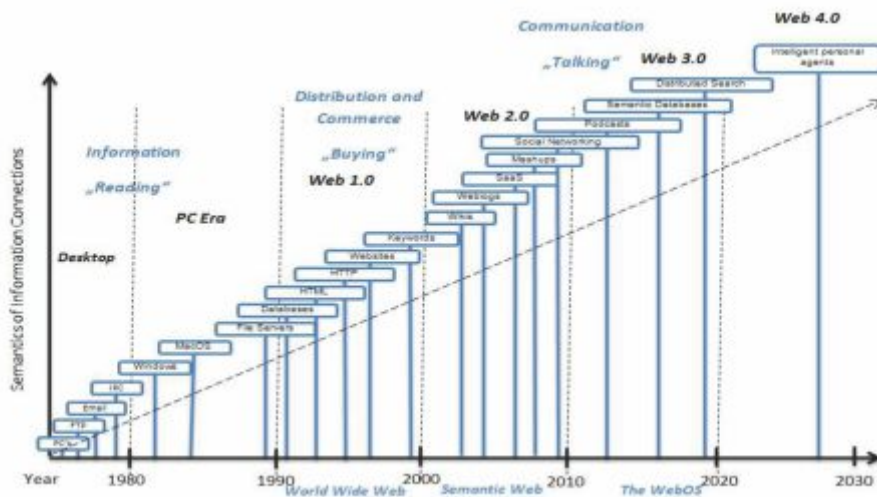
E-commerce activities are inseparable from the development of information society in the country and created legal regulatory framework of country. In case of Lithuania many of legal acts which dedicated to promote development of the information society and e-marketplace are the European Union Directives implemented within the State system of legal acts. Lithuania's priorities in the field of information society is e-infrastructure, e-content and e-skills. The country has developed electronic infrastructure is the basis for successful e-commerce activities. In order to understand the changes determined by the development of IT, the research of e-space of Lithuania has been carried out. The research analyzed the electronic market of Lithuania. The purpose of this article is to present the current situation of Lithuanian electronic market related to e-commerce activities. The following methods were employed: the comparative analysis of the scientific literature, and statistical data analysis.

## **2. Related works**

First expression of activities in the world wide web were more related to e-marketing, than to e-commerce. For example, Internet marketing communication tools enables companies to communicate with customers in a convenient for them manner, and example of this first internet marketing communication tool - e-mail, sent in 1971 (Crocker, 2006). Later, companies started to create web sites and generate visitors flow (see the evolution of internet solutions in 1 picture). In 2000, simultaneously with the search systems formation (Yahoo!, Google), the irritating blinking banner advertising era finished with the introduction of the option for the user to disable the intrusive advertising. Thus, the move made to a new, science-based "permission" marketing. The subsequent emergence of Web 2.0 technology stage determined the transformation of the Internet market into the global society, in which special attention paid to the relations aimed at the establishment of contact with the client, the promotion and maintenance of customer loyalty. Many authors describe the years 2000-2004 as a transition from mass marketing to personalized one (Liu, 2010; Sharma and Sheth, 2004; Sheth and Sisodia, 2002; Urbanas, 2012). The field of social networking is currently becoming one of the most rapidly growing markets in the Internet

environment, connecting millions of users worldwide. New means of communication that change the essence of the e-marketplace, moving from Web 3.0 to Web 4.0 technologies. All mentioned above make significant influence on e-commerce solutions and e-shops appearance and they marketing. Therefore the peculiarities of e-marketplace should be analyzed taking in to account more wide perspective, not just e-commerce activities or IT influence on economic development.

**Figure 1. Evolution of web solutions**



Source: (Davidavičienė et al., 2014)

E-commerce is a complex phenomena, which consists of many different research areas. Should be mentioned, that the main scientific research areas in this field includes website security field (Chaturvedi and Gupta, 2015; Hartono et al., 2014; Hou, 2005; Pinciroli et al., 2000; Radovanovic et al., 2010; Stewart, 2004; Zhang et al., 2014), e-commerce trust (Egger, 2000; Gefen, 2000; Jr, 1996; Kolsaker and Payne, 2002; Manchala, 2000; McKnight, 2002; Morid and Shajari, 2012; Nica, 2015; Palvia, 2009; Salam et al., 2005; See-To and Ho, 2014; Teo and Liu, 2007), e-commerce quality measurement (Alba et al., 1997; Applegate and Holsapple, 1996; Barnes and Vidgen, 2000, 2002; Collier and Bienstock, 2015; Dholakia and Zhao, 2009; Guseva, 2010; Hasan and Abuelrub, 2011; Janda et al., 2002; Kassim and Abdullah, 2010; Kim and Stoel, 2004; Lin et al., 2005; Parasuraman, 2005; Rocha, 2012; Subramanian et al., 2014), quality assessment of website structure (Aladwani, 2006; Barnes and Vidgen, 2003; Cuddihy and Spyridakis, 2012; Lee and Kozar, 2012; Parasuraman, 2005; Petrie

et al., 2004; Saremi et al., 2008; Shejul and Padmavathi, 2015; Wang et al., 2006; Zhang and Dran, 2000), e-commerce customer behaviour (Alzola and Robaina, 2010; Bressolles and Durrieu, 2010; Dennis et al., 2009; Hamid and McGrath, 2015; Hodgkinson et al., 2000; Yue and Chaturvedi, 2000; Maditinos and Theodoridis, 2010; Rahim, 2014; Su et al., 2008) is carried out recently. As it mentioned above, e-commerce is a complex process, which consists from the traffic attraction through different internet marketing communication tools and other import fields of research should be mentioned: research in the area of web advertising efficiency (Moore et al., 2005; Richardson et al., 2014), social media usage in different communication models B2C (Chan and Guillet, 2011; Constantinides, 2015; Laroche et al., 2013; de Vries et al., 2012) and B2B (Agnihotri et al., 2015; Jarvinen et al., 2012; Kärkkäinen et al., 2010; Michaelidou, 2011; Pabedinskaitė and Davidavičius, 2012; Riemer and Richter, 2010) context. Social media usage depends not only on the chosen communication model, but also on the industry specifics (Barnes, 2010; Buhalis and Mamalakis, 2015; Panagiotopoulos and Shan, 2015; Senadheera et al., 2011), and concrete types of social media networks like Twitter, Odnoklassniki, Google+, Facebook, Linked-In, in social communication were analyzed (Chaffey, 2011; Ellison and Vitak, 2014; Marwick, 2011; Zinoviev and Duong, 2009). The identifying specifics of navigation and quality of e-commerce perception of Lithuanian consumers were presented by Davidaviciene et al., 2012; Davidavičienė and Tolvaisas, 2011; Davidavičienė et al., 2012. Barnes (2010) analyzed the e-behavior of Fortune 500 companies, focused only on a limited set of industry categories, i.e., computer, food, special retail, commercial banks, semi-conductors, motor vehicle, insurance and IT (Levina and Vilnai-Yavetz, 2013). Harrison et al. (2006) has emphasized the fact that B2B is a more complex decision-making unit in comparison with B2C, which is one of the main problems related to B2B marketing. B2B commerce specific were analyzed by Yapar et al. (2015), Qu et al. (2015), Rahayu and Day (2015), Ueasangkomsate (2015), Wright (2006) and others. Qu et al. (2015) highlights the important role of social trust in B2B e-commerce, especially in open e-commerce. Ueasangkomsate (2015) study object was small and medium enterprises (SMEs) who adopted e-commerce in Thailand for export market and the results showed that SME's realization between exporter and non-exporter and also different size of SME exporters toward the benefit of e-commerce to export market being as the same at the high level.

Other important research area of the e-commerce is success factors which affects rapid development of the e-commerce activities. James Agarwal and Terry Wu (2015) identified the key factors influencing the growth potential of e-commerce:



1) at the global - multilateral agreements, strategic behavior of multinational enterprises (MNEs), and technological innovation;

2) At the national level - institutional environment, infrastructure, and culture.

3) At the transactional level - the role of integrity of transactions, online intermediaries, and network externalities and value clustering.

Samira Chaabna and Hu Wang (2015) investigated the situation of e-commerce in Algeria using Porter's model and identified that the main basis for successful development of internet based selling activities depends on technical infrastructure, comprehensive regulatory framework and developed supporting institutions and social networks. Kishore Kumar Das and Afreen Ara (2015) analyzed the growth of e-commerce in India and identified that the rapid growth in use of mobile and internet users has facilitated e-commerce business in both urban and rural cities.

The analysis of literature related to the e-commerce activities revealed the importance of different marketing communication tools importance, differences between B2B and B2C models implementation and the need of deeper analysis of the internet usage and infrastructure characteristics and their link to the e-commerce situation in the Lithuania. In order to evaluate situation of e-marketplace relative to e-commerce activities the following aspects should be analyzed: global internet usage and penetration, European (as Lithuania is EU country) internet usage, penetration and peculiarities of countries e-commerce activities.

### **3. Research design**

Two research methods were employed for this study: 1) secondary data analysis performed taking in mind previous researches processed by scientists in different regions or countries, and 2) Comparison of e-commerce solutions in Lithuania in order to identify peculiarities and reasons for existing e-marketplace indicators. Data for second analysis taken from wider research processed by group of scientists which was joint in the frame of European Commission funded TEMPUS project "ECOMMIS". Initially the online presence of 2379 enterprises from six European and non-European countries and 27 industries, focusing on different e-solutions in B2B and B2C communication were analyzed. 511 different type and various sizes Lithuanian enterprises were observed. It was agreed on 27 industry types for observation, such types were: fashion; private professions; healthcare; drugs companies; deals, coupons and tickets agencies; high-tech; dating; religious services; human resources services; kids products & services; higher education; public institutes; food makers and marketers; food - restaurants and fast food; media - written, broadcasted, digital; real estate; sport; non-profit organization; finance (investment and insurance agencies);

finance – banks; retail marketing chains; digital and electronic games; transportation; tourism and travelling; communication; entertainment - movies and music; entertainment – nightlife parties, theatres, museums, amusements parks, etc.). In this study were extracted just those companies which from all sample has websites and presenting product catalogues for B2C consumers (155 companies from 511). Indicators causing situation at e-marketplace of Lithuania were identified after the analysis and presented in the article.

#### 4. Internet usage and penetration at Lithuania

Seeking to understand situation of Lithuania e-commerce, and understand whole picture in terms of economics worldwide statistics were overviewed. According to Internet World Stat (2015) in 2015 the most Internet users were in Asia, which at the same time is the fourth fastest growing internet user (market) in the world. However, despite the relatively rapid growth and the high number of users the penetration in region is only 40 %. In the region of the most significant growth of internet usage - Africa (the growth: 7,146.7 % from 2000) the penetration is only 28,2 %.

Europe is the second largest region of internet users in the world (604 million users, that is 18 % of entire world users). The number of internet users in this region is more than in the North America which, however, has the highest penetration rate - 87,9 %. The penetration rate of Europe is 73.5 % meanwhile in EU 28 the penetration is 79,3 % which is much more than the average of the rest of the world with 46,1 %.

In 2015 in Lithuania 68,3 % of households had internet connections (including urban and rural areas) and 67,3 % had a broadband connection (see fig. 2). It is less than EU in general, but much more than average of the rest of the world.

**Table 1. World population usage statistics, November 15, 2015**

| World Regions        | Population (2015 Est.) | Population % of World | Internet Users Latest Data | Penetration (% Population) | Growth 2000-2015 | Users % of table |
|----------------------|------------------------|-----------------------|----------------------------|----------------------------|------------------|------------------|
| <b>Africa</b>        | 1,158,355,663          | 16.0                  | <b>327,145,889</b>         | 28.2                       | 7,146.7          | 9.8              |
| <b>Asia</b>          | 4,032,466,882          | 55.5                  | <b>1,611,048,215</b>       | 40.0                       | 1,309.4          | 48.1             |
| <b>Europe</b>        | 821,555,904            | 11.3                  | <b>604,147,280</b>         | 73.5                       | 474.9            | 18.1             |
| <b>Middle East</b>   | 236,137,235            | 3.3                   | <b>123,172,132</b>         | 52.2                       | 3,649.8          | 3.7              |
| <b>North America</b> | 357,178,284            | 4.9                   | <b>313,867,363</b>         | 87.9                       | 190.4            | 9.4              |

|                                  |                      |            |                      |             |              |              |
|----------------------------------|----------------------|------------|----------------------|-------------|--------------|--------------|
| <b>Latin America / Caribbean</b> | 617,049,712          | 8.5        | <b>339,251,363</b>   | 55.0        | 1,777.5      | 10.1         |
| <b>Oceania / Australia</b>       | 37,158,563           | 0.5        | <b>27,200,530</b>    | 73.2        | 256.9        | 0.8          |
| <b>WORLD TOTAL</b>               | <b>7,259,902,243</b> | <b>100</b> | <b>3,345,832,772</b> | <b>46.1</b> | <b>826.9</b> | <b>100.0</b> |

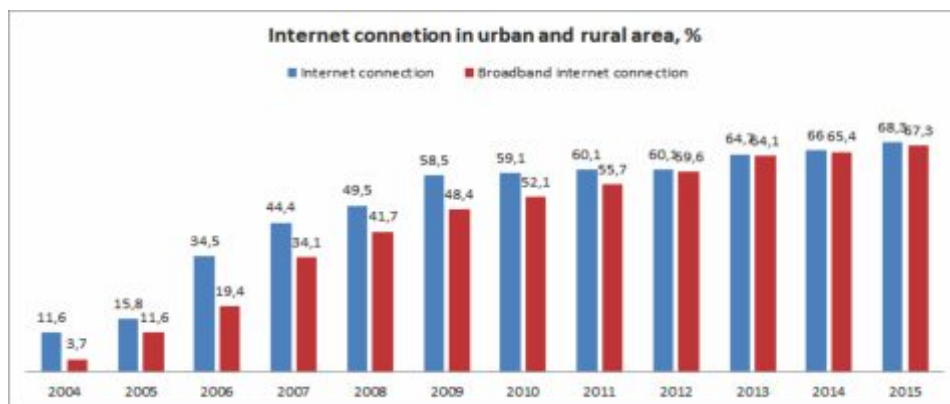
Source: (Internet World Stat, 2015)

The growth of internet connections in 10 years was 432 % regarding internet connection and 580 % regarding broadband internet connection. There is 1.81 million internet users. The speed of internet connection at largest broadband internet provider of Lithuania seeks up to 600 Mbps via fiber-optics.

The most active internet users in Lithuania are persons in age group from 16 to 24 years old. The 97 % of them have used internet at least once in last 3 months. The least active users are persons in age of 65 - 74: only 21,9 %. In general in age of 16-74 years old 71,4 % have used internet (see fig. 3).

According to RottenWiFi.com (2015) Lithuania in 2015 is a leader in speed of public WiFi access points in the world - average download speed is 16,1 Mbps, what enables high-quality use of the Internet from everywhere (including e-commerce solutions). In Lithuania there are well developed mobile internet solutions as well. There are three providers of mobile internet and they cover great area with 3G, 4G internet. Internet services are provided both for mobile users and households.

**Figure 2. Internet connection in urban and rural area**



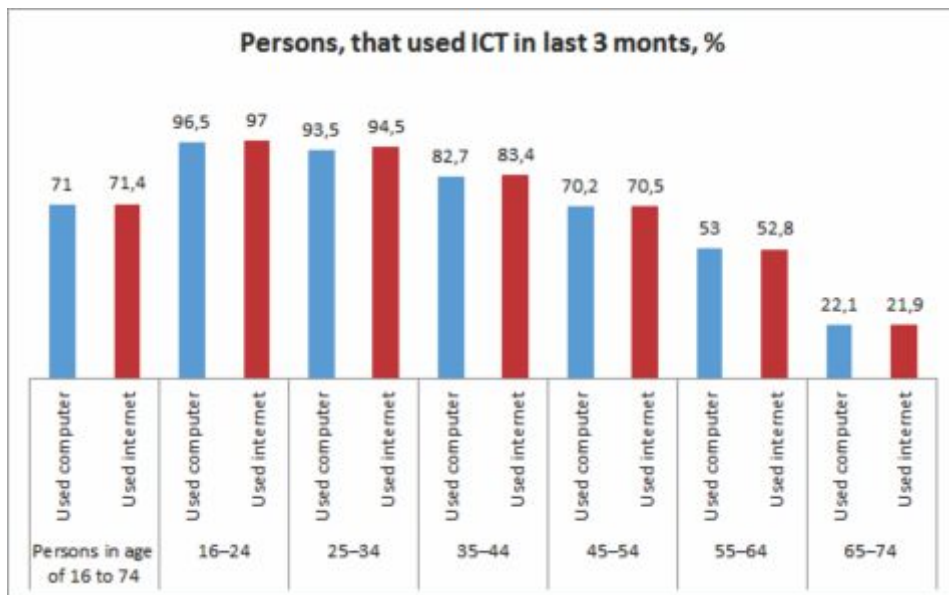
Source: ("Rodiklių duomenų bazė - OSP", 2015)

The theoretical speed of 4G internet connection can be 120 Mbps, in practice it typically seeks about 30-40 Mbps and practical maximum 80 - 100 Mbps. In

In order to evaluate e-commerce situation in Lithuania the comparison with European regions was made. The regions selected: Western Europe (Belgium, France, Ireland, Luxembourg, Netherlands and United Kingdom), Central Europe (Austria, Germany, Czech Republic, Hungary, Poland, Slovakia, Slovenia and Switzerland), Southern Europe (Cyprus, Croatia, Greece, Italy, Malta, Portugal, Spain and Turkey), Northern Europe (Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway, Sweden), Eastern Europe (Bulgaria, Romania, Russia, Ukraine, Other countries). As the comparison criterions e-commerce turnover, share of e-commerce GDP, average spends per shopper and count of shoppers were chosen.

According statistics there were 19 % of companies that sold goods or services via internet. Sales via e-networks compared to sales overall were 9 % (stat.gov). In year 2014 in Lithuania 650 thousand people shopped online, which is about 26% of the population (see table 2).

**Figure. 3** ICT use statistics by age



Source: ("Rodiklių duomenų bazė - OSP", 2015)

**Table 2. Comparison of economic indicators of e-commerce: EU regions vs Lithuania**

| Region/Country  | Turnover, € | eGDP, % | Ave.spend per shopper, € | Shoppers, million | Shoppers, % of population |
|-----------------|-------------|---------|--------------------------|-------------------|---------------------------|
| Europe          | 410423 bn   | 2,5     | 1544                     | 274               | 32                        |
| Western Europe  | 209,9 bn    | 3,73    | 2171                     | 97                | 72                        |
| Central Europe  | 106,6 bn    | 2,34    | 1052                     | 110               | 67                        |
| Southern Europe | 47,3 bn     | 1,28    | 1059                     | 45                | 25                        |
| Northern Europe | 34,7 bn     | 2,48    | 1956                     | 18                | 66                        |
| Eastern Europe  | 24.6 bn     | 1,34    | 642                      | 38                | 19                        |
| Lithuania       | 0,410 bn    | 1,13    | 650                      | 0,63              | 26                        |

*Source:* compiled by authors using “Ecommerce Europe” (2015)

E-commerce share of eGDP in Lithuania is 1.13%. In comparison eGDP share in Britain' which is leading by this indicator in EU is 5.74%, in Europe 2,5%. Lithuania is only in 22-nd place in ranking by eGDP share in Europe, and 6-th place from 8 countries in Northern Europe region, while the share of e-commerce GDP in Denmark 3,84 %, Estonia - 0,77%.

The turnover of e-commerce in Lithuania was 410 millions € which is much less in comparison to greatest turnover in Northern Europe which is at Denmark (9,9 billions €; first place), the lowest turnover is in Estonia - 150 million € (last place). Lithuania is 5-th in ranking of Northern Europe in turnover.

Average spends for one shopper in Lithuania were 630 €, meanwhile greatest average spend per shopper in Denmark is 2721€, lowest in Estonia - 283 €. Despite Lithuania is in a group of Northern countries - the results are low in comparison with other.

In summary, situation in Lithuania's internet infrastructure, penetration and usage are at the level close to European average, and some aspects are even higher, which with fact that European markets are open for Lithuanian business let us conclude

that there are all the preconditions to develop e-commerce to the level close to those averages of Europe or, even, Western Europe.

**Figure 4. Use of languages in Lithuania business websites**



*Source:* compiled by authors

As one of the possible reasons of low turnover and eGDP we consider that Lithuanian e-commerce is highly self-oriented that is to say the foreign markets are poorly exploited. To test this assumption the research of usage of foreign languages in Lithuanian business websites in general and e-commerce sites was completed.

As the results show (see fig. 4) 93.5 % of Lithuanian, business sites use Lithuanian language, which indicates that 6.5 % of enterprises are oriented exceptionally for export. English is presented in 51.6 % of websites, Russian in 29 % and other languages in 11 % of websites. In comparison (see fig. 5) only 26,5 % e-commerce sites use English, Russian 17,6 %, other languages 8,8 %. It means that e-commerce sites are much more focused on trade inside the country. It should be noted, that Russian language may be considered as second language in country (because of significance of national minorities in Lithuania that can be targeted in this way), and show orientation to local Russian speaking consumers, not just as business orientation to foreign markets only partly.

**Figure 5. Use of languages in Lithuania business websites**

*Source:* compiled by authors

### Conclusions

1. The previous research works in a field were analysed, the theoretical background of e-commerce was identified and presented. Importance of internet marketing communication tools was discussed, semantics of internet communication in the context of the time was presented in first part of article. E-commerce as complex phenomena, consisting of website security, e-commerce trust, e-commerce quality measurement, quality assessment of website structure, e-commerce customer behaviour were presented. As the main success factors for rapid development in the area of e-commerce at the national level depends on technical infrastructure and internet usage were indicated.

2. The analysis of success factors of the Lithuanian e-commerce development was made - analysis of Lithuanian technical infrastructure, internet usage, e-commerce turnover, share of e-commerce GDP, average spent per shopper and market size was accomplished. From the technical point of view it was identified that the level of Lithuanian internet usage is close to European averages or even higher at some aspects, e.g. the download speed in points of public access of wi-fi is highest in the world. Despite that facts, e-commerce situation in Lithuania seem poor regarding to the indicators analysed that reveal the situation of little e-commerce turnover, share of e-commerce GDP and average spend per shopper.

3. As the statistical data analysis showed, there is uneven population distribution of using internet by age groups. It might have an impact on low spend per shopper in the electronic space in Lithuania. It could be explained by differences between shopping power and peculiarities of structures of population. However, this statement needs additional research and verification.

4. Low turnover of e-commerce activities in Lithuania might be related to the fact that it is not fully exploit the potential of other markets by Lithuanian e-commerce participants. Analysis of the usage of languages showed that Lithuanian e-commerce websites are possibly focused on inner markets of the country. In addition, it was revealed that Lithuania has great potential in the m-commerce area because of well-developed mobile connection infrastructure, which include wide coverage and high speed of internet, it is assumed that the additional value could be created through the mobile websites and mobile applications usage. The statistical data analysis revealed that the usage of internet in the age group of 16 - 24 exceeds computer usage so it could be concluded that internet in this age group is intensively used through mobile devices. So, e-commerce transition to mobile solutions is expected.

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## **Социально-экономическая ситуация в Приднестровье в контексте Европейских интеграционных процессов**

Алла ПОЛТАРЕЦКАЯ\*

В настоящее время в экономике Приднестровья наблюдается затяжная рецессия, которая обусловлена рядом факторов, как экономического, так и геополитического характера. Анализ макроэкономической ситуации в Приднестровье свидетельствует о снижении роста производства, деловой и внешнеэкономической активности. Как следствие, в экономике наблюдается увеличение уровня безработицы и снижение потребления, что приводит к увеличению времени на восстановление и возобновление экономического роста.

Кроме того, геополитическая ситуация вокруг Приднестровья крайне нестабильна. Один из основных потребителей Приднестровских товаров и услуг – Республика Молдова испытывает затяжной политической кризис, также влияющий в экономические последствия. Другой торговый партнер – Украина находится в разгаре политических противоречий, отягченных боевыми действиями на ее территории, что не может положительно сказываться на экономическом развитии страны. Основной союзник региона – Российская Федерация испытывает на себе последствия санкций со стороны США и ЕС и падения цены на нефть, в результате чего руководство страны вынуждено бросать все силы на устранение негативных факторов и восстановление экономики. Стабильный торговый партнер ЕС, помимо противоречий экономического характера внутри Союза, поставил Приднестровье перед выбором – Углубленной и Всеобъемлющей Зоны Свободной Торговли (DCFTA) или Евразийским Экономическим Союзом. Указанные выше сведения дают основания полагать, что наблюдаемая в Приднестровье рецессия продолжится, а в связи с этим ожидается большая напряженность в социально-экономическом отношении.

Согласно официальной статистической информации, представленной Государственной службой статистики Приднестровья, объем промышленного производства по всем предприятиям за январь-сентябрь 2015г. упал на 15,5% по

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отношению к аналогичному периоду 2014 года, при этом спад производства допущен на 63 предприятиях, что составляет 66,3% от их общего числа. Валовая продукция сельского хозяйства составила 92,7% от аналогичного показателя за январь-сентябрь 2015г. Спад выпуска товаров подтверждается снижением объема инвестиций в основной капитал в текущих ценах до 74,2%.

Поскольку Приднестровье обладает экспортно-ориентированной экономикой – в среднем, 80% выпуска товаров предназначено для экспорта, при этом география рынков сбыта достаточно дифференцирована по странам. Снижение активности во внешней торговле не является исключением и подтверждает общую тенденцию снижения. По сравнению с первыми десятью месяцами 2014 года экспорт товаров из Приднестровья сократился на 17,7%, а импорт в республику сократился на 26,5%. Примечательно, что в Приднестровье традиционно сохраняется отрицательное сальдо торгового баланса, что оказывает существенное давление на курс Приднестровского рубля по отношению к доллару. Данное обстоятельство является стабильно негативным фактором, поскольку ожидание снижения курса приднестровского рубля способно вызывать панические настроения среди населения региона и приводит к ажиотажной покупке иностранной валюты, что впоследствии провоцирует валютные кризисы и вызывает сильное напряжение в социально-экономической сфере.

Перечисленные выше явления и показатели приводят к сокращению потребления населения, ввиду снижения его покупательной способности. Так, общий объем розничного товарооборота и платных услуг населению упал на 20,4% по отношению к январю-сентябрю 2014г – население стало меньше покупать. При этом, падение среднемесячной номинальной начисленной заработной платы на 1 работника за январь-сентябрь 2015г. упало всего на 4,5% по отношению к аналогичному периоду 2014г.

Исходя из тяжелой ситуации, сложившейся в экономике Приднестровья, руководство Республики старается принимать кардинальные решения, которые, по своей сути носят крупный или системный характер. Меры, принимаемые государственной властью, направлены на поддержание основных секторов экономики и больших объектов – ММЗ, Днестровская ГРЭС, промышленные предприятия и т.д., в то время как малый бизнес вынужден надеяться на собственные силы.

