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Gabriela Carmen PASCARIU | Rodica CRUDU
Loredana Maria SIMIONOV & Cristian ÎNCALȚĂRĂU
- editors -

***ASSESSING THE EU'S ACTORNESS IN THE EASTERN
NEIGHBOURHOOD***

EURINT 2021



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- editors -

ASSESSING THE EU'S ACTORNESS IN THE EASTERN NEIGHBOURHOOD

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CONTENT

FOREWORD	7
EU-RUSSIAN ECONOMIC RELATIONS: FROM COOPERATION TO CONFRONTATION	9
Georgiana-Ștefania AMBRUȘ	
A DATA ENVELOPMENT ANALYSIS OF THE RESPONSE OF HEALTHCARE FACILITIES TO CORONAVIRUS PANDEMIC: EVIDENCE FROM ROMANIA	23
Raluca-Elena CAUNIC, Laura ASANDULUI, Maria Viorica BEDRULE-GRIGORUȚĂ	
EU-RUSSIAN ECONOMIC RELATIONS: FROM COOPERATION TO CONFRONTATION	41
Livia CEBOTARI	
THE ROLE OF EUROPEAN INTEGRATION AND EUROPEAN NEIGHBORHOOD POLICY IN THE EUROPEANISATION OF MOLDOVA	56
Rodica CRUDU, Mariana ZUBENSCHI, Carmen NASTASE	
COMPARATIVE LEGAL ANALYSIS OF THE IMPLEMENTATION OF ASSOCIATION AGREEMENTS IN CENTRAL AND EASTERN EUROPE: EXPERIENCE FOR UKRAINE	84
Oksana HOLOVKO-HAVRYSHEVA, Mykhailo MYKIEVYCH	
INFLUENCE OF NON-WESTERN ACTORS IN THE BALKANS	105
Roland LAMI, Blendi LAMI	
EUROPEAN UNION' ACTORNESS EFFICIENCY CONCERNING THE PRESENCE OF RUSSIAN FEDERATION IN UKRAINE	119
Carmen MOLDOVAN	
SCIENTIFIC VALUES ON THE EUROPEAN LEGAL REGULATION ON THE CONSUMER CREDIT AGREEMENT	135
Olesea PLOTNIC, Rodica CRUDU	
THE IMPACT OF THE COVID-19 ON ENTREPRENEURSHIP IN THE NORTH EAST REGION - RESILIENT GROWTH SOLUTIONS	150
Gabriela PRELIPCEAN, Carmen BOGHEAN, Mariana LUPAN	
METHODS OF INTERPRETATION IN THE NATURE-BASED TOURISM – A QUALITATIVE SURVEY	165
Maria TĂTĂRUSANU	
DEVELOPMENT OF INTEGRATIONIST POTENTIAL IN EAP STATES IN THE CONTEXT OF EUROPEAN NEIGHBORHOOD POLICY - (CASE OF THE REPUBLIC OF MOLDOVA, UKRAINE AND GEORGIA)	178
Grigore VASILESCU, Cristina MORARI, Oleh KOZACHUK	
CRIMINOLOGICAL AND FORENSIC CHARACTERISTICS OF THE CRIME MURDER COMMITTED AS A RESULT OF DOMESTIC VIOLENCE	193
Desislava VIKTOROVA, Nevena RUSEVA	
EU'S ENGAGEMENT IN THE EASTERN NEIGHBOURHOOD AMIDST INCREASED GEOPOLITICAL COMPETITION	208
Alexandru Laurențiu VOICU	

FOREWORD

EURINT Proceedings 2021: Assessing the EU's actorness in the eastern neighbourhood

The EURINT conference series was launched by the Centre for European Studies in 2013 in the frame of the Jean Monnet Life Long Learning Programme. Since that year the EURINT conference has established itself as one of the most visible academic events in the field of European Studies from Central and Eastern Europe and in this regard we are pleased and proud to have managed to develop it into a renowned conference series in the region. The EURINT conference package addresses academics, policy-makers, stakeholders and representatives of civil society who show a genuine interest in European Studies and in contributing to developing a transnational network of contacts and cooperation focusing on Central and Eastern Europe. The EURINT Conference series comprise keynote lectures and panel debates involving international experts, followed by intensive Q&A sessions. The audience is strongly encouraged to take the floor and challenge speakers with their own views and reflections of the topic and, thus, add to the debate.

Foreword

Since its inception, the EU's neighbourhood strategy has hardly been able to alleviate the difficulties post-Soviet Eastern Europe faces. The current volatile environment generated by the rising tensions between Ukraine and Russia induces significant spill-over effects over the broader European context, ultimately altering the political initiatives and cooperation frameworks developed in the eastern neighbourhood borderland regions. Despite being committed to supporting reforms in the fields of democracy promotion, human rights, good governance and economy, the incentive-based approach has not been sufficiently strong. Most of the EaP countries have embarked in the past years on a reversed path, amidst growing illiberal and anti-democratic trends. Moreover, the Eastern proximity of the EU has gradually turned into a less stable and secured area, in spite of the originally stated goal of regional stability. Particularly the Ukrainian crisis which erupted in the days after the EaP Summit in Vilnius in November 2013 has had a damaging effect on the EU 'transformative power' in the region.

Within this context, the current edition of EURINT Proceedings aims to provide a proper and fertile ground where debates and ideas merge so that the mutual dialogue and joint knowledge bring about a better understanding of the effectiveness and challenges of the EU's neighbourhood strategy and instruments in relation to its Eastern Partnership countries. Moreover, the contributors go further and debate whether the current design of these instruments is still suitable



for a significantly altered region marked by the current geopolitical tensions between the Euro-Atlantic community and Russia.

In this regard, the volume focuses on bringing into debate the EU's actorness in the eastern borderland regions, thus aiming at fostering academic debates and discussions that question and assess the efficiency of the EU's strategy towards post-Soviet Eastern Europe. Overall, this volume seeks to unpack the region's future perspectives by trying to look into the implications of the geopolitical tensions between the Euro-Atlantic community and Russia over the efficiency in the long-run of the EU's role in the eastern neighbourhood, and particularly at the borderlands' level. In this regard, the volume encompasses a series of papers and works from authors within both the EU and its extended neighbourhood, in order to capture the EU's perspective on the mentioned issues, but also to get a hold of the local colour, thus gathering insights and perceptions of experts on the ground.

The regional turmoil has induced a series of additional challenges and pressures with multiplying effects which highlights the necessity of adopting an interdisciplinary approach in order to better capture and assess the realities on the ground. As such, the contributors brought their unique visions and perspectives in various fields (political, economic, social, legal, etc.), thus providing insights on various topics, as follows: the impact of the unfolding Ukrainian-Russian tensions on the EU's strategy and policies in the neighbourhood; EU's CBC and neighbourhood instruments and the current regional turmoil; EU's resilience as an international actor in the EaP region; Cross-Border Governance and Cooperation in Eastern Europe; EU's actorness in times of pandemics; EU's actorness in its borderlands before and after the Ukraine crisis; Legal frameworks of EU's interactions with its eastern neighbours or aspects related to the economic ties between the EU and its eastern neighbourhood.

Editorial team



EU STRATEGIES AND POLICIES FOR NEIGHBOURING STATES: HOW RELIABLE IS A COOPERATION WITH THE RUSSIAN FEDERATION?

Georgiana-Ştefania AMBRUŞ *

Abstract

Russia and the need to secure the eastern flank have been mentioned over time, and the subject has grown in complexity along with the development of international policies and, at the same time, Moscow's intentions to maintain its presence outside its borders. The recent military mobilizations on the border with Ukraine, as well as the Russian interference in the internal policies of the ex-communist states, significantly increase the need of the EU and NATO to bring new instruments of action in the face of the Russian threat, especially on the eastern flank. So, throughout the article we will see Russia's lines of action towards the Eastern Neighborhood and the European Union's rhetoric about them.

Keywords: Russian Federation, Eastern Neighbourhood, European mechanisms, Neighborhood Policy, regional security

Introduction

Since the years of EU enlargement to the eastern states, NATO's presence in the region and, in parallel, the intensification of the Russian Federation's rhetoric in relation to their presence on the eastern flank, the Eastern Neighbourhood has received increased attention from those studying international dynamics and especially European regional cooperation policies.

European Neighborhood / ENP Policy and the Eastern Partnership / EaP, projects developed at EU level for better cooperation with Eastern European states, provide a favorable context for the European Union's external relations and have the potential to support the economic development processes of neighbouring countries and strengthen regional stability and security. However, despite the existence of these cooperation mechanisms, the action policies of the Eastern Neighbourhood states are increasingly different due to the influence of the Russian factor, which makes it difficult for the European Union to anticipate developments

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in the region, as well as the need to readjust the instruments of action in relation to the new dynamics in the region. The conflict in Ukraine has called into question the foundations on which the EU's eastern policy has been built so far, especially in the context in which the conflict was not an isolated act, but a continuation of the 2008 events in Georgia. It has also been noted in recent years that Russia's integration process into the Eastern Partnership / EaP states has intensified, through its involvement in the political and economic sector of the Republic of Moldova, by carrying out military actions in Ukraine, as well as by positioning itself as a peacemaker in the political crisis in Belarus and the Nagorno-Karabakh conflict.

In this context, the aim of this article is to see, first of all, what are the instruments of action of the Russian Federation through which it manages to impose its presence in the neighboring states, what it pursues, and then what is the European Union's response to them. Connected, another main objective of the research is to answer the question of whether Russia's presence in the neighbouring states is the result of their permissiveness, in the absence of well-established EU mechanisms and policies to date. Another objective is also to identify new possible instruments at EU level to ensure the security of the eastern flank, such as rethinking the EU's position vis-à-vis Russia. In this context, we will raise the question of whether it is realistic and if it is currently a solution for the EU to develop other projects for the EaP states or it is more efficient for the EU to turn its attention to a cooperation with Russia and not to policies against it. Why? Because a cooperation with Moscow means the development of mutual dependence, and in the event that Moscow intends to take action against the EU, negative effects on its own state will automatically be generated.

1. Lines of action of the Russian Federation

We know that The Russian Federation has always structured its foreign policy towards the former Soviet states through five main lines of action, namely: controlling domestic policy; influencing the economic and energy sector; perpetuating the presence in the region through military actions; involvement of Russian services in misinformation and propaganda campaigns and the use of institutions in order to influence the cultural environment (e.g. the Russian History Society, Rossotrudnicestvo Centre). Although it remained in place economically and socially, and the COVID-19 pandemic generated crises in these areas, which are difficult to manage, we still see that the Russian Federation relied on the theory of the clear objective, respectively, it has sought to disseminate its policies beyond its borders and to take advantage of the European Union's vulnerabilities regarding the implementation of effective policies, especially in the immediate vicinity, regardless of the context in which it is located. And here we refer to the fact that Moscow constantly pursues its goal, that of transmitting to its own citizens, but also to the whole world, the message that it is a power and has influence across its



borders, that it dominates the Russia-West relationship, and that it manages to have control over the other powers (US /NATO and EU).

Moscow's goal of showing the world that it is in control materialized at the time of the illegal annexation of the Crimean Peninsula in 2014. The fact that NATO and the EU showed their helplessness in 2014 in the face of this moment shows the lack of a strengthened mechanism of action of the Western states and, implicitly, the level of action that the Russian Federation can reach even nowadays. According to Stephen F. Cohen, in his work *War with Russia: From Putin and Ukraine To Trump and Russia gate* (Cohen, 2018), Putin's Russia will not stop acting so until US-Russia relations are going to copy those from before the '89. Through these „surprise attacks”, Putin seeks precisely this fact, namely the restoration of the map of the „two powers” and the reestablishment of the global order, the reconfirmation of the leader, respectively of the Russian Federation. But, what is new compared to the period when the Kremlin asserted itself exclusively by conquering territories is the use of tools that rely on a policy of perpetuating its presence through the political, economic, social sector, as described above. Here we refer to the tools mentioned by Alan Henrikson in *What Public Diplomacy achieve?* (Henrikson, 2006), respectively public diplomacy, country branding, consolidation and transformation strategy, as well as partnerships of any kind, economic, political, even cultural, as well as deterrence strategy. All this is meant to create a tacit dependence of the states on Russia, in this case of those in the Eastern Neighborhood. Therefore, when we talk about Russia's toolbox, we can highlight some concrete examples, which can be included in the theory of the clear objective.

Involvement in the elections in the Republic of Moldova

Despite efforts to defraud the presidential elections in the Republic of Moldova (November 2020), through actions such as buying votes, using hybrid vectors, propaganda and misinformation campaigns, etc., the end result was a failure for Russia. The success of the Pro-European candidate Maia Sandu, with a score of 57.75% of the votes, compared to her pro-Russian opponent, Igor Dodon, who gathered 42.25% of the votes, makes it difficult for Moscow to implement its plans in the region and is a „negative example” for the other states that it wants to control. The Kremlin is alarmed by the growing decline in Russian visibility from the public space, which is why they continue to intervene in the domestic policy of the Republic of Moldova through various levers. In the context of the forthcoming early parliamentary elections (July 2021), the takeover of power by pro-Russian forces, by forming a consolidated parliamentary majority around the PSRM / Socialist Party and the „ŞOR” Political Party, is a priority for Moscow. That is why the Russian side continues to offer support, especially financial, to pro-Russian candidates. Through this possible majority, which acts in accordance with the directives from the Kremlin, Moscow could maintain control over the pro-European president, continue to influence the internal and foreign policy of the

Republic of Moldova and, at the same time, effectively implement its external policies to the region.

On the other hand, in the scenario of a pro-European government, Russia will have to move its instruments of action towards other sectors, perhaps less exploited or considered a priority so far, which has already been taken into account by the Russian side. And a signal in this regard is the establishment, at the level of the Russian Presidential Administration, of a commission for foreign policy, with the role of managing Moscow's relationship and actions in relation to and in Eastern European states, including Romania. Also, increasing the role of the Russian Centre *Rossotrudnicestvo*, which is linked to Russian services, by expanding branches in several regions of Eastern Europe, is another signal showing that Russia is trying to withdraw its forces of influence through new instruments of action.

Military presence on the border with Ukraine – instruments based on military intimidation and propaganda / misinformation

As of April 1, 2021, Russia has deployed troops (over 150,000) and military equipment along the border with Ukraine and Crimea, alerting the US and EU / NATO officials to the possibility of launching a Russian military offensive on the strategic south-west direction. Russia also closed the Kerch Strait on April 24 (until the end of October) for foreign warships, under the pretext of organizing military exercises. Through all this, the Kremlin wanted to send a message of force to the West, and to intimidate and show the ex-communist states, implicitly to Kiev that it is a much greater power than NATO, by using military transport to Crimea during the day, a practice atypical of Russia (usually all Russian military transport is performed at night).

Also, as a line of action, Moscow launched, in parallel, an information war (propaganda and misinformation) against the West, through which it managed to spread in the media and online public space that dialogue with the EU/NATO does not exist, and the Eastern -European states, including Romania, are „puppets” of the US, in order to achieve their own interests in the region.

The “clear objective” theory behind Russian influence, mentioned in the examples above, is supported by experts such as Valentin Naumescu and Dan Dungaciu, in *The European Union's Eastern Neighbourhood Today: Politics, Dynamics, Perspectives* (Naumescu *et al.*, 2015), which emphasizes on the one hand Russia's increasingly assertive policy in relation to the Eastern European states, and on the other hand the policy of discouragement in relation to the USA. Basically, the more things go in a bad direction in one country or another, the better for the Russian Federation, because it approaches the potential issues generating crises in a society and its imminent needs. In the United States, for example, it was not the Russian Federation that elected Donald Trump, but it used this opportunity to induce great tensions and confusion in American society. The



Russian Federation thus achieves its goals because it is all the more important the more it is feared by the Americans and the EU (Dungaciu, 2017). Using the same example, International Relations expert Angela Stent in the work *Putin's World: Russia Against the West and with the Rest* (Stent, 2019) emphasizes President Putin's will to show to the European Union and the United States that the Cold War has taken on a new, more dangerous form, one in which Russia is a challenge to Americans in every corner of the globe. This was also one of Vladimir Putin's goals at the Biden-Putin Summit in Geneva (June 16, 2021), and to convey to the public and Americans that the new Cold War no longer relates to the economic sector, but to Russia's red lines. And these red lines can only be defined by Moscow, on each sector and depending on the international context / decisions taken internally / externally by it. Specifically, the reporting in the establishment thereof is about the threats and challenges against Russia, which will be answered according to their severity. Thus, the way in which Russia breaches any sanctions, which implicitly aims at securing Europe, and the lightness with which it ignores international and / or EU regulations, shows the vulnerability of US and EU legislative mechanisms, a vulnerability identified by the Kremlin leadership and from which they take advantage more and more.