Значительное снижение деловой активности в Приднестровье отражено в бюджетной несбалансированности, которая и без того носит затяжной, хронический характер. Увеличение бюджетного дефицита в связи со снижением

поступлений, вынуждает Правительство Приднестровья урезать и сокращать государственные расходы, в том числе и на социально-ориентированные цели.

Социально – экономические проблемы Приднестровья

Анализируя сегодняшнюю экономическую ситуацию в Приднестровье можно сделать определенный вывод - она ухудшается.

Зарплаты и пенсии очень малы. Средний размер пенсии за Iое полугодие 2015 года составил 1233,09 руб. (120 долларов США). Среднемесячная начисленная заработная плата одного работника в 2015 года составила 3579 руб., (330 дол США). Величина прожиточного минимума в среднем на душу населения за 2015 год составила 1272,32 руб. (120 дол. США).

По данным Единого государственного фонда социального страхования Приднестровья численность официально зарегистрированных в службе занятости граждан, не занятых трудовой деятельностью на конец июня 2015 г. составила 4639 человек, из них 2517 женщин (54,3% от общего числа зарегистрированных граждан). Средний размер пособия по безработице составил 409,8 рубля или 33,1% от прожиточного минимума в среднем на душу населения, что недостаточно для достойного проживания.

Демографическая ситуация приднестровского региона также претерпела неблагоприятные изменения, связанные с оттоком населения в дальнее и ближнее зарубежье. Естественная убыль населения, низкая рождаемость, высокая смертность трудоспособного населения – все эти процессы, обострившиеся за последние десятилетия, дают основания говорить о затяжном демографическом кризисе.

С 2001 по 2015 годы численность трудовых ресурсов Приднестровья снизилась по некоторым источникам от 100 до 170 тысяч человек. Причина этого - миграция и естественная убыль населения, неустойчивое экономическое положение предприятий, а также влияние мирового экономического кризиса. По данным миграционной службы Приднестровья, в регионе происходит массовый отток граждан. По данным Государственной службы статистики Приднестровья численность населения продолжает сокращаться. Официальные показатели переписи и подсчета численности населения Приднестровья будут официально опубликованы в начале 2016 года.

Специалисты приводят цифры, говорящие о том, что рождаемость не покрывает показатели смертности. Начиная с января нынешнего года, в Приднестровье родилось 3 829 человек, а число умерших достигло 5 456 человек.

До недавнего времени описываемая социально-экономическая ситуация

Приднестровья имела возможность еще более усугубиться уже с 1го января 2016 года, когда заканчивается срок беспошлинной торговли с Европейским Союзом.

«Кризис 1 января 2016 года» мог бы стать непреодолимым барьером с самыми серьёзными последствиями. Отмена автономных торговых преференций послужила бы катастрофой для приднестровской экономики. Ежегодные потери бюджета по разным оценкам составили бы от 30 до 80 миллионов долларов.

Новый торговый механизм дает надежду приднестровским экспортерам продолжать торговлю с ЕС по привычным и понятным для себя условиям. Но, не смотря на то, что данный торговые преференции являются бессрочными, нужно не забывать о праве Евросоюза в одностороннем порядке изменить этот режим.

Приднестровская сторона должна быть более заинтересована в поиске дополнительных механизмов урегулирования сложившейся кризисной ситуации, начиная с реформирования налогово-бюджетной системы, заканчивая поиском новых путей сотрудничества с соседними странами.

# **E-Invoicing in EU Public Procurement as a Tool of Cross-Border Trade Barriers Elimination in Ukraine**

Oleksandr TSARUK\*

## **Abstract**

*Public Procurement of goods and services always was one of the principal element of e-procurements because it effects economic growth, describes governments' public services and national competitiveness, level of human capital growth in a long run. Furthermore, researching EU policy on e-procurements demands to observe legislature essence and technological models of e-procurement solutions because none of which has not been developed as the universal one yet. Basic European agreements on public procurements and trade, combining with the currently used public procurement models, force to develop a commonly used framework for all EU countries. Monitoring of EU e-procurement system as model for implementation at Eastern partnerships countries was also suggested.*

*Keywords:* public procurement, e-procurements, e-invoicing, European Union, Eastern Partnerships

## **1. Introduction**

Electronic invoicing in our days plays an important in most business trends and governmental policy innovations. Under this consideration, economic agents have to understand that selection between electronic invoicing solutions or paper-based ones does not exists any more because using electronic invoicing is the main global trend in development of public procurements.

In the public sector, e-procurement is a joint term describing a range of different technologies that can be used to automate the internal and external processes related to the sourcing and ordering process of goods and services. The EU e-procurement system is in the evolutionary stage now but despite of different variations in the implantation of

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e-procurement across the EU states, the trend towards its acceptance find support between national governments as developing strategies to expedite the implementation of e-procurement projects and also to find support in information and communications technology (ICT) sector as one of the beneficiaries. This variety of government implementations usually reflects the diversity of commercially developed technologies and business models.

According to our observations most of the e-procurement research papers are focused on the historical aspects of the issue and the practical methods of its implementation. The basic fields of interest in these studies are related to IT system implementation, its efficiency, measuring possible changes in supply chain organization, outsourcing of services etc. Finding optimal way for utilization of information in technological aspects had become one of the main streams in government e-procurement development. A lot of researchers considered this approach regarding ICT/e-procurement analysis.

## 2.

We consider historical aspects for better understanding of the essence of governmental procurements and modern trends in e-procurements using e-invoicing. As we know governmental procurement has a very long history. Researches claim that earliest procurement was written on a red clay tablet found in Syria dates from between 2400 and 2800 B.C. The order was for “50 jars of fragrant smooth oil for 600 small weights in grain” (Coe, 1989, p. 87). Next evidence of procurement related to development of the “silk-way” between China and Greek colonies in 800 B.C. Roman Empire also had trade relations with private suppliers, and European sovereigns also had such undertakings.

In 20th century vast public procurements were found at level of development, which have never being seen before, and one of the main reason was a free trade regime between developed countries. Among the agreement which boosted its development was the General Agreement for Tax and Trade (GATT, 1979) which aimed to the reduction and elimination of discriminatory methods and encouraging competitiveness with the purpose to promote free trade, through scheduling and announcing of public procurement. Its rules and procedures guaranteed the competitiveness and eliminate preconception.

Next impetus on deregulating procurements was given by the Commission of UN for International Commercial Law (UNCITRAL) in 1994 when General Assembly of the UN adopted the draft legislature on procurement of goods and services. UNCITRAL suggested the rules for procurement for states to adopt but they were not

mandatory. At the same UN provided assistance to all states to adopt it by the national legislatures. And the aim was similar to GATT to development competitiveness, fair business and accountability in the procurement procedure.

The European Commission adopted the Communication “Reaping the benefits of e-Invoicing for Europe” in 2010. It identified a set of actions to support the uptake of e-invoicing by ensuring legal certainty and promoting the development of interoperable e-invoicing solutions based on a common standard, paying particular attention to the needs of small and medium-sized enterprises (SMEs). The Communication also invites EU countries to take action and promote e-invoicing at the national level. These actions aim to make e-invoicing the predominant method of invoicing by 2020.

Directive 2010/45/EU on the common system of value added tax regarding rules on invoicing to set out new VAT rules regarding e-invoicing and removed the obstacles to the uptake of e-invoicing by creating equal treatment between paper and e-invoices, while also ensuring that no additional requirements are imposed on paper invoices.

We consider the development towards EU e-invoicing system as major European Union policy goal in ICT and interrelated industries according to the following facts. Firstly, we would underline the highest level of interest from principal authorities. Jean-Claude Juncker, the President of the new European Commission, recognized building a joined digital single market as one of his ten priorities. The European Commission's “Digital Agenda for Europe”, enforced in 2010 and updated in 2012, is one of flagships programmes under Europe 2020 plan, the EU's strategy “to deliver smart sustainable and inclusive growth”. The full implementation of the “Digital Agenda” also aims at “reforming the framework conditions for the internet economy” (Juncker, 2015). The EU policy also identifies main actions to “establish a single area for online payments” (Juncker, 2015). The Digital Agenda identifies that there is a tough connection between the Single Euro Payments Area (SEPA) programme and e-invoicing one: SEPA will also provide a launch platform for value added services linked to payments, such as the development of a European e-invoicing framework.

The next step forward a Digital Agenda of European Commission “Directive 2014/55/EU on e-invoicing in public procurement” was adopted by the European Parliament and the Council of the EU representing EU governments in April 2014. It defined deadline for implementing e-invoicing system by 2018 by all public administrations in the EU. They need to adopt a new e-invoicing standard, which now is under development, and accept e-invoices only in this commonly considered standard.

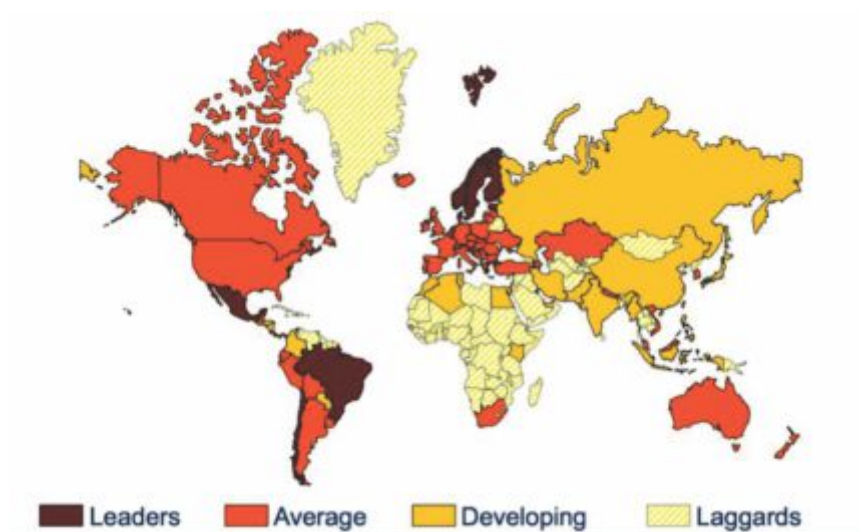


Regarding to Directive 2014/55/EU this e-invoicing standard now is the subject of a standardization request by the European Commission to the European Committee for Standardization (CEN), which represents the national standards bodies of the EU Member States and cooperates with international organisations such as the International Organization for Standardization (ISO). The Commission's demands to develop e-invoice standard are based on a semantic data model, which have to contain the necessary elements. It also requests syntax development for the new e-standard to be reproduced in a numerous commonly used syntaxes at the technical level. The working group on this standard named as CEN PC 434 started its work and was expected to announce the results by the end of 2015. The Commission also supports these developments under its emerging Connecting Europe Facility programme.

Recently the US Government was also tracking e-invoicing trend. The Federal Government has a small number of well-established electronic invoicing solutions, as was identified by the Office of Management and Budget. For many agencies, these systems have eliminated inefficient paper-handling processes and reduced late payment penalties. Obtaining the full value of electronic invoicing requires a coordinated approach that will reduce burden and duplication to both agencies and businesses. On July 17, 2015 the Executive office of US President issued the memorandum #M-15-19 for the Federal-wide approach to eliminate the duplication across local governments and reduce the burden on vendors on e-invoicing issue. According to this memorandum all-electronic invoicing system for public procurement must be developed by 2018.

E-invoicing was developed as technology in the nineties of XX century. Before the millennium, very few countries already had legislation permitting E-invoicing. Now it is legally regulated and on the agenda almost everywhere around the world. The maturity of the market varies between continents and the countries on each continent. But after the first analysis of e-invoicing latest developments we find that some Latin American and Scandinavian countries are the leaders. (See Figure 1).

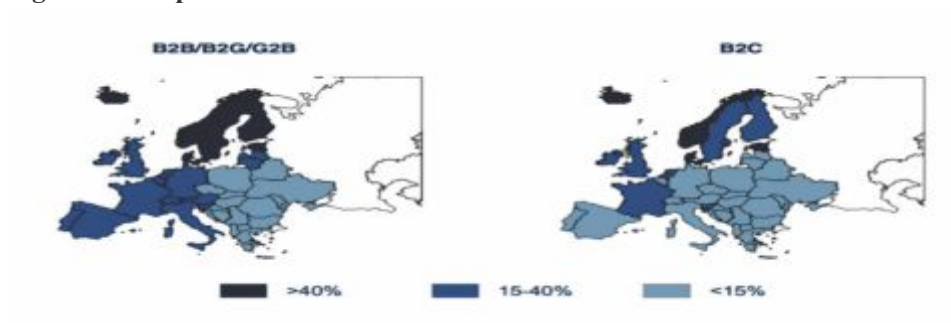
Although it is certainly true that electronic invoicing has significant making disruption. In most countries in coming years, enterprises will continue to receive invoices and bills both in electronic and paper-based forms. Managing the processing of these invoices is therefore of high importance to ensure that all ends of every deal are completed transparently, accurately, and with the incurrence of as little extra costs as possible.

**Figure 1. International E-Billing/E-Invoicing in 2015**

Source: Koch, B. (2015)

E-invoicing is still remains to be an element of the future, especially for the US, the UK, and Europe. Although there is a higher adoption rate in these regions than there is in some parts of the developing world, governments have to truly get on board with e-invoicing and creating standards yet, as they should. By contrast, governments in some of the world's fastest growing economies – Mexico, New Zealand, Norway, Brazil are proactively encouraging the change, with over 50% of all B2B invoices having become electronic.

Recently the Billentis researching team estimated the expected trends for European e-invoicing providers and networks. There are about 25 operators of e-invoicing services in Europe, which are expected to process more than 20 million e-invoices/e-bills per operator in 2015 (Koch, 2015). For the vast majority of the remaining six hundreds operators, the annual e-invoicing volume still lies below 5 million. The volume dropped dramatically in 2014 and will probably decline again by 13-17% per annum in the coming years.

**Figure 2. European Trends 2015**

*Source:* Koch, B. (2015)

Many countries are declaring e-invoicing as compulsory goal for development. But there are diverse meanings of the terms “e-invoicing” and there is a big difference between objectives and certainty. Such goal is very complicated in government sector surroundings. Objectives within of government administration are usually very broad. In addition, there are many federal states with autonomy of local councils.

There are two main stages of implementing the e-invoicing. The first is when suppliers are free to exchange invoices with the public sector in paper or electronic form. The second is when the suppliers are mandated to send the B2G invoices electronically. Today Denmark is a pioneer in this field because the e-invoicing was mandatory since 2005. Austria, Finland, Italy, Norway, Slovenia and Spain also considered being early adopters, as does the USA.

A few states in Latin America, Asia and Europe mandate businesses to send e-invoice to the tax authorities mainly for reasons of financial oversights. This is mostly appears as reporting invoice related data but sometimes could be combined with actual e-invoicing between suppliers and consumers.

The Directive 2014/24/EU and 2014/55/EU defined 2018 year for Public Administrations (PAs) in EU member states as a deadline to develop a common e-invoicing standard and to progress the ability to process automated processing of electronic invoices. In addition, they have to transform existing procurement processes towards electronic procedures. Because of the obligation, many PAs are now also evaluating strategic options that go beyond the goals of the EU Directives. They are developing policies with the aim to achieve broad-scale market adoption indexes levels for using electronic processes. These directives will force to increase the proportion of electronic invoices and open the way for cross-border interoperability inside EU and also for neighbourhood policy countries.

Researches estimate that the new directive will affect PAs in EU (Koch, 2015).

They have to develop their systems and processes until 2018 at latest with the aim to receive and process invoices electronically.

### **3. Conclusions.**

Reducing transaction costs has become an important goal for policymakers and governments. Implementing e-invoicing could have a major impact on realization the policy goals. Although the amount of literature on the costs and volumes of e-invoicing remains insufficient, a lot of policymakers, including the EU researches, are focussing on boosting the usage of e-invoicing. Therefore, our paper examined the general trend in e-invoicing implementing in EU compare to global trends. Furthermore, the obstacles and barriers of e-invoicing were also suggested.

E-invoicing will generate substantial cost reduction for printing and simplify the processing. It will increase storage efficiency and allow better control of the processes. However, governments are not yet fully convinced of all the benefits of e-invoicing. They should develop confidence in safety of e-invoicing and increase information regarding the IT-costs of implementing e-invoicing. Providing more detailed information and best practices could help convincing business to shift to electronic invoicing.

Further useful research in e-invoicing would be a comparative study of EU countries that have achieved the best results in public procurement to identify, which factors are associated with progress and lack of progress. The findings of such research could enable the most effective targeting of resources in less developed countries.

We also suggest that the reduction in manual work and the elimination of the use of paper products and transportation in invoicing reduces the carbon footprint of invoicing process significantly.

EU neighbourhood and transitional countries have similar regulative problems in realizing public procurement. Even public procurement crimes are committed in the same way. There is a need for additional compliance with European directives for improvement of public procurement. Frequent changes in regulation implies for setting up a skilled and professional national level commissions for public procurements transitions within state governments.

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## **SECTION 3**

# **EUROPEANIZATION THROUGH EDUCATION AND RESEARCH**

## **Cooperation between EU and ENP in the Area of Higher Education**

Nada TRUNK ŠIRCA\*, Anica NOVAK\*\*

### **Abstract**

*Cooperation between EU and ENP in the area of higher education and modernisation of HE systems in ENP is catalysts in the construction of sustainable systems of knowledge and innovation in the ENP. Effective higher education systems of ENP countries are also powerful for achieving economic and social development of the region. It is also very important to encourage mobility of students between the EU and ENP region, as mobility importantly contributes to internationalisation (it prompts universities to compare and update curricula, improve teaching and gain international visibility, etc.). In this aspect, Erasmus+ activities for mobility of individuals are becoming more and more important, especially the new instrument of cooperation between EU Programme and partner countries – KA107. In the article we examine possibilities of cooperation between Slovenia and ENP in the area of higher education, especially through the instrument KA107. In the paper is also presented Euro-Mediterranean University with its seat in Slovenia, which gathers expert knowledge and experience of Euro-Mediterranean countries.*

*Keywords:* internationalisation, modernisation, EU, ENP, Slovenia, Moldavia, Erasmus

### **1. Introduction**

It is very important for EU that it is opened toward different world regions.

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Cooperation between EU and other world regions has benefits for EU as well as for the regions that EU cooperates with. We can summarize some common features of EU cooperation with world region as (1) encouraging political dialogue, (2) assisting countries and regions with development and economic cooperation (3) promoting north-south cooperation (Lombaerde and Schulz 2009, p. 9)

In this article we will discuss external dimensions of cooperation between EU and ENP in the area of higher education (hereinafter HE). Human resource development, people-to-people contacts, mobility and a strengthened engagement in the area of education have become important elements in the EU- ENP relations and assistance. Cooperation in the area of HE between EU and ENP focuses at strengthening the HE systems, including developing teaching, research and management capacity, harmonisation of educational structures, quality assurance, recognition of qualifications and research capacity and making the links to the labour market (reducing unemployment).

The article is divided into 2 parts. In first part we present cooperation between EU and ENP in the area of HE, in second part we present the internationalisation of Slovenian HE and its cooperation with ENP.

## **2. EU - ENP COOPERATION IN THE AREA OF HE**

### **2.1 European neighbourhood policy**

In the past, EU has developed different policies of cooperation with different world regions. For each region that the EU cooperates with, EU has established regional strategies which follow the characteristics of specific regions.

Founding principles for cooperation between EU and ENP are cooperation, peace and security, mutual accountability, shared commitment to the universal values of democracy, the rule of law and respect for human rights. Article 8 (1) of the Treaty on European Union states that the aim of the partnership shall be ' to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation (European Commission 2015a, p. 2).

The European Neighbourhood Policy (ENP) was created as a result of the 2004 enlargement of the European Union, to avoid drawing new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the EU. The main reason for the EU to maintain good relations with the neighbouring countries is their geographical proximity: a number of countries border on the EU; many countries have a coastline on the Mediterranean Sea, and the South Caucasus regions opens to the Black Sea.

The ENP framework now extends to 16 EU closest neighbours: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestine, Syria, Tunisia and Ukraine (but Belarus, Syria and Libya remain outside most of EN structures). The ENP is further enriched with regional and multilateral co-operation initiatives such as the Eastern partnership (launched in 2009) and the Union for the Mediterranean, known as Barcelona process, re-launched in 2008 (European Commission 2015a p. 2). Union for the Mediterranean involves countries from South region: ENP South countries.

**Figure 1: Chart of ENP countries**



*Source:* Wikipedia 2015

The EU political commitment toward EU neighbourhood region is clearly underlined also through its financial scheme. According to European Commission data (2015b), for the period 2014-2020, EU has made available for ENP € 15,4 billion and for the period 2007-2013 around € 11,5 billion (€ 9 billion for Southern region and nearly € 2,5 billions for Eastern region). If we compare it with some other world regions that EU cooperates with, we notice that ENP receives much greater financial support for international cooperation and mobility than all other global regions (for the period 2015-2020 EU committed for Africa around € 6,5 billion, and for Caribbean around € 350 million).

## **2.2 Needs for internationalisation and EU-ENP cooperation in the area of higher education and research**

International cooperation in the area of education in research is increasing



rapidly and mainly due to the following reasons (1) limited public funds, (2) internationalisation of education and research (students, staff, programmes, institutions), (3) cooperation between HE institutions.

For today's universities, internationalisation has become indispensable mean of increasing universities' excellence in teaching and research and for increasing their international attractiveness. This also explains the growing participation in international HE cooperation programmes (EUA 2014, p. 2).

HE institutions in Europe have been working together for decades. In last decades, cooperation between EU and non – EU institutions is receiving high importance, in order to attract the most talented students and to remain competitive in an increasingly competitive HE landscape. Important are also EU efforts for modernisation of HE systems in ENP and some other world regions. Partner regions/countries in the area of cooperation in HE between EU and world regions are, beside ENP also: (1) Western Balkans (2) Africa, and (3) partner countries: Australia, Brazil, China, India, Mexico, Republic of South Africa, South Korea, USA (European commission 2015c).

EU-ENP cooperation in education and research mainly takes a forms of policy dialogue, national and regional capacity building, collaboration in research and innovation, increased mobility opportunities for students, researchers and academics supported through Erasmus + and other programmes.

Increased cooperation in the area of education and research between EU and ENP is one of important goals of EU and has important effects on (1) increased mobility of students, staff and academics in order to prepare them for life in a global, knowledge-based society, (2) increased capacity of HE institutions in the ENP and the EU to cooperate internationally and to continually modernize (3) reciprocal development of human resources (4) improving the quality and efficiency of education in ENP countries, in this context, digital innovation could play an important role, as a common topic of interest and as a tool for the development of institutions in both regions (5) promoting equity, social cohesion and active citizenship (6) enhancing creativity and innovation (7) and making the links with the labour market (EUA 2014, p. 4).

### **2.3 Development of HE in ENP region**

Internationalisation of HE and research in ENP and its harmonisation with EHEA is one of the most important goals of EU-ENP cooperation, since the effective HE system is a prerequisite for economic and social development of the region. In order to achieve the aims of the European Neighbourhood Policy (ENP) stressed in the Article 8 of the Treaty on European Union - a strong and educated human capital is a



crucial factor. Bologna process has provided a shared framework for national reforms, which have been supplemented at international level by new policy dialogues (exchanges of best practices between Bologna and non-bologna countries) and with strategic partner countries under international HE programmes Erasmus Mundus and Tempus, which have been replaced in 2015 with Erasmus+ programme (EEAS 2014).

Bologna Process is being implemented in 47 countries and most countries of Eastern Partnership already form a part of Bologna process (Armenia, Azerbaijan, Georgia, Moldova and Ukraine, exception is Belarus, where the process is being implemented on the voluntary basis). ENP South countries are outside the EHEA, but there are different initiatives for harmonisation with EHEA in order to help them to improve the study programmes, enhance mobility of their students within EHEA, enhance recognition of students' qualifications within member states of EHEA and improve employability for graduates (Twinning project Fiche, p.5). Morocco, Algeria and Tunisia have already embedded the principles of the Bologna Process in their education systems while in Egypt, Israel and Palestine, Bologna is part of their national agendas (EEAS 2014). Important instrument for internationalisation and harmonisation between EHEA and ENP South countries is establishment of Euro Mediterranean University in Slovenia in 2008 (more about this initiative is described in the chapter Slovenia and ENP).

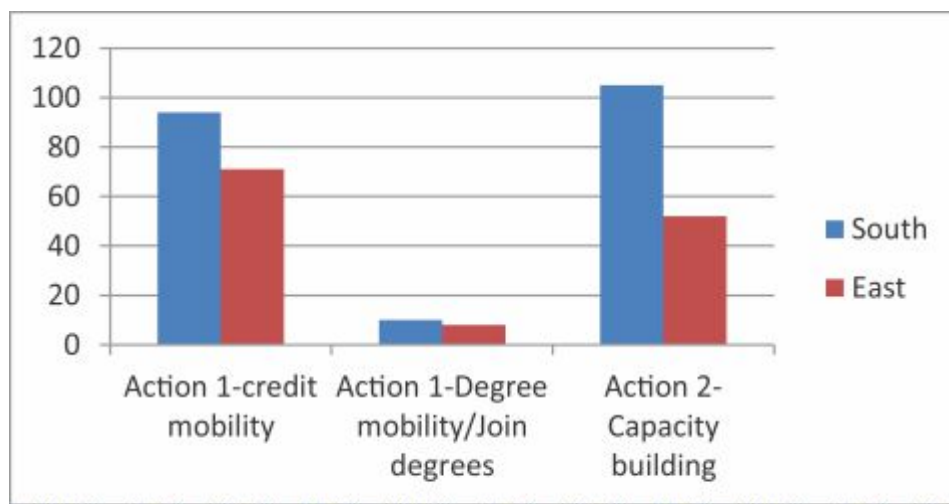
#### **2.4 EU programmes for education and research with ENP**

More than € 550 million have been received in 2007-2013 for EU cooperation with European Neighbourhood countries through the Erasmus Mundus and Tempus programmes (European commission 2015d). In total, 5187 students (at undergraduate, master, doctorate and post-doctorate level) and staff members from ENP East countries and 6221 from ENP South countries were able to benefit from scholarships in the framework of Erasmus Mundus Partnerships between 2007 and 2013. From 2008 to 2013, 366 Tempus projects were selected for the ENP region and Russia, promoting institutional cooperation with a view to reform and modernise HE systems in the ENP partner countries (EEAS 2014).

Erasmus Mundus and Tempus programmes have been followed by Erasmus + programme for 2014-2020, which also continues to support HE in partner countries. The budget for Erasmus+ under the ENI instrument is indicatively set at EUR € 340 million for the period 2014-2017 (€ 209 million for South, € 131 for East). The main actions under Erasmus + that are targeting partner countries are (I) International mobility of individuals KA107 and Erasmus Mundus joint master degrees (under Action 1), (II) Capacity building projects, aimed at modernising HE institutions and

systems in ENP (under Action 2), and Jean Monet projects (European Commission 2015e, p. 10).

**Figure 2: Planned financing scheme in million EUR for East and South (2014-2017) according to specific Erasmus activity**



Source: EEAS 2014

According to the budget plan we see, that more funds are planned for South region, mainly due needs for modernisation of HE in South region.

In order to contribute to modernisation of universities, partnerships in the areas of research and innovation, creative and cultural competences, mobility of researchers and youth, cooperation in different research programmes between EU and ENP are also encouraged: (1) Interreg Danube, (2) Danube Start and (3) Horizont 2020.

### 3. INTERNATIONALISATION OF SLOVENIAN HE AND ITS COOPERATION WITH ENP COUNTRIES

#### 3.1 Internationalisation of Slovenian HE

Slovenia promotes openness of HE in an international environment and was one of the first counties that signed the Bologna declaration (1999). Slovenian HE institutions are involved in different international projects in the area of education and research. A lot of work is put also on promotion of mobility of students, academic staff and employees. Further on are presented some data about student mobility from and to Slovenia (inbound/outbound mobilities).

Mobility of Slovenian students to other countries (especially to other European countries) increased in last decade. In 2002, 1,5% of all student population studied abroad and 1% of all student population came to Slovenia. According to data for Erasmus mobility for 2013, 1316 Erasmus student from Slovenia went abroad in 2013 and 1681 Erasmus students came to Slovenia (Cmepius 2015). According to Unesco data (2013) which covers all world regions, 2,8% of Slovenian student population (2,695 students) studied abroad and 2,6% (2,563 students) came to Slovenia in 2013. Students from the following ENP countries studied in Slovenia in 2013: Ukraine (27), Kazakhstan (11), Egypt (5); the mobility of students from following ENP countries was under 5: Georgia, Belarus, Moldova, Tunisia and Israel. For outbound mobility from Slovenia to ENP, we do not have any evidences (Unesco 2015). But even though student mobility in Slovenia is gradually increasing, compared to other EU Member States it is still relatively low. In 2013, average student mobility in the EU-28 was 3.5% both for incoming and outgoing students (Eurostat 2015).

Slovenian HE institutions are actively involved in international cooperation with different ENP institutions. Most of cooperation in the past was delivered through Tempus and Jean Monnet. Establishment of Euro-Mediterranean University in 2008 enhanced Slovenian possibility for cooperation with ENP countries, and the new instrument KA107 offers possibilities for mobility of individuals between ENP and Slovenia. Further on we will describe both instruments for cooperation with ENP.

### **3.2. Erasmus + programme: KA107 for Slovenia**

The action KA107, which aims at extending the well-known Erasmus mobility of individuals between programme countries to other regions across the globe, was for the first time launched in 2015 (European Commission 2015e).

Recent developments in the ENP (Arab spring, political events Ukraine, and refugees crises) highlighted the need to expand the support for young people. Increased mobility possibilities under the KA107 action forms one of the main elements of the EU's strengthened offer to ENP countries.

Below are presented data regarding approved mobilities between Slovenia and ENP countries in 2015.

**Table 1: Involvement of Slovenia in KA107 with ENP countries in 2015**

| ENP COUNTRY | Students mobility to Slovenia | Teachers mobility to Slovenia | Staff mobility to Slovenia | Students mobility from Slovenia | Teachers mobility from Slovenia | Staff mobility from Slovenia |
|-------------|-------------------------------|-------------------------------|----------------------------|---------------------------------|---------------------------------|------------------------------|
| Algeria     | /                             | /                             | 2                          | /                               | /                               | 4                            |
| Armenia     | /                             | /                             | /                          | /                               | /                               | /                            |
| Azerbaijan  | 10                            | 4                             | /                          | /                               | 1                               | /                            |
| Belarus     | 5                             | 2                             | 2                          |                                 | 1                               | /                            |
| Egypt       | 5                             | 6                             | 12                         | 1                               | 4                               | 11                           |
| Georgia     | /                             | /                             | /                          | /                               | /                               | /                            |
| Israel      | /                             | 3                             | 7                          | /                               | 1                               | 4                            |
| Jordan      | 8                             | 3                             | 2                          | /                               | /                               | /                            |
| Lebanon     | 2                             | 5                             | 14                         |                                 | 5                               | 7                            |
| Libya       | /                             | /                             | /                          | /                               | /                               | /                            |
| Moldova     | 1                             | 1                             | /                          | /                               | /                               | /                            |
| Morocco     |                               | 1                             | 1                          | /                               | 2                               | 3                            |
| Palestine   | /                             | /                             | /                          | /                               | /                               | /                            |
| Syria       | /                             | /                             | /                          | /                               | /                               | /                            |
| Tunisia     | /                             | /                             | /                          | /                               | /                               | /                            |
| Ukraine     | 8                             | 5                             | 1                          | 1                               | 2                               | /                            |
| TOTAL       | 39                            | 30                            | 41                         | 2                               | 16                              | 29                           |

From the data in the table we can conclude, that Slovenian HE institutions are not very interested in sending students, teachers and staff to ENP countries. The reason for low student mobility to ENP (only 2 mobilities) can be incompatibility of programmes and problems of recognition, while the security risks associated with an unstable political climate decrease the possibilities of ENP South countries to be an exchange destination.

### 3.3. Euro-Mediterranean University

The Euro-Mediterranean University (hereinafter EMUNI y), one of the priority projects of the Union for the Mediterranean reinforces creation of a unified and integrated Euro-Mediterranean HE and research area.

The idea of partnership between the Euro-Mediterranean started with “Barcelona process”, which main aim was to promote the cooperation between European Region and the Mediterranean countries on political, economic, socio-cultural, emigration, social integration, judicial and safety issues (1995).

The Cairo Declaration “Towards a Euro-Mediterranean Higher Education & Research Area” (2007) constitutes the framework, guiding principles and general/long-term objectives of the Euro-Mediterranean cooperation in Higher Education, Research and Technological Development (RTD). During this meeting the ministers also welcomed the idea of establishment of EMUNI with its seat in Slovenia. A new impulse for the Euro-Mediterranean partnership was provided by the “Joint Declaration of the Paris Summit for the Mediterranean” (Paris, 13 July 2008), which launched the Union for the Mediterranean. The Marseille Declaration of the Euro-Med Foreign Ministers Conference (Marseille, 3-4 November 2008) emphasized the importance of further developing the “Euro-Mediterranean Higher Education and Research Area”.

EMUNI was inaugurated in 2008, in the European Year of Intercultural Dialogue. It is expected that EMUNI will operate and play a role of utmost importance within the framework of the Euro-Mediterranean Partnership (EUROMED).

- In respect to the trend of convergence EMUNI follows the recommendations of the Bologna process to make study programmes more transparent and more similar in the European and wider HE area. As such could contribute to “harmonisation” of HE and research area in the Mediterranean region (performing the programmes in line with the Bologna process, using the ECTS and Diploma Supplement, supporting and promoting the mobility for students and graduates, allow mutual recognition of study periods and diplomas).
- EMUNI also aims to contribute to the processes that stimulate divergence in European HE. The emphasis on international co-operation involves cultural diversity and also a wide variety of topics to be covered in research and study programmes. EMUNI intends to develop and further elaborate sensitivity for cultural diversity in a variety of academic disciplines and in academic cooperation (Emuni University 2015)

Since its establishment, EMUNI has implemented various trainings, summer schools and PhD seminars. In the academic year, 2014/15 EMUNI began to implement

Master in intercultural business communication (120 ECTS).

**Table 2: Participants at EMUNI in the academic years 2013/14, 2014/15 and 2015/16 according to country of origin and type of mobility**

|         | Student degree mobility: MA in intercultural business communication       | Erasmus Placement mobility           | Erasmus Staff mobility |
|---------|---|--------------------------------------|------------------------|
| 2013/14 | /   | 1-Italy                              | 5-Turkey               |
| 2014/15 | 1-Germany<br>1-Algeria<br>2-Tunisia<br>1-Egypt<br>1-Palestine<br>2- Syria | 1-Egypt<br>2-Slovakia                |                        |
| 2015/16 | 2-Tunisia<br>1-Egypt<br>1-Palestine<br>2- Syria                           | 1-Slovenia (University of Ljubljana) |                        |

### **3.4. Cooperation under Erasmus and Tempus between Slovenia and Moldavia**

According to data of National Erasmus+ Office in Moldova (Erasmusplus 2015), main cooperation of Moldavia with Slovenian HE institutions is registered with university of Maribor and University of Ljubljana.

Projects with the University of Maribor:

a) Tempus projects on curricula reform, coordinated by the University of Maribor:

- Master Studies in European Integration and Neighbourhood Policy in Moldova (finished in 2009);
- European Neighbourhood Policy Law and Good Governance EUNEG (finished in December 2015).

b) Jean Monnet projects coordinated by the Academy of Economic Sciences of Moldavia (developed with the contribution of the University of Maribor):

- Strengthening understanding and implementation of the European Neighbourhood Policy and Eastern Partnership (information and research activities) -2010;
- Moldova towards EU regional and cross-border development (Jean Monnet

Chair)–2013;

- Fostering deeper Europeanization of Moldova (Jean Monnet information project)-2014;
- EU Economy Issues and relations between EU and Republic of Moldova (Jean Monnet module)–2014.

Projects coordinated by the University of Ljubljana:

·Tempus project on curricula reform - Biomedical Engineering Education Tempus Initiative in Eastern Neighbouring Area–BME-ENA (ongoing until November 2016)

·One agreement for staff and student mobility with Pedagogical University “Ion Creanga” of Moldova approved in 2015 under KA107 (1 student mobility for master and 1 staff mobility for teaching in Slovenia).

#### **4. Conclusion**

Today the ENP is less stable than it was 10 years ago (political crises, growth of political and religious extremism and violence, refugees ...). To address these challenges, governments in the EU and the neighbouring countries have for the most part committed to providing better education and career opportunities for more citizens, to improving their education sectors and, particularly in the case of HE and research, to internationalising them. We need to bear in mind that effective HE is a prerequisite for social and economic development of ENP countries.

Mobility is a key area of co-operation for the EU and partners. Enhancing mobility, especially for education, scientific, cultural, training and professional purposes has positive effects on EU and neighbourhood economies and societies. Numerous case studies and testimonials bear witness to the positive impact of HE and research cooperation and exchange: they strengthen civil society in partner countries, and ultimately contribute to system reform and democratisation and promote social and economic development and innovation.

Better balance between incoming and outgoing mobility is of high importance. It is important to support measures for promoting outgoing mobility from ENP countries and to support universities in enhancing mobility towards the ENP partners. Special emphasis shall be put on student credit mobility which engages universities to develop better services to send and receive foreign students, compare and upgrade curricula, improve teaching and strengthen their institutional leadership and management to gain international visibility. Student mobility is a vector of internationalisation and is therefore good for the quality of HE as it represents an important catalyst in the reform of HE systems. In this respect KA107 offers a

possibility for better EU-ENP cooperation in the area of HE. Migrations are also another challenge for EU-ENPHE.

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## Internaționalizarea Învățământului Superior: Tendințe și Particularități

Galina BULAT\*

### Abstract

*Internationalization has a strong impact on political, economic and cultural life, and, at the same time, on education. In the last years, the issue of internationalization of higher education is one of the most discussed subjects given the importance of this new paradigm and phenomenon in the context of globalization, knowledge economy and technological advances. The international dimension of higher education is expressed by cross-border delivery of education, mobility of students and teachers and cooperation between institutions. The increasing process of internationalization presses higher education institutions to develop their own relevant policies and comprehensive strategies in order to be in line with continuously changing world. The internationalization should not be a purpose itself, rather an important resource for the development of higher education institutions and systems.*

*Keywords:* Internationalization, higher education, globalization, students, mobility.

Societățile moderne în continuă schimbare reclamă învățământului superior, parte a acestor societăți, reconsiderarea misiunii, viziunii și rolurilor. Una din tendințele cu amprentă marcantă pentru dezvoltarea învățământului superior este internaționalizarea, dimensiune care devine tot mai importantă și complexă. Importanța internaționalizării este dată de procese remarcabile care se profilează la nivel mondial în ultimele decenii: globalizarea, expansiunea tehnologiilor informaționale și de comunicare, opțiunea pentru dezvoltare durabilă. În aceste condiții, instituțiile de învățământ superior și studenții se confruntă cu o alegere fără precedent și așteptarea unei experiențe de învățare care poartă un caracter global, indiferent de locul în care își fac studiile.

Internaționalizarea învățământului superior este un subiect foarte disputat și abordat prin diverse conotații. Chiar dacă pare a fi un fenomen nou, generat de procesul globalizării și alte procese similare, într-o formă sau alta internaționalizarea

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dintotdeauna a făcut parte inerentă din educația superioară: încă de la începuturi au existat valori universale promovate și formate în învățământul superior, au fost studenți care au accesat niveluri universitare în alte țări decât cele de origine și au existat cunoștințe și competențe generale furnizate de toate universitățile.

Cea din urmă fază a internaționalizării învățământului superior a demarat în anii '80 și a cunoscut o dezvoltare impetuoasă în anii '90, ca reflecție fidelă a fenomenului globalizării și a rolului crescând al învățământului superior în promovarea forței de muncă competitive pe plan global ("cetățeni globali cu competențe globale") [1].

În condițiile dezvoltării societății cunoașterii, expansiunii/masificării învățământului superior, descreșterii alocațiilor din fondurile publice pentru învățământul terțiar și dezvoltării rapide a proceselor economice globale, internaționalizarea a adăugat și funcția actualizării și îmbunătățirii continue a sistemelor de învățământ superior ca răspuns la globalizare, având în vedere contribuția educației terțiare la competitivitatea economică a națiunilor pe plan internațional.

La etapa actuală, conceptul de internaționalizare s-a extins cu mult peste semnificația de simpla atragere a studenților din afară și furnizarea programelor de educație și formare dincolo de hotarele țării în care are sediul instituția și aproape că nu există țară și/sau instituție care să fi rămas imună la chemarea și necesitatea de a se "internaționaliza" într-un mod sau altul. Internaționalizarea semnifică, în prezent, pregătirea celor formați pentru a trăi și a contribui responsabil la dezvoltarea societății conectate la nivel global.

Internaționalizarea reprezintă un fenomen de o deosebită actualitate și de interes pentru o secțiune transversală mare de instituții de învățământ superior, în toate părțile lumii. Acesta este un fenomen care a cunoscut o evoluție fulminantă, dezvoltându-se de la o poziție relativ marginală pe agenda instituțiilor, sistemelor, națiunilor și marilor organizații internaționale până la un subiect cu un rol semnificativ la cele mai înalte niveluri de politici educaționale și de leadership instituțional. Această situație este determinată de acuitatea conștientizării oportunităților și imperativelor inerente fenomenului internaționalizării. Percepția care guvernează fenomenul este că participarea la dimensiunea internațională aduce mult mai multe beneficii, iar excluderea din aceste procese nu face decât să conducă spre pierderea unor șanse reale de avansare pe piața globală a educației.

Este incontestabil faptul că internaționalizarea aduce schimbări pozitive în domenii cum ar fi relevanța, calitatea și autoritatea/prestigiul instituțiilor. În acest fel, internaționalizarea influențează, în mod direct, felul în care universitățile și sistemele își concep misiunea și rolul lor, modul în care se realizează cercetarea universitară,

paradigmele de cooperare, concurența și competitivitatea pe plan local, regional și internațional. În secolul XXI, procesul internaționalizării capătă valențe noi și devine un instrument important în dezvoltarea relațiilor între țări și a relațiilor inter-instituționale.

Totuși, actanții din domeniu trebuie să țină cont de riscurile și provocările asociate internaționalizării. Un loc central între acestea revine asimetriei (nepotrivirii) fundamentale, care poate să apară între aspirațiile internaționale, nevoile locale și resursele instituționale. Alte probleme țin de potențialul real al instituțiilor de a proiecta, promova, organiza și realiza strategii de internaționalizare. Și, nu în ultimul rând, riscul de clivaje între indivizi, sisteme și țări bogate și sărace și generarea inechității.

În ultimele două decenii au fost avansate diverse concepte referitoare la internaționalizare, au fost formulate mai multe abordări și emise diverse definiții. Una din definițiile/interpretările, citate mai frecvent, este dată de Jane Knight care susține că ”Internaționalizarea este procesul de integrare a unei dimensiuni internaționale, interculturale și globale în scopul, funcțiile și livrarea educației terțiare” [10].

Autoarea susține că ”procesul de integrare a unei dimensiuni internaționale în predare-învățare, în cercetare și în funcțiile unei instituții de învățământ superior a crescut de la activitățile parțiale induse individual la procese cuprinzătoare, gestionate strategic” [11].

Potrivit lui Knight, există cel puțin două manifestări ale internaționalizării educației:

(1) ”internaționalizarea de acasă”, care presupune strategii și abordări de promovare/realizare a activităților care îi ajută pe studenți să achiziționeze ceea ce numim ”competențe globale” – înțelegere internațională și abilități interculturale;

(2) ”internaționalizarea în străinătate”, care presupune mobilitatea transnațională a studenților, personalului, programelor, cursurilor curriculei și proiectelor.

O altă definiție, la fel citată frecvent, este și cea dată de OECD care definește internaționalizarea ca fiind totalitatea proceselor al căror rezultat este asigurarea dimensiunii internaționale a învățământului superior.

Hans De Wit identifică patru categorii de raționamente de bază în favoarea internaționalizării învățământului superior: politice, economice, socio-culturale și academice [6]. Respectivetele raționamente pot prevala de la țară la țară, de la sistem la sistem și de la instituție la instituție în funcție de contextul spațial și temporal concret. Raționamentele enunțate și factorii presupuși de acestea trebuie să constituie baza elaborării politicilor naționale și instituționale în domeniul internaționalizării.

După J. Knight, internaționalizarea are patru abordări distincte, cu accent pe diferite elemente constitutive:

-abordarea activității, este cea care s-a manifestat la începuturile apariției fenomenului internaționalizării, care vizează realizarea activităților pentru asigurarea schimburilor academice de studenți și personal universitar, asistență tehnică și studenți internaționali;

-abordarea competenței, care se referă la dezvoltarea competențelor, atitudinilor și valorilor în rândul studenților și personalului;

-abordarea ethosului, care presupune crearea unei culturi care să sprijine perspectivele și inițiativele internaționale;

-abordarea procesului, care se focalizează pe integrarea dimensiunii internaționale/interculturale în toate politicile instituționale procesele și procedurile.

De notat că internaționalizarea este exprimată în diverse moduri, totuși, există câteva aspecte-cheie ale acestui fenomen:

- numărul tot mai mare de studenți și cadre didactice, ”mișcându-se” către și dinspre diferite locații;
- creșterea rapidă a procesului de furnizare a programelor transfrontaliere de educație;
- presiunea pentru ”ieșire” pe plan mondial;
- interesul și tendința de ”a produce” absolvenți, deținători de competențe solicitate la nivel global, capabili să activeze într-o lume complexă și interconectată;
- prevalența crescândă a limbii engleze în predare-învățare și în cercetare;
- accentele semnificative asupra rețelelor de cooperare între instituții și sisteme;
- eforturile vizibile ale instituțiilor și sistemelor de a deveni cât mai competitive pe plan internațional;
- accentuarea aspectelor comerciale ale educației terțiare și tendința de acumulare a profiturilor [13].

Aceasta nu este, de departe, lista exhaustivă a manifestărilor internaționalizării și, privit din diferite perspective istorice, culturale, socio-economice etc., fenomenul poate fi caracterizat și prin alte aspecte de bază, fiind unul cu multe fațete. Astfel, de exemplu, alături de manifestările tradiționale ale internaționalizării care sunt mobilitatea studenților și cadrelor didactice, cooperarea în cercetare, mobilitatea programelor, în ultimii ani s-au dezvoltat forme noi cum ar fi crearea filialelor instituțiilor de învățământ superior în străinătate, promovarea învățământului la distanță, organizarea/realizarea programelor comune (joint) etc.

Internaționalizarea este determinată de diverși factori care se evidențiază, mai

mult sau mai puțin, în diferite regiuni:

- Fluxuri tot mai crescânde de tineri aleg să își facă studiile în alte țări decât cele de origine;
- Universitățile din diferite țări colaborează tot mai strâns și realizează proiecte/programe trans-naționale comune;
- Așteptări tot mai ridicate ale studenților și angajatorilor ca furnizorii de educație superioară să asigure formarea competențelor care le vor permite deținătorilor acestora să reușească într-o comunitate globală.

Internaționalizarea presupune îmbunătățirea experienței de învățare a tuturor studenților, indiferent de localizarea geografică, țara de origine sau nivelul de studii anterioare. Din această perspectivă, internaționalizarea trebuie să fie holistică, bazată pe principiile incluziunii și coeziunii.

În același timp, procesele de internaționalizare a învățământului superior creează oportunități pentru studenți să rămână în țară, acasă sau să se simtă la fel de bine oriunde în lume, unde competențele lor sunt cerute și valorificate. La fel, acestea sunt, în mod evident, și condiții de creștere a experiențelor, de diversificare a oportunităților de angajare și de consolidare a capacității forței de muncă, în general.

Asociația Internațională a Universităților realizează, periodic, anumite cercetări și studii în domeniul internaționalizării. Cel de-al patrulea Raport Global al Asociației (2014), analizează datele din 1336 de instituții de învățământ superior și prezintă, prin comparare, rezultatele la nivel regional și global [7]. Studiul realizat evidențiază următoarele aspecte de bază:

-Există o tendință vădită în favoarea internaționalizării la nivel mondial: 69 la sută din instituțiile chestionate raportează că dispun de o politică/strategie de internaționalizare.

-În termeni de schimbare, pe parcursul a trei ani care au precedat producerea Raportului, 27% din instituții au constatat creșterea substanțială a importanței internaționalizării și 31% consideră că importanța a crescut.

-Mobilitatea studenților și colaborarea internațională în domeniul cercetării sunt activități prioritare pe agenda universităților.

-Pentru 32% din universități, cunoștințele studenților în probleme ce vizează internaționalizarea este beneficul cel mai important. Acestea sunt urmate de calitatea predării-învățării, în timp ce generarea de venituri este cel mai jos clasat beneficiu. Comparate în timp, beneficiile internaționalizării rămân, aproximativ, aceleași, cu accent pe conștientizarea de către studenți a calității predării-învățării și consolidarea cercetării universitare.

-Cel mai amenințător risc în contextul internaționalizării îl constituie

oportunitățile reduse pentru studenții cu mai puține resurse financiare pentru accesarea unor programe internaționale. Ca și risc social, este menționată comercializarea învățământului.

-Obstacolul intern și extern cel mai important în calea internaționalizării este, de asemenea, finanțarea limitată (Această concluzie a fost enunțată și în Rapoartele Globale precedente).

-Cu toate riscurile și obstacolele, instituțiile de învățământ superior caută soluții astfel încât să asigure echitatea prin politicile/strategiile lor de internaționalizare.

În conformitate cu datele UNESCO [3], populația studenților internaționali a ajuns la cca.3,6 mln. în a. 2010, mobilitatea individuală a studenților a crescut de la 1,8 mln. în anul 2000 la 2,8 mln. în 2007 (cu 53%) și se prognozează ca aceasta să crească până la 7,2 mln. către anul 2025 (cu 188% de la nivelul anului 2006).

La nivel global, există o competiție pentru studenții internaționali și țări precum SUA, Marea Britanie, Canada și Australia își dispută statutul de principal actor pe piața globală. Totuși, potrivit OECD, Europa este destinația preferată de studenții care aleg să învețe în afara țării lor, având 41% studenți internaționali [8]. Aceste statistici vorbesc de la sine despre importanța fenomenului internaționalizării nu doar din perspectiva mobilității, ci și din cea societală și culturală, în general.

Întrucât la începutul secolului 21 orientările internaționale, caracteristicile specifice și ofertele de programe ale unei universități erau percepute doar ca o componentă de profil a unei instituții, interesantă și atrăgătoare, astăzi internaționalizarea este un aspect-cadru esențial și vital pentru învățământul superior, referindu-se direct la probleme de relevanță curriculară și socială, calitate și prestigiu instituțional, competitivitate națională și potențial de inovare. Mai nou (în sens pozitiv sau negativ, depinde cum apreciem acest aspect!), instituțiile privesc internaționalizarea și ca o potențială sursă de venituri.

Mai mulți cercetători în domeniu (Altbach, Reisberg, Rumbley) susțin că nu este posibil ca învățământul superior să nu fie influențat de procesele mediului global, deoarece efectele acestuia sunt inevitabile. Totuși, în pofida influențelor puternice ale contextului global, realitățile locale (valori, cultură, tradiții, limbă, dezvoltare academică precum și alți factori) afectează măsura în care sunt motivate și capabile instituțiile să se internaționalizeze [2] În aceste condiții, managerii instituțiilor de învățământ trebuie să fie pregătiți pentru a urmări și a înțelege tendințele globale în educația superioară, precum și mai precis ceea ce presupune internaționalizarea învățământului universitar, dar și, în același timp, aspirațiile și necesitățile specifice ale contextului local (regional sau național).

Unul dintre cele mai importante aspecte ale internaționalizării este faptul că,

cadrul de referință al acestui fenomen se extinde cu mult peste ceea ce este local și chiar național. Acest lucru este evident în două moduri foarte vizibile:

(1) În primul rând informațiile privind internaționalizarea se difuzează foarte rapid dincolo de frontiere. Accesul la internet face ca informațiile dintr-o instituție să fie difuzate pe scară largă și accesibile aproape imediat peste tot în lume.

(2) În al doilea rând, abordările privind internaționalizarea emise într-o parte a lumii sunt adesea considerate aplicabile în alte părți ale lumii. În mod evident, abordările respective sunt adaptate la tendințele și practicile specifice în diferite regiuni. Un exemplu emblematic dat de J. Knight este intenția țărilor de a se poziționa ca și centru de acțiune (instituție-hub) în procesele de cooperare regională [9]. În același context, unul din exemplele cele mai convingătoare ale regionalizării în epoca contemporană a apărut în Europa - Procesul Bologna.

Expansiunea impetuoasă a utilizării limbii engleze ca limbă internațională primară de predare, învățare, cercetare oferă un alt exemplu de tendință a internaționalizării, testate la nivel global.

Proliferarea informației este atribuită, de regulă, la progresele în tehnologia informației, dar ascensiunea dramatică a acestui fenomen poate fi, de asemenea, privită și prin prisma internaționalizării, ca fiind vehiculată cu viteză și cu acoperire foarte mare. Însuși subiectul internaționalizării învățământului superior este tratat în diferite reviste de specialitate, pe bloguri de specialitate, temele fiind cele mai diverse, dar cu precădere cele care țin de impactul social și economic al noilor tendințe la acest nivel de învățământ.