On the other hand, there are certain specialists who deviate from the theory of the above, countering the ideas by seeing the Russian influence not as a backdated plan of Putin, developed more and more in recent years, but as a response to the presence of NATO and EU policies right up to the borders with Russia. An example in this respect is supported by the Eastern Partnership and the promoters of the European mechanism, as well as the NATO presence getting closer to the Eastern flank, which caused reactions from Moscow. Roger E. Kanet argues in the work *Russian Foreign Policy in the 21st Century* that Putin had no alternatives, being forced to respond concretely and firmly, being driven by the perception that the US wants enlargement through the voice of the Union or NATO (Kanet, 2010). Also, in *Russia and the Former Soviet Space. Instrumentalizing Security, Legitimizing Intervention*, written by Vasile Rotaru and Miruna Troncotă, we find the previous idea, mentioning the claiming by Russia of NATO presence on the Eastern flank as a reason for intervention in Ukraine or Georgia (Rotaru *et al.*, 2018). In addition, the recent work published by Dan Dungaciu, *The Geopolitical Black Sea Encyclopaedia*, draws attention to the effects and results of increasingly securing Eastern Europe, especially in the fight for the Black Sea and Russia's relationship with the West (Dungaciu, 2020).

Thus, we can see that Russia's instruments and decisions nowadays manage to generate controversy on the international stage, in the media and in academia and results in various premises, some of which demonize Putin's policy, such as Douglas E. Schoen in *Putin's Master Plan: To Destroy Europe, Divide NATO, and Restore Russian Power and Global Influence Hardcover* (Schoen, 2016), and others to find explanations through references to Western actions.

The challenge of this paper starts precisely from the strong intuitive meaning. Specifically, from the fact that the Russian Federation has been, is and

will remain a threat to the West. In this context, efforts to find solutions to Russia's threats have developed more and more over time, but they have not adapted to the speed with which Moscow is acting. All EU instruments vis-à-vis Russia must be based, in essence, not only on its needs, those of the Member States or non-member / ex-community states, which it has „in its care”, but also on complex Russian techniques, in order for the answer to be effective. For this reason, the main topic of the paper also relates to the EU's current resources in the face of Russian threats, but also to new mechanisms that should be developed at EU and international community level.

2. The rhetoric of the EU and Eastern European states in relation to the Russian Federation

2.1. EU action tools and their effectiveness

Since the years of enlargement towards the East and the intensification of threats from Russia, the EU's foreign policy has given priority to creating an area of stability and security in the Eastern Neighborhood. Western countries have tried as much as possible to solidify this Union by developing policies and strategies, namely a wide range of regional cooperation instruments, such as: European Neighborhood Policy / ENP (2004); Eastern Partnership / EaP (2009), as a tool for implementing the ENP; The Association and Free Trade Agreements that followed; political agreements and dialogues on migration, security strengthening, environmental issues, visa facilitation. All this had one clear purpose, that of strengthening EU cooperation with neighbouring states and ensuring the security of the Union's borders.

Also, the experience of expanding and later of developing the policies mentioned above has considerably influenced not only the states of the European Union, but also those eager to join, which have oriented their openness towards a policy of inclusion: the transfer of European values to one's own state (democracy, rule of law, respect for human and minority rights, acquiring the principles of market economy, etc.). As we can find in the paper *The European Union and its Eastern Neighbours: Towards a More Ambitious Partnership?* (Korosteleva, 2012, p. 46), the need for a much stronger influence and presence of the Union was felt, even where it did not exist, namely in neighboring non-member states. In other words, the EU projects, materialized through ENP and EaP, have developed a new form of cooperation with the EU's neighbours, based on common property and common values, which could, in the vision of the EaP states (Republic of Moldova, Ukraine, Georgia, Belarus, Azerbaijan, Armenia), even replace the EU perspective on the need for enlargement to the east. As a concrete example, the most significant results of the Eastern Partnership, with immediate visible effect, came from the Republic of Moldova, Ukraine and Georgia, with the signing of the Association Agreements / Deep and Comprehensive Free Trade Areas (AA / DCFTA) and the



liberalization of the visa regime. In addition to these, we can add the concrete sectoral objectives undertaken through Agenda 2020 (adopted at the EaP Summit in Brussels in November 2017), aimed at involving Eastern partners in EU sectoral policies, access to the single market, connecting with European transport, energy and digital infrastructure, establishing a partnerships in the industrial area, as well as strengthening cooperative relations in the security sector (Kobzova and Jana, 2012, p. 211).

Confidence in the effectiveness of the EaP is expressed annually by citizens of EaP states through surveys conducted by means of the EU NEIGHBOURS east project, in collaboration with ACT LLC. Their result constantly shows a positive position towards the European Union and existing partnerships. For example, in 2017 and 2018 surveys showed that „almost half of the citizens in the EU’s Eastern Neighbourhood, on average 44-46%, have a positive attitude in relation to the European Union, while on average 61-63% believe that the EU’s relations with their country are beneficial „ (EU Neighbours East, 2017).

However, in practice, the initiatives developed by the EU have only partially materialized, and a large part of the action instruments, intended to be generally applied in these projects, could not be applied in all Eastern European countries, hence the lack of results currently. From the very beginning, the EaP states were perceived as a unitary whole, being placed in the same pattern. For this reason, EU measures were also general, designed universally and not individually, for each state. While this technique has worked for Western states, it has been shown to be ineffective for Eastern European countries as they need tailor-made measures. Why? Because the presence and degree of Russian influence within them differs, and the power of change depends largely on Russian vectors of action.

For example, Moldova’s relationship with the Eastern Partnership has largely depended on periods of pro-European or pro-Russian political governance. Chisinau’s position was largely hesitant from the beginning, expressing its dissatisfaction regarding the lack of a clear perspective for the country’s integration into the European Union in this regional cooperation instrument. In 2009, former President Vladimir Voronin compared the EaP initiative with the CIS-2, stating that „why should we create another CIS under EU control?” (Kommersant, 2009). At the same time, it should be mentioned that during the intensification of Russian influence, the European Union had a prudent conduct in its relations with the executive of the Republic of Moldova, reevaluating the political, technical and financial support provided, despite the existence of EaP, which left more room for action to Moscow and discouraged the country’s opening/start to the EU. After Russian pressure on Ukraine not to ratify the Association Agreement with the EU in 2013, within the Eastern Partnership in Vilnius, the Republic of Moldova did not escape Russia’s punishment (Hasselbach, 2013). Thus, in 2014, Russia took care to impose an embargo on an important branch of the Moldovan export industry, that of wines, and continued with the embargo on fruits, vegetables, meat. All these actions weakened Chisinau’s ability to cope with Russia and to create its destiny together with Europe, and this is because Russia was the main market, it was the



main importer of Moldovan products (InfoPolitic, 2013). The lack of reaction from the European Union, given by the lack of effective measures to support partner countries, has kept away the Moldovan political class from the European perspective. The leaders of the time were Europeans at the declarative level, but the internal reforms, which should have been according to the Partnership, were replaced by measures and decisions that supported the oligarchy, respectively those who continued to „play the Moscow games”. This eventually upset Europe, which after the episode of non-validation of the mandate of Chisinau’s elected mayor, Andrei Nastase, by the pro-Russian political class, decided to „stop the direct budget support for the Republic of Moldova coming from the EU” (Balmforth, 2020). The cover-up of hidden relations with Russia, the episodes of corruption, the action against democratic principles and, therefore, the deviation from the reforms initially established between the EU and the Republic of Moldova, made Western countries come up with new conditions that removed not only the Moldovan political class, but also some Moldovan citizens, disappointed by the lack of efficiency of the European mechanism, which sold from the beginning only „illusions” (Antonopoulos, 2020).

Therefore, contrary to official expectations and what the polls express, the real vision of the six states, which are part of the Eastern Partnership, is currently predominantly skeptical, identifying a number of obstacles which stop the development of a successful policy. At the same time, states have felt a clear asymmetry of power in relation to their partnership policies. In other words, it is the eastern neighbours who have to shape their internal structure in line with the demands of Brussels and not the other way around, even if the internal policies of each state do not allow these changes, making EaP states subject to EU policy instead of employing them as equal partners (Korosteleva, 2012, p. 13). Moreover, all this occurs along with the real presence and threat of the Russian Federation, felt on the ground by the states concerned. Recent mobilizations of troops on the border with Ukraine, which have occurred along with disinformation and propaganda campaigns against the West, the involvement in Belarus’s domestic policy, by supporting Lukashenko with military forces, or the organization of large-scale military exercises, such as Zapad-2017, only raise questions about the effectiveness of the EU’s mechanisms for securing the eastern flank, which have been developed since 2004 and to date.

Therefore, the question of the present research brings to the fore the issue of the effectiveness, nowadays, of these European policies mentioned above, in the context in which we can observe that, as compared to Moscow, they no longer have an impact on influencing its actions, and moreover it can be currently seen that the projects do not comply to the characteristics and evolutions of each state.



Russia, a deliberate choice of Eastern European states?

Referring to how adaptable the EU mechanisms are in relation to the neighbouring states, we can see that there are many differences in the applicability thereof, as the needs of the states are different, which is why they do not have a concrete result or lose their efficiency. In other words, states often see imminent needs, especially in the economic sector, which automatically leads them to choose quick support and solutions. And we can see that Russia is now able to provide the promptness that Eastern European countries need. The EU's economic outlook plan, which contains first and foremost policies to adapt to Community values and internal legislative change mechanisms, is far too long to be chosen by the states concerned, to the detriment of Russia's „unconditional” and rapid aid. And here we can mention the opening of Russia to offer the loan to the Republic of Moldova worth 200 million euro at the beginning of 2020.

Therefore, the question of whether Russia's presence in the neighbouring states is the result of their permissiveness, in the context of the absence of well-established EU mechanisms and policies, could be answered affirmatively. Going through a brief analysis, we can see that we are referring to states that are still in a process of development, with major economic deficiencies, which causes a significant increase in their dependence on the external environment. Thus, these states let themselves be penetrated due to the need for support, especially economic, Russia increasingly using this vulnerability which, in fact, is a primary need. Moscow is well aware of the European Union's weaknesses and its bureaucratic / difficult mechanisms for providing concrete and rapid support to other developing countries. Although there are significant partnerships (ENP/ EaP), they are not rapid instruments at EU level, but are applicable in the long term due to the European legal framework, which on the one hand makes it difficult for these states to recover, and on the other hand, it leaves room for Russia's action. Moscow is acting through lightning strategies, and states choose to be economically supported by it, given the urgent need for survival (e.g. Republic of Moldova's response to Russian financial aid during the Covid-19 pandemic compared to the response to the aid provided by the European Union; the Russian loan in Belarus and the one for the Republic of Moldova mentioned above).

An example is also the 2013 episode, when Ukraine canceled the ratification of the Association Agreement following Russian pressure on Ukraine's energy resources and supply with Russian gas. In this context, despite the existence of the EaP, the EU response was non-existent in terms of concrete action, the only one being the anti-Russian rhetoric in the public area. Thus, the apathy of Western countries to Russia's actions has caused Ukrainian political leaders to take a step back and stop any kind of pro-European communication. Ukraine has been, and continues to be, one of the six former communist republics that has been punished by Russia in the harshest way for its European aspirations, and this happened because it depends most on its energy resources. Dependent with Belarus on these Russian oil and energy resources, Ukraine could only choose to comply with



Moscow's policies, because an attack on the free trade agreement and the closure of borders for Ukrainian exports would have meant a great loss for its own country. We cannot forget that there were also delayed responses from Europe at multiple times, such as the creation by Russia of the Eurasian Union (2011) and its aggressive interference in Ukraine, Belarus and the rest of the former socialist countries, which provided even more room to Putin's policy. The lack of congruence of decisions, of effective reforms, of security tools and tactics, combined with the EU's rapid non-involvement in aggressive anti-European actions have determined Ukraine to continue to take advantage and listen to Russian threats, to the detriment of the provisions established by means of the Western partnerships.

As in the case of Ukraine or the Republic of Moldova, Moscow has launched a series of economic and political sanctions in Georgia. For example, at the protests organized in 2009 by the president's opponents, the Russian forces „carefully trained” were also active. Given these, we can say that for more than 10 years, since the establishment of the EaP, the fragility of these Eastern regions has not ended, but has intensified through the growing threats coming from Russia, which plays its cards to discourage the pro-European direction of the Eastern states and to renew their position in the territory. And any vulnerability in Eastern countries is a pretext for the Kremlin leader to expand, influence and control.

2.2. New EU strategies

In an effort to identify new possible instruments at EU level to ensure the security of the eastern flank, we mention two solutions that seem at first glance to be opposite, but they support and complement each other. One of these refers to the development or resumption of the European Union cooperation with the Russian Federation, in order to determine a mutual interdependence, which makes it difficult for Moscow to take action against Member States and those protected by the EU. In parallel, another measure is to continue the development of strategic projects with the role of „shield” against Russia, but they should be adapted to the needs and pace of evolution of the states for which they were launched.

Adapting EU policies to the dynamics of the region

As we noted in section 2.2. above, the Eastern Neighbourhood States, especially the EaP members, have developed a dynamic different from the EU and the projects it has developed since 2004 and until now. And this was determined by Russia's growing presence in states' domestic policies and by the lack of a clear and quick rhetoric on the part of the EU. In this context, taking into account what is described in this article, we can say that EU projects, such as the EaP, need more ambitious post-2021 goals, a strategic vision adapted to each state, which should be long-term and not with short-term efficiency. We find that the PaE is in a



complicated situation due to the events in Ukraine, Belarus or the Nagorno-Karabakh war. In other words, under current regional conditions, it is difficult to reach a consensus on the basis of current EU instruments.

Thus, a review of the EU's future targets for the Eastern Neighbourhood is needed, but especially of its frontline instruments. A solution in this respect could be the "breaking" of the EaP states into two blocs: i) the Republic of Moldova, Georgia and Ukraine, as these are states open to deeper cooperation with the EU; ii) Belarus, Azerbaijan and Armenia, still strongly anchored in Russian policies. Connected, for an effective outcome, EU policies need to be addressed and reviewed within each separate bloc, for each state. Specifically, Ukraine's need at the moment is to ensure security cooperation, stability to the Black Sea offered by the EU and the West. Also, EU policies for Ukraine should focus on support for NATO membership as soon as possible and not just on the support through unitary messages from the community bloc at the declarative level. At the same time, what the Republic of Moldova needs is political support, through the EU's support for the pro-European party in power. Early parliamentary elections represent an opportunity for Moscow to re-engage in the country's domestic politics, by defrauding the elections in favour of a pro-Russian majority, but they can also be an opportunity for the EU to support the Republic of Moldova in securing fair and just elections, where pro-Europeans can bring the country closer to the democratic dream.

Rethinking the EU's position in relation to Russia

In addition to the strategy referred to in section (a), the EU needs in parallel to withdraw its direct strategy towards the Russian Federation. Specifically, the EU's focus could be less on projects developed for the EaP states (which antagonize Russia and are losing, as we see, efficiency), and more on cooperation projects with Russia. Through the development of a cooperation with Moscow, especially in economic terms, a mutual interdependence arises. The hypothesis underlying the identified policy is the theory of complex interdependence, developed by Robert O. Keohane and Joseph S. Nye, and which starts from the premise that after the World Wars, states became increasingly interconnected due to the need for economic development. Basically, the theory relies on actors who are equally dependent on each other, which determines cooperation and mutual support, called symmetrical interdependence by researchers.

Analyzing the above, we can see that there are currently levels that can be exploited towards this beneficial interdependence, such as the energy security sector, which generates fair, balanced and safe solutions for both parties to the new crises in other segments / areas. In the case of the Nord Stream 2 project, Russia may make EU countries vulnerable by blackmailing the functionality of the pipeline, but it cannot afford to do so as it would automatically affect its own economic interests. In other words, Russia is dependent both on European markets, but especially on European technologies. The symmetrical interdependence related



to the energy level is shown as follows: Russia can offer crude oil, Europe can offer the distribution market; Russia can provide gas, Europe can provide technology. Therefore, if there were several levels in which the two global actors would cooperate, a possible blackmail of Russia towards the EU and the states in the Eastern Neighborhood would automatically generate a blackmail towards their own country / interests.

Conclusions

In conclusion, we note that there is a phenomenon of great subtlety and a paradigm shift compared to the Cold War period, namely that the Russian Federation has moved from the tactic of playing transparently to one where the strengths are hidden. One fact to keep in mind is that Moscow is used to calculating its strategies as long-term plans, but developed individually for each sector. And even if at first glance they seem like swift actions, they are pre-established strategies, and the Eastern Neighbourhood and EU's concern for this region is a priority in this regard. On the other hand, it seems that, for the EU, relating to the Eastern Neighbourhood and the EaP countries on the ground did not mean a strategy based on specific targets for each state. One of the lessons learned from the policies adopted is that they cannot be viewed independently of each other (Korosteleva, 2012), and Russia must not be attacked / threatened in order to defend these states, as the result is an undesirable one, that of the opposite effect. In the dialogue with the EaP states, there is a need at EU level for a much firmer and more diverse approach, different for each state, and not for a unitary one, as the EU has used so far for crises in the region. In parallel, co-operation with Russia means greater control over its actions vis-à-vis EU member states and those in the Eastern Neighbourhood, especially in the context in which the EU will continue to dialogue with a more consolidated authoritarian regime and relate to an Eastern Neighbourhood more strongly embedded in Russia's geopolitical calculus.

Therefore, finding that one of the great vulnerabilities of the European Union is that it cannot currently have the same approach as Russia, due to its very complex structure in terms of the decision-making system, it is necessary to develop a much stronger legislation framework and well-established mechanisms, treated differently/privately for each level. In other words, the European Union as a whole can formulate a coherent and swift, harmonized response across all Member States to Russian influences, if it takes into account that current policies only make Russia more willing to act in the region as it wishes, in relation to their own interests.