Experții estimează că, rezonanța globală a internaționalizării generează, concomitent, un interes sporit, dar și anumite dileme, provocări și îngrijorări, consecințe negative neintenționate ale internaționalizării. În timp ce pentru persoane fizice, instituții și sisteme acest fenomen aduce beneficii și oportunități enorme, arena globală a internaționalizării este considerată, în mod inerent, inechitabilă [2]. În acest context, indivizii bine echipați din punctul de vedere al resurselor (pentru studii și trai în afara țării) au mai multe opțiuni și oportunități atunci când vine vorba despre cum (și în ce măsură) își realizează aspirația pentru studii și calificări internaționale. Realmente, se creează premise pentru instaurarea unor diferențe fundamentale în calitatea și cantitatea activităților de internaționalizare. Pe scurt, un mediu internațional tot mai competitiv are potențialul de a genera câștigători și perdanti reali.

Abordările teoretice au implicații semnificative în viața reală pentru oportunitățile educaționale ale studenților, orientarea și funcționarea instituțiilor și chiar pentru performanța economiilor naționale. De exemplu, economiile în curs de dezvoltare sunt deosebit de vulnerabile, deoarece vor considera că este mai greu să



aceseze oportunitățile oferite de către furnizorii străini, cu capital mult mai mare, care se pot extinde în țările cu economii în tranziție, dar nu neapărat în acord cu obiectivele și prioritățile naționale.

Într-adevăr, pot apărea conflicte fundamentale în inițierea și realizarea unor programe educaționale care presupun acumularea de venituri pentru furnizorii de servicii educaționale, care, prin definiție, sunt concepute pentru a avansa interesele proprietarilor sau, în multe cazuri, a intereselor altor părți, și, mai puțin sau deloc, interesele beneficiarilor locali. Recrutarea și înrolarea studenților străini, deseori, se face la limita legalității, generând astfel conflicte profunde care țin de moralitate.

Comercializarea învățământului superior la scară globală ridică mai multe întrebări etice. Pornind de la ideea că învățământul superior este un bun public și are misiunea de a contribui la progresul public (chiar dacă există mai multe obiective care conduc spre ideea unui "bun privat"), activitățile la nivel global în acest domeniu ar trebui să fie ghidate de anumite principii și angajamente-cadru. La un nivel minim, aspectul etic al internaționalizării necesită asumarea de angajamente pentru promovarea valorilor fundamentale, în special asigurarea calității serviciilor prestate, libertatea academică, transparența, tratamentul echitabil al tuturor subiecților implicați, partenerilor și părților interesate, respect pentru cultura și valorile locale, alocarea și gestionarea eficientă a resurselor etc. Deși par declarații patetice, cele menționate mai sus sunt aspecte absolut importante atunci când vorbim despre dilemele etice în procesul internaționalizării învățământului superior și când ne referim la aspecte ca integritatea academică, responsabilitatea publică, problemele gender și alte atare aspecte privite din diferite perspective culturale.

Inițiativele internaționale se confruntă deseori cu astfel de dileme în cazul în care valorile culturilor locale sunt incompatibile cu cele promovate de furnizorul de educație superioară, intrat pe o piață educațională concretă. Sau invers. Prin urmare, inițiativele de internaționalizare a învățământului superior sunt însoțite de provocări importante care cer și decizii la fel de importante, într-un mediu complex și schimbător. În această situație, trebuie să existe, așa cum menționam mai sus, principii-cadru și linii directoare călăuzitoare, cu implicații etice și de calitate.

Internaționalizarea trebuie privită din două perspective, la fel de importante: națională și instituțională. Privită din ambele perspective, internaționalizarea presupune:

- crearea/existența unui cadru normativ și de politici;
- finanțare adecvată;
- programe corespunzătoare.

Din perspectivă instituțională, în contextul internaționalizării, universitățile

sunt puse în situația:

- să își crească atractivitatea;
- să promoveze mobilitatea studenților și personalului;
- să furnizeze programe inovative și curricula ”internaționale”;
- să promoveze excelența și strategii efective în predare și cercetare;
- să dezvolte cooperarea și parteneriatele strategice cu alte instituții de învățământ superior, cu instituții/organizații guvernamentale, sectorul de business și societatea civilă;
- să asigure complementaritate cu politicile naționale pentru a asigura cooperarea externă, dezvoltarea internațională, migrația, comerțul, angajarea în dezvoltarea regională, cercetarea și inovarea;
- să contribuie la creșterea economică, încurajând inovația și asigurându-se că învățământul superior răspunde necesităților pieței muncii.

Politicile universitare de internaționalizare trebuie să fie (1) conectate la viziunea, misiunea și valorile instituției și (2) cunoscute și înțelese la toate nivelurile universitare.

La nivel european/regional se vorbește despre așa-numita ”bolognizare” a învățământului superior, sinonimă cu ”europenizarea” și, probabil, că pentru mulți studenți, cadre didactice și factori de decizie din mediul universitar aceasta și este manifestarea internaționalizării educației superioare. Procesul Bologna a influențat prioritățile instituțiilor de învățământ superior, care se raliază la principiile și liniile de acțiune Bologna, precum și la aspectele Strategiei de la Lisabona.

Strategia 2020 pentru Mobilitate în cadrul Spațiului European al Învățământului Superior, aprobată la Conferința Miniștrilor Educației din țările-membre ale Procesului Bologna (București, 2012) [14], trasează obiectivele de bază ale mobilității la nivel european pentru toate statele-membre, care:

- sunt de acord să dezvolte și să implementeze propriile politici/strategii de internaționalizare, stabilind scopuri concrete și obiective măsurabile;
- reiterează obiectivul agreat la Reuniunea de la Leuven, în conformitate cu care în 2020 cel puțin 20% din absolvenți trebuie să fi beneficiat de o perioadă de studiu sau internship în străinătate;
- își propun să creeze sisteme deschise și să promoveze o mobilitate mai echilibrată, în susținerea căreia sunt propuse soluții precum asigurarea locurilor de muncă și acordarea stimulilor la momentul revenirii absolvenților în țara de origine;
- vor înlătura obstacolele care mai există în calea mobilității (cum ar fi, de ex., majorarea taxelor);

- se vor asigura că principiile Convenției de la Lisabona sunt parte a legislațiilor naționale și că recunoașterea calificărilor, conform prevederilor Convenției, este reală;
- se obligă să creeze și să implementeze o platformă națională on-line care să furnizeze informații privind programele de studiu, structurile de suport pentru studenți și alte informații relevante;
- își propun să îmbunătățească promovarea beneficiilor individuale, instituționale și sociale ale aflării în străinătate;
- vor adopta măsuri pentru a edifica propriile strategii de internaționalizare, implicând toți actanții: studenții, profesorii, cercetătorii și alți subiecți relevanți.

Pentru realizarea tuturor angajamentelor menționate în Strategia 2020 pentru Mobilitate în cadrul Spațiului European al Învățământului Superior, statele trebuie să creeze un cadru de referință favorabil mobilității și internaționalizării în general, iar universitățile – structuri speciale, care să gestioneze procesele respective.

În conformitate cu Concluziile Consiliului UE din 11 mai 2010 privind internaționalizarea învățământului superior, cooperarea internațională în învățământul superior este un domeniu important care oferă satisfacții și care merită să beneficieze de sprijin atât la nivelul UE, cât și la nivel național. O astfel de cooperare contribuie la îmbunătățirea calității și a inovării în procesul de predare, învățare și cercetare, fiind benefică pentru generarea de cunoștințe [4].

Comunicatul Comisiei Europene ”Învățământul superior european în lume” (2013) [5] are drept scop promovarea mobilității și a cooperării între universități din statele-membre și non-membre UE, prin realizarea următoarelor obiective-cheie:

-Îmbunătățirea calității generale a educației europene prin facilitarea învățării reciproce, cooperării și comparării cu alți furnizori de educație la nivel mondial;

-Stimularea inovării și a creării de locuri de muncă în Europa, prin atragerea de studenți mobili pe plan internațional și a migranților calificați;

-Extinderea orizonturilor, creșterea șanselor de angajare și pregătirea studenților pentru a deveni cetățeni globali;

-Influențarea și angajarea de noi segmente de public într-un mod care avansează poziția UE în lume.

Odată cu declararea independenței și detașarea de vechiul sistem hipercentralizat, în Republica Moldova au fost create premise pentru promovarea unor noi abordări în ceea ce privește cooperarea internațională în domeniul învățământului superior. Câștigarea independenței a adus cu sine libertate, deschiderea frontierelor și oportunități pentru ieșire în exterior și, respectiv, pentru intrarea în țară și în sistem a studenților străini.

Primele faze ale acestor procese au fost marcate de căutări, încercări și inițiative dictate de noile realități politice și economice. În prezent, sistemul național al învățământului superior este influențat, în mod obiectiv, de aceleași procese care se derulează la nivel internațional: creșterea semnificativă a numărului de furnizori de educație terțiară, obligativitatea ameliorării calității serviciilor prestate în consens cu cererea angajatorilor naționali și internaționali și cererea beneficiarilor direcți – a studenților – pentru studii de calitate și competențe care să le permită inserția socio-profesională de succes.

Urmând aceste tendințe internaționale în dezvoltarea educației terțiare, este firesc și logic să se prezume că învățământul superior național trebuie să răspundă cerințelor timpului și să se adapteze la aceste cerințe în continuă schimbare. În mod clar și responsabil, angajamentul respectiv a fost articulat în mai 2005, când Republica Moldova a semnat aderarea la Procesul Bologna, act care a constituit declararea oficială a intenției țării de a deveni parte a Spațiului European al Învățământului Superior.

În concluzie, constatăm internaționalizarea nu este și nu trebuie să fie un scop în sine, ci, mai degrabă, o resursă importantă pentru dezvoltarea sistemului de învățământ superior la standarde internaționale de calitate, deschis și responsabil la contextul global. Ca și fenomen, internaționalizarea este în continuă expansiune și importanța ei este în continuă creștere pentru instituții, sisteme și guverne.

Tabloul complex al internaționalizării învățământului superior, alături de viteza mare cu care noile evoluții se proliferază în contextul actual, fac din subiectul abordat o problemă extrem de provocatoare. În aceste condiții, este dificil însuși procesul de articulare a unei ierarhii clare și explicite privind orientările coerente în domeniu.

Efectuarea unor alegeri informate și creative cu privire la internaționalizare, cu conștientizarea interacțiunii dintre riscuri și beneficii, oportunități și imperative, obstacole și resurse necesită viziune reală și angajament susținut în promovarea unei educații de calitate care să asigure formarea competențelor globale ale cetățenilor globali.

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# The Relevance of Education, Research and Innovation in an African Context: The Case of Ghana

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## Abstract

*A fundamental function of higher education institutions (HEIs) world-wide is the promotion of scientific research and innovation at the community, national, regional and international levels. For most African countries, higher education is a key aspect of the government's knowledge policies. This paper applies the concept of the "Knowledge Triangle" in an Africa context to examine the links between education, research and innovation in HEIs. Ghana, which is located in West Africa, is used as a case study. Education, research and innovation policies and strategies crafted in the country during the past two decades to facilitate sustainable growth and development are analysed. To give the discussion a concrete character, the role of higher education in research, innovation and promotion of sustainable development is examined. The key challenges confronting Ghanaian HEIs in creating and sharing knowledge through research and innovation are analysed and appropriate strategies proposed for redressing them. However, due to time constraints, the paper is essentially the product of a comprehensive review of different sources of existing literature and is therefore deprived of empirical value. To redress this limitation, field investigations will be conducted in the coming months and the results integrated in the paper.*

*Keywords:* Africa, Ghana, government, education, knowledge, innovation, research.

## 1. Introduction and Background

Education is noted be the greatest light of the world. In the twenty first century, education is fuelled by empirical research and innovation to facilitate the sustainable development of the countries of the world. Olsson (2012); OECD (2012) and Bailey et al. (2012) argue that a promising educational system is research-driven and focuses on

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innovation in all areas of development. However, a fundamental challenge of the low-income countries (LICs) is the identification of affordable strategies to support education, research and innovation. With regard to Africa, an increasing number of countries over the past three decades are experiencing some degree of sustainable political and socio-economic development mainly because of the increasing impact of education, research and innovation. It is important to note that higher education in the African context is confronted by enormous challenges as is captured in the following words:

“The last few years have witnessed renewed interest in higher education in Africa after nearly a full generation of neglect or at best episodic attention championing isolated elements of university life, such as strategic planning” (Ng'ethe, N. et al.).

These authors argue that the state of higher education in Africa is perceived differently by various schools of thought. One school argues that the current state is one of stagnation and irrelevance. A second school holds the view that a good number of institutions are engaged in a creative reform process, an interesting feature of which is innovation. A third group thinks that the African university is simply struggling to survive and anything else that is happening is coincidental to survival (Ng'ethe, N. et al.). For Varghese (2013), higher education with higher investment in research and development promotes innovation which is vital for the sustainable development of Africa. But OECD (2014) observed that researchers in academic and non-academic institutions in Africa are faced with operational and institutional challenges, such as weak institutional capacities, inadequate funding and quality challenges.

In recent years, education and research in Africa have undergone some dramatic change to suit the industrial and economic demands in the continent (Makerere University, 2008). The establishment of the Partnership for Higher Education in Africa (PHEA) in 2000 is a clear manifestation of this renewed interest in education, research and innovation (Ng'ethe, N. et al.). Development of quality assurance frameworks, institutional governance enhancement as well as the establishment of research firms and academic institutions are the leading transformative elements in Africa's educational research (Effah & Hofman 2010; Clotte et al., 2011).

In the case of Ghana, the key challenges of higher education include how to improve existing quality assurance mechanisms, expanding overall access to potential students and funding HEIs in the face of increase in demand for higher education as result of the rapid increase in population growth. Moreover, the surge in the number of HEI graduates cannot simply be absorbed by the labour market. It is important to note the World Bank classifies Ghana as lower middle-income country (LMC). In addition,

policies inspired by the UN Millennium Development Goal for achieving education for all has tremendously increased enrolment in basic education and senior high schools in Ghana and consequently the demand for higher education (The Economist Intelligence Unit Limited, 2014).

### **1.1 Objectives of the Paper**

Globally, education in combination with research has contributed massively to human development. The twinning of education and research is producing innovations that help to make life simpler and less burdensome for the world population. The purpose of this paper is to facilitate an understanding of the role of higher education in the production of research and innovation for enhancing sustainable development in the African context using Ghana as a case study. The concept of Knowledge Triangle is used as a framework to analyse the link between education, research, innovation and sustainable development in Ghana. The framework examines four key elements: policies and laws, institutions, regulation and the social environment. The paper is the product of a comprehensive review and analysis of existing sources of relevant information popularly referred to as secondary data. Secondary data refers to facts and information from secondary sources, both published and unpublished works (Rabianski, 2003), including books, articles, journals, reports and online sources. However, due to time constraints, the paper is essentially the product of a comprehensive review of different sources of existing literature and is therefore deprived of empirical value.

## **2. Review of Key Concepts**

To facilitate a good understanding of the paper, it is necessary to briefly review a number of key concepts in the next sub-sections.

### **2.1 Knowledge**

Knowledge refers to a belief that is true and justified (Hunt, 2003). It is the capacity to act and is found in the heads of individuals. It cannot be seen but can only be observed. Wikipedia (February 2016) defines knowledge as familiarity, awareness or understanding of someone or something, such as facts, information, descriptions, or skills, which is acquired through experience or education by perceiving, discovering, or learning. Knowledge also refers to a theoretical or practical understanding of a subject. Scientific knowledge, which is central in this paper, refers to a method of inquiry that must be based on gathering observable and measurable evidence subject to specific principles of reasoning and experimentation. Access to knowledge is influenced by availability of information and communication technologies (ICT) and research

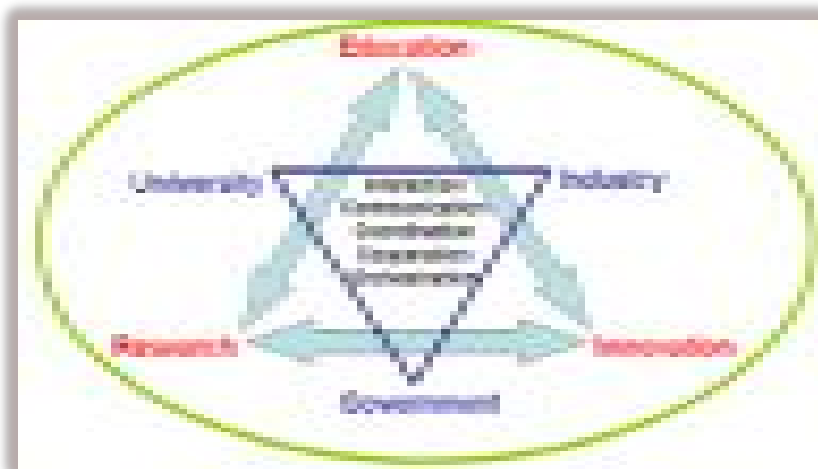


productivity. The production and use of knowledge in the developed and developing countries is characterised by inequality that is popularly referred to as the “research gap” or “knowledge divide”. This is increasing the isolation of the developing countries, particularly Sub-Saharan Africa (SSA), from discovering new frontiers of knowledge. This divide has led to the emergence of a new higher education paradigm characterised by “the promotion of learning by doing” and of individual creativity; the widening of access, through both face-to-face and open learning; and engagement with regional and local priorities.” (Meek et al., 2009)

## 2.2 Knowledge Triangle

“Knowledge triangle” refers to the interaction between research, education and innovation, the key drivers of a knowledge-based society (Wilkepedia, February 2016). According to the European Commission (2016), knowledge triangle refers to the links between education, research, and innovation. Horvart's (2012) understanding of knowledge triangle which is illustrated in Figure 1 includes the integration of the three dimensions of the concept. This process will help to facilitate the production of knowledge systems for promoting sustainable development in Africa and Ghana in particular. Figure 1 illustrates the knowledge triangle and the triple helix.

**Figure 1: The Knowledge Triangle (KT) and The Triple Helix (TTH)**



Source: Hovart 2012.

## 2.3 Education

There is no precise and concise way of defining the term education. This is because different scholars define the term differently. The definition of education

depends on the indicators that one wants to measure and the purpose for which s/he wants it to be used (Peter, 2002). Smith (1976) simply defines education as a total development of a person or an individual. He adds that education brings about improvements in lives as well transfer of knowledge and skills to individuals. For Rosado (2000), education is a coordinated formation of the four dimensions of human life, which include mental, physical, moral and social abilities, to ensure that the beneficiaries live a life of dedicated service.

Education is the process of exposing individuals to superior knowledge and empowering them with skills and capabilities to enable them make informed decisions for the improvement of their own lives, society and for the solving of economic, social, political, technological, environmental, and other development challenges. Education permits the transfer of knowledge and skills through the process of teaching and learning which instill the desired transformation in individuals' lives and the development of society in general.

#### **2.4 Research**

Research largely refers to a search for knowledge. It may also be defined as a scientific and systematic search for pertinent information on a specific topic. In fact, research is an art of scientific investigation. The *Advanced Learner's Dictionary of Current English* regards research as “a careful investigation or inquiry, especially through search for new facts in any branch of knowledge. Redman and Mory (1923) define research as a “systematized effort to gain new knowledge.” Other authors (Redman, 1923; Oxford, 1952) consider research as a movement, a movement from the known to the unknown; it is actually a voyage of discovery. Teferra and Altbachl (2004) underline the imperative of research thus:

“In the increasingly global world that is largely being shaped by knowledge and information, establishing a strong research infrastructure has more than ever before become a *sine qua non* in this highly competitive world.”

HEIs and Universities serve as the main centres for knowledge creation and dissemination, especially in the developing countries and Africa in particular.

#### **2.5 Innovation**

Innovation is any new or substantially improved goods or service which has been commercialized, or any new or substantially improved process used for commercial production of goods and services. Damanpour (1996) regards innovation to be the process of changing an organization in response to changes occurring in the external environment or as a result of an anticipated action to influence the

environment. He adds that innovation comprises new products or services, new technology, new organization, new administrative systems, or new plans or programmes relating to organizations and stakeholders. Plessis (2007) describes innovation as the creation or development of new ideas and knowledge which is aimed at facilitating and promoting new business outcomes; improving internal business processes and structures; and creating market driven products and services. In business, innovation is something that is new or significantly improved realized by an enterprise to create added value either directly for the enterprise or indirectly for its customers. According to Amidon (2001), innovation in business and industry is associated with knowledge, with innovation. It is:

“...the creation, exchange, evolution and application of new ideas into marketable goods and services for the success of an organisation, the vitality of a nation's economy, and the advancement of society as a whole.”

Innovation in higher education refers to “a planned process of introducing change, intended to bring about improvements or solve or alleviate some perceived problem”. Innovation at the level of an individual might be defined as the application of ideas that are new to the firm whether the new ideas are embodied in the products, processes, services or in work organization, management and marketing systems (Rogers, 1998).

### **3. Importance of Education, Research and Innovation in Africa**

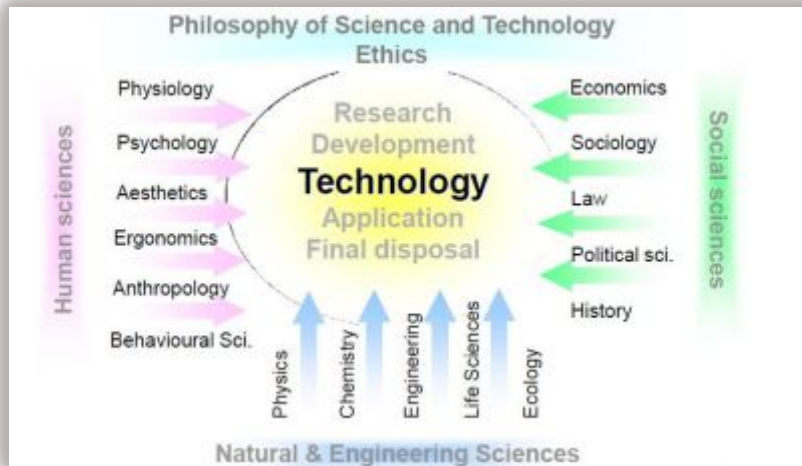
Research in lower middle income countries (LMICs) is undermined by a number of challenges including inadequate logistic provision and expert view. However, over the years, education, scientific research and innovation are being promoted in Africa's HEIs as a strategy for accelerating the sustainable development of the continent. UNESCO (2005) advocates that access to education and training for all is clearly a right for all citizens, and an obligation for governments. The quality of education has become an important issue for policy-makers and other stakeholders worldwide. The World Declaration on Education for All in 1990 notes that poor quality of education is a hindrance to the socio-economic development of nations, especially the underdeveloped countries. According to UNESCO (2005), quality education should not only be made universally available but also more relevant to the socio-economic needs of nations. Quality education should therefore be seen as a prerequisite for achieving the fundamental goal of equity, especially that expanding access alone would be insufficient for education to contribute fully to the development of the individual and society. The quality of education has become central in Africa's strategic sustainable

development plans.

### **3.1 Education, Research and Innovation in the Context of Ghana**

According to the World Bank's (2016) classification Ghana is a lower middle income country. The production of research knowledge and innovation in the country is made up of four key components: social environment, institutions, laws and policies as well as regulation (Alabi, 2013). The National Development Planning Commission (NDPC), the Ministry of Environment, Science and Technology (MOEST), the Ministry of Education (MOE), the research institutions coordinated by the Council for Scientific and Industrial Research (CSIR), the universities and other tertiary institutions and the National Council for Tertiary Education (NCTE) are the principal institutions responsible for the coordination of policy for the purposes of enhancing education, research and innovation to drive sustainable development of the country. Furthermore, the National Science, Technology and Information Policy notes that Ghana has a technology support, regulatory agencies, and standardized intellectual property (IP) legislation and generally stable macroeconomic political conditions necessary for ensuring innovation and development in the research arena (UNCTAD NSTI Policy Review, 2011). Successive governments in Ghana have therefore made efforts to devise strategies for improving quality delivery of education through policy formulation and implementation (Ankomah et al., 2005).

The most important recent policy and planning documents relating to education in Ghana are the Ministry of Education's Education Strategic Plan 2003-2015 and the Ministry of Environment, Science and Technology's National Science, Technology, and Innovation Policy (NSTIP). The former policy aims to provide basic education for all; create opportunities for open education for all; education and training for skills development with emphasis on science, technology and creativity; and higher education for the development of middle and top-level human resource requirements (Ministry of Education of Ghana, 2007). The NSTIP aims to fully apply and integrate science, technology and innovation into national development strategies to harness fully the nation's total science and technology (S&T) capacity to achieve national objectives for poverty reduction, competitiveness of enterprise, sustainable environmental management and industrial growth (Ministry of Environment, Science and Technology of Ghana, 2010). Figure 2 below shows the multi-dimensional character of technology, its principal components being philosophy of science and technology, social sciences, natural and engineering sciences and human sciences (Hovart, 2012).

**Figure 2: Multi-dimensional character of technology**

Source: Hovart 2012.

#### 4. Performance of Ghana's Educational System

According to the Ministry of Education of Ghana (2012), the 2007 Education Reform programme and the 2008 Education Act provided for four levels of education in the country: (a) Basic education: two years of kindergarten, six years of primary school, and three years of junior high school; (b) Second cycle education: four years, 3 of senior high school or technical, vocational, business and agricultural education, or appropriate apprenticeship scheme; (c) Tertiary education: not less than one year provided in any institution of higher learning (university, university college, polytechnic or college of education); (d) Non-Formal education: Provision for non-formal and life-long education; and Distance education: each level of education to include distance learning programmes/opportunities.

As has already been indicated, this paper focuses on Ghana's higher education system and its role in producing scientific research and innovation to propel the sustainable development of the country. In addition to the thirteen research institutes and government agencies in Ghana are the universities and other tertiary institutions which also perform the important task of undertaking research and training high level human resources to apply and translate research outcomes into innovative and development outcomes. By the end of 2012, Ghana had nine (9) public universities, 6 public specialized/professional colleges, 54 private universities/university-colleges, 10 polytechnics and one regionally owned university. All these institutions are

supposed to undertake research and harness innovation to complement the efforts of the research institutions and together feed the countries development agenda. Clearly, Ghana has in place many of the individual components necessary for an efficient and effective STI system. However, research in these institutions has not supported the national development agenda as much as is required although some gains have been made with respect to innovation (Jowi et al. 2013).

In 2008, the Ministry of Education of Ghana conducted an extensive SWOT analysis (Strengths, Weaknesses, Opportunities, and Threats) on the education sector. A selection of the key findings of the SWOT analysis presented in Table 1 is quite interesting.

**Table 1: Selected Key Findings of the SWOT Analysis**

| <b>STRENGTHS</b>   | <b>OPPORTUNITIES</b>  |
|--|---|
| <p><b><i>Access and Equity</i></b></p> <ul style="list-style-type: none"> <li>• Increased access to basic education</li> <li>• Increases awareness about literacy and participation in non-formal education</li> </ul> <p><b><i>Decentralisation</i></b></p> <ul style="list-style-type: none"> <li>• Existence of autonomous formal systems (e.g. DEOCs, DAs, SMCs)</li> <li>• Institutionalised R &amp; D EMIS systems</li> </ul> <p><b><i>Skills Development</i></b></p> <ul style="list-style-type: none"> <li>• National economic growth coupled with significant private financing</li> <li>• Strong demand for apprenticeships</li> </ul> <p><b><i>Teaching and Learning</i></b></p> <ul style="list-style-type: none"> <li>• High quality TLMs being developed, produced and introduced</li> <li>• PRESET and INSET providing sufficient trained teachers at basic level</li> </ul> <p><b><i>Tertiary Education</i></b></p> <ul style="list-style-type: none"> <li>• Legacy of high quality leading to a good reputation within Africa</li> <li>• Diversity: a) of programmes, b) of institutions</li> </ul> | <p><b><i>Access and Equity</i></b></p> <ul style="list-style-type: none"> <li>• Improved retention and transition</li> <li>• Reduced inequities (to achieve MDG)</li> <li>• ICTs as a management tool</li> </ul> <p><b><i>Decentralisation</i></b></p> <ul style="list-style-type: none"> <li>• Decentralised planning, financial management, implementation, M&amp;E</li> <li>• Effective community participation</li> </ul> <p><b><i>Skills Development</i></b></p> <ul style="list-style-type: none"> <li>• Strengthened institutional capacities and outcomes</li> <li>• CBT, general skills, lifelong learning</li> </ul> <p><b><i>Teaching and Learning</i></b></p> <ul style="list-style-type: none"> <li>• Decentralised accountability through the Report Card System</li> <li>• Replace study leave with better INSET</li> <li>• ICTs (in all domains)</li> </ul> <p><b><i>Tertiary Education</i></b></p> <ul style="list-style-type: none"> <li>• Attract students and funding from other countries</li> <li>• Shift enrolments and costs to reduce public and increase private financing</li> </ul> |

| <b>WEAKNESSES</b>  | <b>THREATS</b>  |
|--|---|
| <p><b>Access and Equity</b></p> <ul style="list-style-type: none"> <li>• Teacher retention/deployment</li> <li>• Disparities still exist and are widening</li> </ul> <p><b>Decentralisation</b></p> <ul style="list-style-type: none"> <li>• Technical and management skills at local levels (SMCs, DEOCs, DEOs)</li> <li>• Basic facilities (ICT ,electricity) for communication</li> </ul> <p><b>Skills Development</b></p> <ul style="list-style-type: none"> <li>• Lack of policy direction</li> <li>• Low-quality inefficient programmes</li> </ul> <p><b>Teaching and Learning</b></p> <ul style="list-style-type: none"> <li>• Understanding of the effect of PTR on quality and costs</li> <li>• Head teachers incapable of dealing with teacher absenteeism/low time on task</li> </ul> <p><b>Tertiary Education</b></p> <ul style="list-style-type: none"> <li>• Explosion of enrolment in universities leading to escalating public costs</li> <li>• Expectation that students should be accommodated in tertiary institutions</li> </ul> | <p><b>Access and Equity</b></p> <ul style="list-style-type: none"> <li>• Eventual loss of confidence in the education system</li> <li>• Increased drop-out</li> </ul> <p><b>Decentralisation</b></p> <ul style="list-style-type: none"> <li>• Delays in payments of salaries and taking disciplinary measures</li> <li>• Poor coordination of services and collaboration between staff</li> </ul> <p><b>Skills Development</b></p> <ul style="list-style-type: none"> <li>• Low prestige attracting weak students</li> <li>• High unit costs</li> </ul> <p><b>Teaching and Learning</b></p> <ul style="list-style-type: none"> <li>• Teacher migration to urban areas affects staffing in deprived areas</li> <li>• Ineffective head teachers as a result of lack of training and resources</li> <li>• Inequitable distribution of ICTs</li> </ul> <p><b>Tertiary Education</b></p> <ul style="list-style-type: none"> <li>• Graduate unemployment and disaffection</li> <li>• Inadequate funding for tertiary education</li> </ul> |

*Source:* Ministry of Education (2012).

## **5. Challenges of Education, Research and Innovation in Ghana**

Several factors are affecting education, research and innovation in Africa and Ghana in particular. They include the following: motivated and qualified teachers, appropriate curriculum, good teaching materials and well equipped library, appropriate language teaching, appropriate class size and favourable school environment, community participation, sufficient instructional period and valid and reliable method of examination (Hewlett Foundation, 2008).

### **5.1 Inappropriate Policies**

Ghana's education sector is largely driven by the 1991 Government's White Paper on the Reforms of the Tertiary Education System and the subsequent recommendations of the Universities Rationalisation Committee. However, this policy is devoid of both a coherent higher education policy and overarching mechanisms or detailed strategy for the implementation of the government's long-term plans. Moreover, the National Council for Tertiary Education (NCTE), which is the country's higher education body, is not empowered with sufficient authority to fulfil elements of its mandate such as regulating the establishment of new institutions. National and institutional policies and programmes to stimulate collaboration and knowledge exchange between research subsystems and with industrial and business subsystems are non-existent. Zachary (2003) argues that academic institutions and universities are poorly established and configured. Consequently, they lack effective leadership and direction to promote the achievement of the developmental goals of the country without conflicting roles and speciality. The failure of the government to categorise and define a specialised role for each of these academic institutions, greatly retards the advancement of innovation in various fields or sectors of the country. Established academic institutions are not properly equipped to promote and pursue innovation in a particular field in line with national objectives. As a result, most of these institutions are busy doing what their peers are doing – mere duplication. The Economic Intelligence Unit Limited (2014) argues that HEIs in Ghana are poorly integrated into the emerging knowledge-based development paradigm and discourse.

### **5.2 Inadequate Funding**

A fundamental challenge confronting higher education, research and innovation in Africa and Ghana in particular is inadequate funding. Despite Africa Union's resolution committing each African country to spend 1% of its gross domestic product (GDP) on research and innovation, the continent spent an average of 0.4% of its GDP on research. And without South Africa, SSA's share of research expenditure was only 0.3% (The Economist Intelligence Unit Limited, 2014). Inadequate and undiversified funding regimes are a major challenge to the development of more vibrant research and innovation infrastructure across the region. According to Meet et al. (2009), the current issues facing the research function and its environment include equity; quality; relevance; ownership; and international networking. An ever-growing number of nations of varying size have now given priority to developing their knowledge base through higher education, research and innovation, and to commit the necessary



resources to this goal. Success stories are becoming common and they are characterized by the following specific indicators:

· Innovative policies in higher education and research and in Science, Technology and Innovation (STI).

- A will to improve and profile the necessary infrastructure, including universities.
- Efforts to train and retain and attract highly-skilled human capital (HC).
- Increased levels of investment in research and higher education.

In the case of Ghana, many people are of the view that the country's policy-makers and managers of resources regard research to be of low priority. Consequently, research and innovation continue to suffer from inadequate budgetary allocations. This is seriously affecting the country's sustainable development possibilities (Annual Report of the CSIR, 2011; Alabi. 2013). Table 2 shows how the share of government expenditure on education in relation to other high-spending ministries changed since 2002.

**Table 2: Education Share of National Budget Expenditure Allocation**

| Ministries         | 2002 (%)    | 2005 (%)    | 2008 (%)    |
|--------------------|-------------|-------------|-------------|
| Education          | 23.6%       | 28.2%       | 30.2%       |
| Health             | 9.2%        | 16.1%       | 17.9%       |
| Local Government   | 2.3%        | 2.7%        | 3.2%        |
| Agriculture        | 4.6%        | 4.7%        | 2.6%        |
| Defence            | 19.3%       | 2.8%        | 2.8%        |
| Transport          | 7.9%        | 19.7%       | 13.4%       |
| Others (sub-total) | 33.2%       | 25.6%       | 30.4%       |
| <b>Total</b>       | <b>100%</b> | <b>100%</b> | <b>100%</b> |

*Source:* Ministry of Education of Ghana, Accra, Ghana, 2012.

It is clear from the table that the share of Ghana government's budget expenditure on education is greater than all the other high-spending ministries (Ministry of Education of Ghana, 2012). The sector recorded an annual average increase of 1.1% between 2002 and 2008. This is an indication that the government recognises the importance of education for economic growth and the sustainable development of the country. However, the surge in demand and expansion of higher education coupled with the increasing cost of running higher education institutions in recent times are fundamental challenges confronting HEIs in Ghana. Moreover, the continuous increase in the number of HEIs in the country and the impacts of globalisation have caused intensive competition amongst HEIs. There is tremendous

pressure on HEIs to provide new programmes and courses that meet the labour market demands of the fast changing economy. But most HEIs in the country do not have adequate funds to enable them acquire and build suitable infrastructure and facilities to accommodate globalisation or technological advancements in teaching and learning. HEIs in the country are struggling to catch up with technological advancement or innovation in education. The technological gap is making these institutions uncompetitive.

### **5.3 Inadequate Research Expertise**

Insufficient funding for research activities by African governments is contributing significantly to the current challenges of research and researchers in most parts of Africa. As a consequence, most HEIs do not have enough funds to enable them to subscribe to reputable but expensive journals for their libraries to facilitate the sharing of research findings from other parts of the world. According to Teferra and Altbachl (2004), many African universities have either dropped or in worst cases cancelled most of their subscriptions due to lack of funds. In addition, there are limited or unreliable local publishing infrastructures and very few uncompetitive publishers and journals available for African researchers to showcase their research works (Gray, 2006). Thus, research in Africa and Ghana is suffering from several ailments: paucity of local publication opportunities; very few resourceful researchers; lack of support for local journals; inadequate qualified editors and editorial staff; shortage of publishable materials; and limited freedom of speech or academic freedom.

Furthermore, most of the research activities and facilities in African countries are normally funded, directed and managed by external agencies such as bilateral and multilateral organisations, NGOs, fellowships, and foundations. It is estimated that external support for research on the African continent ranges from 70 percent to 90 percent (Nwauche, 2005). The consequences of this external funding on the continent are enormous and overwhelming as the donors have the prerogative to determine what should and what should not be researched and where they should be published. It is obvious that academic institutions in Africa prefer to patronise and use more scholarly materials and research produced by institutions in the developed world.

Research and publishing activities in Africa are in a very poor state and condition due to inadequate research infrastructure and facilities such as inadequate laboratory equipment and chemicals; lack of expertise; and poorly equipped libraries. Basic resources or channels for publishing research are very limited and expensive in Africa and therefore make it extremely difficult if not impossible for African researchers to

share their research with stakeholders either within or outside the continent (Jaygbay 2006). Elich (2006) and Willinsky (2006) suggest that access to knowledge through periodicals, journals and databases forms the foundation for the sustainability, relevance and application of meaningful research.

Other fundamental challenges African HEIs face include very low salaries and allowances for academic and research staff; lack of local funding for research activities; over concentration of governments on undergraduate education instead of higher education; and lack of publicity and application for research findings and an unfriendly environment for research. For example, academic promotions in African universities is largely dependent on publications of the applicants. However, given the state of research in Africa it appears comical to use research publications as a major tool or measure for academic promotion in universities and other academic institutions. It is evident that the African environment does not provide fertile grounds research activities and promotion so as to make it a universal tool or yardstick for academic promotion. This is almost an impossible demand on African academicians who do not usually have access to local and international journals, databases, and other publications to enable them share and publicize their studies (Teferra, 2002).

Effah et al. (2010) noted that inadequate research expertise is an institutional challenge to most research think tanks in Ghana, given the focus on most donor funded researches. Moreover, there is poor advocacy for education, research and innovation in the country because of inadequate political support for research development. In addition, weak policy coordination between policy formulation and implementation, evaluation and review of research and innovation have not allowed the application and use of research and innovation results.

#### **5.4 Inappropriate Curricula**

The nature of a curriculum and its delivery system are critical for attaining higher learning outcomes. The curricula of HEIs in African countries like Ghana do not adequately mirror the country's educational goals, objectives, policy direction and appropriate educational philosophies that could be adopted to address her needs (McKinsey et al., 2007).

#### **5.5 Large Class Size**

The increasing recognition of the importance of higher education for the sustainable development of Ghana has led to an increase in demand and a surge in student numbers which is referred to as “massification” of higher education. These new

developments require more investments in the sector. They also a significant challenge to the traditional form of face-to-face contact of the old HEIs systems (Ng'ethe & Subotzky, 2003). HEIs therefore need to be more innovative in terms of governance, curricula development, and utilization of resources. Ankomah et al. (2005) observed that when the student-teacher ratio is much lower, education quality is much higher and therefore improves students' achievement.

### **5.6 Inadequate Teaching and Learning Materials**

According to UNESCO (2005), the achievement of teaching and learning is influenced by the availability of resources to use for the process and how these resources are regulated. Thus, schools that have no textbooks and learning materials or well-equipped libraries cannot do effective and efficient work.

### **5.7 Unmotivated and Unqualified Teachers**

Hanushek and Wobmann (2007) pointed out that investigations conducted in both advanced and developing world revealed that investment in physical infrastructure of the educational system does not improve performance of learners substantially but rather good instructors within the learning environment influence their students to perform better than those considered being poor or bad. This indicates that for a school to provide opportunity to learn, they must operate regularly and teachers must be present and care about what students learn, and they should also be competent to teach the curriculum.

### **5.8 Insufficient Instructional Period**

Time management is of essence in any human endeavour because of the crucial role it plays in the success and failure of activities. Students require ample time to revise their lessons, visit libraries to research and do their assignment as well. To a school as a unit, preparation of curriculum for a term's or year's programme to a large extent depends on a number of hours for the period. Lockheed and Verspoor (1991) assert that an effective institution requires not less than 800-1000 hours a year for teaching to completes its curriculum.

### **5.9 Inadequate Supervision and Support**

Effective leadership for supervision and the quality of administrative support is another critical element in school processes for both students and teachers. At a more macro level, teachers need governments who are supportive and provide machinery for inspection of education systems. Organizational support for teaching and learning

takes many forms, including such measures as advocating for better conditions and professional development, respecting teachers' autonomy and professionalism and developing inclusive decision-making processes. Such support has been shown to have impact on student learning (UNICEF 2000).

### **5.10 Unfavourable School Environment**

Watkins (2000) affirms that the school physical environment reassures parents about the safety and performance of their children at the place of learning hence, its influence on the school enrolment rates.

### **5.11 Inadequate Community Participation**

A research conducted by the World Bank (2007) revealed that involvement of community and commitment of its resources into schools organization and management to some extent support and influence teaching, learning and quality of education.

### **5.12 Inadequate Internationalisation**

Africa is viewed as a relative latecomer to contemporary process of internationalisation of education, research and innovation (The Economist Intelligence Unit Limited, 2014). Most African HEIs suffer from weak internal governance and management, which hinder possibilities to internationalise. Internationalisation can help HEIs to develop more effective and efficient management practices to optimize their potential for research and innovation. Internationalisation and transnational partnerships provide opportunities for researchers to participate in international research networks and thereby improve significantly improve the quality of their research. Internationalisation is also important for strengthening human resources capacity in Africa. However, international offices established by most African HEIs to coordinate internationalization activities are poorly staffed and have inadequate finances for their activities.

### **5.13 The Negative Impacts of Globalisation**

The rapid change in the world economic system, often referred to as globalisation, is impacting higher education internationally, and stimulating innovation and change. This change is spearheaded by the information and communication technologies (ICTs). However, inadequate access to ICTs in most African countries like Ghana is hampering their possibilities to develop skills for “acquiring new knowledge and the capacity to use new knowledge as a resources in the context of the needs of

society and at a level commensurate with higher education” (Ng’ethe & Subotzky, 2003). Globalisation which is driven by the ICT revolution, has sparked innovations in in the areas of curricula development as well as teaching and learning methods.

## **6. Strategies for Strengthening Education, Research and Innovation in Ghana**

Verwaayen (2012) indicated that research and innovation is becoming the spearhead of competition from the international perspectives to the regional level. A number of appropriate strategies that will help Africa and Ghana to strengthen their education, research and innovation capacity are proposed in this subsection.

### **6.1 Developing National Research Policy**

The national research policy is a central policy guide that provides a framework for research innovation and development. It is recommended that Ghana should establish a national research policy that mandates institutions to provide research with national policy focus for development. This will provide empirical and scientific evidence to national policy in Ghana.

### **6.2 Funding research and innovation**

It is noted that funding for research remains a serious constraint in Ghana. Due to the inadequate government allocation to research in Ghana, institutions have established research grants to argue the government allocations to research. Evidence suggests that some universities have put in place a joint research fund with source from other donors to support faculty developments and staff members in research activities. However, funding is still a challenge to research as the Government of Ghana and other research institutions themselves need to allocate adequate funds for research and innovation. Partnerships and collaborations have also been considered as one viable avenue to raise funds for research in Ghana.

### **6.3 Training Expertise for Research and Development**

The key challenge to research and development is the expertise to undertake certain studies in some sensitive areas and discipline, given the technical nature of this field. It is noted that there is over-reliance on foreign research expertise for emerging research paradigms and discipline. The key challenge to this approach is the fact that findings from most studies and research do not reflect the socio-cultural dynamics for development in Ghana. It is recommended that research expertise is trained to produce empirical evidence relevant for socio-economic development of Ghana.

#### **6.4 National Educational Research Centres**

Evidence suggest that most educational institution in Ghana have research think tanks know as Office of Research and Innovation (ORID), which co-ordinates and fund research activities of faculty members and institution in Ghana (Boateng & Ofori Sarpong, 2002; Gondwe & Walenkamp, 2011). ESPR (2013), reveals that there is the need for a national research centre to co-ordinate research and innovation activities of the various university and research institution and identify the research priorities of these institution given the available resource to these institution and research firm.

#### **6.5 Continental Strategies for Improving Education, Research and Innovation in Africa**

The State of Education in Africa Report (2015) proposed a number of strategies for improving education, research and innovation in the continent.

##### **6.5.1 Strategies for Improving Education**

- While governments are investing in schools and universities, efforts must focus on expanding access and improving the quality of education to meet the needs of today's workforce.
- Governments must focus on the quality of education by investing in trained teachers, instructional materials, and infrastructure development.
- Governments must assess their country's priorities and needs and invest in areas that will foster innovations and help to build a skilled and educated workforce. Public-private partnerships will bolster public education budgets to garner improvements in the overall education system.
- Governments must make a concerted effort to correct a serious mismatch between skills of graduates and the demands of a local and global workforce because is facing a severe shortage of highly-skilled Ghana talent.
- Policy makers and the institutional arrangements for schools should provide incentives that will encourage teachers to upgrade their academic and professional qualifications to improve lessons delivery for good results.
- More schools need to be constructed and safeguards put in place to address why adolescents are dropping out to school to work. Many are forced to travel long distances to school or to go to work to help support their family.
- The Government should create quality assurance mechanisms in the educational system and improve equitable access to and participation in quality education at all levels.

- The Government should modernise the educational system by using ICTs to improve the quality of education and training at all levels thereby expanding access to education, training (in particular teacher professional development) and research resources and facilities. Use ICTs to orient all levels of the country's educational system to the teaching and learning of all subjects, including science and technology.

### **6.5.2 Strategies for improving Research**

- Provision of research and development investment to create new knowledge, primarily in engineering, medicine and the natural sciences.
- Capacity building to create a highly skilled group in the labour force to be used in research and development.
- Networking through markets and mechanisms with interactive learning amongst the institutions involved in the research.
- Governments should promote scientific and technical research at all levels

### **6.5.3 Strategies for Improving Innovation**

- Governments must invest in educational innovations to improve the quality of the education of primary schools. Increased student enrollments in schools across Africa have enabled more students to get into the classroom. However, most African countries are not able to keep up with the fast pace of enrollments. As a result, learning outcomes have tremendously suffered.
- Governments should encourage creative organisations which promote entrepreneurship and enhance the infrastructure to boost innovation.
- Governments should create enabling institutions which facilitate innovation [such as Intellectual Property (IP) Rights and tax laws, Research and Development investment, sound environmental and safety regulations].
- Governments should provide finance for innovative processes to facilitate the commercialization of knowledge.
- Consultancy services for technology transfer (including the legal and commercial aspects of innovative activities are also necessary for the country.
- Governments should introduce science and TVET innovations within the system.

## **7. Conclusion**

Education, research and innovation have gained importance in recent years because research helps to identify how knowledge translates into innovative action and



how diversity can drive positive change (Meek et al., 2009). To move onto a good position to contribute significantly to the sustainable development of Africa, the continent's HEIs must engage in cutting-edge research, and vigorous technology transfer. They will need talented teachers and students, abundance of resources, good governance and effective measures to significantly reduce the current high levels of brain drain. It is important to create a conducive enabling environment backed by appropriate high education policies that allow innovation to be generated from the synergies amongst opportunities, capacities, resources and incentives.

It is vital that African HEIs expand their research links with industry, government and the community in general. African governments and HEIs must foster adequate commitment to research; provide an enabling environment to promote a culture of enquiry; assure the acquisition of research skills; develop the capacity to utilize research and knowledge; and forge linkages with industry and the business and international research community. In the case of Ghana, the government must fully understand the specific socio-political, economic and cultural dimensions of the research context; promote the documentation and utilisation of research systems and findings; and above all, nurture research in HEIs. The government must enhance the efficiency of the country's knowledge systems in relation to sustainable development needs, the mobilization of new generation of researchers and the elaboration of innovative interactions between research, society and industry. Leadership of HEIs in Ghana require skills and capacity strengthening to be able to embed knowledge, enterprise and innovation into strategic plans and research programmes.

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## Joint Doctoral Programmes: Lithuanian Practice

Andrius PUKSAS\*

### Abstract

*A changing academic and scientific environment, obvious insufficiency of available resources, and the need to increase the quality of studies and research activities as well as their results are among the reasons why higher education institutions all around the world are seeking to cooperate and expand their networks by involving both national and international partners. Joint doctoral studies are the most striking examples of such cooperation in the constantly reforming sector of higher education. Despite the obvious advantages of preparing joint doctoral programmes and providing joint PhD studies, institutions are facing problems which arise from a variety of internal and external sources and are caused by a variety of reasons. The peculiarities of national legislation, established institutional traditions and internal rules, and the cooperation culture are among such reasons. The main obstacles for successful joint PhD studies are formed on the administrative level.*

*Lithuanian higher education institutions are encouraged to prepare a new or to join into existing joint doctoral programmes. However, the headaches of implementation which were named as obstacles often change the initial enthusiasm and good intentions. This article reviews and assesses the situation of joint PhD programmes in the Lithuanian higher education system.*

*Keywords:* joint PhD, joint diploma, cotutelle, programmes, consortiums.

### Introduction

According to Article 46 of the Law on Higher Education and Research of the Republic of Lithuania, the studies may be of three cycles: 1st – professional bachelor's, bachelor's degree studies, 2nd – master's degree studies and 3rd – doctoral studies. National higher education institutions provide both full-time and part-time PhD studies. There is a possibility for an independent student to earn an PhD by writing a thesis even if he has not enrolled as either a full-time or part-time student, or if he has missed official deadlines and is no longer considered part of the programme.

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Currently doctoral studies in Lithuania are conducted in accordance with the Provisions of the Doctoral Studies of Science approved by resolution No 561 adopted by the Government of the Republic of Lithuania (hereinafter – Resolution No 561). According to this legal act: 'The purpose of doctoral studies shall be to develop scientists able to carry out independently works of scientific research and experimental (social and cultural) development and to resolve scientific problems. Doctoral studies shall ensure for the person, who has completed doctoral studies and received a degree of the doctor of science, a sufficient competence: most progressive knowledge of the research work, areas of science and their interconnection; specialized abilities and methodologies to resolve problems of scientific research and other areas or to develop professional practice; ability to work independently, knowledge of science and profession in order to create new ideas or processes, participate in studies and other activity.' The purpose of doctoral studies is also defined in the Law on Higher Education and Research of the Republic of Lithuania and replicated in other legal acts. Such high standards are foreseen for PhD candidates, for their institutions, and for the quality of provided doctoral studies.

Fairly high requirements for doctoral studies on the national level are supplemented and strengthened by the number of regional and international requirements for doctoral studies. The most important criteria for choosing the institution are quality of studies and institutional reputation. It is no coincidence that in order to be progressive and competitive in the market, institutions are providing PhD studies which are compatible with the Principles for Innovative Doctoral Training (2011). Those principles are known as research excellence, attractive institutional environment, interdisciplinary research options, exposure to industry and other relevant employment sectors, international networking, transferable skills training and quality assurance. The main connector and purpose of the principles of innovative doctoral training is quality. The wish to assure the quality of doctoral studies encourages institutions to cooperate on the PhD level. All principles for innovative doctoral training are interrelated.

Joint doctoral studies, as a phenomenon, have been born from the insufficiency of the majority of higher education institutions to ensure the highest level of PhD studies through their inner reserves and resources. The demands of PhD students on the quality and assurance of a spectrum of services plays a large role. Such demands are hardly achievable by ignoring the advantage of international mobility and international networking. Cooperation both on the national and international level brings a new experience, access to a variety of resources, and the possibility to gain and transfer

knowledge.

The institutions can be successful in joint PhD studies only if they:

- provide a high quality studies at all levels (Bachelors', Masters', PhDs). The continuation of studies is an important condition. The higher education institution should assure the quality at all levels in the chain;
- have a strong scientific potential. The requirements for scientists (lecturers, supervisors, consultants) working with PhD students are fairly higher. The institutions should be capable of involving enough professionals to cover the needs and expectations of PhD students;
- have a strong traditions of cooperation. Joint studies are based on working together and having experience in common activities (it could be even joint Masters' studies). The previous record of common cooperation and previous working together ensures the possibility of adding PhD studies as another possible form of cooperation. This point in general means that institution know how to achieve the best results together;
- have a trustworthy partners' network and have a good reputation. This point is partly connected with the previous one (cooperation traditions) but is more focused on reputation. In the network it is easier to get information about one or another institution or to form an opinion about it. Even if there is no previous cooperation experience (no common programmes or projects), the positions of institution in launching joint programmes are stronger if it is known as trustworthy or is recommended by someone who is known as trustworthy;
- have a proper infrastructure. The capacities of an institution should meet the services it proposes. Joint infrastructure could be a solution, but other partners are also interested not only in sharing their infrastructure but also in receiving an equal contribution from another party.

The list of mentioned success factors is not finite. Other factors are also very important and in some cases even crucial (for instance, funding sources). But the most important factor is institutional interest to cooperate and seek common solutions if problems arise. Otherwise, the cooperation turns into a headache for everyone.

Taking into account the ambitious aim of preparing recognized scientists on the international level, the joint doctoral studies face some additional problems in comparison with joint studies on the lower level (joint Bachelor, joint Master). Those problems arise from the higher standards for doctoral studies in every single jurisdiction. This explains the disproportion between the joint studies on different levels.



## 1. Understanding of joint PhD studies and levels of cooperation

Despite the permanent and constantly emerging discussions about the importance of joint PhD studies, there are a number of uncertainties even in the understanding of some important definitions. The practice reveals that not all institutions and scholars agree on the content of such widely used concepts as joint doctorate, joint diploma, double degree, double diploma, and other terms. It is unquestionable that all above listed concepts are interrelated (as in case of joint doctoral studies, the diploma type dilemma arises – joint or double) but they are more different than similar.