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A DATA ENVELOPMENT ANALYSIS OF THE RESPONSE OF HEALTHCARE FACILITIES TO CORONAVIRUS PANDEMIC: EVIDENCE FROM ROMANIA

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Abstract

The coronavirus pandemic overwhelmed hospitals all over the world. Our paper aims to analyze the response of the Romanian hospitals to this health crisis. The objectives are to estimate the technical efficiency of 18 hospitals designated as support-units for COVID-19 treatment and to identify the optimal allocation of hospital resources for the inefficient units. Data Envelopment Analysis was used to estimate technical efficiency scores of the hospitals, under the assumption of variable returns to scale, using 3 different models. The results show that the average technical efficiency increases from one model to another, as new inputs are added. The resources allocation analysis demonstrates that a slight reduction in resources would have been possible keeping steady the outputs vector. This study is the first one regarding the impact of COVID-19 on Romanian hospitals and offers a basis for future research. Our analysis could support implementation of emergency measures in hospitals management.

Keywords: coronavirus pandemic, support-hospitals, technical efficiency, Data Envelopment Analysis

Introduction

Health systems around the world have been highly challenged by the COVID-19 pandemic. The disease caused by the severe acute respiratory syndrome SARS-CoV-2 spread rapidly worldwide and most governments imposed lockdown. The hospitals, that have the expertise to respond to this kind of public health crisis, were overwhelmed. The pandemic has uncovered important shortage of resources:

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critical-care nurses, personal protective equipment, ventilators, and other vital supplies. As a coping and restrictive measure, at the same time, all non-emergent medical services provided by hospitals were cancelled in all countries. In this way, the hospital resources were free up for the COVID patients, but the total number of in-patients and surgical procedures has significantly dropped, compared to the pre-pandemic year 2019 (Deloitte, 2020). Trauma services were maintained but the efficiency of trauma operating theatres has been seriously affected by the pandemic. Also, chronic patients had no access to specialized medical services during lockdowns, except for the telehealth that was used in the developed countries (Kaye *et al.*, 2020). Important changes have occurred in utilisation of healthcare services during the COVID-19 crisis, firstly due to the lockdown politics and secondly due to fear of becoming infected while visiting a healthcare facility or by the avoidance of unnecessary care. Various countries have reported substantial decreases of over 80% in the number of healthcare visits, the number of admissions and in the use of diagnostic and imaging procedures in the first months since the coronavirus outbreak. U.S studies have reported large reductions even in the number of visits to Emergency Departments up to 42% (Moynihan *et al.*, 2021).

Romania entered the pandemic with two major vulnerabilities of the health system: underfunding and a significant shortage of medical staff, due to the mass exodus of these professionals after European Union (EU) accession in 2007. The most recent statistics show that the physicians and nurses in 2017 were 2.8 doctors per 1000 inhabitants, and 6.4 nurses per 1000 inhabitants, respectively. These figures are relatively low compared to the EU averages of 3.5 doctors and 8.4 nurses per 1000 population (OECD/European Observatory on Health Systems and Policies, 2019). Public hospitals with 131.709 beds¹ are the main healthcare providers for a population of 19.12 million people; this means an average of 6.88 beds per 1000 inhabitants. Since the beginning of the pandemic, Romania has registered a COVID death rate of 2.7%. Compared to other Eastern European countries, the number of deaths per 100 000 population is lower, Romania being on the 7th position, with 150 COVID-19 deaths per 100 000 population². In March 2020, by Order 533 of the Ministry of Health, two hospital lines were designated to fight against the coronavirus pandemic: in the first line were designated the specialized hospitals in infectious and respiratory diseases and for the second-line, other 64 healthcare facilities were nominalized to support the first-line hospitals if overloaded, while providing care for non-COVID emergency cases. The Ministerial Order has also established the reduction by up to 80% of the scheduled hospitalizations for chronic patients and of the elective surgeries in the hospitals from the university centres. In the first phase, it was recommended that the support

¹According to National Institute of Statistics (2020), (retrieved from <https://insse.ro/cms/ro/tags/activitatea-unit%C4%83%C5%A3ilor-sanitare>).

²According to data from the website: <https://coronavirus.jhu.edu/data/mortality> (accessed:12/05/2021).



facilities not to be represented by major emergency hospitals in the area, which provide complex services for medical and surgical emergencies. Thus, in the network of support units were included municipal hospitals, hospitals with specialized wards on infectious diseases and hospitals in networks other than Ministry of Health, such as Ministry of National Defense or Ministry of Transport.

Given the pre-pandemic chronic vulnerabilities of the Romanian health system, the aim of this paper is to investigate the response of the healthcare facilities to the coronavirus pandemic by estimating the technical efficiency of the COVID' support-hospitals. Data Envelopment Analysis (DEA) was applied on data from 18 municipal hospitals that were in the second line treatment facilities in the fight against coronavirus in 2020. The employed analysis was oriented toward inputs and sought not only to estimate the efficiency scores for the hospitals in the sample but also to determine the optimal allocation of resources for the inefficient units.

The paper is organized as follows. Section 2 presents a review of previous research on the response of the health sector to COVID-19 pandemic, using DEA. Section 3 describes data, the method used and the selection of the variables. Section 4 provides the results of the empirical study and discussions. Section 5 concludes.

1. Previous research with DEA during the health crisis

Data Envelopment Analysis is a widely used nonparametric method to evaluate the productive efficiency of healthcare providers. There are two main features of DEA that made it appeal for scholars: it can handle multiple inputs and multiple outputs at the same time and does not require an a priori specification of the functional form relating inputs to outputs (Bowlin, 1998). It is also an effective benchmarking tool, comparing similar organizations, called Decision Making Units (DMUs). The applications of DEA usually seek to identify the sources and the amounts of relative inefficiency in each compared unit. In the hospital setting, such analysis can provide a quantitative basis for the hospital management and resource reallocation among the investigated units (Golany and Roll, 1989). Also, ranking hospitals based on their efficiency scores allows to the inefficient ones to learn from their efficient peers and to improve efficiency through best practices. In the medical field, DEA was first applied by Sherman (1984), who assessed the efficiency of Medical Surgical area for a sample of U.S. teaching hospitals, using 3 inputs and 4 outputs to characterize their activities. Since then, the method has known a large applicability in the healthcare sector, both at macro- and micro-level, especially after the promotion by WHO of the mechanisms for monitoring the efficiency of the health sector for a better use of resources (Kohl *et al.*, 2018).

The way healthcare facilities all over the world have handled the current health crisis has been in the public eye. Since the hospital resources are limited, this has led in a short time to hospitals overloading and exhaustion of the medical workers. The coronavirus pandemic has taken a “physical and an emotional toll”, at

the same time (Gold and Evans, 2020)³. Therefore, there is a growing interest of researchers to investigate hospitals efficiency during crisis, using the advantages of DEA, to estimate operational efficiency and production capacity of medical units. Such investigations could potentially support policymakers to put in place measures to increase the response capacity to a health crisis and to prevent health systems collapse. Although most of the studies conducted in the pandemic period have targeted the efficiency of the health sector at a macro-level, all of them included hospital resources as main inputs.

Aiming to provide an optimal number of beds that could be reallocated for potential COVID-19 cases, Nepomuceno *et al.* (2020) applied DEA on the most important Brazilian hospitals. 3772 beds were identified as feasible to be evacuated from the inefficient units and to be reallocated in one year for new COVID-19 cases. The authors argue that reallocation of beds is possible if new services and protocols are formalized in the inefficient units and by decreasing the length of stay through best practices and postponing non-emergent surgeries. Ferraz *et al.* (2021) extended the DEA-analysis on the Brazilian health sector response to the coronavirus pandemic, creating a COVID-index. They aimed to analyze hospital structure (healthcare equipment and human capital) in relation to the pandemic and its results: infected people and number of deaths. The Brazilian micro-regions were considered as DMUs and a high heterogeneity of hospital structures between micro-regions was revealed. The relocations of resources and patients between each state's regions were possible during the health crisis only between wealthier regions since poor regions were found with lack of hospital infrastructure.

The response of healthcare systems to the coronavirus pandemic was investigated by various studies. Ordu *et al.* (2021) used DEA to investigate the preparedness of health sector from 16 countries and found that most countries have lost their ability to cope with COVID-19 over time and only five countries could maintain their efficiency during the analyzed period (among them, China, France and Sweden). Weekly efficiency scores were computed for 5 weeks after the occurrence of the 100th case for each investigated country. These results follow to those obtained by Breitenbach *et al.* (2021) which have investigated with DEA the efficiency of 31 countries in containing the spread of the virus during the first 100 days since the outbreak of the COVID-19. The authors have selected the countries with the highest rate of infection to establish how efficient these countries were in using their resources to get the flattening of the infections curve. They found that the states harder hit by the virus, such as Italy, France or Belgium were more efficient in containing the spread of the virus during the first 100 days since the outbreak than some of the richest countries, such as U.S.A., Germany or Canada.

³ Gold, R. and Evans, M. (2020), Why did Covid overwhelm hospitals? A years long drive for efficiency, *Wall Street Journal*, 17 September (retrieved from <https://www.wsj.com/articles/hospitals-for-years-banked-on-lean-staffing-the-pandemic-overwhelmed-them-11600351907>).

Almost half of the U.S. states were efficient in the fight against coronavirus as it was found by Xu *et al.* (2021). In addition to hospital resources (medical workers and number of beds), the authors also considered as inputs the number of tested and the public funding for the design of the DEA-model. In a second stage of the analysis, the most important factors in determining the efficient response of the U.S. states to the pandemic were identified as being the social distancing, the hospital beds, population in urban areas and the number of tested.

Another health system that proved to have a strong preparedness for the pandemic and an effective allocation of resources was the Malaysian system. Hamzah *et al.* (2021) used network DEA for an in-depth examination of the processes involved in the management of the health crisis in Malaysia, also considering population density. The analysis consisted in measuring the efficiency of community surveillance (quarantine of individuals presume to have been exposed to COVID-19), the efficiency of hybrid hospitals, which have admitted both, COVID cases and non-COVID emergency cases, and the efficiency of the hospitals that have provided care exclusively for critical COVID-19 cases. Community surveillance and hospitals for critical cases were highly efficient in areas with high density population, while hybrid hospitals proved their efficiency in areas with low-density population. The Malaysian results are consistent with those obtained in Brazil, demonstrating that the performance of the response to a health crisis depends essentially on the allocation of resources and this allocation must be made according to local infrastructure, population density and socioeconomic levels.

The Romanian health system was previously analyzed with DEA by Asandului *et al.* (2015), comparing it to the health systems from other EU countries. The efficiency of the Romanian health system proved to be quite low (44%), in agreement with the Euro Health Consumer Index ranking, in which Romania has the 34th place among the 35 analyzed countries (Health Consumer Powerhouse, 2019). Despite consistent analysis that sustain the inefficiency of the Romanian health sector, recent results obtained with DEA reveal a good management of the public hospitals (Nistor *et al.*, 2017).

2. Data and methods

In the current study, the Romanian healthcare facilities response to the coronavirus pandemic was quantified firstly by running a descriptive analysis on the main inputs and outputs of the support-hospitals included in the sample. Secondly, the efficiency scores of these facilities were computed using the non-parametric method Data Envelopment Analysis. Hollingsworth (2008) argued that the evaluated hospitals should be of the same type and should provide the same services, since DEA is sensitive to outliers. The inclusion of divergent units would confound the results which are often „conditional upon basic differences in sample or study design, rather than real variation of efficiency” (Hollingsworth, 2008, p. 1113). Thus, in order to have a homogeneous study sample, 18 municipal hospitals,



that were support-hospitals for COVID cases in 2020 and are similarly in terms of capacity, resources and level of competence, were considered as statistical analysis units.

The main outputs of the hospitals included in the descriptive analysis, in the first stage, were *total number of discharges*, *the number of surgical procedures* and *the number of in-hospital deaths*, comparing data from the pre-pandemic year 2019 with data from the pandemic year 2020. These data were collected from the website of the Romanian Health Services Research and Evaluation Centre⁴, where the reports of public and private healthcare facilities are centralized. The resources of the hospitals included in the descriptive analysis were *number of beds*, *number of doctors* and *number of nurses*. These data were collected from the Ministry of Health reporting platform for public hospitals⁵.

For the computation of the efficiency score in the second stage, the data included in the analysis accounts for the whole year 2020. No distinction was made between the quarters of the year as the pandemic began in the first quarter of 2020. Three DEA models were constructed, following the guidelines of Ozcan (2008) for a robust DEA model and DEA literature in the selection of input / output variables. Thus, the variables used as inputs were (1) *the number of beds*, which are considered a proxy for hospital capital (Ozcan, 2008), (2) *the number of doctors* and (3) *the number of nurses*. All together are discretionary resources, which have proven to be insufficient in all countries during the current health crisis. The output variables taken into consideration were (1) *the total number of discharges in 2020, adjusted with the case-mix*⁶ and (2) *the number of patients discharged with a respiratory condition as main diagnosis, accounting for COVID patients* also case-mix adjusted (see table 1). The data accounting for the main diagnosis at discharge were also collected from the website of the Romanian Health Services Research and Evaluation Centre where the major diagnosis categories for the reported discharges of the hospitals are also centralized. In 2020, the first diagnosis category for the support-hospitals was that corresponding to diseases and disorders of the respiratory system, indicating that these hospitals have admitted and treated in 2020 mainly COVID patients. The presence of the slacks demonstrates overused inputs or underproduced outputs or both.

⁴ www.drg.ro , Indicators section

⁵ monitorizarecheltuieli.ms.ro

⁶ The case-mix index reflects the diversity, the severity and the complexity of the cases treated by each hospital from the point of view of the necessary resources (retrieved from <https://www.definitivehc.com/resources/glossary/case-mix-index>, accessed on 20/06/2021).

Table 1. Input and output variables used in DEA analysis

Input / Output	Variables	Definition
Discretionary inputs	Number of beds	Number of beds approved through the National Plan of Hospital Beds and contracted by each hospital with the Insurance House
	Number of doctors	Full-time equivalent and part time at year end
	Number of nurses	Full-time equivalent and part time at year end
Outputs	Total number of discharges (case-mix adjusted)	Total number of patients discharged in 2020
	Number of COVID patients discharged (case-mix adjusted)	Total number of patients discharged in 2020 with a respiratory condition as main diagnosis

Source: authors' design

Data Envelopment Analysis was used for the computation of the efficiency scores, running 3 different models under the assumption of variable returns to scale (VRS), input oriented. DEA is a nonparametric method for the estimation of the efficient production frontier, method that was introduced by Charnes *et al.* (1978). It is a linear programming method that examines the relationship between the inputs and the outputs of a production process and allows the evaluation of the technical efficiency (TE) of non-for-profit entities, named decision making units (DMUs). The DMUs are similar entities that produce the same type of outputs using a set of similar inputs. Charnes *et al.* (1978) and later Banker *et al.* (1984) have generalized the engineering-science definition of efficiency, understood as single-output to single-input ratio of the production process, to the multiple outputs/inputs' configuration, by applying a mathematical linear dual formulation. Thus, DEA identifies the best practice frontier which is formed by the optimal input/output combinations and determines the relative inefficiency level of each unit, as deviance from the frontier, by comparing it either to a single reference unit from the frontier or a convex combination of reference units (Ersoy *et al.*, 1997; Sánchez, 2009). The efficient DMUs are envisaged as role models for the inefficient ones, which are expected to learn and to improve their efficiency. Technical efficiency can range from 0 (0%) to 1 (100%). The DMUs with a score of 1 are considered technically efficient, whereas a score of less than 1 indicates inefficiency, meaning that other units in the sample could produce the vector of outputs with a smaller vector of inputs.

The advantages of DEA are not only the possibility to handle multiple inputs/outputs configurations, but also the fact that DEA does not require an assumption regarding a functional form between inputs and outputs, neither apriori choice of weights (Charnes and Cooper, 1984). The dual envelopment of the observed production possibilities allows the estimation of the efficiency score from an input-oriented or an output-oriented perspective, getting a measure of efficiency like a Pareto optimum (Cooper *et al.*, 2006). In the input-orientation (inputs are

under the control of the DMUs), DEA results indicate the degree up to which the inputs can decrease by better unit operations and not due to inputs decrease, keeping steady the output vector. In the output-orientation (outputs are under the control of the DMUs), DEA results indicate the degree up to which the outputs can increase by better unit operations and not due to input increase (Farantos, 2015). DEA can be carried out under the constant or variable returns to scale assumption (CRS or VRS), minimizing inputs given the amount of outputs or maximizing outputs, given the mix of inputs, according to chosen orientation.

The efficiency measure proposed by Charnes, Cooper and Rhodes (CCR model), employed under the CRS assumption, is obtained as „the maximum of a ratio of weighted outputs to weighted inputs, subject to the condition that similar ratios for every DMU be less than or equal to unity” (Charnes *et al.*, 1978, p. 430). Under the CRS assumption, a proportionate increase in all inputs yields an increase in outputs in the same proportion. The efficiency measure that is computed represents the overall technical efficiency, also including scale efficiency (the size of operations).