The joint doctorate usually is understood through:

- fulfillment of all partners' formal requirements (this is the most important rule which justifies the joint studies);
- having a joint (agreed) policy on all important issues (on diploma issuing, on composition of defense board and other);
- having clear inner regulations on common policy and procedures (in Lithuania, along with the national legal acts, also are the separate Regulations of Doctoral studies for each consortium; for instance the Regulations of Doctoral studies in Economics Science Field at Vytautas Magnus University together with Aleksandras Stulginskis University, ISM University of Management and Economics, Mykolas Romeris University and Šiauliai University);
- having a joint governance body (all partners should be represented in the decision making body; usually, it has a name like Doctoral Committee, Doctoral Board and others);
- having joint supervision (supervisors from at least two different institutions are expected; sometimes it is enough to have a scientific advisor from another institution);
- having a clear mobility policy (usually PhD students are expected to spend at least 6 months in partner institutions).

Joint policy on all related issues is an essential factor in providing joint doctoral studies. Institutions should agree on terms and conditions before providing any services. Such consensus should be embodied in the consortium or cooperation agreement between the institutions.

Depending on the compositions of the consortiums' participants, joint PhD studies can be provided on:

- national level (where only institutions from the same country participate; or a participating institution from abroad has only a symbolic role – national PhD

with international elements);

- international level (where higher education institutions from different countries participate).

There could be an additional discussion concerning the national level consortiums where the foreign institutions are participating as full-partners, but their involvement is symbolic. On one hand, it is undoubtedly an international consortium because of the foreign partner presence, but on the other hand, from the pure nature of joint PhD programmes, the level of involvement should be taken into account. Another important aspect arises from the institution granting the right to provide such doctoral studies. In Lithuania the Ministry of Education and Science authorize consortiums with foreign partners, and the right is granted by the legal act of its head. Formally, such a right is granted to local institutions 'together with' other partners. Here, the focus is on the local institutions supported by the potential of its partners. Looking deeper, it is different from the Erasmus or Marie Skłodowska-Curie programmes.

The practice of higher education institutions testifies that the joint diploma is the phenomenon to speak about, but not to actually implement. In the framework of any region or even one country, it is hard to implement the idea of a joint diploma. Traditional recommendations are 'if provisions of national legislations are opposite and not all of them can be respected in the same time, think about double degree.'<sup>231</sup> From the beginning, instead of wasting time searching for gaps, joint diploma institutions are likely to start discussions about the possibility of issuing a double diploma. The trends shows that in Lithuania the case of cotutelle ('joint supervision of doctoral studies by two universities from different countries; if successful, the doctoral candidate will be awarded a joint or double doctoral degree awarded by the two institutions'<sup>232</sup>) causes constant growth.

The procedure to approve diploma form and content is quite time consuming in Lithuania. For higher education institutions, it is easier and more rational to issue an already existing diploma than to start working on a new one.

## **2. Practice on national level with international elements**

The need to ensure a noticeably higher quality of PhD studies led to the

<sup>231</sup> Joint (Degree) Programmes in South Eastern Europe Administration & Management Structure and Technical Capacity. Available at: <http://www.jointdegree.eu/index.php?id=345> (Accessed: 10 March 2016).

<sup>232</sup> Erasmus Mundus Glossary. European Commission. Available at: [http://eacea.ec.europa.eu/erasmus\\_mundus/tools/glossary\\_en.php](http://eacea.ec.europa.eu/erasmus_mundus/tools/glossary_en.php) (Accessed: 10 March 2016).

systematic reforms of higher education in Lithuania. The major preparation for the reform started before 2010 (the assessment of actual situation, discussing on major criteria and trends in doctoral studies within and outside EU, preparation of national policy). Since 2010, a few important national legal acts on PhD studies came into force. National institutions already in 2010 had started to prepare for the new period (temporary regulations on PhD studies which were valid only for 2010 enrolment). Together with a new legal acts, higher education institutions alone or in cooperation with partners were working on the documents which allowed them to apply and reapply for the right to provide doctoral studies. Since 2011, the right was granted only to those institutions and consortiums which met all strict criteria and were successful in applying for the right to provide PhD studies in concrete fields of science. Only the institutions with old traditions and strong positions in the concrete scientific fields maintained the right to provide PhD studies apart of partners. The noticeable part of institutions united their forces and became consortiums. Such a situation is known as joint doctoral studies on the national level.

National joint PhD studies are characterized by the following features:

- the studies are supervised and regulated by the joint Doctoral Committee (it makes all important decisions entire to all processes from enrollment until defense) of the concrete field of science. Each full partner of the consortium has its representative in the Committee;
- the study plan contains lessons proposed by the members of the joint PhD consortium (for some students all lessons could be provided by one institution);
- it is mandatory to involve a foreign scientist on the Defense Board (the only exception is granted to purely Lithuanian dissertations because it is problematic to find a foreign specialist);
- all partners of the consortium should be mentioned on the PhD diploma (and it is signed by all partners).

Other features are not common to all consortiums or not for all fields of science (for instance internships in foreign institution).

The following institutions are participating the process of PhD studies in Lithuania: Aleksandras Stulginskis University, Centre for Innovative Medicine, Centre for Physical Sciences and Technology, European Humanities University, ISM University of Management and Economics, Kaunas University of Technology, Klaipėda University, Lithuanian Academy of Music and Theatre, Lithuanian Culture Research Institute, Lithuanian Energy Institute, Lithuanian Institute of Agrarian

Economics, Lithuanian Research Centre for Agriculture and Forestry, Lithuanian Social Research Centre, Lithuanian Sports University, Lithuanian University of Educational Sciences, Lithuanian University of Health Sciences, Mykolas Romeris University, Nature Research Centre, Šiauliai University, The General Jonas Žemaitis Military Academy of Lithuania, The Institute of Lithuanian Language, The Institute of Lithuanian Literature and Folklore, The Lithuanian Institute of History, Vilnius Academy of Arts, Vilnius Gediminas Technical University, Vilnius University and Vytautas Magnus University.<sup>233</sup> The majority of those institutions have a right to provide PhD studies only as part of a consortium. Some consortiums also include foreign partners (Table 1).

In the social sciences, humanities, physical sciences and agricultural sciences, the majority of the rights to provide PhD studies is granted to consortiums. This is known as a joint doctorate in Lithuania. Only in biomedical and technological sciences are single institutions dominating (Table 1).

**Table 1. Situation on PhD studies in Lithuania**

|   |  |
|---|--|
| <b>Humanities</b>   | <b>Social Sciences</b>   |
| Right to provide PhD studies in consortiums – 11;<br>Right to provide PhD studies for single institutions – 3;<br>Total – 14.   | Right to provide PhD studies in consortiums – 11 (3 of them (management, psychology and education) have foreign partners: Denmark, Norway, Estonia, Spain and Portugal);<br>Right to provide PhD studies for single institutions – 9;<br>Total – 20. |
| <b>Physical Sciences</b>  | <b>Agricultural Sciences</b>   |
| Right to provide PhD studies in consortiums – 6 (1 of them (biochemistry) has foreign partner: Poland);<br>Right to provide PhD studies for single institutions – 4;<br>Total – 10.                           | Right to provide PhD studies in consortiums – 11;<br>Right to provide PhD studies for single institutions – 3;<br>Total – 14.  |
| <b>Biomedical Sciences</b>  | <b>Technological Sciences</b>  |
| Right to provide PhD studies in consortiums – 6 (2 of them (both in biology) have foreign partners: Norway, Latvia and Estonia);<br>Right to provide PhD studies for single institutions – 12;<br>Total – 18. | Right to provide PhD studies in consortiums – 7;<br>Right to provide PhD studies for single institutions – 11;<br>Total – 18.  |

<sup>233</sup> Order of the Minister of Education and Science No V-886. 12 August 2015 (amending Order No V-1019. 8 June 2011). Available at: <https://www.e-tar.lt/portal/lt/legalAct/b90f7eb040ef11e58568ed613eb39a73> (Accessed: 10 March 2016).

Formally, international partners are involved in consortiums related to social sciences, physical sciences and biomedical sciences. As a rule such consortiums are not only international but also interdisciplinary. Representatives of other consortiums prefer to cooperate with foreign partners, escaping formal involvement with them in the consortium. It is difficult to manage bigger consortiums with foreign partners.

**Table 2. Advantages and disadvantages of joint PhD studies**

| Advantages                              | Disadvantages                     |
|---|-----------------------------------|
| Higher quality of PhD studies           | Competition inside the consortium |
| Possibility to offer more services      | Slower processes                  |
| Mobility options, additional networks   | Different inner rules             |
| Other (differs depending on consortium) |                                   |

After the first cycle of PhD studies (4-5 years) in 2015 and 2016, national higher education institutions were scheduled to complete the self-evaluation and provide its results to the responsible authority. On the basis of those results, crucial decisions are expected. After the evaluation of doctoral studies, institutions will have a few possible options: a. to receive permission to continue PhD studies without or with amendments; b. to terminate PhD studies (if the quality assessed as unsatisfactory). Some assessment criteria are related to the international aspects. From a theoretical point of view, the joint doctoral programmes with foreign partners could have additional or bonus points. It is already known that the results from the 2015 data collections are positive and optimistic. The same is expected from the data which will be received in the spring of 2016. Nevertheless, the reform of the current doctoral system is inevitable. And the main focus points will be a. joint doctoral studies; b. internationalization and making PhD studies more interdisciplinary.

The fact that at the end of 2015, Lithuanian higher education institutions were asked to submit proposals and suggestions aimed at improving the current Provisions of the Doctoral Studies of Science testifies to the upcoming reforms. The proposals were also discussed at the Lithuanian University Rectors' Conference. The main proposals were related to the internationalization of PhD studies. Also, institutions are interested in reviewing consortiums (for instance, to simplify the entrance to consortiums and elimination from them).

In November 2014, the Research Council of Lithuania organized the conference 'The internationality of the science in order to improve the quality of science in Lithuania' where the representative of Research and Higher Education Monitoring and Analysis Center (MOSTA) presented the findings of her institution, which was titled 'How international are our doctoral studies?' (Petrauskienė, 2014). One of the points of

this presentation addressed the joint doctoral studies where the partners from Denmark, Estonia, Latvia, Norway, Poland, Portugal and Spain were involved. Such cooperation increased the internationality of national PhD studies.

Despite the facts that foreign institutions are involved into the processes of doctoral studies in Lithuania, their role in consortiums could be more significant and noticeable. Currently, they have their representatives in the Doctoral Committees, and main cooperation is limited to the mobility processes (the place for consortiums' PhD internship).

The missed opportunities arising from the international agreements between the Lithuanian higher education institutions and foreign partners should be reduced. The majority agreements embody the intention of partners to cooperate on all levels of studies. But in rare cases, cooperation leads to the joint PhD studies.

But there are positive preconditions:

- it seems that new national legislation will foster cooperation on the PhD level (reduced artificial barriers);
- the growing cooperation between institutions on Bachelors' and Masters' levels should grow in cooperation with the PhD level;
- it is already understood that joint PhD studies require some reasonable flexibility in legislation.

### **1. Practice on international level arising from international programmes**

The international programmes launched and supported by joint doctoral studies contain more elements which are expected from the joint PhD and could be called pure joint doctorate. The major problem of launched joint doctorates is in their transience. Such doctorates are viable only for the period they are supported (usually 36-48 months). In case of success, partners seek additional funds allowing the continuation of the programme.

Previously, the joint doctorate programs were conducted under the flag of Erasmus Mundus (new programmes will be covered by the Marie Skłodowska-Curie action). The experience of the participants was systemized and embodied in good practices.<sup>234</sup>

In the past, Erasmus Mundus Joint Doctorates supported 17 PhD programmes. One of them is the Joint International Doctoral (Ph. D.) Degree in Law, Science and Technology (Last-JD). This programme is coordinated by Bologna University (Italy)

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<sup>234</sup> Erasmus Mundus Programmes. Good practices. Available at: [http://eacea.ec.europa.eu/erasmus\\_mundus/tools/good\\_practices\\_en.php](http://eacea.ec.europa.eu/erasmus_mundus/tools/good_practices_en.php) (Accessed: 10 March 2016).

and from the Lithuanian side is represented by Mykolas Romeris University.

The Last-JD has all the main elements of joint doctoral studies:

- agreement between the institutions from Italy, Lithuania, Luxembourg, Netherlands and Spain;
- representatives of each full-partner on the LAST-JD Doctoral Board;
- PhD process meets the formal requirements of each participating country;
- programme of Last-JD has a clear and strict structure;
- agreed on peculiarities related supervision and thesis defense issues, on diploma and other issues;
- clear and flexible mobility plan (Table 3);
- wide range of associate and industrial partners (this allows students to combine the research activity with the practice).

**Table 3. Last-JD mobility plan**

| Year | Semester | Institution   |  |                                  |
|------|----------|---|--|----------------------------------|
| I    | 1        | University of Bologna (Italy)                         |  |                                  |
|      | 2        | University of Turin (Italy)                           |  |                                  |
| II   | 3        | Autonomous University of Barcelona (Spain)            | Mykolas Romeris University (Lithuania)                               |                                  |
|      | 4        | University of Luxembourg (Luxembourg)                 | Centre for Ethics and Law in the Life Sciences of Hannover (Germany) | Tilburg University (Netherlands) |
| III  | 5-6      | Any main partner or any social partner (more than 15) |  |                                  |

The advantage of such a system is in the fact that each full-partner is participating in the process. Despite the fact that not all institutions are chosen in the mobility plan, the representatives of full-partners are on the Doctoral Boards.

Earlier (before the last funding period), another Lithuanian higher education institution located in a seaport and having unique maritime-related research equipment, Klaipėda University, as full-partner, participated in Doctoral Programme on Marine Ecosystem Health and Conservation (MARES). This network was composed of 25 partners from 15 different countries.

The previously successful Erasmus Mundus Partnership for Belarus, Ukraine and Moldova (EMP-AIM) should be mentioned. It was coordinated by Mykolas Romeris University and involved seventeen higher education schools from European countries. The aim of the programme was 'to build a structured and sustainable cooperation between the involved universities and thus to strengthen academic, cultural, economic collaboration between the European and Eastern Europe region

countries.<sup>235</sup> The programme covered PhD studies and proposed scholarships for doctoral students. The programme revealed the necessity and importance of running more doctoral programmes together with the countries of the Eastern Partnership.

Mykolas Romeris University, together with international partners, also participated in the Cross-Disciplinary Doctoral programme in Contemporary Russian and Chinese Economic Law in a Global Economy (RuChin). At the end of the financing period, because of the success of it, partners decided to continue this programme with some minor modifications.

Previous programming periods and accessible funding programmes offered an excellent opportunity for a wide range of businesses to contribute to doctoral consortiums. Parts of existing joint doctoral programmes (previously mentioned Last-JD and others) have industrial partners from different world regions. Obviously, Lithuanian companies and private research units were not interested in such collaboration. Nevertheless, the involvement of businesses on the national level is constantly growing.

Despite some difficulties providing joint doctoral studies in accordance with the Erasmus Mundus programme, Lithuanian higher education institutions in January of 2016 were active in applying for MSCA-ITN-EJD European Joint Doctorates which is now known as Marie Skłodowska-Curie. The Innovative Training Networks (ITN) are aimed 'to train a new generation of creative, entrepreneurial and innovative early-stage researchers, able to face current and future challenges and to convert knowledge and ideas into products and services for economic and social benefit.'

Lithuanian universities are active in providing double PhD diplomas. For instance, in 2015, Kaunas University of Technology signed a double PhD studies in Environmental Engineering agreement with University of Bologna (Italy). The list of similar agreements in different fields of sciences is long.

## **Conclusions**

After the latest PhD system reform in Lithuania in 2011, there appeared a number of consortiums involving international partners on the doctoral level. Additionally, Lithuanian institutions are partners in joint doctoral programmes launched in the frameworks of European programmes. Despite some difficulties (diploma issues and others), the programmes are undoubtedly successful. The experience reveals that in both Lithuania and the EU, the additional emphasis should be

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<sup>235</sup> Erasmus Mundus Partnership for Belarus, Ukraine and Moldova (EMP-AIM). Available at: <http://emp-aim.mruni.eu/> (Accessed: 10 March 2016).



made in expanding the network of cooperation by launching new joint doctoral programmes with Eastern Partnership countries.

Current Lithuanian legislation on doctoral studies is under the process of revision with special focus on quality, internationalization and making PhD studies more interdisciplinary. The fact that not only higher education institutions conducted the formal assessment of doctoral studies, but also were asked to provide proposals and share their experience allows one to believe that some obstacles to PhD studies will be abolished.

Nevertheless, some obstacles could not even be abolished through the amendments of national legislation. The main of them is related with diploma issuing. Still, the double diploma model is more realistic than the wish to issue joint diploma.

The latest update on MSCA-ITN-EJD European Joint Doctorates reveals that despite the difficulties in providing PhD studies, Lithuanian institutions are highly interested in launching new joint doctorate programmes.

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## **Youth Mobility and Intercultural Dialogue as Key Resources of Implementation of the EU's Programme "Eastern Partnership" and the Strategy of "Europe 2020"**

Nina DIDENKO\*

An integral part of the economically and socially sustainable European Union today is a bet on the youth as a promising social group that could accumulate effectively and make productive use of human capital, provide the innovative development and adapt to rapidly changing conditions. It is important to consider these qualities in the countries participating in the implementation of the "Eastern Partnership" Programme (Ukraine, Belarus, Georgia, Moldova, Armenia, Azerbaijan), as through the youth mobility and intercultural dialogue you can encourage the young people to achieve the European social standards, to respect the European culture, to form the European values, to bring up a civil competence.

On the other hand, the example of the European youth policy and support of young people through the creation of favorable conditions for the development of their abilities to work and participate actively in the socio-economic, political and public life are a good incentives for the partner countries to conduct their own effective youth policy.

Ideological foundations of the "Eastern Partnership", political association and economic integration of countries participating in the project with the European Union, provide an opportunity for multilateral cooperation between young people, youth organizations, as exemplified by the project "Eastern Partnership for Youth", initiated by the Polish students, which consists of two directions:

- socio- cultural trend - the integration of young people of the Eastern Partnership countries into the European space through non-formal education at conferences and seminars,

- research direction, which relates directly to students and graduate students and is the platform of collaborative research.

Note that among European authors the belief is widespread that the reforms in the countries - members of the Eastern Partnership can drag on for years, and not to waste time it is worth developing long-term educational programs for the youth from the

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Eastern Partnership to form a new generation which shares the European values. For this it is proposed to expand the action of such programs as Erasmus, to hold seminars, traineeships and competitions for getting research grants.

Of course, the youth is not a static, a single group, so its values, needs and expectations are constantly developing. But despite their differences, young people want to be heard and to use their energy to feel the differences, to participate and be involved in those active socio-political and cultural processes that are influenced by the globalization taking place in the world. Today's youth is looking for opportunities to meet the needs of not only creative or civic self-realization, but also in quality, affordable education and training, favorable living conditions, successful socialization in the society. Realizing that these tasks should be carried out on the basis of universal and European values, respect for human rights and the recognition of the rule of law is important both for young people from EU countries and for young people in partner countries. Thus, support for youth mobility and intercultural dialogue can be considered the key resources of the implementation of the EU's Eastern Partnership Programme. This view is based on the fact that the vast majority of youth adheres to the idea of European integration and its participation in democratic institutions and in ongoing dialogue with contemporaries from EU countries, joint youth cultural and educational programs are important for the functioning of the EU as a democratic, value-integrated region.

In the process of European integration it is important for partner countries to adopt a positive example of youth policy, which is implemented by the countries - members of the European Union and the Council of Europe since its founding, including the inception of the Expert Committee on Youth (CANJE, 1985) and holding the first European Conference of Ministers Responsible for Youth in 1985.

Since signing White Paper, "New incentives for young people in Europe" [1], by the European Commission in November 2001 with the support of the European Parliament and other institutions, the framework for youth policy have been gradually defined, the ways of more rational use of youth resource have been outlined, including solutions to problems that face young people in the world today. Has been initiated the review of youth participation in public life as a positive result of close cooperation of European institutions and young people taking the form of commitments: 1) the European institutions and national governments with regard to improving opportunities for young people; 2) young people with regard to active participation in various spheres of public life.

Council of Europe defines the goal of youth policy as an opportunity for young people to be active citizens in social and labor plan, proceeding from the fact that young people need to be integrated into society. Integration in this case refers to the integration

into the labor market, the opportunity to make contributions to the development of civilized society, active participation in the common life and constitutional democracy. The desire of the Council of Europe in this area is to promote and support the development of a high quality and effective programs of youth policy at local, national and European levels. This development is built on the basis of general principles, values and attitudes, at the same time taking into account the complexity of the political, economic and social situations, historical context and cultural traditions of the participating countries.

The White Paper "New incentives for young people in Europe" emphasizes that youth is an area in which the principles of European public action should be applied:

- transparency: the provision of information and active communication with young people, in their language, so that they understand how the European structures and policies work;

- participation: ensuring that young people are consulted with and involved them more in decisions concerning them, and, in general, in the life of their communities;

- accountability: the development of new and structured forms of cooperation between member states and European institutions in order to find a way, at an appropriate level of accountability, how to respond to the hopes of youth;

- efficiency: maximum involvement of what young people can offer to meet the challenges of society, to contribute to the success of various policies, which affect them , and to build Europe of the future;

- cohesion: the development of the review of various policies related to youth and the various levels at which effects are useful.

Thus, the partner countries in their effort to implement a program of the Eastern Partnership should consider the need to follow even now the policy of the Council of Europe on the active participation of youth in building its own future, in building the future of Europe as a stable democracy and peace-building. So, to implement the principles and practices of social cohesion among young people the concept of youth policy of the Council of Europe, consisting of five C is useful:

- Coverage (coverage - geographic and social);

- Capacity (role and relationship between the state and youth organizations);

- Competence (competence - education and training);

- Cooperation, coordination and coherence (cooperation, coordination and coherence - vertical and horizontal communication);

- Cost (financial and human resources).

A good example for the partner countries are political and administrative measures to strengthen cooperation between the sectors responsible for youth policy of

the Council of Europe and other relevant structural divisions (such as the General Directorate for Social Integration, General Directorate for Human Rights, etc. ). This contributes to the consolidation of youth issues in the work of relevant departments in planning and implementing various activities and programs, supports the activities of the European Youth Centres and European Youth Fund; develops partnership with the European Commission in the field of youth policy as an example of successful cooperation between the partners concerned, develops a communications strategy of the Council of Europe on the expansion and promotion of information on the work of the Council of Europe in the field of youth policy, both inside and outside; provides the youth sector with adequate government funding for planning annual work and programs.

The European Union has a good practice for such activities as the European Youth Summit, "Your Europe" (Rome, 2007), the European Youth Week, youth activities under the chairmanship of member countries that are positive steps towards a constructive dialogue with young people.

Undoubted interest in this regard is the European Youth Pact, adopted by the European Council in March 2005, which stipulates that all activities and projects undertaken in the framework of international agreements take into account the European Employment Strategy and social inclusions and focus on the work program of the Education and Training - 2010. The agreement was aimed at improving the quality of education and professional training, improving opportunities for mobility, professional employment and social inclusion of young Europeans.

An important direction of EU youth policy is to integrate young people into working life. Communiqué of the European Commission "Support of the full participation of young people in education, employment and society" was published in 2007. Taking into account the progressive aging of society, the communiqué calls for better support and funding of youth to improve education, to increase employment, participation in social life, to strengthen health and active citizenship. Communiqué highlights the need to improve working conditions and reduce unemployment. The key to full participation of young people is the ability to get a good job, which also requires high qualitative and demanded education. Improvement of young managers', entrepreneurs' and workers' full participation in public life is also one of the key components of innovative, knowledge-based and internationally competitive EU economy. One of the trends is to obtain skills and qualifications through non- formal education.

Non-formal education / training today is a fundamental dimension of the learning process throughout life, and, therefore, we should work towards the development of effective standards for the recognition of non-formal education / learning as an essential

part of general and vocational education.

The adoption in 2008 of the Action Plan of the Council of Europe regarding the future of youth policy for the period up to 2020 - "Agenda 2020" - covers the most egregious social and socio-cultural problems of modern society which continues to experience structural transformation and changes due to globalization. That is youth organizations have to play a particularly important role in solving the problems of continuity between generations, cooperation, acceptance and understanding of different cultures, promotion of solidarity and social cohesion, prevention gender inequality, exclusion of racial discrimination. The effectiveness of youth policy at the international level is achieved by implementing multi-sectoral approach to the implementation of current and priority tasks of youth policy.

In the next decade three key priorities have been identified in the direction of which youth policies should develop in Europe:

- Respect for human rights and development of democracy;
- Intercultural dialogue and socio-cultural diversity;
- Social integration of young people.

In April, 2009 the European Commission adopted a new strategy for youth policy "Youth - investment and empowerment "for the coming years. The strategy recognizes that youth is the most vulnerable in society, especially in times of economic and financial crisis, and in our aging society, youth is a valuable resource. The new strategy is based on a multi-sectoral approach and includes both short- and long-term measures in education, employment, creativity, entrepreneurship, social inclusion, health, sports, civic participation and volunteerism. The new strategy emphasizes the importance of youth work and defines measures for better implementation of youth policy in the European Union. Objectives of the new strategy: the creation of more opportunities for young people in education and employment, improvement of access and full participation of youth in society, promoting solidarity between young people and society.

The new youth program of the European Union is "Youth in Action 2007-2013, which is the successor to the previous programs "Youth for Europe "and" Youth " is used today as a key tool that provides young people with opportunities for formal and informal learning of European dimension. Its priorities are:

- European citizenship - to give young people the opportunity to realize that they are European citizens and help them talk to the European subjects;
- participation of young people - active participation of young people in public life of their community and support of various forms of training for such participation;
- cultural diversity - the promotion of joint activities among young people from different cultural, ethnic or religious communities, aiming at promoting intercultural



learning;

- attracting young people with disabilities to participate in the program "Youth in Action."

The purposes of cooperation with Eastern Europe and the Caucasus, which are provided in the programme are the following:

- to maintain peace through the promotion of dialogue, tolerance and solidarity among young people;

-to build long-term, lasting partnership;

-to exchange of materials for young people and know-how between NGOs and government agencies in the EU and the countries of Eastern Europe and the Caucasus;

-to develop of voluntary sector and civil society in Eastern Europe and the Caucasus;

-to understand of their own situation and culture.

For cooperation with partner countries there are three types of activity: a European voluntary service, youth exchanges, trainings and networking projects. To attract young people and youth organizations to the sphere of formal education the European Commission established Resource Centre for Eastern Europe and the Caucasus "SALTO – YOUTH".