The model proposed by Banker, Charnes and Cooper (the BCC model) uses the VRS assumption, adding a convexity constrain (the weights should equal to 1). Thus, the reference point on the production function for each compared unit will be „a convex combination of the observed efficient DMUs” (Golany and Roll, 1989, p. 249). The BCC model brings the distinction between scale efficiency (the size of operations) and pure (managerial) technical efficiency, the latter being the score computed in DEA-BCC models. Along with the CRS assumption, the VRS assumption provides the possibility to detect if the productivity is affected either by the scale of operations or by the DMU’s practices (Alatawi *et al.*, 2020).

For the current study, the managerial perspective was considered and the basic BCC model input-oriented was performed under the VRS assumption, described in Table 2. The efficiency is given by the ratio of the weighted sum of outputs to the weighted sum of inputs, and the relative efficiency score is obtained based on the following relation (Golany and Roll, 1989, p. 243):

$$\theta_0 = \sum_r u_r y_{r0} / \sum_i v_i x_{i0}, \quad (1)$$

where θ_0 is the relative efficiency of DMU_0 , y_{r0} and x_{i0} are the values of the r th output and i th input of DMU_0 and u_r , v_i are virtual multipliers (weights) for output r and input $i \geq \varepsilon$, which is a small positive number.

Table 2. Mathematical details of the input-oriented BCC model

Minimize $\theta - \varepsilon (\sum_{i=1}^m s_i^- + \sum_{r=1}^s s_r^+)$	
$\sum_{j=1}^n \lambda_j x_{ij} + s_i^- = \theta x_{io}$	$i = 1, \dots, m$
$\sum_{j=1}^n \lambda_j y_{rj} - s_r^+ = y_{ro}$	$r = 1, \dots, s$
$\sum_{j=1}^n \lambda_j = 1$	$j = 1, \dots, n$
$\lambda_j \geq 0,$	$j = 1, \dots, n$
where	
θ = the efficiency score for the DMU under evaluation;	
ε = non-archimedean constant which is smaller than any positive valued real number; its presence allows a minimization over the efficiency score to pre-empt the optimization of slacks, s_i^- and s_r^+ ;	
s_i^- = slacks corresponding to input i (the superscripted minus sign indicates possible inputs reduction)	
s_r^+ = slacks corresponding to output r (the superscripted positive sign on output slacks requires augmentation)	
λ_j = the vector of weights for DMU_j	
y_{rj} = the amount of output r produced by DMU_j	
x_{ij} = the amount of input i produced by DMU_j	
$r = 1, \dots, s$ and s represents the number of outputs	
$i = 1, \dots, m$ and m represents the number of inputs	
n = number of DMUs	

Source: Ozcan, 2008

The weights are obtained in favour of each DMU by the optimisation process. Therefore, depending on the scale of operations and keeping everything else constant, the lower the usage of resources involved in the production plan, the higher the operational efficiency of each hospital (Nepomuceno *et al.*, 2020). The presence of inefficiencies indicates that a DMU has excess inputs or insufficient outputs (slacks) compared to the reference ones from the efficiency frontier.

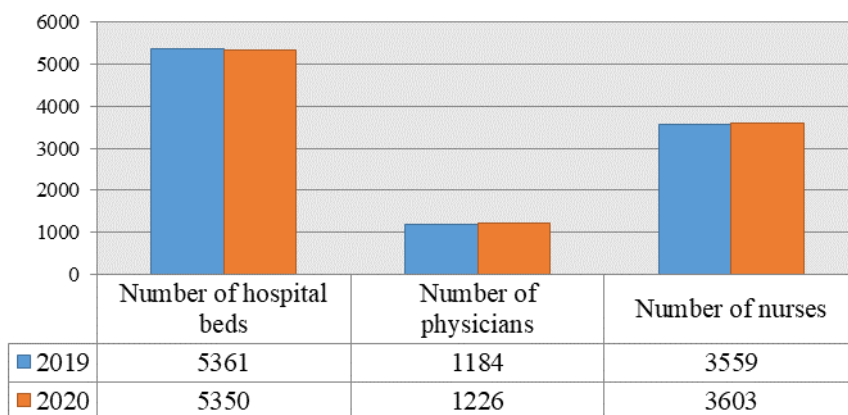
All variables used in the analysis were normalized before running the models, to deal with different units and scales. The output variables (total number of discharges and the number of discharges for COVID cases) were adjusted with the case-mix index⁷ accomplished by each hospital in 2020, as it is recommended in the literature (O'Neill *et al.*, 2008). All computations were conducted in RStudio, using deaR package.

⁷ The case-mix index reflects the diversity, the severity and the complexity of the cases treated by each hospital from the point of view of the necessary resources (<https://www.definitivehc.com/resources/glossary/case-mix-index>, accessed: 20/06/2021).

3. Results and discussion

Figures 1 and 2 illustrate the results of the descriptive analysis for the main inputs and outputs of the investigated hospitals, accounting for 2019 and 2020. Compared to the pre-pandemic year 2019, in 2020 the total number of physicians (both attendings and residents) increased with 3.45% and the number of nurses increased with 1.20%, while the number of hospital beds registered a very slight decrease with 0.20% (see Figure 1).

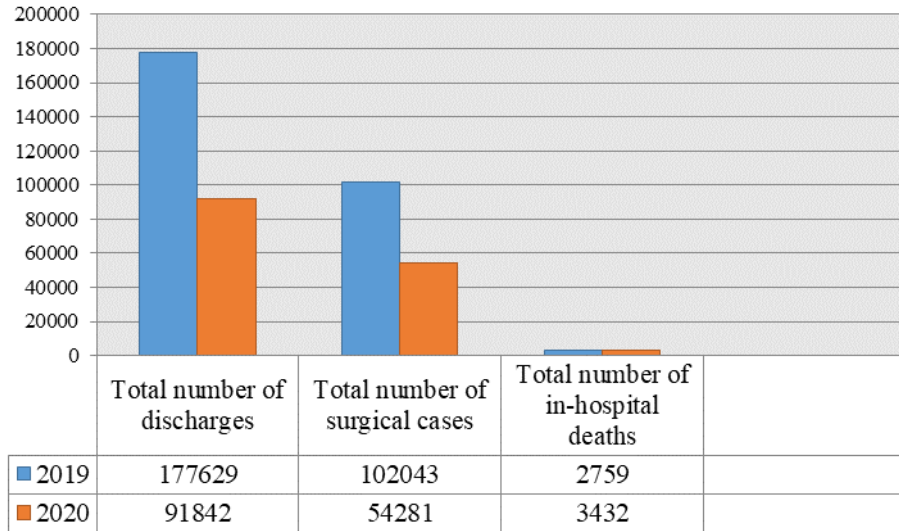
Figure 1. Comparative indicators 2019/2020 for the main inputs of the hospitals



Source: authors' processing

In terms of outputs, the results show a significant decrease in the number of discharges with 48.30% and with 46.81% in the number of surgical cases. These results are due to the ministerial decisions to reduce the scheduled hospitalizations for chronic patients, but they are also due to the safety and coping measures that were put in place to free up hospitals resources for COVID patients. As for the hospital mortality, an increase in the number of in-hospital deaths with 19.60% was registered as an effect of the pandemic, since most of the admitted cases in the evaluated hospitals were COVID patients (Figure 2).

Figure 2. Comparative Analysis 2019/2020 for the main outputs of the hospitals



Source: authors' processing

Table 3. Descriptive statistics of the inputs and outputs of the 18 hospitals

Variables	Min	Max	Mean	Std. Dev	Coefficient of variation
Inputs					
<i>Hospital beds</i>	172	495	297.22	91.82	30.89
<i>Physicians</i>	22	132	50	27.49	55.11
<i>Nurses</i>	108	343	200	67.35	33.65
Outputs					
<i>Total number of discharges, adjusted with the case-mix</i>	2279	10161	5102.33	2034.08	39.87
<i>The number of COVID patients, adjusted with case-mix (patients discharged with respiratory disorder as the main diagnosis)</i>	582	2810	1315.17	607.33	46.18

Source: authors' processing

Table 3 presents the descriptive statistics of the variables used for the DEA models. In order to have a homogenous sample study and to comply with the conditions for the application of DEA⁸, only municipal hospitals were included in the study. These units are similar in terms of capacity and human resources. Still,

⁸ no. of DMUs must be $2 \times (\text{no. of inputs} + \text{no. of outputs})$ (Golany and Roll, 1989, p. 239)

the heterogeneity of the sample on *physicians* variable was high ($> 50\%$) because initially residents physicians were also accounted and their number varies significantly from one facility to another, as their employment is temporary, and they are not included in the list of positions. Consequently, to reduce the heterogeneity of the sample on this variable, for the DEA models only the attending physicians were finally considered.

Thus, the number of attending physicians in the sample study ranges from 22 to 132, with a mean of 50 doctors. The average number of nurses is 200, ranging from 108 to 343. The average hospital capacity is 297.22 beds, with a range of 172-495 beds. As for the outputs, the average discharged patients which have received in-patient care in 2020 are, 5102. From these, 1317 cases were, on average, COVID patients, having as main diagnosis at discharge a respiratory disorder. The number of patients with respiratory disorders ranges from 582 to 2810.

Table 4 presents the results for the DEA models and the average technical efficiency score computed under the VRS assumption. The technical efficiency of the hospitals increases from one DEA model to another, as new input variables are added. The average efficiency scores range from 0.88 in model 1, using one input, to 0.92 in model 3, using 3 inputs. In the model 1, that uses only hospital beds as an input, 72% of the hospital in the sample study are inefficient and the average efficiency score indicates that these units would, on average, need to improve their efficiency by 12%. By adding the variable on human capital in the third model, 50% of the support-hospitals prove to be technically efficient. The remaining inefficient ones would, on average, need to improve their efficiency by 8%.

Table 4. Pure technical efficiency scores for support-hospitals in 2020

DMUs	DEA-BCC model 1	DEA-BCC model 2	DEA-BCC model 3
Adjud Municipal Hospital	0.98	0.98	0.98
Blaj Municipal Hospital	0.80	0.80	0.85
Câmpina Municipal Hospital	0.67	0.67	0.67
Caracal Municipal Hospital	0.68	0.68	0.68
Caransebeș Municipal Emergency Hospital	1	1	1
Carei Municipal Hospital	0.90	0.92	0.96
Craiova Municipal Clinica Hospital „Philanthropy”	1	1	1
Fagaras Municipal Hospital	1	1	1
Fetești Municipal Hospital	1	1	1
Lugoj Municipal Hospital	0.68	0.72	0.89
Lupeni Municipal Hospital	0.88	0.88	1
Medgidia Municipal Hospital	0.92	1	1
Oltenița Municipal Hospital	0.82	0.82	0.89
Râmnicu Sărat Municipal Hospital	1	1	1

Roșiorii de Vede „Caritas” Municipal Hospital	0.79	0.79	0.84
Sighișoara Municipal Hospital	0.84	0.84	0.84
Târgu Secuiesc Municipal Hospital	0.90	0.90	1
Tecuci Municipal Hospital	0.89	1	1
Average efficiency	0.88	0.89	0.92
Efficiency units	5	7	9
Inefficiency units	13	11	9

Source: authors' processing

The units that form the efficiency frontier in model 3, which includes all main resources of the hospitals are reported in Table 5, together with their inefficient peers for whom they are benchmarks. The inefficient units can become efficient either by reducing inputs keeping the same level of hospitalizations, either by admitting and treating more patients using the same level of resources or by a combination of both.

Table 5. The efficient hospitals in the sample and their inefficient peers

DMUs	Beds	Physicians	Nurses	Inefficient peers
„Philanthropy” Municipal Hospital of Craiova	495	132	343	No inefficient peer
Municipal Hospital of Făgăraș	305	57	235	6 units: Municipal Hospitals of Sighișoara, Blaj, Caracal Câmpina, Carei and Adjud
Municipal Hospital of Râmnicu Sărat	419	43	251	1 unit: “Caritas” Municipal Hospital of Roșiorii de Vede
Municipal Hospital of Fetești	172	22	123	9 units: Municipal Hospitals of Sighișoara, Blaj, Oltenița, Caracal, Câmpina, Carei Roșiorii de Vede, Lugoj and Adjud
Municipal Emergency Hospital of Caransebeș	388	59	226	3 units: Municipal Hospitals of Caracal, Roșiorii de Vede and Lugoj
Municipal Hospital of Medgidia	310	42	193	No inefficient peer
Municipal Hospital of Târgu Secuiesc	250	58	137	3 units: Municipal Hospitals of Blaj, Carei and Lugoj
Municipal Hospital of Tecuci	265	44	194	2 units: Municipal Hospitals of Blaj and Carei
Municipal Hospital of Lupeni	195	31	108	1 unit: Municipal Hospital of Oltenița

Source: authors' summary

The slacks analysis for the models 2 and 3 revealed that “Philanthropy” Municipal Clinical Hospital of Craiova is weakly efficient, having slacks greater than zero. For the inefficient units, inputs slacks analysis indicated only slight reductions in resources usage to reach efficiency, which are summarized in Table 6.

Table 6. Potential average input reductions in model 3

Inputs	Percentage variation (slacks)
Beds	-0.003%
Physicians	-0.12%
Nurses	-0.01%
Average inputs’ slacks	-0.05%

Source: authors’ processing

These results indicate that, in 2020, the investigated hospitals could have treated the same number of patients with less doctors and nurses: the number of doctors could have been reduced by 0.12% and the number of nurses could have been reduced by 0.01%. A very slight reduction in the number of beds is also suggested. As for the output’s possible increases, the identified slacks were for the COVID patient’s variable, indicating that the hospitals in the sample could have treated with 0.01% more COVID patients, given the resources.

These results must be related to the complex pandemic context. If the figures are interpreted without considering the contagious nature of COVID-19 disease, the increase in number of the medical staff in 2020 compared to 2019 is not justified. But, if the need to ensure additional shifts for medical workers with COVID-19 is considered, then the indicated slight reductions in relation with the possibility to hospitalize only with 0.01% more COVID patients, proves that the human capital has been used to the fullest.

Conclusions

The efficiency of the health systems and of the healthcare facilities has become a major preoccupation for policymakers and health economists ever since World Health Organization published the first major report on this topic in 2000, proposing a performance assessment framework. All governments were interested to put in place evaluation methods to monitor the performance of healthcare industry and resource usage for the sustainability of the medical sector and a universal coverage of medical service. DEA has proved to be a powerful tool for efficiency assessment and has reached an impressive number of applications in healthcare.

In Romania, after the EU accession in 2007, the healthcare sector has known some significant changes, such as decentralization of hospitals, evaluation of the performance of hospitals’ management and hospitals’ accreditation by the National

Authority for Quality Management in Healthcare. Despite the increased autonomy and the implemented evaluation systems, the Romanian healthcare sector maintains a low performance mainly due to chronic underfunding. Therefore, it was not prepared for a health crisis of such a large scale as COVID-19 pandemic. In fact, as recent conducted studies have proven, no country was prepared for this crisis, not even the richest ones, needing to adjust in real-time and to fix on the spot management errors made in the previous years. In the near term, the main issues raised by COVID-19 are the burnout of the medical workers and the worn-out of the hospital's infrastructure. On the long term, the backlog of healthcare procedures is likely to emerge into a disruption of chronic diseases management.

This study is the first one done towards the evaluation of the Romanian healthcare facilities efficiency during the health crisis, aiming to highlight the impact of the pandemic. The hospitals under evaluation were hybrid hospitals, which have provided support in the treatment of patients tested positive for COVID-19 and have insured, at the same time, emergency treatment for non-COVID patients. The DEA-BCC model, under the assumption of VRS and input-oriented was used to estimate the technical efficiency scores for the investigated hospitals from a managerial perspective, as this model runs the comparisons considering the size of the operations. Three different models were constructed and employed, adding a new input variable each time, and keeping steady the output vector. The results have proven that the efficiency scores increase from one model to another, as new inputs are added. At the third model, the average efficiency of the investigated hospital reached 0.92, half of the hospitals placing on the efficiency frontier. No hospital had an efficiency score lower than 0.60. Also, the slacks analysis has proven that the possible inputs reduction is very small, implying a good management of the hospital beds and human capital during the COVID-19 pandemic.

These good results are encouraging and they reveal good management. The management of activities and services offered to patients was carefully monitored and oriented towards the application of strict rules both for medical staff and for patients, but the learning had many facets. This could be the next step in research, to consider external factors such as population density, socio-economic status, number of tested and funding to identify the determinants of Romanian hospital efficiency during the health crisis.

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EU-RUSSIAN ECONOMIC RELATIONS: FROM COOPERATION TO CONFRONTATION

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Abstract

The starting point for relations between the Russian Federation and the European Union is considered to be the Agreement on Trade and Commercial and Economic Cooperation between the USSR and the European communities, signed in December 1989, in Brussels. However, the following years were marked by periods of partnership and periods of confrontation. There were times when the economic cooperation developed, followed by a decreased interaction between the two great powers, when the relations became more tense and the level of mutual distrust escalated. The year of 2014 saw the deepest crisis in EU-Russia relations since the end of the Cold War. Tensions between the European Union and the Russian Federation intensified because of the Ukrainian crisis. This analysis aims at highlighting the events that led to tightening or loosening the (economic and political) ties between the two, thus making relevant scenarios regarding this partnership.

Keywords: European Union, Russian Federation, economic relations, cooperation, economic sanctions

Introduction

The starting point in the construction of official relations between the European Union and the Russian Federation is considered to be the Agreement on Trade and Economic Cooperation between the Soviet Union (USSR) and the European Communities, signed on December 18, 1989 in Brussels.

Over the last 30 years, cooperation between the EU and Russia has taken shape following the collapse of the Soviet Union, the enlargement of the community bloc, by redefining the interests of EU member states and changing foreign relations priorities. Following the waves of enlargement of the European Union, in 2004, 2007 and 2013 the Russian Federation came closer and closer to the EU, becoming its largest neighbour. Through their internal development and foreign policies, the European Union and Russia have a direct and indirect

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influence on each other, on the EU Member States, and on the countries in the common neighbourhood.

Over the three decades, cooperation between the European Union and the Russian Federation has evolved in the context of changes in the international environment, responding to the incentives offered by it. During all this time, two directions of development of the EU-Russia relations were highlighted, observing an oscillation between partnership and confrontation. On the one hand, the two powers continued to cooperate in the economic field, but on the other hand, relations became more tensed, disagreements and mutual distrust increased.

1. Research objectives and methodology

The topicality of the debate on economic relations between the European Union and Russia is reflected in the field of scientific investigation through a significant literature. The importance of analysing the bilateral relations between the European Union and the Russian Federation is influenced by the role that the two powers play in the international context, but also by their attempts to strengthen their position worldwide. The researched topic is the area of interest of both European and Russian analysts and experts.

Qualitative analysis of information was used as research methodology. Therefore, in order to achieve the proposed objectives, the information collected from official documents (reports of the European Commission and the European Parliament), academic articles and studies conducted by various prestigious think-tanks in both the European Union and the Russian Federation (Carnegie Moscow Center, European Parliamentary Research Service, Centre for Euro-Atlantic Integration and Democracy, Russian International Affairs Council, Valdai Discussion Club, etc.) were analysed. The in-depth study of the scientific literature in the field of interest from both EU and Russian member countries has allowed for the highlighting of distinct perspectives and the presentation of diverse opinions. The EU - Russian Federation relationship is viewed and analysed both from the perspective of the achievement of Russia's economic interests in the West and from the perspective of the European Union's interests in the East.

The objectives of this research are the analysis of the directions of development of the economic relations between the EU and the Russian Federation in the period 1990-2021 and the building of scenarios for the future of this partnership. The future of EU-Russia cooperation is affected by the challenges that exist globally, which is why a thorough analysis cannot be done without taking into consideration the international context. The reason for the documentary interest is to identify the main events that influenced bilateral relations and analyse the way in which the dialogue between the EU and Russia was configured, after the collapse of the USSR and until now. This research aims to highlight the events that, over the past 30 years, have contributed to the consolidation of relations between the European Union and the Russian Federation, as well as of those that have caused



their distancing. At the same time, an attempt was made to highlight the perspectives and challenges faced by bilateral relations.

Following the study of the research literature in the field of interest, it was possible to analyse the opinions of authors from the West and Russia on the future of bilateral relations. Thus, three majority opinions emerged, which allowed the building of scenarios for the development of EU-Russia economic relations on the short and medium term.

2. Bilateral cooperation

Shortly after the signing of the Agreement on Trade and Economic Cooperation between the USSR and the European Communities, both sides underwent considerable changes: the Soviet Union collapsed, the Russian Federation became the successor state of the USSR, and the European Communities became the European Union, through The Maastricht Treaty. As a result of these changes and decrease of tensions following the end of the Cold War, it was necessary to reset relations between the EU and Russia. The Agreement on Trade and Economic Cooperation did not correspond to the new reality, so in June 1994 the Partnership and Cooperation Agreement (PCA) was signed on the island of Corfu (Greece) and entered into force in January 1997. It was concluded on an initial period of 10 years, after which it was automatically renewed every year.

In addition to the Partnership and Cooperation Agreement, in 1999, the Common Strategy of the European Union of 4 June 1999 on Russia was drafted. Its content outlines the priority areas for action on which EU-Russia cooperation should focus; the objectives and vision of the European Council on the Russian Federation: *“strengthening democracy, the rule of law and public institutions in Russia; Russia’s integration into a European economic and social space; cooperation to strengthen security in Europe; common challenges on the European continent”*. Taking into account the interests of each party, the European strategy aimed to help Russia integrate into the European family, in a spirit of friendship and cooperation.

In turn, Russia drew up a similar document in the same year, entitled „Strategy for the development of the Russian Federation’s relations with the European Union in the medium term (2000-2010)”, which expressed a completely different vision from the EU. While the EU’s Common Strategy gave priority to supporting the construction of a civil society in Russia, the document issued by the Russian side focused on two main objectives: joining forces to create a multipolar world and protect national economic interests; clear definition of the interests, objectives, scope and limits of cooperation with the EU.

The foreign policy concept of the Russian Federation, adopted by presidential decree at the end of 2000, places the European Union as the second regional priority, after the Commonwealth of Independent States. Thus, Russia emphasizes that the EU is one of its main political and economic partners.

In order to make concrete progress, which will contribute to the achievement of the common objectives, reflections on the creation of a Common Economic Space (CES) between the EU and Russia have emerged. The idea of establishing a Common Economic Space was first discussed at the summit between the European Union and the Russian Federation, which took place in Moscow in May 2001. The aim of creating this space was to ensure four „fundamental freedoms” (free movement of goods, services, capital and labour). The formation of the CES was to contribute to coordinating the development of complementary economies. The proximity of economic institutes, the introduction of common laws and standards had to represent a major impetus to achieve the proposed goal. The fulfillment of this concept was not intended to make Russia a full member of the United Europe, but aimed to create a large number of points of cooperation, as it involved the coordination of key sectors, the development of common rules and the strengthening of economic relations. However, a concrete plan to build a regional coalition has never been drawn up. Thus, the idea of creating a common economic space from Lisbon to Vladivostok, or as formulated by the Russians - from the Atlantic to the Pacific failed to materialize.

The Partnership and Cooperation Agreement has created a unique form of cooperation in the field of international economic relations, in which for the development of economic cooperation, instruments such as dialogue and bilateral summits were used. Over time, 32 bilateral summits have taken place since 1995, two of which were of great importance: the St. Petersburg Summit in May 2003 and the Moscow Summit in 2005. At the St. Petersburg Summit the two sides agreed on building a strategic partnership and agreed to develop cooperation through a new institutional structure - the creation of four „common spaces” in the following areas: economy; freedom, security, justice; external security; science and education. The common economic space aimed to achieve better compatibility between the EU and Russian economies in order to stimulate investment and bilateral trade. Over the next two years, specific agendas were drawn up for each space, called „roadmaps”. These short- and medium-term instruments were approved and signed at the 2005 Moscow Summit.

Another event that has given hope for a change in the development of bilateral cooperation and the revival of the „strategic partnership” between the European Union and Russia is the Partnership for Modernization launched at the 2010 EU-Russia summit in Rostov-on-Don. Priority areas for partnership between the EU and the Russian Federation include the development and expansion of investment, consolidation of bilateral trade ties, developing energy infrastructure, development of innovation and research cooperation, development of friendship and cooperation relations of the civil society.

Reflecting the spirit of the 1990s and the specific geopolitical context after the dissolution of the Soviet Union and not being adapted to the new challenges of the 21st century, with the passage of time the PCA proved to be quite limited, a revision of this document being required. In 2008 the EU and Russia began



negotiating a new agreement aiming at providing a comprehensive framework for bilateral trade and investment relations. 12 rounds of negotiations were held.

3. *Periods of tensions*

In recent years, Eastern Europe and the former Soviet space have become a veritable arena for confrontation as the subject of common neighbourhood became an important reason for friction.

The idea of a strategic partnership between Russia and the EU began to deteriorate around the mid-2000s, as there were more and more disagreements from both sides. EU enlargement, NATO enlargement, the gas disputes and the 2008 Russia-Georgia conflict have all contributed to the cooling of the relations between the European Union and the Russian Federation.

The balance of relations between Moscow and Brussels was compromised in 2004 due to the presidential elections in Ukraine. After the publication of the results, a series of protests and general strikes began nationwide in Ukraine, called the *Orange Revolution*. These events boosted the organization of the third ballot, after which Viktor Yushchenko became the president of Ukraine. Brussels has criticized Russia's active support for presidential candidate Viktor Yanukovich and its attempt to impose a pro-Russian course on Ukraine. In turn, Russian authorities criticized the West for provoking confrontations, protests and chaos, supporting candidate Viktor Yushchenko.

Also, in 2004, new members were welcomed into the European family. The enlargement of the European Union has brought with it some problems in the development of the Russian-European dialogue. For Russia, EU enlargement meant the loss of territories which were under its sphere of influence. After barely joining the EU, the Baltic countries and Poland have opted for a tougher Brussels policy towards Moscow.

As the North Atlantic Alliance continued to expand eastward, the Russian Federation became increasingly dissatisfied. Also, the launch of the Eastern Partnership integration project, which included Belarus, Armenia, Georgia, the Republic of Moldova, Azerbaijan and Ukraine, was not welcomed by Kremlin. In 2009, Foreign Minister Sergey Lavrov criticized the launch of the EU's Eastern Partnership as an attempt by Brussels to expand its sphere of influence.

The year 2014 brought the deepest crisis in EU-Russia relations since the end of the Cold War. Tensions between the European Union and the Russian Federation have intensified as a result of the crisis in Ukraine. The beginning of the conflict took place in November 2013, when the then Ukrainian President Viktor Yanukovich did not sign the Association and Partnership Agreement between Ukraine and the European Union. The events that followed: the coup in Ukraine, the referendum in Crimea and its annexation by the Russian Federation, the military conflict in the self-proclaimed Donetsk and Luhansk People's Republics only intensified the already difficult situation. Thus, since March 2014, the EU has progressively imposed restrictive measures against Russia in response to the crisis



in Ukraine, and the Russian Federation has adopted counter-sanctions. UE imposed diplomatic measures, individual restrictive measures (freezing of assets and travel restrictions), restrictions on economic relations with Crimea and Sevastopol, economic sanctions and restrictions on economic cooperation. These sanctions are periodically extended and updated.

4. Sanctions and *counter-sanctions*

Restrictive measures taken by the European Union against Russia have affected existing intergovernmental relations, suspending biannual presidential summits, as well as discussions and steps on a new agreement to replace the PCA (Garcés de los Fayos, 2020). Russia has been excluded from the G8 Group. EU member states also supported the suspension of negotiations on Russia's accession to the Organization for Economic Co-operation and Development and the International Energy Agency.

Individual restrictive measures concern the freezing of assets and imposing travel restrictions on individuals and entities whose actions, in the opinion of the European Union, have undermined Ukraine's territorial integrity, sovereignty and independence.

Restrictions on economic relations with Crimea and Sevastopol apply to EU individuals and companies and assume: prohibitions of import concerning the goods originating in Crimea and Sevastopol, prohibitions of export targeting certain goods and technologies, trade and investment restrictions related to certain economic sectors and infrastructure projects and prohibitions of providing tourist services in Crimea and Sevastopol.

The economic sanctions imposed by the European Union target trade between the EU and Russia in certain sectors. They restrict the access of certain Russian banks and companies to the primary and secondary capital markets of the EU and prohibit forms of financial assistance and brokerage in favour of Russian financial institutions. Restrictive measures also prohibit the import, export and direct or indirect transfer of all defense-related materials, as well as of dual-use items that may be used for military purposes or that may be used by military end-users in Russia. The sanctions further restrict Russia's access to certain sensitive technologies that can be used in the Russian energy sector, for example in oil production and exploration (European Council, *Restrictive measures adopted by the EU in response to the crisis in Ukraine*).

Under the political veil, trade flows between the two major powers have been disrupted by various factors such as oil price volatility, the Russian Federation's import substitution policy, EU economic sanctions against the Russian Federation and counter-sanctions adopted by Russia. The price of oil registered a sharp decline in 2012-2016, influencing the depreciation of the Russian ruble in 2014-2015. For its part, the Russian Federation has responded to EU sanctions by imposing an embargo on agricultural and food products in the European Union and



banning the import from the EU of certain products, including raw materials, belonging to the car industry. Russia also applies a „blacklist” to EU nationals who have criticized its actions, denying them the right to enter its territory. This list includes several Members of the European Parliament and officials from EU Member States.

The Russian Federation’s policy of import substitution coincided with Russia’s accession to the World Trade Organization (WTO). In the summer of 2012, the Russian Federation became the 156th member state of the WTO. Simultaneously with the accession to the WTO, Russia began to implement the „State Programme for Agricultural Development in 2013-2020”, one of the objectives of which was to replace imports, favouring domestic products and services over foreign ones. Thus, so far, before the trade organization, the European Union has filed four complaints against Russia: on the recycling tax imposed on vehicles imported by Russia (2013), on excessive import duties from Russia (2014), on Russia’s embargo on pork from EU based on sanitary and phytosanitary requirements (2014), on anti-dumping duties for light commercial vehicles imposed by Russia (2014). The same number of complaints were lodged by the Russian Federation at the WTO against the European Union: on the EU’s third energy package (2014), on adjusting gas costs in EU anti-dumping investigations (2013 and 2015), on anti-dumping measures imposed by the EU on imports of certain steel products from Russia (2017) (WTO, *Map of disputes between WTO Members*).

5. Era of confrontation

The European Union and Russia are not equal partners in most relations. The relationship between the two can be defined as „the coexistence of the European elephant and the Russian bear” (Emerson, 2001). The exchange of goods between Russia and the EU is asymmetric. Both quantitative and qualitative differences have been observed over time in the structure of imports and exports and in the comparative dynamics of certain groups of goods. In structure, the most important goods exported from the EU to Russia have been and continue to be finished products such as machinery and equipment, chemicals and medicines, while imports have focused on raw materials, especially energy resources: oil, fuels, coal and natural gas (European Commission, *Countries and regions: Russia*).

Even after the cooling of bilateral relations, the community bloc remains the main trading partner of the Russian Federation. In turn, Russia is the fifth largest trading partner for the EU, surpassed only by the USA, China, the United Kingdom and Switzerland. At the same time, the Russian Federation continues to be the main supplier of gas and oil to the European Union. Russia has the role of distributor of energy resources of systemic importance in Europe. The states of the European Union rely on Russian natural resources. 40% of the total amount of natural gas and 27% of the total amount of oil imported by the EU comes from Russia (European Commission, *Countries and regions: Russia*). Much of Russia’s natural

resources reach the EU through pipelines across Ukraine. Thus, the EU's supply of natural gas is significantly affected by existing geopolitical tensions. The gas supply crises of 2006 and 2009 demonstrated this dependence. Thus, Europe is looking for solutions to reduce its dependence on Russian gas. The crisis in Ukraine has resulted in a closer cooperation between EU member states on identifying ways to reduce energy dependence on Russia as much as possible. The EU seeks to reduce its energy dependence on the Russian Federation by diversifying sources and suppliers, reducing energy consumption, stimulating energy production and cooperation between states, and investing in renewable energy resources.

To a large extent, the events of 2014 are the result of a long period of stagnation and mutual misunderstanding (Bordachev, 2016). Disagreements continued to accumulate for years (Pavlova and Romanova). However, in the past, both the European Union and Russia have occasionally tried to take certain steps to maintain bilateral relations. It is absolutely obvious that currently the most unnatural factor influencing the cooling of the realities between the two great powers is represented by economic sanctions. In the current situation, finding a common solution to the crisis has become extremely difficult.

In March 2016, the EU Foreign Affairs Council established five guiding principles underlying the EU's relations with Russia: (1) the implementation of the Minsk Agreement, as an essential condition for any substantial change in the EU's position towards Russia; (2) strengthening of relations with the EU's eastern and Central Asian partners; (3) increasing the EU's resilience in relation to energy security, hybrid threats or strategic communication; (4) a selective engagement with Russia on topics of interest to the EU, such as the situation in Syria, North Korea, tackling the migration problem in the Middle East, combating terrorism and climate change; (5) the need to make interpersonal contacts and support Russian civil society.

6. Scenarios

The practical purpose of the analysis of the research literature consists in making possible short- and medium-term scenarios on EU-Russia economic relations. These scenarios are not intended to be a forecast, but have been made in order to provide different possible and plausible visions for future developments. In the context of the scenarios, issues related to internal and external factors that influence the economic relations between the European Union and the Russian Federation are addressed, emphasizing both the perspectives and the challenges faced by the relations between the two great powers.



6.1. Improving bilateral relations

Geographical location, as well as economic complementarity, have made the EU and Russia irreplaceable trading partners, at least in the short term (Movchan, 2016). Despite the fact that the EU and Russia are geopolitical rivals, there is an interdependence between the two international actors from an economic point of view (Bogoviz *et al.*, 2018).

Empirical evidence shows that both European and Russian companies have only partially succeeded in redirecting trade flows to other international markets in response to the cooling of bilateral economic relations (Christen *et al.*, 2017). Restricting access to EU primary and secondary capital markets and certain technologies that can be used for oil production and exploration has forced Russia to seek alternative creditors and suppliers. Thus, the Russian Federation has intensified its cooperation with Chinese companies and investors (Russell, 2018). The Russian Federation has tried to reorient itself towards China. Fundamental changes in the economic context were caused by the fact that the global balance has moved towards Asia, China becoming one of the pillars of the new world. Consequently, the Russian Federation has begun to focus on its neighbour more than before.