Thus, in the framework of European integration experience has been gained for the development of youth mobility and intercultural dialogue which can be considered as key resources for the convergence of eastern partner countries and the EU. As follows from the "Eastern Partnership", the movement to ensure freedom of movement and contacts between people in the Eastern European region should include intensive public lobbying and practical initiatives at the international level. The main problem of social movements in the region is not a lack of attention to the subject of migration and freedom of movement (on the contrary, in the information field there is a considerable interest), but the lack of integration of internal debates on these topics in the European discussions, campaigns, projects and initiatives on this topic. The greatest effect reach those initiatives that are taking place as international and rely on the authority of existing social or political organizations, both in countries seeking to make visa-free regime and in the EU member states [2, 54].

For a common vision and better understanding of issues related to youth, effective collaboration to achieve common goals it is important to stimulate creativity, to support youth exchanges, to promote national and European recognition of what youth organizations do for the development of European integration at the local and regional level.

In our opinion, these priorities must now be perceived by young people from



partner countries as key priorities for their own activities, especially when you consider that in the context of youth policy it's necessary to target every country to create an enabling environment to ensure the full observance of human rights of young people, respect of their human dignity, as well as the conditions encouraging commitment to the idea of European unity. To solve the problems of search mechanisms to promote cultural diversity, the need to promote intercultural dialogue can play an important role such development priorities, which include:

- Providing young people the right to develop and maintain, above all, in everyday life, cultural diversity, to understand the importance of intercultural dialogue and cooperation;
- Prevent and combat all forms of racism and discrimination on any of the possible reasons / symptoms;
- Full support to youth organizations and initiatives for the prevention and conflict management, as well as post-conflict settlement through the establishment of intercultural and interreligious dialogue;
- Promotion of youth initiatives for working with refugees and socially vulnerable categories of young people;
- Further support for interregional cooperation of youth in Europe and beyond its borders;
- Support for youth in the development of solidarity and cooperation at the global level.

Knowledge of foreign languages and intercultural competence are essential preconditions for youth mobility and the development of international activities. Lack of the language knowledge can be a barrier not only for youth mobility, but also for young people's participation in the socio-economic, cultural and political life in Europe. In order to take part in intercultural and interfaith dialogue for promotion of international understanding and combating all forms of racism and xenophobia, young people need to develop their linguistic competences, to contribute actively to the critical understanding of each person's own culture and other cultures.

To attract young people from partner countries to the processes of European integration, in our view, it is useful to use such European instruments to support the development of youth policy as:

- Conducting surveys of youth policy in partner countries, the allocation of general trends, good practices the existing problems;
- Training courses for representatives of youth organizations and state bodies, responsible for youth, to develop skills of young people and promote cooperation of public and private institutions dealing with youth problems to integrate into European

structures and practices;

- Advising the European experts in the field of youth policy for public and private institutions dealing with youth problems;

- Expanding the scope of the European Knowledge Centre for Youth Policy to the partner countries, since the Center provides the knowledge development and dissemination of information about the real state of the youth sector in member countries and partner countries of the Council of Europe and the European Union.

Great interest to the youth of the partners may have participation in such programs as: the European Youth Campaign for Diversity, Human Rights and Participation "All are different – all are equal"; educational programs in the field of European youth knowledge and so on. The possibility of educational materials application, such as: manual T-Kits, Journal of Coyote, newsletter about upcoming events of the Council of Europe and the European Commission in the field of youth work, the journal «Forum 21", where you can find information on the implementation of youth policies, etc .would be useful for young people from partner countries.

We believe that the strategy of "Europe - 2020" is relevant not only to states within the EU, but also can serve as a good reference point for the partner countries that can build their policy based on the proposed goals and objectives of Europe, including in the framework of the "Youth movement" programme, aimed at increasing the international attractiveness of European higher education and improving the quality of education and training at all levels, participation in EU programs in the areas of freedom of movement for education in universities and carrying out scientific research; using the experience of modernization of higher education in the EU (the curriculum, financing and management); the support of non-formal education; adherence to general principles of youth employment establishing the principles that contribute to reducing unemployment among young people.

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# Eastern Partnership: Impact of Mentality Differences as a Factor

Sergey CHERNYSHENKO\*

## Abstract

One of important directions of EU foreign policy is development relations with neighbours and, particularly, with Eastern European and South Caucasian countries. For this states a special EU programme of Eastern Partnership was proposed.

Realisation of such international programmes is impossible without taking into account special features of cooperators and mentality differences of partners. The article is devoted to consideration of some aspects of this problem.

## 1. Eastern Partnership (EaP) as a new way to general European understanding.

### 1.1. History of EU-Eastern Europe countries relations.

Eastern Neighbours of the modern EU (Ukraine, Belarus, Moldova, Armenia, Azerbaijan, and Georgia) were parts of Soviet Union first decades of the modern stage of Europe unification. They were separated from Western Europe by the “iron curtain”. Disintegration of the USSR in 1991 created completely new situation: the republics gained independence and opened themselves for contacts with the West. Although, Soviet-time stereotypes still live in minds of some part of their population.

The nineties of the previous century were years of forming new type of relations. A modern stage of their development was started in 2002, when a new stage of EU neighbourhood policy was announced by the European Council in Copenhagen [1]. This approach was realised in the European Neighbourhood Policy (ENP) in 2004 [2].

ENP was not directed to the East only, but also to the South, to Mediterranean countries. “With regard to the Union's new neighbours in the east, the heads of state or government furthermore highlighted the importance of taking forward relations with their neighbours to avoid new dividing lines in Europe” [3]. The ideas are close to Solana's European Security Strategy of 2003: “Our task is to promote a ring of well-governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations” [4].

### 1.2. EaP – new horizons or limitation of opportunities?

“European partnership” (EaP) was proposed by Sweden and Poland [5] in 2008

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as a new form of ENP realisation for six East European and South Caucasus countries: Ukraine, Belarus, Moldova, Armenia, Azerbaijan, and Georgia). “This proposal was elaborated on with the support of the incoming Czech presidency in a follow-up paper in October 2008“ [6]. In 2009 officials from EU countries and all these neighbouring countries met in Prague and declared their interest in development of their relations in the frame of the new EaP programme. The main objectives of the programme were announced as following: “to create the necessary conditions to accelerate political accession and further economic integration between the European Union and interested partner countries” [7].

In the last quotation includes important message. The aim is economic integration, not political one. Main aspects, which are considered in corresponding documents, are the following: free trade; simplified visa regime; integration of energy systems. In the same time all the EaP countries, excluding Belarus (and, in some degree, Azerbaijan) are aimed at participation in EU in the foreseeable future. They expressed their wishes many times, but never heard any promises from the side of EU. At this time EU does not plan to expand to the east; its aim is mainly to build a secure environment for itself in this part of the world.

The situation is a little nervous for the EaP countries, particularly, because of features of their mentality, which is not oriented for patience. Understanding this, interested countries, such are Poland, Hungary, Germany and others, try to promote EaP as a programme, which is very useful for the Eastern Neighbours as it is (mainly, in the aspect of economic integration).

On the other hand, the partnership is not so attractive for some other important EU countries; last time in official documents one can find such statement as “a campaign informing them about the useful value of the Eastern Partnership for the entire Union must be conducted and support for this initiative from all EU members must be sought” [8].

The problem to keep the EaP countries in deep partnership with EU without serious obligations from the EU side is not trivial. And one of aspects, which should be taken into consideration, is political and mental features of the neighbours.

### **1.3. Ukraine, Belarus, and Moldova: three different neighbours.**

Moldova, by historical and mental prerequisites, is the main candidate for EU membership; especially, after the inclusion of Romania. Historically, it is part of Romania; and the country is small enough not to create serious troubles for EU, as a member. On the other hand, there are some evident problems of reunification with Romania. First, national mentality (especially, of older population) is quite different

from Romanian one because of long belonging to Soviet Union. The second, more important fact is essential multinational character of Moldovan society. And the main problem: Transnistria. EU accepted Cyprus with similar situation, but it was, for sure, exception, and Ukraine, contrary to Turkey, is not a member of NATO.

Ukraine was very active in seeking to EU membership during Yuschenko's presidency. Low response from the side of EU was one of reasons of losing by this leader of any popularity. Majority of Ukrainians still support the idea of European integration, but absence of positive signals from the West makes much more probable integration with Russia. Traditionally mixed national composition of population in its territory makes Ukraine very tolerant; ordinary people do not see any contradiction between integration with EU and Russia and would prefer to live in really United Europe. In its turn, Ukrainian nationalists, as well as their ideological analogues in other Eastern European countries, also do not see contradiction between development of the national country and integration into EU. Thus, all mental and political prerequisites of EU choice of Ukraine exist.

Belarus is a very special member of EaP. First, it is already in state of integration with Russia. Second, its leaders never announced wishes to enter EU. Belorussian is real neighbour of EU, and the latter wants to see it in the "ring of friends". But membership in EU of this state, for sure, is not in the agenda (and it is, by the way, bad message for the other EaP members). From mental point of view, Belarusians are quite close to Ukrainians, and, probably, the population is not against European integration. But strict political regime and relatively high standard of life makes rapid change on integration vector of the country not very probable.

Common mental features of the three countries are based on Soviet past, Orthodox Church and high educational level of population. Promotion of EU values should take into account these properties. In the first order, corresponding experience of such countries as Poland, Slovakia, Hungary, Romania and, especially, Baltic countries [9], belonged to USSR, should be used.

#### **1.4. South Caucasus: similarity and features.**

Formally the Caucasian countries belong to Asia, but culturally they can be considered as European states, especially Armenia and Georgia, which are a part of the "Christian world". Anyway, the geographical position quite far from the current boards of EU makes near partnership in the Union not so probable. Although Georgia is very enthusiastic about this, considering the position across Black sea from the three EU countries as available for the membership. Georgia, evidently, is disappointed by the cautious position of EU about widening to the East. But, anyway, it is a very reactive

partner, and it will be, at least, in near future, accurate EaP member.

Armenia, may be, is the most proper country for EaP. It is really want to integrate to Europe, but is not too impatient about the membership. It is proclaimed, particularly, in speeches of national leaders. “We view the Eastern Partnership program as a powerful stimulus for reforms and mindset- change, in order to build a critical mass of persons dedicated to European values in our countries. It can foster the creation of a favorable atmosphere for dialogue, partnership, and cooperation in the region. Through closer ties between our countries and the European Union, the Eastern Partnership program will stimulate regional integration. From the standpoint of the EU, the Eastern Partnership program can help curb uncertainty and make our region more predictable” [10]. Perspective of the partnership is attractive for Armenia [11], but now it prefers to be really independent, particularly, in international relations, where it likes to have close contacts with Russian Federation.

Azerbaijan stands at some distance from others. First, it is only one Muslim state in EaP, and the religion influences, in some degree, on its mentality. Second, it is country, really reach by natural resources, and this fact determines some tendency to independence. On the other hand, the common aspiration to be closer to Europe concerns also Azerbaijan. In an individual form, it tends to be active member of EaP.

### **1.5. Tempus ENPI East: support of the common education field.**

In 2010 Tempus' 20-years anniversary was celebrated. This EU programme, directed for support of higher education of neighbouring countries, was realised within different European initiatives. Now, partially, it is an instrument of the ENP programme. Two Tempus regions are called as ENPI East and ENPI South countries.

During its lifetime, Tempus contributed to integration of many new EU members, starting from Poland and Hungary, and finishing Bulgaria and Romania. It contributes to EaP through number in international projects, selected and realised within well-considered rules and procedures. Responsibility for successful realisation of the projects is delegated to project coordinators – EU universities. Although the initiative to manage a Tempus project starts always from its coordinator, not always the latter has good experienced in cooperation with Eastern partners. Collecting information about local conditions and features of participating institutions (including mentality differences) is one of the most important aspects of coordinating activity during all the project lifetime.

The author participated in Tempus projects from 1995, both from partner (Ukraine and Russia) and EU (Germania) countries, and made sure that taking into account mentality peculiarities and tolerant relating to cultural difference are necessity prerequisites for successful realisation of Tempus projects. It can be a part of the

complex, systems approach to doing education reforms on international level [12].

## **2. Mentality differences: aspects and dimensions.**

### **2.1. Time lag as a model of mentality difference.**

For sure, mental difference between nations is an objective fact, although its importance becomes lower and lower. Fruitful international cooperation is impossible without adapting to partner style of thinking. It corresponds, particularly, to education, scientific, innovation fields [13,14]. All the people, involved into international activity, know this; there are a lot of stories, funny and pity, about mistakes, originated from mental misunderstanding of different nations' representatives.

On the other hand, difference between nations can be exaggerated. Differences usually show themselves on upper layer of human behaviour; deeper (on levels of values and motivations) they are not so evident. If one calls all Eastern Europeans as Russians and imagines them as wild people with vodka and balalaika, he never can cooperate with them. In the same time quite caricatural description of East European nations can be met in texts, pretending for seriousness (for example, [15]).

Real difference (and, quite often, very important difference) show itself in details. Basically West and East of Europe is not contrast. Mental difference between Polish and Ukrainian people is, probably, less than between Polish and Italians (or even Germans). More of this, difference between modern Germans and Germans of nineteenth century can be in some aspects deeper, than between the latter and Belarusians. This time lag can be explained from different positions.

### **2.2. The Orthodox Church: twin of the Catholic one.**

Historically, very important role was played by the common Christian religion. Nowadays not so many people, both in the West and the East, are really enthusiastic about religion, but the Christian values and rules in a large measure formed European mentality, social laws of behaviour. In a mental space exactly this religious difference determines a border between the East and the West (or Europe and Asia) [16].

Orthodox Church vs. Catholic and protestant ones: in is not a cause of essential mental distinction of nations. By their basis Catholic and Orthodox Churches are twins; there is only one (and not well-known) difference in their "Symbols of Faith". All speculations about features of Russian (in the wide sense) behaviour as consequence following the Orthodox Christianity do not look as reasonable. Orthodox Church is little bit more conservative then Catholic one (as it clear even from its name), and it is one of explanation (truly speaking, not very important) of the mentioned "time lag".

Catholic Church was forced to self-changing, in essential degree, by Protestant



Christianity. Absence of Protestantism in Orthodox Church is important historical phenomenon, and it can really explain some difference of Eastern European Countries and, for example, Germany. In the same time difference with pure Catholic countries should be looked for in other historical facts.

### **2.3. Eastern Europe as a fortified wall of the Western world.**

More important, then religious, an explanation of the time lag is based on geographical position of the Eastern European countries: in the border between European and Asian civilisations. In this context it is not matter of religious issues. It was a border between two forms of ancient economics: agricultural and nomadic (and, ethnically, a border between European and Turkic nations).

Nomadic economics presupposes very mobile stile of life, and nomads were very dangerous neighbours. Although first nomads were Indo-Europeans, and their migrations were directed, mainly, from West to East, later this direction was radically changed. After Christ many waves of warlike tribes (mainly, Turkic) had gone from East to West.

When Eastern European population had no states, the nomads could reach Western Europe. The invasion of Huns is reflected in German national epos. Avars and, later, old-Hungarians occupied the territory of modern Hungary.

Development of statehood in Eastern Europe created a “fortified wall” on the path of nomads. For example, Mongols did not come to Western Europe. Eastern European nations accepted some elements of nomads' culture, but it did not change essentially their culture. Much more essential, that permanent struggle against aggression from the steppe weakened these countries, retarded their development. It is one of causes of the “time lag”.

### **2.4. Social history: lag of living standards as a source of mentality difference.**

“Delay of history” in the East was all the time (for example, Russian revolution took place more than 100 years later of French one) and still exists, although in the time of globalisation this historical lag diminishes. Very soon Russians and Armenians will not understand problems of Shakespeare's heroes, as well as English people today. The place of the time lag will be completed by pure social lag.

One of well-known differences of mentalities is much more collectivistic stile of behaviour in the East. People are, in general, more opened and always looking for “spiritual” contact with people around. Probably, it is not a secret of “mysterious Russian (or Armenian and so on) soul”. Western person is more or less self-sufficient; because of good-ordered living space they can solve standard problems themselves. Social environment in the Eastern European countries is not so friendly; to live, a person



permanently needs in help of another people. Naturally, without any Internets people create “social networks” from relatives, friends, neighbours and acquaintances; and, particularly, discuss their problems not with psychoanalysts for money, but with friends for free.

Social, not national, stipulation of such behaviour becomes quit evident, if remember growth of collectivistic tendencies in “hard times” (for example, during and after wars) in any country.

### **3. Joint European projects: tolerance as a means towards success.**

#### **3.1. An alternative: good order or good result?**

Flexibility as a form of tolerance. Should international project manager spend time for investigation of peculiarities of partners' national mentality and remember about these details in course of discussing and making decision? Probably, yes, if his or her aim is to obtain real results.

Other approach is to try to be strict in following fixed schemes. May be, these schemes are really perfect and correspond to all demands of this kind of arts. But what must we do, if real life (or your partners) is not so perfect as your schemes? Can you change the life? Can you correct mind of partners? Or easier to revise you schemes?

Quite usual position of EU project manager: “I do all my best, my ideas are reasonable, but my partners are wrong. We together fix our plans, but they do not realise them. It is impossible to work in such conditions.”

Really, quite often conditions in the partner countries are not proper for normal EU style of management. But exactly because of this EU spends money for their improvement. Main principle of management in such conditions is “looking for opportunities”. Project strategy, in principle, can not be changed. But you should be ready be revised your tactics very promptly, in accordance with current situation, which can change radically several times during the project time. Unfortunately, such changes are typical now for some EiP countries.

Acceptation of a real situation can be considered as a form of tolerance. You do not like a style of business in the partner country. But you is not judge, you come to help. Let them behave by unpleasant for you way. It is their country and their choice of behaviour style. You should adapt to these conditions and be useful. And who knows, may be, after some experience, some of local traditions will become attractive for you?

#### **3.2. Study of mentality as a part of human resources management.**

Contrary to human resources principles from textbooks (“main problem is to understand, in what kind of employees do you need; then you can take them from labour

market”), in international projects you should work with more or less fixed set of collaborators. Sometime the coordinator can ask a partner university to change somebody in its team, but usually it is not so simple. Very probable that such request will provoke a scandal. Much more typical situation, when a university decides to use your successful collaborator for another work and propose you to work without him or her. And you should be patient with this...

May be, you are not delighted with your team. But you have no another... Of cause, you can try to invite additional people. But main things, you should do are followings: 1) find way to motivate people; 2) try to teach them; 3) study your collaborators and find the most proper place in the business processes for each of them (may be, for some persons the most proper place will be out from any business processes; in the same time all the processes should be supported by enough number of people).

It is impossible to solve these problems without understanding mentality of your team members. And, in general, you management style should be adapted to social traditions of participating partner countries.

### **3.3. Strict rules vs. personal relations.**

One of feature of Eastern European countries is low respect to official laws. As it is mentioned in a book about Russia of XIX century of Marquis de Custine, stressness of Russian laws is compensated by possibility not to follow them. Correspondingly, very important role in social life belongs to moral, unwritten law.

Fixed strict rules for Eastern European collaborators can make opposite effect. They can sabotage them even on subconscious level. Much more effective way is to establish with collaborators informal friendly relations. Management of East European people is much more effective if they consider their responsibilities not as a written law, but as moral duty.

3.4. Joint project: one-way or two-way traffic? Tolerance is not only a way to introduce your ideas in new conditions. Acquaintance with other forms of culture, with new ways of business organisation can enrich the ideas themselves. EU manager have not feel himself as a missionary, who brings truth to barbarians. Tempus rules presuppose that cooperation within this programme should lead to improving higher education system in all, not only partner countries.

Eastern European countries have, really, long history of university development. Soviet educational system was one of the best in the world; many modern educational technologies, such as distant learning, lifelong learning, etc., are originated from it. Experience of East European countries can be valuable contribution to joint projects.

Additionally, respect to all project participants, not stressing their division for “donors” and “recipients” produce good “team spirit”, lead to effective work of the consortium.

Conclusion. Simple recipe of success: understanding and tolerance. Realisation of European international joint project has some features, which make them different from national ones. International collectives can work effectively in conditions of tolerance and mutual respect only. In its turn, the tolerance should be based on knowledge of main mental and cultural peculiarities of all the participants.

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## Distance Learning in UEL – Past, Present & Future

John SHAW\*

### **Introduction.**

The University of East London (UEL) is a British University with 26,000 students with a comprehensive range of discipline areas including a growing reputation in subject areas including Sport and Events Management, Business, Islamic Finance, Risk and Investment, Psychology and Coaching, Education and teacher training, Cyber Security, Computer Games Design, Civil Engineering, Contemporary Art and Visual Media, Fashion Design with Fashion Management, Moving Image and Architecture.

UEL is a University where over 75 per cent of the home based students are minority ethnic British with over 2,000 international students on campus from over 100 countries.

The values UEL aspires to, which are laid out in the University Strategy document Transformation for Excellence, include providing an HE experience to all who are able to benefit in line with the values associated with multiculturalism and internationalism. UEL students therefore include many East Londoners who are the first members of their family to attend University. As part of our Global Reach Strategy there are many thousands of students who study on UEL franchise programmes overseas as well as on distance learning programmes where the fees are lower, one reason being because they cannot afford full fees of our on campus taught programmes with the costs associated with living away from home.

The University's Global Reach Strategy is not just focussed on generating an additional income stream but a profound internationalisation of the University (See Appendix One - the UEL Global Reach Strategy). This Strategy focuses on a Partnership-based approach to internationalisation. The BRIC countries, the name given to leading emerging economies, BRAZIL, RUSSIA, INDIA and CHINA, are seen as crucial markets for the University's International Partnership Strategy and long term investment. Its Distance Learning Strategy complements the Global Reach Strategy. It too is focussing very much on a partnership-based approach to deliver blended learning and also is exploring in-country delivery options which include running study centres and overseas campuses.

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**Meta trends.*****Globalisation.***

It is useful in exploring how Universities can most effectively explore a Global Reach Strategy to take account of 3 Meta Trends identified by Martin Bean the Vice Chancellor of the UK Open University JISC Higher Education leadership summit<sup>236</sup> in his talk entitled A Changing Landscape. Open University is a distance teaching university established in 1960s to extend higher education to non-traditional students based on pioneering use of distance learning.

The first Meta Trend which Bean chose to highlight was Globalisation. There are around 2.6 million students around the world studying outside their homeland including 440,000 Chinese students in the academic year 2010-11.<sup>237</sup>

UEL is a truly Global University and with its strategy for achieving Global Reach this trend should only accelerate. Today with 2,000 International students on campus, UEL has a further 1,000 non UK European Union (EU) students who study on its London campuses as well as the increasing number of our home students who are spending a semester overseas, globalisation is a key strand of our internationalisation strategy.

Indeed there are currently over 3,000 UEL students studying on franchise programmes overseas. Many of these students have themselves come from a third country say Nigeria to a study hub such as Malaysia to study a British degree at a partner institution's course. In the United Kingdom of course the UK's Coalition Government immigration policy is making it more difficult for international students wishing to study in the UK. The UK Border Agency has recently stipulated that students wishing to work in the UK after finishing their studies have to find a job where they are earning at least 20,000GBP, which means the majority of students will simply have to return home as graduate jobs are at a premium. This is a disappointment to those students who wanted a period of work experience in the UK as well as a UK qualification to enhance their career prospects. The march of globalisation will not be halted by the policy of an individual government. In a climate where immigration is being redefined as including a temporary period of study in the UK's Universities, other destinations such as Canada are becoming more attractive as students are offered visa stay in Canada for up to 10 years after they graduate.

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<sup>236</sup> Source [www.chinesecivilisation.org/fact-of-china](http://www.chinesecivilisation.org/fact-of-china)

<sup>237</sup> 1000 new universities for India? 10 May 2010 [www.telegraph.co.uk/.../1000newuniversities-for-india.html](http://www.telegraph.co.uk/.../1000newuniversities-for-india.html)

However, despite these difficulties in recruiting students to their UK campuses the globalisation which has impacted on international business over the last couple of decades will continue to have an ever increasing impact on British higher education. Many Universities are now actively considering overseas campuses in established markets such as India, where Middlesex University has recently announced it is opening a campus, and recognised study hubs such as Malaysia and Cyprus.

The 2.6 million students studying outside their home country will increase, but given the tensions likely to arise from capacity and cost, the exponential growth is more likely to come from distance learning programmes which are delivered not simply conventionally but as a blended package with on-line tutorial support. These courses could be delivered directly by divisions within universities such as UEL Connect, which is the University of East London's distance learning division or with a partner which may be an overseas University from either the private or state sector. More students are likely to come to study in Western countries for shorter study periods including credit-rated summer schools, such as UEL's Summer School in the London Financial Markets and short courses or internships which form part of or complement their in collaboration with the Washington Semester Programme of the American University Washington DC.

### ***Massification.***

The second Meta Trend identified by Bean is Massification. The numbers of students across the world has increased exponentially over the last 30 years where even in the developed world studying in a University was an elite activity. Today numbers of students in such countries are approaching 50 per cent of the post 18 year populations. However, the demand across the developing world is increasing exponentially. For example, in India where only around 12% of school leavers go on to higher education and it is calculated that it would need 1000 new universities to cope with demand over the next decade.<sup>238</sup> The position is similar throughout the developing world and it seems likely that the world will not produce enough brick and mortar Universities to keep pace with demand. The growth in enrolment or the growth in acceptance of alternative delivery methods will lead to a move from what Martin Bean has called from 'bricks and mortar' to 'clicks and mortar'. Using clicks and mortar with a blended learning approach and partnering with institutions in overseas as well as home markets is the only way Universities in the developed world can ever hope to meet demand and bring higher education to the masses who now wish to benefit.

***Privatisation.***

The final Meta Trend which affects the UK HE environment highlighted by Bean is Privatisation. The higher education private sector in the UK may not be as prominent as it is in the United States and around the world, but the private sector is likely to play a far more significant role as the British State University sector copes with the uncertainties of the removal of government funding. The UK's Coalition Minister for Universities, David Willets, has been quite open about the British Government's intention to grant degree awarding powers to some of the more prominent private providers.

More details about the removal of government funding can be found: The state sector is likely to remain dominant in the UK for the foreseeable future but let's not forget one in three students around the world study in private institutions.<sup>239</sup> UEL as a state University remains proud of its mission to bring opportunity to all those able to benefit but we realise that new approaches will need to be considered to ensure a sustainable future and to be able to continue to fulfil our mission in an increasingly competitive and uncertain environment. The University will need to consider increasing its involvement with the private sector and UEL's Global Reach Strategy supports partnership with private colleges in international ventures. Some colleges are already increasing their global reach by establishing overseas campuses. One of UEL's affiliated college partners, London School of Commerce (LSC), has opened a campus in Belgrade, and British state Universities are increasingly partnering with private colleges in the UK. In these partnerships the state University is franchising its degrees to the college which is aiming particularly at the international student market. Many universities will partner with colleges at home where they will offer the university's degrees particularly to international students. There is a need of course for the University to ensure appropriate product differentiation and a very different student experience to justify our higher fees. Nevertheless, the tide in the UK is moving in favour of private higher education and state Universities will have to increasingly adapt their own partnership strategies to be able to position themselves in light of this trend. As stated above, it is likely that the current UK Coalition Government will give degree awarding powers to private institutions such as BPP, which already has such powers, and LSC and even Institutions, which do not teach such as Pearsons.<sup>240</sup> These decisions

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<sup>239</sup> Willets set to widen the pool of degree awarding powers THE, 3 March 2011

<sup>240</sup> These are UK universities which were formerly polytechnics and which attained university status in 1992.

are unlikely to be reversed under a future Labour administration. Again state Universities will need to review their strategies when this comes in to effect.

**Cost effective Education for empowering the developing world and economies in transition.**

If the Modern University<sup>241</sup> sector in the UK is still serious about living up to a social justice agenda which is fundamental to the values of Universities which have traditionally prided themselves on increasing access to all those able to benefit regionally, nationally and internationally, we need to ensure that as many people as possible get access to education that we possibly can. Blended learning is going to be the most efficient means of doing this. Universities don't necessarily need lecturers sitting at desks in London providing on line support - they can use suitably qualified home grown lecturers.

I think we are on the cusp of a massive expansion of online and blended learning. It can be delivered cost effectively as it can be very profitable because the unit of resource becomes much lower when student numbers enrolled move into the 1,000s provided the face to face support is provided by suitably qualified academics on local salaries. Running ambitious distance (blended) learning programmes ultimately could even determine the sustainability of some Universities in the UK as they face the future in the absence of UK government funding and an as yet uncertain domestic demand for degree courses as the new fees regime evolves.

E-learning programmes delivered by a well established university with face to face support from a well supported in-country partner can be powerful combination. The partner of course needs to understand the market, be able to recruit the students and to provide or host face to face seminars. In my view represents the blended future for Global HE provision. It also affords huge possibilities for creativity where Universities can offer bite size experiences to both distance, blended and face to face learners in another overseas country. This can provide an international experience at a fraction of the price of a full year's fee. For example, the UEL Global MBA offers a Semester at the American University Washington DC at the fraction of the cost of paying full US tuition fees for a semester in Washington with a 4 day internship with a Fortune 500 company and a day of seminars delivered by faculty from the AU's Business School, which is a leading US business school. There are plans to make study semesters available for both UEL's distance and face to face learners in Rio, Mumbai and Moscow.

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<sup>241</sup> This section was provided by Sarah Frame, Director of UELConnect.



**The evolution of e-learning at UEL.**<sup>242</sup>

Let's look at how e-learning has evolved at UEL. UEL first established distance learning as a key strategic priority in 2005. The University recognised that in order to develop distance learning as part of the core provision and to enable high volume recruitment of distance learners, it was vital that the adoption of such a new learning and teaching remit must occur hand-in-hand with adaptation of support mechanisms. It was clear that the potential impact on information, support systems/infrastructure and the desired expansion would require the development of new support systems in a way that might not just bolt-on to our existing systems.

Broadly speaking, UEL had to focus on changes in several key areas:

- Centralisation – necessary to ensure a coherent strategic approach to the development, implementation and delivery of distance learning across the University
- Quality Assurance – new processes required to provide a consistent approach to quality assurance of new distance learning programmes
- Academic Framework – revisions to our existing academic framework would be necessary to create flexibility for distance learners
- Learner Support – new student support systems would be essential to enable distance learners to study successfully

In order to achieve a rapid entry to the distance learning market, UEL took the positive step of developing their distance learning provision in partnership with a private sector provider, ICS Ltd, at that time a wholly owned subsidiary of the Thomson Corporation.

The UEL/ICS partnership allowed a blending of the core competencies of each organisation. UEL contributed the academic expertise and understanding of the requirements of offering higher education qualifications, whilst ICS contributed their expertise in marketing, recruitment, effective business processes and commercial development. Using the ICS agile development processes and commercial expertise, twenty undergraduate programmes were developed, validated and launched between 2005 and 2007.

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<sup>242</sup> Страны, географически принадлежащие к Дунайскому региону и приглашенные принять участие в разработке и последующей реализации «Дунайской стратегии»: члены ЕС – Германия (земли Баден-Вюртемберг и Бавария), Австрия, Словацкая Республика, Чешская Республика, Венгрия, Словения, Румыния и Болгария; страны, не входящие в ЕС – Хорватия, Сербия, Босния и Герцеговина, Черногория, Республика Молдова и Украина (Одесская, Черновицкая, Ивано-Франковская и Закарпатская области).

These programmes were initially developed using the more traditional approach of creating text based learning materials, with online support and interaction. The study materials were designed in a way that enabled the learners to work through the content at a pace that reflected their individual requirements. The learning design guides the student through a range of activities, self-assessments and exercises to develop the learner's understanding of the material and to ensure the learning outcomes are achieved.

This text based/online support method remains a useful approach in parts of the world where connectivity is more problematic and where learners may be studying in quite isolated circumstances. The provision of hard copy, self -study, learning packs, can allow the learner to progress successfully through the programme, even where the student's circumstances allow for perhaps only minimal support from tutors and peers.

However, in general the approach to distance learning development at UEL has evolved significantly over the past few years. This is a reflection of rapid technological advancements, which have also revolutionised the way in which we communicate and work in many other areas of our lives.

The emergence of web 2.0 technologies, combined with ease of access and reduction in cost barriers, have enabled us to create much more engaging and dynamic ways of delivering teaching and learning to all our students, whether they are distance learners or on campus students.

Some examples of the use of technologies to support learning are shown in the attached slides:

**Second Life.** The use of virtual world technologies has always to be carefully considered. The time and cost of developing the learning situation can be high, and learners and tutors do not always find it easy to acquire the skills required to manipulate the avatars within the virtual environment. It also would not be a solution of choice for a programme which may be delivered in areas where bandwidth or connectivity is an issue. Nonetheless, it can be used to good effect in specific situations where creating the real world environment would either be too costly or impractical. At UEL, students on Health programmes can learn how to carry out protocols on virtual patients in second life clinics, or criminology students can learn skills in a virtual forensic laboratory.

**Virtual Classrooms.** Our use of Virtual Classrooms is becoming a more frequently used tool to engage tutors and students in live classroom situations, regardless of where they are located. Students are now generally familiar with using webcams and online chat in their leisure pursuits, and so much more comfortable with

virtual classrooms now than they were a few years ago.

As an example, on UEL's unique Postgraduate programme in International Psychosocial Humanitarian Consultation, students can be located all over the world, responding to emergencies in areas of humanitarian disaster. Yet, they still manage to share in an online classroom experience with their peers.

Immersive learning experiences. Creating a realistic and experiential learning tool, such as the Learnscape from which our law students have been able to benefit, is an exciting and innovative method of offering learners an opportunity to 'learn by doing'. Easier to develop and use than second life tools, the experience is both fun and effective for the student, and successfully embeds the learning.

User generated content and interaction. We must not underestimate the importance of using learning technologies to promote and encourage learners to contribute to their own learning experience.

Our fully online distance learning modules, and use of a social learning platform to supplement the provision on the standard VLE, enable high levels of informal contribution by the students. Learners can upload video, podcasts, files, photos, presentations etc to develop and enhance the learning resources. They can create an interactive, fully engaging environment by using tools which replicate the type of social media tools they are familiar with from their personal use of sites such as Facebook, Twitter, Flickr, and Delicious.

### **Conclusion.**

UEL now offers a comprehensive portfolio of both undergraduate and postgraduate study by distance learning. Flexibility of design and use of learning technologies enables this to be delivered in a variety of modes – either wholly by distance learning, or by blending the distance learning study with face to face support at study centres. Study centres can provide a range of assistance to the learner, such as additional non-academic support and encouragement, pastoral care, administrative assistance, access to the internet, English language support, development of academic study skills and opportunities to share learning experiences with peers.

Partnering with overseas organisations that can provide this study centre resource to support the distance learning experience, will undoubtedly be a key factor in developing our overseas operations. Blended learning partnerships will combine the academic quality and expertise of UEL with the local skills and experience of overseas partners who are committed to substantially developing the opportunities for access to higher education provision in their own countries.

How can British Universities collaborate most effectively with Universities in Eastern Europe and in institutions around the developing world? The models of collaboration UEL is offering are tailored to the needs of potential students and partners. While University of East London is ready to explore EU funding possibilities with its Eastern European counterparts around Erasmus Mundus and Tempus, the University is already collaborating in projects internationally which are commercially sustainable without EU pump priming. These draw on our expertise in distance learning and our network of collaborators, and our partnership-based approach which incorporates links to Western companies based overseas, including in Eastern Europe. The UEL offer includes franchise provision, credit-bearing short courses and other short courses aimed at Professional Development in-country and in the UK for international and continuing professional development for those in work locally and for whom full-time study would be impossible.

## RECCOMENDATIONS

The Recommendations – the common concerning the further development of EU cooperation with the Republic of Moldova - are the result of the 18 months activities within the Jean MONNET project “Fostering deeper Europeanization of Moldova – EMA”. We have organized several workshops, round tables, seminars and other discussions concerning different aspects of EU - Moldova cooperation.

The topics span from politics, economy, local democracy, cross-border co-operation, migration and asylum issues, education, culture and science to democracy, human rights and protection of ethnic and religious minorities within the financial period 2014 - 2020.

Through EMA activities we have managed to create a huge EMA family composed by more than 100 members of civil society organizations and institutions, leaders of ethnic and religious minorities, academics and students, civil servants, legal practitioners, politicians, and journalists (more about project see on [www.ema-project.md](http://www.ema-project.md))

The participants of EMA activities have proposed that the competent EU bodies provide the civil society organization and institutions with the possibilities to continue similar projects as EMA in order to give the opportunity to the stakeholders in Moldova to continue their endeavours for improving the cooperation with EU, the better understanding between people and cultures and the development opportunities of their countries as well.

The EMA activities have been realised in political circumstances that may challenge if not even decelerate the further improvement of mutual understanding and cooperation in Europe. They could be currently identified both on the side of the EU and its Member states and in the Moldova as well. The economic, social, financial and hence political difficulties, including the raise of extremist groups and movements, with which are the EU member confronted are not at all a favourable factor for the further development of the EU relations with its Eastern Europe neighbourhood. On the other side the leaders in Belarus, Ukraine and partly also in Moldova are less eager to “integrate” with the EU than were the Central Europeans. Furthermore, the 'pro-European' constituencies in some East European societies are limited. There are not enough people to make the case for closer ties to Europe, or to pressure governments to undertake huge administrative, economic and also political reforms in order to facilitate “integration” with the EU without the membership perspective.

In these global political circumstances have had the EMA project actions a special mission – to help building bridges between the EU and Moldova, which should be symbolically constructed on the principle of “unity in diversity”, removing political, psychological and material obstacles by taking into account the common and specific interests of each partner as well as problems and challenges, which EU and Moldova are going to face in the near future, both regarding their overwhelming development and the relations with each other as well.

The achievements of the EU neighbourhood policy are well known. Since 2008 has the EU developed a diversified scheme for its relations with the Republic of Moldova and a number of programs for the improvement of cooperation with them have been realised. The EMA project participants have thus concentrated its efforts, first of all, on elaborating ideas and proposals for the future in the frame of the current financial period 2014-2020.

### **Section I Political Integration of Moldova in the EU space**

The Jean Monnet participatory roundtable “EU-Moldova Association Agreement: towards political integration of Moldova with the EU” was held on 28-29 April 2015 in Chisinau, Moldova. Five experts from EU countries (Italy, Romania and Slovenia) presented the European Union's and nine experts from Moldova the Moldavian correspondent standards and practice on topics that were on the roundtable agenda. Other participants have also taken an active part in the deliberations of issues that were on the round table agenda. The academic coordinator of the round table was Prof. Dr. Silvo Devetak from the University of Maribor, Slovenia.

The participants pay tribute to what has been in recent years done by Moldavian government for improving the legal and factual situation in the fields that were on the roundtable agenda. They stressed that the implementation of the Association Agreement including the Deep and Comprehensive Free Trade Area (AA/ DCFTA) is a very demanding task in front of the Moldavian government and civil society organisations and institutions as well. It counts about 1000 pages comprising 7 fields of cooperation, 35 Annexes laying down the relevant EU legislation to be taken over by a specific date and 4 Protocols.

After the thorough review of the basic political and social issues concerning the step by step political integration of Moldova with the EU space in line with Association Agreement and in accordance with the recommendations of the European Commission included in the Progress Report for Moldova of 25 March 2015 the participants adopted the following recommendations:

1. The government and civil society organisations should organise the spreading and promotion among the Moldavian population of information on AA / DCFTA with emphasis on the benefits that will the implementation of these international contractual obligations bring to the life of people.

2. The competent political, governmental and legislative bodies of the Republic of Moldova should:

- Begin without delay the process of revision of the Constitution in order to prevent further institutional deadlocks. It will be commendable to consult in this regard the Council of Europe's Venice Commission for Democracy through Law.
- Continue the process of decentralisation and reform of public administration in the frame of implementation of the National Strategy for Decentralization and its Action Plan, approved by the Parliament of Republic of Moldova, as well as the National Plan for implementation of Association Agreement (approved by decision of Government nr. 808 form 7 October 2014), in order to manage the state and local government authorities efficiently in implementing the reforms in all fields and to provide citizens with better public services concerning the regulation of their rights and matters that are essential for realising their initiatives including the right to access public documents.

Intricate bureaucratic procedures, red tape and corruption currently hinder economic activity and deter foreign investment and local initiatives. In addressing these issues, public administration reform is expected to provide solid incentives for economic success, private initiative and job creation. Seizing the wide ranging scope of the much-needed reform of the public administration sector in Central and East European Countries a World Bank Report on Reforming Public Institutions and Strengthening Governance indicated that the 'reform must penetrate to the fundamental "rules of the game" that shape behaviour and guide organizations' and we consider that this is also the case of the Republic of Moldova. The reforms need to cater for transparency, predictability, accountability, adaptability, and effectiveness in the public sector.

- Continue the reform of justice and rule of law enforcement sector in the frame of implementation of the Strategy for Justice Sector Reform 2011-2015 and its Action Plan both approved by the Parliament of Republic of Moldova. It is of paramount importance to ensure the independence and to avoid the political interference in the work of the prosecutor office.
- Develop adequate and efficient ways and means to combat corruption by

improving the Legislation on Preventing and Combating Corruption and by strengthening the role of the National Anti-Corruption Centre. A great number of measures which have been undertaken for combating corruption (about 15 legal enactments) has so far not demonstrate the expected effectiveness. The formation of groups of corrupt people in the state structures and in public services threatens the fundamental human rights: the protection of health, life and property and the right to impartial judiciary. Corruption is a risk factor of the crisis in economy, financial sector and other important social domains. The political, governmental, legislative and judiciary structures should therefore unequivocally manifest their readiness to combat corruption what should be demonstrated at least by penalizing people, who committed the crime of corruption, regardless of their position in politics, government, public services or judiciary. It will be commendable to continue to explain to the wider public the essence and negative consequences of corruption and to present it the visible results of combating corruption.

- Enhance effective protection of human rights and fundamental freedoms by strengthening national Ombudsman institution and putting it in line with Paris Principles on national human rights institutions. In this regard it is necessary to ensure that state authorities full comply with the European Convention for the Protection of Human Rights and Fundamental Freedoms and that the competent authorities should execute and comply immediately with the judgments of the European Court of Human Rights concerning Moldova. It is also commendable to strengthen the fairness, independence and impartiality of judiciary and to undertake measures to educate members of judiciary and government on the European system for human rights protection.
- Improve further media freedom after positive reforms enacted in 2009-2010, including laws providing increased protection of press freedom and journalists' rights, as well as reform of the regulatory framework for freedom of press. It would be commendable to take into account the suggestions and proposals of the OSCE media freedom office.
- Enhance the legal and factual position of regions and municipalities which could be conceived as a unique opportunity: a) to strengthen their capabilities for implementing the EU principle of subsidiarity in the light of transparent good governance, b) to get access to EU funds once Moldova improve its integration with the EU (the funds for regional development covers almost 35% of the EU 2014-2020 budget) and c) to foster interregional cooperation with regions in the



EU in order to improve the international position of Moldova.

- Develop a positive political attitude towards the ethnic territorial autonomy of Gagauzia that has been a unique achievement of the Moldovan democracy after the independence in 1991. It would be commendable to organise a dialogue between the autonomous authorities and the central government in order to clarify the division of competences in general, and the well-defined competences of the Autonomous Territorial Establishment of Gagauzia in relation to the central government in particular.
- Develop further good inter-ethnic relations including the improvement of the protection of national minorities what is of paramount importance for political stability of Moldova, for widening its possibilities for European integration, and finally for creating favourable conditions for the peaceful unification of the country, which should be a safe home of all ethnic communities living in the country. It is thus commendable to ameliorate, in cooperation with the OSCE High Commissioner on National Minorities, the policies and practices concerning the rights and position of ethnic minorities, improve their representation in governmental agencies and public services and ratify without delay the European Charter for Regional and Minorities languages.
- Include information and analysis provided by civil society organisation in the governmental reports to the international contractual human rights bodies (United Nations, Council of Europe).

3. The participants expressed their view that it will be commendable to explore the adequate means and ways for implementing the recommendations of the European Commission of 25 March 2015 to engage proactively with the Transnistrian side to promote a mutually accepted vision for a common future, and to create conditions enabling the application of the AA/DCFTA to entire territory of Moldova.

The participants of the round table expressed their willingness to meet again when it will be commendable to evaluate the progress made by the Republic of Moldova in implementing the AA/DCFTA concerning the political integration with the EU.

## **Section 2 EU Trade Policy: Looking to Eastern Neighbourhood**

Nearly 100 people attended the Jean Monnet Trade Seminar “EU trade Policy: Looking to Eastern”, on 10-11 December 2015, in the framework of the project “Fostering a deeper Europeanization of Moldova”(EMA).

The Seminar was organized by the Association for Ethnic and Regional Studies of the Republic of Moldova (ASER) in the premises of the Academy of Economic

Studies of Moldova (Chisinau).

The key objectives of the seminar were: 1) To foster a better understanding of the EU trade policy, in general, and integration of the Eastern Neighbouring Countries into EU space, in particular; 2) To gather input from participants on how we could better reflect their concerns in the EU trade policy.

The Jean Monnet Trade Seminar was opened by Olesea SIRBU, EMA project's coordinator, President of ASER, and Pirkka TAPIOLA, Ambassador, Head of the European Union Delegation to Moldova.

The tone of the conference was set by Rodica CRUDU, associate professor at the Academy of Economic Studies of Moldova, renowned expert on European Economic Integration issues. Her thoughtful, lively and entertaining keynote introductory statement on EU trade Policy, in general, and Eastern Neighbourhood Countries involvement, in particular, provoked considerable reactions and set the stage for a very successful and interesting seminar, full of lively exchanges and debate.

Participants examined important issues regarding the EU trade policy, centred on the following topics:

“Support to the implementation of DCFTA process in Moldova”, “DCFTA implementation in the Republic of Moldova: achievements and challenges and perspectives”, “DCFTA and new opportunities of Moldovan exports”, “One year from the implementation of MD-EU Association Agreement”, “Opportunities for young entrepreneurs in the conditions of DCFTA implementation in Moldova”, “Support to Small Business in the context of DCFTA implementation in Moldova”, “E-invoicing in EU public procurement as tool cross border trade barriers elimination in Ukraine”, “Structural changes in the foreign trade of Central and Eastern European countries in the process of European integration”, “The socio - economic situation in Transnistria in terms of European integration processes”, “Association Agreement – tool of pre-accession strategy in the context of the EU enlargement towards Central and Eastern Europe. Case of Romania”, “Recent Trends and Challenges for Latvia's Trade to East”, “The role of the EU agricultural programs in the development of agriculture of Ajarian Autonomous Republic today and in the future and prospects for trade relations”, “Foreign trade of Georgia with EU (European Union) before the ratification of „Georgia - EU association agreement" and perspectives after ratification”, “DCFTA implementation in Ukraine: main opportunities and challenges”, “Removal of technical barriers to trade in the field of legal metrology – Polish experience”, etc.

Based on Polish experience in implementing EU legislative framework, in harmonized area it is crucial to negotiate transitional periods, so that you do not have to

issue dozens of EC type-examination certificates overnight. In non-harmonized area, it is beneficial to derive technical regulations from the internationally approved standards and recommendations, in order to avoid any allegations concerning the creation of technical barriers to trade. This way, on the one hand, foreign manufactures should not be surprised with any requirements towards their products; on the other hand, domestic manufacturers can be sure that their product, manufactured according to domestic regulations, will have full access to the European market.

The current level of knowledge about DCFTA and understanding of the changes it brings is little known among the EMA's target groups, as the project's activities have shown. Furthermore, the low awareness on DCFTA issues was revealed not only from the results of the project's activities, but also during the work with representatives of the target groups and associated partners.

It should be recognized that over recent years in Moldova a lot of efforts have been made to inform business on different aspects of free trade areas. Even though, there has been an overabundance of general trainings, round tables and seminars dedicated to the Association Agreement and DCFTA, organized by the governments, NGOs, international donor organizations, there is a lack of understanding of the actual impact of DCFTAs among target groups of the EMA project, specifically NGOs and SMEs in Moldova.

Therefore, the basic need is to improve more specific awareness of the different aspects of the DCFTA in Moldova with special focus on some regions (market access, changes in customs administration, public procurement etc.). It's a task for both the governments and the civil society institutions. For instance, in Moldova the representatives of the target groups from North region and Transnistria have most negative expectations from the EU-Moldova free trade zone. In this case local authorities and civil society could develop diverse informational campaigns to familiarize local business community with main DCFTA chapters and its positive effects.

It is important to note that the implementation of DCFTA's will take at least 10-year period. Adoption of EU *acquis* in different sectors will be done not at the same time obviously. Thus, not all changes will affect the business simultaneously. Therefore, it is highly important to build up the national awareness raising program or road map in Moldova taking into account timetable for adoption of EU legislation under DCFTAs.

According to the target groups' opinions, to realize the opportunities that the DCFTA offer, the business mostly lacks financial resources. Indeed, implementation of DCFTA principles in Moldova in compliance with EU rules to export requires changes

in business processes and more investments subsequently. SMEs from agriculture sector in particular need finances for meeting EU market requirements and to upgrade competitiveness of their products.

The vast majority of target groups in Moldova are not familiar with the activities of the EU aid programs for small and medium business.

However, it should be noted that Neighbourhood countries, specifically Georgia, Moldova and Ukraine will benefit from increased finance to SMEs through a DCFTA Facility for SMEs. The program, worth approximately €200 million, allows the European Bank for reconstruction and Development (EBRD) and the European Investment Bank (EIB) to support businesses in raising product and service standards to prepare them for existing in the “DCFTA reality”

It combines financing through direct lending through local partner banks, plus business advice and policy dialogue to improve the business and investment climate in the three countries.

The success of the Facility will depend on the commitment of all actors- from SMEs to the governments and international financial institutions.

The information about the specific features of EU programs such as Horizon 2020, COSME, EU SURE should be disseminated as well by means of seminars, round tables and other capacity building events to be organized not only in big cities but also in small cities all over the countries. It could be organized on the basis of regional business support organizations.

### **Section 3 Europeanization through education and research**

International Workshop “Europeanization through Fostering Interaction between Education and Research” took place in the framework of the TRIANGLE “Fostering the Knowledge Triangle in Moldova” Forum on February 11th -12th , 2016, organized in the premises of the Academy of Economic Studies of Moldova.

The primary objectives of the workshop were: 1) To increase knowledge of the target groups, especially of business and civil society, on the progress achieved by Moldova within European High Education Area and European Research Area and new EU trends in the field of education and research; 2) To gather input from business and civil society organizations on how we could better reflect their concerns in the education and research policy development issues in Moldova; 3) To engage civil and business society organizations in current education and research policy issues between Moldova and EU (cross-sector cooperation within European Neighborhood Policy) and Moldova 2020 strategy implementation; 4) To raise awareness, inform and develop capacities of the representatives of business and civil societies to access the EU

programmes in the field of education and research.

The International Workshop was attended by 100 participants (including 10 non-local contributors), namely by the representatives of universities, research institutions, students, national governmental structures in the field of education and research, business associations and Small and Medium sized Enterprises (SMEs), as well as business support organizations, mass-media and other interested stakeholders from Moldova, European Union, Eastern Partnership countries.

The participants stressed the importance of the implementation of the Yerevan Ministerial Communiqué adopted during the Ninth Bologna Process Ministerial Conference together with the Fourth Bologna policy Forum on 14-15 May, 2015 in Yerevan (Armenia). The Communiqué lays down a renewed vision of the EHEA and sets goals that would be pursued in the work for the upcoming period of the Bologna process.

The main recommendations had been elaborated for the achievement of the following goals:

1) Enhancing the quality and relevance of learning and teaching

- To promote pedagogical innovation in student-centred learning environments and in fully exploiting the potential benefits of digital technologies for learning and teaching;
- to promote a stronger link between teaching, learning and research at all study levels;
- to provide incentives for institutions, teachers and students to intensify activities that develop creativity, innovation and entrepreneurship;
- to involve actively students, as full members of the academic community, as well as other stakeholders, in curriculum design and in quality assurance.

2) Fostering the employability of graduates throughout their working lives in rapidly changing labour markets - characterized by technological developments, the emergence of new job profiles, and increasing opportunities for employment and self-employment

- to ensure that, at the end of each study cycle, graduates possess competences suitable for entry into the labour market which also enable them to develop the new competences they may need for their employability later in throughout their working lives;
- to remove obstacles to the recognition of prior learning for the purposes of providing access to higher education programmes and facilitating the award of qualifications on the basis of prior learning, as well as encouraging higher

education institutions to improve their capacity to recognize prior learning;

- to review national qualifications frameworks, with a view to ensuring that learning paths within the framework provide adequately for the recognition of prior learning;
- to support higher education institutions in exploring diverse measures to reach these goals, e.g. by strengthening their dialogue with employers, implementing programmes with a good balance between theoretical and practical components, fostering the entrepreneurship and innovation skills of students and following graduates' career developments;
- to promote international mobility for study and placement as a powerful means to expand the range of competences and the work options for students.

3) Making national educational system more inclusive is an essential aim for the EHEA as our populations become more and more diversified, also due to immigration and demographic changes.

- to wider participation in higher education and support institutions that provide relevant learning activities in appropriate contexts for different types of learners, including lifelong learning;
- to improve permeability and articulation between different education sectors;
- to enhance the social dimension of higher education, improve gender balance and widen opportunities for access and completion, including international mobility, for students from disadvantaged backgrounds;
- to provide mobility opportunities for students and staff from conflict areas, while working to make it possible for them to return home once conditions allow

4) Implementing agreed structural reforms

- to develop more effective policies for the recognition of credits gained abroad, of qualifications for academic and professional purposes, and of prior learning;
- to foster full and coherent implementation of agreed reforms at the national level through shared ownership and commitment by policy makers and academic communities and stronger involvement of stakeholders.