Although the first pipeline through which Russian gas reaches China directly - Power of Siberia has been built, Russia continues to have major projects to facilitate the supply of natural gas to European Union countries, one example being the Nord Stream pipeline.

However, despite the tensions, there are many areas where the European Union and the Russian Federation have common interests and concerns. Russia and the European Union are complementary economic structures. Russia has enormous amounts of natural resources; and in EU countries they are either limited or completely absent. At the same time, Russia is a huge market for goods and services produced in the EU. Russia also needs a lot of investment and there are a large number of potential investors in the EU.

The EU will continue to be vital to the Russian economy. Geographical proximity, existing infrastructure and Russia's ability to export large quantities are the most important reasons why the Russian Federation will continue to be the European Union's main supplier of natural gas (Deak, 2017). Therefore, the EU and Russia have every interest in working together. Restoring relationships based on mutual trust and peaceful cooperation requires the availability of both parties to fully exploit the existing collaboration potential. The objective advantages of mutual trade, investment cooperation and good neighbourly relations, will drive both sides to reach a compromise (Sumarokov and Marganiya, 2017). Such a course of events is possible, only if the conflict in Ukraine is partially resolved and an energy agreement is reached, which will keep the transit of Ukrainian gas through the territory of Ukraine. The consolidation of bilateral relations will take place using a „selective engagement” approach, when, despite the challenges they



face, Russia and the EU will identify possible areas of cooperation and use this path to renew bilateral cooperation (Fischer and Timofeev, 2018).

6.2. Economic stagnation

In the relations between the European Union and Russia, in the short and medium term, the most likely scenario is stagnation, because there are no obvious signs of the willingness of the two geopolitical actors to fundamentally change their behaviour. Neither side expects a significant shift in the state of affairs in the short to medium term, further reducing the incentive for a change in the status quo (Fischer and Timofeev, 2018). The situation in Ukraine remains the main obstacle to better EU-Russia relations. The economic sanctions imposed on Russia by the European Union have failed to change vision of the Russian government in relation to the Ukrainian crisis (Afontsev, 2017). To date, no progress has been made on the implementation of the Minsk agreements by the Russian Federation.

Russia and Europe are devolving into coolly polite neighbors that have no real interest in each other, but who are forced to interact simply because they are neighbours (Lukyanov, 2020).

This scenario involves the continuation of political and diplomatic conflicts between Russia and the EU. The lack of significant progress in the Kremlin's implementation of the Minsk Agreements will continue to influence the maintenance of existing tensions between Moscow and Brussels (Russell, 2020). The period when there will be no well-defined strategy on bilateral relations (era of "non-strategy") will continue (Deak, 2017). Currently, many cooperation mechanisms, without which no progress can be made, remain inactive (Chizhov, 2019). Restrictive measures taken by the European Union against Russia have primarily affected existing intergovernmental relations, suspending biannual presidential summits, as well as negotiations on a new Partnership and Cooperation Agreement between the European Union and the Russian Federation (EEAS, *The European Union and the Russian Federation*). There were also other bilateral cooperation mechanisms that existed, such as the Russian government's annual meetings with European Commissioners and the President of the European Commission, projects on the formation of four common spaces, more than 15 sectoral dialogues (dialogue on transport, dialogue on industrial policy, dialogue on information of society, dialogue on agriculture, dialogue on the environment, etc.), the annual meetings of the Partnership and Cooperation Council with the participation of the Russian Foreign Minister and the High Representative of the European Union have been suspended. Therefore, there is currently no legal framework governing bilateral economic relations.

Russia's embargo on EU agricultural and food products has strengthened the Russian Federation's policy of substituting imports in the agricultural sector (Garcés de los Fayos, 2020). At the same time, Greek and Spanish food products have been partially replaced by those from China, Turkey, Chile and Argentina



(Moret and Shagina, 2017), products from the Faroe Islands have replaced those from Denmark, and imports from Belarus replaced those from Poland. Also, some goods for which there is an import ban will continue to reach Russia through other third countries (Christen *et al.*, 2017), such as Belarus and Kazakhstan, which re-exports to Russia products imported from the EU (Larrabee *et al.*, 2017).

In the economic and trade field, both the EU and Russia benefit from the improvement of bilateral relations. However, until the Russian Federation implements the Minsk agreements, the EU will not demand, nor will it accept, the thawing of the bilateral dialogue, the intensification of cooperation and the withdrawal of the sanctions adopted.

6.2. „A new Cold War” or the deterioration of relations

The conflict in Ukraine has caused the deepest crisis in EU-Russia relations since the end of the Cold War (Hett *et al.*, 2014). In the last seven years, relations have become more strained, various political misunderstandings have arisen, and the degree of mutual mistrust has increased. New challenges could arise in the economic field.

The European Parliament adopted resolutions on the state of EU-Russia relations in June 2015 and March 2019, supporting the restrictive measures taken by the European Union. In March 2019, the Parliament assessed bilateral relations and proposed that Russia should no longer be considered an EU „strategic partner”. MEPs stressed that the EU must be prepared to consider new sanctions against Russia, and global challenges must be addressed through selective cooperation between the EU and Russia.

On June 17, 2021, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy presented a joint communication on the EU’s relations with Russia. This Joint Communication made recommendations prior to the Council of Europe meeting on June 24-25, 2021 on how to strengthen the implementation of EU policy on Russia. The document defines Moscow as „a strategic challenge” and stresses that „a renewed partnership between the European Union and Russia, allowing for closer cooperation, seems a distant prospect.” In order to meet the challenges posed by the Russian leadership, the Commission and the High Representative propose that the EU simultaneously show push back, constrain and engage to Russia.

Since the beginning of the COVID-19 pandemic, there has been no improvement or lifting of EU sanctions against Russia. During this period, Russia’s policy towards the EU remains set on the autopilot system, without any major changes (Weiss, 2020). The European Union has also not deviated from its line of conduct towards Russia and has not taken into account the lifting of restrictive measures. There were new opportunities for Russian-European interaction at the beginning of the epidemic, but these did not materialize. The EU continued to extend measures against the Russian Federation, without changing its conduct. Russia could have used the cooperation model with Italy to provide assistance to



other EU countries, but this did not happen. During his speech at the G20 summit in March 2020, Vladimir Putin proposed a „moratorium” on economic sanctions imposed on several countries, including Russia, saying „trade wars and sanctions exacerbate the crisis” caused by COVID-19, and proposed the establishment of a „green corridors sheltered from trade wars and sanctions” for the supply of medicines, food, equipment and technology, but the European Union government was sceptical about its efforts on humanitarian aid and support during the pandemic. According to Josep Borrell, the EU’s High Representative for Foreign Affairs and Security Policy, Moscow is using the coronavirus pandemic to expand its influence.

The restrictive measures imposed by the EU are periodically extended. The last update took place on July 12, 2021, when the European Council renewed for another six months, until January 31, 2022, the sanctions targeting certain economic sectors of the Russian Federation (EU Council, 2020). In addition, the possibility of introducing new European sanctions against Russia cannot be ruled out. New challenges could also arise in the economic field. Both the economy of the Russian Federation and that of the European Union will continue to be affected by the global crisis triggered by the COVID-19 pandemic.

Conclusions

Since they are the main economic actors of contemporary international relations in Europe, Russia and the EU are interdependent in an important number of areas. The energy supplies from the Russian Federation to the EU have been the foundation of bilateral economic and political relations for the past three decades. The energy field has played an important role in building and improving the EU-Russia relations. However, recent tensions in Ukraine showed that though important, the economic and energy cooperation between Russia and the EU is not enough to ensure peace, security and tight cooperation. Despite the negative effects caused by sanctions, the mutual economic relations remain strong, but they are strictly utilitarian, without having any claim to common goals.

At the moment, the legal basis of the relations between the European Union and the Russian Federation is found in the two primary EU treaties, i.e. in Title V of the Treaty on European Union (TEU), which contains general provisions on external action; in articles 206-207, with regard to trade, and in articles 216-219, regulating international agreements, of the Treaty on the Functioning of the European Union (TFEU) and in the Partnership and Cooperation Agreement.

Over time, the Partnership and Cooperation Agreement has remained unchanged, but the reality of the EU-Russia relationship has increasingly differed from its original configuration. The objectives of both sides have become more and more diverged. The PCA reflects the spirit of the 1990s and the specific geopolitical context after the dissolution of the Soviet Union and has not been adapted to the new challenges of the 21st century. Although this legislative



framework still exists officially, most of the collaboration mechanisms are currently inactive. The old model of relations between Russia and the European Union has ceased to function.

The crisis in Ukraine has clearly showed the need to develop an algorithm for the resumption of economic relations between the EU and Russia, defined as „the coexistence of the European elephant and the Russian bear”. This algorithm must ensure that the interests of the parties and of the countries in their immediate vicinity are respected and not be a source of problems, but a tool for strengthening and developing EU-Russia relations. In order to identify measures to reduce existing misunderstandings, it is important to find ways to defuse current tensions and initiate a constructive bilateral dialogue.

The architecture of bilateral relations until 2014 was based on ambitious plans, such as the creation of a common economic space from Lisbon to Vladivostok or the integration of the Russian Federation into the European Union. These complex, far-reaching ideas which, although pompously presented, have not yet been materialized. The old cooperation mechanism clearly did not create any concrete legal framework to allow a regular and transparent bilateral dialogue.

We consider that bilateral relations are quite important for both parties and in the near future the new iron curtain between Russia and the EU will not fall (situation presented above in the third scenario). At the same time, the overly optimistic opinions of some authors, presented in the context of the first scenario, in the short and medium term can not be considered a viable solution.

In order to improve bilateral relations, the European Union and the Russian Federation need to establish a new framework in which the interests of both parties are taken into account. However, given the current circumstances, any decision acceptable to both parties would be highly difficult to implement.

Given that EU member states have a distinct degree of openness to interact with the Russian Federation, in the absence of any improvement in the Russia-EU relations in the short and medium term, each EU state could individually focus on bilaterally improving their ties with Russia. As the EU is a community, a supranational organization of 27 European states will not be easy to achieve, even with completely separate bilateral cooperation.

A major change in the direction of the EU-Russia relationship in the short and medium term is not possible. However, before a longer-term strategy can be devised, efforts must be made to rebuild mutual trust. Both actors need to find a way to understand and respect each other's political values and paradigms. The key issues of bilateral concerns and the strengthening of dialogue in those areas need to be identified. Bilateral intergovernmental dialogue, especially ministerial dialogue, could help to understand and predict each other's actions, and to avoid potential conflicts.

The contributions in this article can lead to new lines of inquiry in the area of economic relations between European Union and Russian Federation. EU member states with a different degree of openness to interaction with Russia can be grouped according to this criterion. This research can be the starting point for a new

analysis that will include the construction of scenarios for the future of relations between the Russian Federation and each group of countries thus formed.

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THE ROLE OF EUROPEAN INTEGRATION AND EUROPEAN NEIGHBORHOOD POLICY IN THE EUROPEANISATION OF MOLDOVA

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Abstract

The topicality of the neighborhood Europeanization through ENP is undoubtful, particularly due to the fact that the Republic of Moldova has taken a claimable European integration direction and is striving to fulfill the requirements stipulated in the EU-Moldova Association Agreement. The paper aims to provide an overview of both the theoretical aspects by defining and explaining the concept of Europeanization and the background of ENP and how these concepts are practically realized in the attempt to achieve the Europeanization of the Republic of Moldova and understand what bottlenecks should be tackled in order to make a better use of this policy in its pursuit of the European goal. A special attention is allocated to the assessment of the citizen perceptions about EU in general and EU-Moldova relations in particular, common beliefs that have been created among citizens with reference to the EU and the role of the EU as a key player in the Eastern Neighbourhood in general and Europeanisation of the Republic of Moldova. A survey was applied on 173 respondents. Results show that in general Moldovan citizens have a positive belief about the EU, are aware about the EU financial support Moldova received so far and consider EU as a reliable partner from which Moldova has a lot to learn in terms of democracy, law supremacy, human rights and economic development.

Keywords: European Neighbourhood Policy, Europeanisation, citizens perceptions, European integration

Introduction

European integration in the Eastern Neighbourhood has focused mostly in providing means for discussions and problem solving in trade, economic strategy,

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travel agreements, and other issues between the EU and its neighbours. It also aims at building a common area of shared democracy, prosperity, stability, and increased cooperation. The studies in the field of European Neighbourhood Policy (ENP) and Europeanisation of neighbouring countries have mostly focused on European governance, diffusion of *Acquis Communautaire* and the rules at its periphery (Schimmelfennig, 2010; Lightfoot, 2010; Börzel and Risse, 2012; Delcour, 2013; Langbein and Börzel, 2013; etc.). To a large extent, the EU actorness is accompanied by the EU conditionality or „external persuasion” towards these states (Kubicek, 2003; Schimmelfennig and Sedelmeier, 2004; Barbulescu, 2009). Puente (2014) distinguishes between positive and negative conditionality. The positive conditionality is carried out by encouraging beneficiaries to achieve specific economic goals and political objectives, especially by highlighting various benefits, releases and advantages. On the contrary, the negative conditionality is materialized in such “maneuvers” as restrictions, deferrals, suspension of negotiations, etc. that are applied to change the behaviour of the policy-makers towards needed policy adjustments and reforms (Puente, 2014, p. 59). The policy of conditionality began to be more often used especially with the declaration of European aspirations of the Central and Eastern European countries. This conditionality can be delicately found in the text of the partnership and cooperation or association agreements of these states, but also several meetings, dialogues and negotiations with EU officials, that intend to help the candidate countries, to smoothen the transition towards the implementation of common rules, values and principles (Scaunas, 2005, p. 199) and, at a later stage, to assure the access to the single European market and activities of European structures (Morari, 2016).

Undoubtedly these aspects matter, hence for a better understanding of the performance and effectiveness of the EU assistance and collaboration programs and policies in the Eastern Partnership (EaP) countries, several qualitative studies were realized (Timuş, 2016; Lahusen and Kiess, 2019; EU Neighbours East, 2020). These studies tend to investigate the citizens’ perceptions of these countries regarding the economic development of the country in the region (Toader and Radu, 2019) or the citizens perceptions towards the EU image, actorness and the effectiveness of EU support programs (Batory, 2020; EU Neighbours East, 2020). Most of these investigations rely on the analysis of the level of information and the common beliefs of the citizens from Central and Eastern Europe countries about the EU in general and EU-funded cooperation and development programmes/projects, in particular. However, less focus is oriented towards identifying the bottlenecks that should be tackled in order to make a better use of the ENP and *acquis communautaire* in their pursuit of the European aspirations.

Since 1994, the domestic and foreign policy agenda of the Republic of Moldova has been shaped by the European integration aspirations, followed by ENP (since 2004), EaP framework (since 2009) and association agreement (AA) (since 2014). The topicality of the neighbourhood Europeanization through ENP is undoubtful, particularly due to the fact that the Republic of Moldova has taken a claimable European integration direction and is striving to fulfil the requirements



stipulated in the EU-Moldova Association Agreement to qualify as a candidate state. Therefore, this paper presents the connection between the country's leading political elite and the image, common beliefs that have been created among citizens with reference to the EU and the role of the EU as a key player in the Eastern Neighbourhood. A special attention is allocated to the assessment, through the citizen perceptions of the EU-Moldova relations in general and the awareness, performance and effectiveness of EU assistance programs, towards fostering the Europeanisation of the Republic of Moldova, in particular. Understanding citizens perceptions is very important, as a better understanding can be transposed into more effective cooperation strategies and tailor-made development programs or policies.

In order to achieve the stated objectives, the present paper aims to analyse the approach of the Europeanization process, as well as underline the assistance the Republic of Moldova has benefited from EU so far and how our country can benefit more from ENP to achieve its EU accession goal. In this context, the present research provides an overview of both the theoretical aspects by defining and explaining the concept of Europeanization and the background of ENP and how these concepts are practically realized in the attempt to achieve the Europeanization of the Republic of Moldova and understand what bottlenecks should be tackled in order to make a better use of this policy in its pursuit of the European goal.

The paper is structured in 5 parts. The next section of the paper (part 1) provides a conceptual framework about Europeanisation and its dimensions. The second section reveals the background of ENP and the specific assistance the Republic of Moldova benefited from through ENP and its role in the Europeanisation of Moldova. The third section highlights the achievements and challenges of the Europeanisation of Transnistria. The fourth section details the working methodology and the fifth part contains the evaluation results regarding the perceptions of people on the EU's image; EU actorness in the eastern neighbourhood; awareness and efficiency of EU assistance efficiency; EU-Moldova relations. The last section of the paper is dedicated to the final conclusions of the analysis.

1. Europeanisation: literature review

A number of national and international researchers have shown interest in topics related to Europeanization and the role of ENP in this regard. The Europeanization term has been generally defined as "adopting European features". For instance, Graziano and Vink (2012) claim that the first acknowledged definition of Europeanization is the one provided by Ladrech (1994, p. 69) where Europeanization is defined as "an incremental process of re-orienting the direction and shape of politics to the extent that EC political and economic dynamics become part of the organizational logic of national politics and policy making".



The authors also explain that by ‘organizational logic’ is meant the ‘adaptive processes of organizations to a changed or changing environment’ (Graziano and Vink, 2013, p. 37). Also, looking at the definition from the top-down and bottom-up perspective, Graziano and Vink consider the first definition (by Ladrech) as being “useful for institutional analysis rather than decision-making studies because of its privileged focus on the notion of ‘organizational logic’ rather than, more broadly, behavior of political actors” (Vink and Graziano, 2007, p. 8).

Another definition that provides a systematic and comparative perspective to the Europeanization processes is “the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem solving that formalize interactions among the actors, and of policy networks specializing in the creation of authoritative European rules” (Risse *et al.*, 2001, p. 3). Regarding this, Vink and Graziano (2007, p. 8) consider it to be strikingly similar to the (European) political integration definition provided by Haas (1958), which has as nexus the ‘loyalty shift’ toward European level. However, the authors urge that one “should not confuse Europeanization with European integration since there would, in fact, be no need to invent new concepts with old meanings”. The definition provided by Risse *et al.* (2001) “treat Europeanization in ‘top-down’ fashion rather than in the advocated ‘bottom-up’ one, generating some conceptual confusion notwithstanding the overall empirical richness of the study.” (Vink and Graziano, 2007, p. 8)

In this context of ideas, Europeanization is seen as “the ability of the EU to deploy its ‘normative’ clout in order to foster stability and development in the target countries.” (Montesano *et al.*, 2016, p. 4), as a “dynamic process unfolding over time” and through complex interactive variables it provides contradictory, divergent and contingent effects (Featherstone and Kazamias, 2000). It includes both the domestic and EU levels of policy-making, these two being interdependent, and focus on the expansion of EU institutions and their policy-making capabilities as well as changes in member states based on such expansions (Howell, 2002, p. 7).

Radaelli (2003, p. 30) describe Europeanization as „a process involving construction, diffusion and institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public choices”. Even though it was commonly considered that Europeanization represents only the European Union, more and more authors prove that this process goes beyond the EU member states, spreading out on its neighbouring countries (Gawrich *et al.*, 2009), but also countries located on other continents that do have different relations to maintain their partnership with European countries in order to foster the process of adaptation of European values, principles, policies in particular, and triggering the process of European Integration, which is broadly seen as a process of “domestic adaptation to European regional integration”. (Graziano and Vink, 2012, p. 7)



According to Graziano and Vink (2007, p. 7), the existent definitions try to characterize more complexly the Europeanisation by combining both bottom-up and top-down sets of processes. Moreover, the definition provided by Radaelli is perceived as meticulously contemplated, it refers both to the construction and diffusion of EU norms, while other authors focus largely on the „adaptation processes” researched by Ladrech (1994). Therefore, it is concluded that for better understanding of the Europeanisation process it is better to start at the national level, study the way in which EU institutions and policies are organized and work, and subsequently determine the effects of political challenges and pressures exerted by the diffusion of European integration at the domestic level.” (Vink and Graziano 2007, pp. 7–8).

The field of Europeanisation research expanded in the last years, trying to outline characteristics, dimensions and trends. For example, Gawrich *et al.* (2009) outline three dimensions or types of the Europeanisation process, i.e. membership, enlargement and neighbourhood Europeanization. Enlargement Europeanisation refers to the adoption of the *acquis communautaire* by the EU candidate and potential candidate countries adoption of EU rules by transition countries implied “the most massive international rule transfer in recent history” (Schimmelfennig and Sedelmeier, 2005). The dimension of neighbourhood Europeanization gains importance especially after the launch of the Eastern Neighbourhood Policy and tries to analyze the EU’s role on its neighbours (Howell, 2002; Anastasakis, 2005; Emerson, 2004a; Emerson, 2004b; Sedelmeier, 2006; Grabbe, 2006; Börzel and Risse, 2007; Barbé and Johansson-Nogués, 2008; Montesano *et al.*, 2016; Ciceo, 2020).

From the perspective of the relationship between the EU and a country’s external policy, there are distinguished three dimensions of the Europeanization process, i.e. adaptation of national structures and processes in response to the demands of the EU; National Projection, which relies on the efforts of a member country to the development of a common European framework; Identity reconstruction, which, in fact, does represent the result of the first two dimensions and is characterized by the harmonisation of legislation and promotion of common interests (Wong and Hill, 2011).

The analysis of the definitions of the “Europeanization” concept provided by different authors led us to the conclusion that the “Europeanization” process can be perceived from different angles and perspectives depending on the context. However, for the purpose of analyzing the Europeanization in the context of the European Neighborhood Policy (ENP), we chose to refer to Europeanization as the “ability of the EU to deploy its normative clout in order to foster stability and development in the target countries”, as defined by Montesano *et al.* (2016, p. 4). Bearing in mind all the above-mentioned aspects and mainly the fact that nowadays, Europeanization is increasingly linked to the EU area and that it is considered that this zone represents the cradle of this process, the premise of the article states that although, in our beliefs, Europeanization reflects a process that



was initiated before and that should have led to the European Integration and European Union, finally it is developed mainly according to the EU “rules”, not only inside, but also at the periphery of this area, through the European Neighbourhood Policy and presents positive aspects. Due to its dimensions, the EU has become during the years an important actor that attracts from different points of views many other states. However, because the EU has established different plans of interaction with other countries through Foreign Policy or ENP, the states in question must somehow submit to the EU decisions in order to create links with it. In this case, they might encounter an advantage by presenting some common values, rights, economies with the EU or find themselves under the conditionality of implementing domestic changes. In these circumstances, the concept of Europeanization refers to a long-term process of embedding the European values and principles, transposition of EU legislation. Such a process is based more on lessons and learning. The EU has to focus more on promoting ‘linkage’, mainly because it is dealing with non-candidate neighbours.

2. The role of EU actorness in the Europeanisation of neighbouring countries: the case of Moldova

In 2003, the EU brought a new initiative that by 2004 became a new policy, the European Neighbourhood Policy. The Wider Europe Initiative, which later became known as the ENP, was seen as a move towards conceptualizing the EU on the foreign scene as ‘a real global player’ (Prodi, 2002). Hence its creation was faced with a massive burden of responsibility.

ENP is in very practical terms a way for EU to ensure three foreign policy priorities on its neighbourhood: keeping away from new enlargement waves on short and medium term, preventing neighbourhood countries from eventual problems, and embedding European values in these countries (Buscaneanu *et al.*, 2008, p. 6). Continuing this idea, it has also been mentioned by the experts that “in the light of this pragmatism of the EU, ENP may be regarded as an alternative to the EU enlargement fatigue” (Buscaneanu *et al.*, 2008, p. 6). As a matter of fact, ENP is not related to enlargement, but at the same time it leaves the door ajar for the European countries, including Moldova, to apply for accession. In addition, the main reasons for the EU launching the ENP reside in ensuring the security of the EU. This strategic interest of the EU is encountered in the December 2003 European Security Strategy in which it is mentioned that “strengthening the security in neighbourhood” is one of the three strategic objectives of the EU. Therefore, ENP may be regarded as “a form of external governance” which consists in extending EU values, standards and policies but avoiding access to its fundamental institutions. Within ENP, EU resorts to the same instruments “derived from the pre-accession process, including Action Plans, with conditionality, regular monitoring elements to succeed to an integration based on the European Economic Area (EEA) model. The use of the instruments that derived from the pre accession process provides the opportunity for the ENP states to be close enough to the EU but

still not EU members. Nevertheless, what Buscaneanu *et al.* (2008) noted, many observers express a certain skepticism whether this ENP mechanism of Europeanization in the EU's neighbourhood will provide results if they are not EU members.

While ENP scholarship is on the rise, there has been only minimal consideration of the definition of collaboration per se, largely through the lens of its constituent elements or associated opportunities and steps. The ENP's insistence on benefits and the usage of (in)adequate means and steps outweighs all other discussion by far (Batt *et al.*, 2003; Haukkala and Moshes, 2004; Schimmelfennig, 2005). Smith (2005) had expressed her questions as early as 2005 about the suitability of the suggested incentives and implementation mechanisms to render the ENP a viable program for the region, clearly dispelling the idea of 'common principles,' arguing that 'the ENP is mainly an effort to build good neighbours: that is, the kind that conforms not only broadly speaking to 'European ideals' but also to European requirements and regulations' (Korosteleva, 2012). Implicitly, the author referred to the conflict at the core of the new EU partnership instrument – the unambiguously EU-centered structure that allows neighbors to „join the EU” by providing „ready-made” templates and insisting on conformity of its norms and requirements. In her study of the ENP, Smith highlighted the Eurocentric essence of the strategy by enjoying a 'more sufficient dose by EU self-interest' (Smith, 2005), which was quite 'striking' for a program meant to compensate for the outsiders. Nevertheless, Smith's most voluble critique of the ENP relates to the absence of sufficient opportunities to encourage participants to act:

Significantly, the benefits on offer from the ENP are only vaguely summarized at the start of the action plans, and they are not directly connected to fulfilment of the huge number of objectives or even the most important priorities. It is hard to see how these action plans provide a 'real incentive for reform. (Smith, 2005)

In the author's view, it was not clear whether a scheme, without a community viewpoint, might otherwise incentivize the neighbors, providing no specific advantages, and missing benchmark linkages.

A somewhat greater academic critique appeared by 2006, after the Commission's change of the ENP's usage of conditionality. A variety of scholars (Cremona and Hillion, 2006; Delcour and Tulmets, 2008) drew strong comparisons between the ENP and enlargement, challenging the Commission's reasoning and ability to follow and extend a priori improper methods to community partnership-building:

The methodology underpinning the ENP heavily draws on the techniques of the pre-accession strategy ... It sends contradictory signals to the Partners: if



the ENP is separate from the question of membership, as the EU claims, why use pre-accession techniques? (Cremona and Hillion, 2006)

The research of Sasse (2002) highlights specific insight on the usefulness of conditionality within the context of the ENP. Given the vagueness of its rewards and implementation mechanisms in relation to the enlargement process, conditionality, she suggests, can be interpreted more accurately as a ‘method rather than a direct causal or interfering feature:

Rather than presenting the ENP as a case of weak incentives and high adoption costs, it should be thought of as being vaguely defined on the side of the incentives as well as the adoption costs. (Sasse, 2002)

Sasse believes both sides are fully conscious of the inherent asymmetry of influence and the poor system of rewards. The analytical debate on effective means and methods has also expanded to the consideration of the national ENP activities. Many influential reports note several apparent inconsistencies between EU discourse and practice, re-emphasizing ‘a big dose of EU self-interest’ (Smith, 2005) and power asymmetry in EU neighbourhood relationship. For example, a variety of scholars engaged in the realistic issues of EU democracy and the protection of human rights under the ENP, critically noted how ‘instrumentalistic security-oriented processes’ frequently pervade the EU’s ideational debate, and in addition, how those principles were conceived and integrated into the (EU) foreign policy to expose its ‘security predicated rationalism’ (Youngs, 2003).

The definition of alliance is claimed to be fundamentally a modern theory of collaboration established by the EU to portray its interaction with neighbours, who lack the imminent promise of EU membership. This suggested that this partnership is mutual, partner-conscious and non-binding, at least in principle.

EU-Moldova relations

The EU collaborates with Moldova within the European Neighbourhood Policy and its eastern regional sphere, the Eastern Partnership. EU aid to Moldova takes primarily the form of country Action Programmes financed yearly under the ENI. Moldova profits also from national and multi-country Intervention Initiatives sponsored under the European Neighbourhood Instrument. Moldova also benefits from external aid provided by the multi-country ‘umbrella programme’: the incentive-based system that promotes success in creating deep and durable democracy with additional financial allocations. The current projects focus on improvements in the fields of justice, electricity, rural and regional growth, and initiatives to create trust. Public institutional funding and the implementation of EU best practices are essential aspects of current and potential collaboration in all industries.



In 2003, the European integration became a priority for the Moldovan government, meanwhile for the EU:

“in light of its goal to create ‘a ring of well-governed countries’ to the East and South, as well as Moldova’s increased proximity to the EU’s borders after the 2004 and 2007 EU enlargement rounds, interest in Moldova rose significantly.” (Montesano *et al.*, 2016, p. 8)

The cooperation between the EU and the Republic of Moldova is ensured through the European Neighbourhood Policy and the Eastern Partnership, which represents its eastern regional dimension. The aim of the cooperation in the aforementioned context is “to bring Moldova closer to the EU”. At the Eastern Partnership Summit that was held in Brussels in 2017, the EU and the Rep. of Moldova agreed upon 20 Deliverables for 2020. The EU assistance to Moldova focuses on providing support to achieve the above-mentioned deliverables and is related to the commitments to carry out reforms in line with the Association Agreement. The assistance that EU provides to Moldova “aims at improving the quality of life of ordinary Moldovans in a tangible and visible manner, strengthening the rule of law, as well as improving the business climate, with a view to reaping the benefits from the DCFTA (Deep and comprehensive free trade area), and supporting greater connectivity between Moldova and the EU in the areas of energy and transport”. (EU official webpage)

The assistance that the EU provides to Moldova is offered through an Action Programme that is funded every year under the European Neighbourhood Instrument (ENI). The regional and multi-country Action Programmes that Moldova participates in are also funded under the ENI.

Bilateral cooperation

The relations of the EU with Moldova have been settled back in 1994 by the signing of the Partnership and Cooperation Agreement (PCA), that entered into force in 1998. Since 2003, when the Republic of Moldova joined the ENP, EU-Moldova bilateral relations have been shaped by the Action Plans (the first one being endorsed in 2005). Since 2009, Eastern Partnership framework have been contributing continuously to the strengthening of Moldova’s Europeanisation, which focused on promotion of the political, economic, social and cultural transformations through the adoption of European norms and values (Morari, 2016)

A Single Support Framework was adopted by the EU for period of 2017-2020 which rested on Eastern Partnership priorities that aim at achieving: a) stronger economy; b) stronger governance; c) stronger connectivity; d) stronger society.

The horizontal support is also provided to civil society, strategic communication, and capacity development/institution building.

As the EU assistance is based on conditionality, and is directly linked to the satisfactory progress in reforms and the respect of the rule of law, effective democratic mechanisms and human rights, there have been ups and downs in the EU-Moldovan relations depending on the performance or failure to achieve the commitments that Moldova has assumed. This conclusion is also expressed by Emerson and Cenusă (2018, p. 4) who stated that *“the quality of democracy and the rule of law in Moldova are seriously damaged by the politicisation of the public institutions, and the EU has stressed the need for reform.”* (Emerson and Cenusă, 2018, p. 4)

At the same time, Lupusor *et al.* (2019, p. 9) stated that the backsliding of the EU-Moldova relations started “with the public exposure of banking fraud at the end of 2014, which revealed internal systemic problems and generated several chain crises, the EU-Moldova relations entered a precautionary and uncertainty phase.” During 2016, just for a short period of time, the political dialogue normalized based on very strict conditionalities. Nevertheless, since 2017, the dialogue has slowed down because of failure to promote the necessary systemic reforms that had to result in bolstering the democratic institutions and the instauration of the rule of law. In 2018 the dialogue was frozen altogether because of Moldova’s “democratic backsliding”. (Lupusor *et al.*, 2019, p. 9)

In July 2019 the budget support payments, which had been previously put on hold due to the significant deterioration of the rule of law and democracy in Moldova as of mid-2018, were resumed. This happened after the EU-Moldova relations had been “resurrected” once a new parliamentary majority was created in the Moldova Parliament, following the 2019 elections, and with the investment of a government, which stated clearly in its agenda that it wants to free the captured public institutions and carry out the justice reform.

In 2019, a funding package amounting to € 42.4 million has been allocated to following areas: a) EU4MOLDOVA: Startup City Cahul; b) EU4MOLDOVA: Clean Water for Cahul; c) EU4MOLDOVA: Improving energy efficiency in Moldova; d) Eastern Partnership Civil Society Facility 2019 – 2020.

In this context it should be specified that in January 2020, the EU launched in Cahul and Ungheni the new „EU4Moldova: Focal Regions” programme, where the EU is investing €23 million to boost smart, inclusive and sustainable economic development in these two areas¹.

Regional cooperation

In addition to the bilateral cooperation programs, Moldova has also attracted funds through the regional cooperation programmes for the Eastern Partnership region. The regional cooperation programs provide support to SMEs, in the field of energy, transport, environment, ensure access to finance, support growth as well as

¹ <https://www.euneighbours.eu/en/east/stay-informed/publications/facts-and-figures-about-eu-moldova-relations-0>

the overall business environment and rule of law. Furthermore, Moldova benefits from the Deep and Comprehensive Free Trade Area (DCFTA) facility under the EU4business programme, participates in Cross Border Cooperation (CBC) programmes as the Black Sea Programme, the Romania-Ukraine-Moldova ENPI Land-Border Programme, and the Danube Transnational Programme. Moldova also benefits from the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) which aims at promoting border control, customs and trade norms and practices that meet the EU requirements and strengthen the capacity of both countries to apply EU standards.

With regard to DCFTA, it should be mentioned that despite the constraints “due to the Deep and Comprehensive Free Trade Area (DCFTA), the Republic of Moldova has come significantly closer economically to the European Union, the latter becoming the main economic partner. Today, about 70% of Moldovan exports are directed to the European Union market, and imports represent almost 50%. The net impact of exports to the EU is estimated at over 367 million euros, contributing to the creation of over 15,000 jobs and helping increase the budget revenues by 5% and by 320 million euros in investments in the private sector” (Lupusor *et al.*, 2019, p. 9).

Also, it is important to mention that the DCFTA with the EU is compatible with all of Moldova’s other free trade agreements. With EU support, Moldova has already adopted in its national legislation and rules more than 25,000 EU technical standards. In addition, the EU estimates that since 2009, more than 17,660 Moldovan SMEs benefited from EU support for access to finance in Moldova under the EU4Business programme. And, as many as 10 business incubators have been set up with EU support².

3. Europeanisation of Transnistria

When speaking about the Europeanisation of the Republic of Moldova, the Transnistrian issue is always a point of concern and among the most distinguishable bridges between the internal and external aspect of Moldova’s challenges. Since 1992, Transnistria has become a textbook case of the several continued conflicts that are dispersed around the post-Soviet area. From an EU perspective, breakaway regions such as Transnistria, besides the fact that diminish the security background in the broader neighbourhood, also impede the pro-European integration path of the “parent country” in this concrete case Moldova. Even though the official negotiation scheme has been in place in its present composition (named 5+2) since 2005, combining the parties concerned (namely, Moldova and Transnistria), the mediators (Russia, Ukraine and the Organization for Security and Cooperation in Europe (OSCE)), as well two observers (the EU and the United States), only little improvement has been made in the arrangement

² See <https://www.euneighbours.eu/en/east/stay-informed/publications/facts-and-figures-about-eu-moldova-relations-0>



of the conflict because of certain factors. One of them is the growth of the rooted interests of the Transnistrian elites in the persisting existence of their unrecognized separatist entity, which acts as a strong incentive for keeping the status quo. As economic and political power in Transnistria is hugely concentrated, the Transnistrian authorities benefit from corruption and privatization, a situation which is likely to change when the conflict is officially solved. Another factor is the geopolitical competition between Russia and the EU, which makes the process of reaching the conflict settlement more complicated. Russia is essentially using its military presence in Transnistria, its monopolistic status as an energy provider, as well as subsidies and direct humanitarian aid initiatives as both a leverage in the negotiations and an impact on the reality in the region. Additionally, as poverty and an undeveloped social structure continue to predominate, especially in the rural areas, and the media remain unfree, there is a lack of push elements to change the status quo. Finally, internal political and economic challenges in Moldova are eroding its capacity to handle the conflict and restrict its attractiveness to Transnistrian people.

However, the EU has many attempts and policies addressed towards the Transnistrian issue, which have rapidly evolved during the years. There are a number of relevant and significant improvements in recent years, not only in the diplomatic efforts to set up the negotiations, but also in highlighting the political-economic structures and geopolitical alignments and sustaining the conflict.

Expansion of the European Union and NATO is a favourable background for reassessing the Western attitudes towards the Transnistria challenge. Considering the fact that Moldova is at the borders of the European Union and NATO, due to integration of Romania into the European Union and that the country remains a source of political instability, Moldova's internal issues linked to the presence of the Eastern separatist zone will have a new international dimension. The Transnistrian dispute is no longer viewed by the European institutions according to the old paradigm in which Russia was given such „special rights” in crisis management in the Commonwealth of Independent States. This is particularly true when it comes to the Transnistrian dispute, which affects the stability of the expanded European Union more than the safety of Russia. The Transnistrian arbitration process is defined by a transfer from the post-Soviet „Eurasian” conflict category in which Russia would have a special role to play in a „European” conflict in which the European Union has to play a very active role, due to the fact that it strongly affects its interests.

The causes of European Union involvement in the Transnistrian problem imply:

- The need for a new policy towards the new neighbours of the EU in the context of enlargement, and the intention to assume an increased role in crisis management in the wider Europe, which includes Moldova;
- Non-withdrawal of Russian troops from Moldova in accordance with the provisions of Istanbul;



- Reliving the efforts to internationalize, and even Europeanize, the Transnistrian conflict by Chisinau;
- The issues that the way of solving the conflict proposed in the Kiev document by the mediators does not ensure the lasting resolution of the conflict, but its suspension, which contradicts both the interests of Moldova and the interests of the EU;
- The negotiation format, in which Russia, Ukraine and the OSCE failed to make a decisive contribution to solving the Transnistrian problem, the European Union is interested in contributing to stabilizing the situation from its borders. (Popescu, 2005)

The Transnistrian problem concerns Western security states and institutions. EU External Relations Commissioner Chris Patten says the EU does not want to have a conflict-ridden state at its borders. It is also recognized that Transnistria is a security issue for the enlarged European Union (Vahl and Emerson, 2004). First of all, Transnistria is a direct source of challenges to regional security. Under the protection of the authoritarian regime in Tiraspol, the manufacture of weapons, trafficking in persons and drugs, organized crime and smuggling flourishes in Transnistria. Another dimension of the Transnistrian conflict, which creates indirect security problems for the European Union, is that the existence of this conflict incapacitates the emergence of Moldova as a viable and stable state. The EU recognizes that the lack of a solution to the Transnistrian problem is „the most important impediment to the political and economic development of Moldova, and one of the key causes of poverty” (Wolff, 2011).

3.1. EU policies towards Transnistria

Almost all EU documents on Moldova deal with the Transnistria problem. In addition to being an observer within the 5+2 framework, the EU has deployed several instruments on the field, both explicitly and indirectly, to promote the region’s proper reintegration into Moldova, while interacting with de facto authorities and actors in the civil society. Primary instruments for the EU to engage civil society stakeholders are the so-called confidence-building measures (CBMs) aimed at promoting collaboration between NGOs, business communities, the media and other civil society organizations on both sides of the Dniester Border.

In Transnistria, through local growth, CBMs address the fields of health care, environmental conservation and renovation of social infrastructures. They thus strengthen not only the relationship between Moldovan and Transnistrian people but also socio-economic growth and motivate actors in the civil society. The reconstruction of hospitals and new stocks of medical devices is one example of how CBMs offer immediate and tangible change to Transnistrian people. Also, many initiatives focus on improving the facilities for schools, water supply and road connectivity. CBMs were carried out in conjunction with the United Nations

Development Plan (UNDP), in order to further increase their effects. The EU paid €13.2 million for the project, between 2009 and 2014.

Given their significance at group level, CBMs have no significant political impact. Consequently, the EU participates actively in conversation with the de facto authority in the Transnistrian capital Tiraspol, despite not formally recognizing them. Given how the Transnistrian economy is now heavily dependent on EU markets, the EU owned an significant lever to include the region in the DCFTA, as was evident at the end of 2015 in the negotiations with Transnistrian officials on this subject. However, even with Transnistria now included in the DCFTA, the means for monitoring and fostering implementation are very limited in the breakaway region. The most important point at this issue here is that while Moldova is the contracting party in the AA and thus responsible, Transnistrian authorities require limited access for officials in the Moldovan capital Chisinau to track whether EU requirements are currently being applied under the AA for the production, processing, and transport of goods. Therefore, one AA progress study advises that 'the specific execution of the Association Agreement be strengthened by immediate and effective actions requiring a high degree of cooperation between the major public bodies involved, in particular in terms of verification and conformity with rules of origin, customs procedures and quality standards to facilitate the incorporation of the Transnistrian region. However, there is a strong danger that Chisinau will seek to use its oversight obligations to place pressure on Tiraspol, which already threatens a wider (enforced) implementation of EU rules and norms that go beyond strictly trade-related steps. This will not lead to confidence-building between the parties concerned in the present volatile situation. Therefore, the EU will serve as a reliable fair negotiator, even though that means assuming more direct responsibility for overseeing changes and normative approximation, even in Transnistria.

In the Transnistrian dispute settlement cycle the EU pushed fairly rapidly to become a political player. The EU was an ad hoc diplomatic player in Moldova during 2003-2004, regularly sending diplomatic missions to Moldova, raising the Transnistria question with Russia and Ukraine and sharing views on the dispute settlement process. The most dramatic indication of such diplomatic intervention was the proclaimed lack of EU support for the 'Kozak Memorandum' by Javier Solana in November 2003, which weighed down the decision by Moldova to oppose the Russian proposal. In early 2005, a decision was taken to lift the profile and streamline EU diplomacy and in March the EU named a separate EU representative for Moldova. Its mission is to strengthen the EU's commitment to the settlement of the Transnistrian crisis; to help in the planning of EU commitments to the adoption of a potential conflict settlement. In this way, the EU sent a message that its concern in the Transnistria problem is extreme, and that the EUSR will be the key EU interlocutor to address the topic with. The installation of the EUSR was intended to provide greater internal unity and public recognition for the EU. However, its impact on the ground has been limited by the fact that the EUSR is located in The Hague.



3.2. Participation in negotiations

The EU has also been involved in the negotiations. During the Dutch chairmanship of the OSCE in 2003, the EU was present in the Joint Constitutional Commission of Moldova and Transnistria to draft a new constitution for a reunified Moldova. Ultimately, the Commission disappointed in its role but it represented a significant shift in the processes for dispute resolution with the EU becoming involved for the first time in the Transnistria status negotiations.

The EU is not regularly included in any of Transnistria's publicly institutionalized frameworks for conflict resolution. It is not part of the Five-sided negotiating format, the Joint Control Commission, or the mechanism for peacekeeping. Instead of trying to follow these largely outdated and impasse structures, the EU has been developing new collaboration mechanisms through which it could bring value to the conflict resolution process. That included strong EUSR Moldova diplomacy and the start of the EU Border Assistance Mission. Actually, In Transnistria, the main thrust of conflict resolution efforts has shifted from a five-sided format to direct dialogue between the EU and other concerned actors and efforts to improve the transparency of the Moldova-Ukraine border.

The EU, as well as the US, are increasingly likely to become involved in the negotiating process at some stage. As the collapse of the „Kozak Report” demonstrated, there is possibly no solution to the problem without EU funding. All of this underlines the importance of the EU's position in the talks, even though it is not yet a structured mediator.

3.3. Challenges faced in Transnistria's Europeanisation

Given the relative success of both more involved and patient modes of EU participation, dispute resolution prospects are small, as reintegration is almost entirely an externally driven process. Despite Moldova's official discourse, both Transnistria and Moldova have no real interest in reintegration at the present moment. In a poll conducted in November 2015, the traditionally current support for reunification with Romania hit 21 per cent on the right side of the Dniester River (that is, the western side). Therefore, if the new government refuses to deliver on their „Europeanizing” commitments, there might be a significant possibility that reunification will ultimately be seen as a viable solution to the country's Europeanization. Should this happen, it would not only ruin any possibility of reintegration with Transnistria, but it would also lead to another diplomatic crisis, further destabilizing an increasingly already vulnerable area. This is yet another reason why Europeanization based on AA reforms implementation is the best path forward to prevent more instability.

Taking into consideration the progress accomplished on the Transnistrian issue over the recent years in regards to both direct bilateral relations between the Parties and in the 5+2 negotiation process, the most important task remaining is to maintain

this energy and offer necessary assistance to the Sides in making tangible evolution towards a definite dispute settlement. By the means of its institutions and member states, the European Union is ideally placed to make meaningful contributions in this respect, by working jointly with the Sides and its international partners in the 5+2 process.

With the purpose to reach a sustainable conflict settlement, the EU should consider and apply such actions as:

- Ensure stronger coordination between Moldova and the EU on the common decisions and acts of the common foreign security policy (CFSP), including sanctions against Transnistria;
- Involve Moldovan NGOs in Transnistria's pursuit of democracy;
- Help both Moldova and the Transnistrian region in their attempts to progress the 5+2 negotiations, in particular by facilitating and supporting the parties in the execution of all facets of the agenda decided in April 2012, thus avoiding the status quo;
- Increase Moldova's attractiveness through trade liberalization and facilitation of the visa regime for certain categories of citizens in line with areas of flexibility in the Schengen acquis;
- Explore incentives to start implementing some of the terms of the EU-Moldova Action Plan in Transnistria, with special focus on topics related to politics and democracy;
- Monitor closely with the United States as the other observer in the 5+2 process and offer assistance to the United States in making use of their considerable leverage to help resolve the conflict;
- Increase the pace of confidence-building steps and initiatives pursued by the EU in the Transnistrian region and jointly with the parties with a view to expanding and consolidating economic and social relations between the parties, honoring shared values at all levels and across all segments of society and leading to a more self-sustainable reform process in the Transnistrian region. Investment in a wide range of confidence-building means can not only ensure that negotiations on conflict settlement progress more easily, but can also help to maintain engagement between the Sides if the settlement process becomes impasse. However, a careful balance needs to be kept to avoid a situation. Under which confidence-building prevents progress under talks and then enshrines a status quo which the parties are deeply involved in upholding.

4. Moldovans Perceptions about the EU: Methodology and Data Analysis

All projects and activities carried put in Moldova with support of the EU were oriented towards fostering the Europeanisation of Moldova. Considering all the above-mentioned opinions of scholars on the EU and the ENP, this research paper aims to verify what is the Moldovans citizens' social perception about the EU. For this reason, a questionnaire was developed by a group of researchers



participating in the project ENACTED / Jean Monnet Network “European Union and its Neighbourhood. Network for enhancing EU’s actorness in the Eastern borderlands”. The survey research objective aims to study the perceptions and attitudes regarding EU’s role and actions in the Eastern Neighbourhood region at societal level, in order to better assess the efficiency of the EU’s neighbourhood instruments, on the one hand, as well also to explore the ways CBC between EU and EaP countries could be improved, on the other. Survey was developed in accordance with group and interaction biases (projection, motivation, status quo, in group, stereotyping, ensemble coding, Halo effect, actor-observer, base-rate fallacy etc.), which underlying the social perception and attribution theories (Heider, 1958; Norman, 1981).

It is worth to be mentioned that this questionnaire has been applied in the other countries too, but in this article, we do not aim to conduct a correlation study, but to evaluate the data of our survey, i.e. the social perception of the Republic of Moldova population. But in the future, as a perspective to integrate and to compare the data, we propose to come up with a correlational study as well.

The survey data provide viewpoint and degree of knowledge that Moldova citizens have about the EU in general and particularly, about cooperation and development projects sponsored by the EU, in 2020. The survey covers the following broad topics:

- General view of the EU;
- Values associated with the EU;
- View of EU relations with Moldova;
- Awareness of the aid provided to Moldova by the EU and the assessment of its effectiveness;
- Expectations of the EU by the public;
- Sources of information on topics related to the EU;

The survey consists of 5 independent variables (residence (R), age (A), occupation (O), gender (G) and education (ED)), but we add a regional distribution as a part of region parameter (independent variable). The questionnaire is divided into 5 parts with 40 open ended, open or multiple choice complex questions:

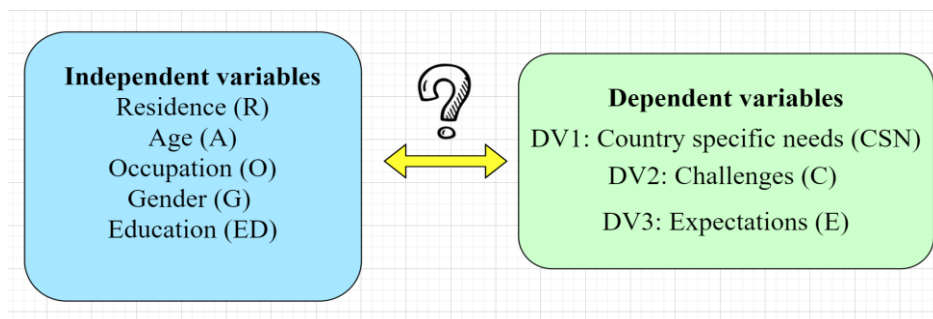
- General knowledge and perceptions regarding the European Union, with 4 open questions and 12th open-ended, in total 16th items;
- Internal Context (country specific needs, challenges and expectations) with 6 complex minimum 3 choice items;
- External Context (cooperation with main international organisations/actors) composed by 11th complex items;
- Relations between the European Union and your country (general framework) having 11 multiple choice complex items;
- Specific actions and cooperation (CBC) between the European Union and your country 7 attributed complex items.

As it is shown in Figure 1, article research design framework involved to analyse the correlation of independent variables (ID) with 3 dependent variables



(DV), in other words the relationships of place of residence, residence, age, occupation, gender and education with country specific needs (CSN), challenges (C) and expectations (E) part 2 of the survey.

Figure 1. Study variables aims relationship of independent and dependent



Source: own representation

The primary descriptive analysis of survey sample

In the Republic of Moldova, the survey has been conducted on 173 respondents, with validated responses in the period of January-May 2020. The interviewees have various backgrounds and resides in different areas of the Republic of Moldova from both urban and rural zones. The ages of the people interviewed vary between 16 and 65 years. Their political views, education level and exposure to information also varies. They were selected in such a way to represent as much as possible of the general population of Moldova.

Regional distribution and residence: the participants at the questionnaire show a variety of regional distribution, where the proportion between urban (75,15%) and rural region (24,85%) varies in proportion of 3 to 1, significantly differ in an anticipated direction ($t=53,15$, $p\leq 0,001$), where $M=1,75$; $SD=0,433$ and the Confidence Interval of the Difference varies between 1,69 and 1,82 values (See Appendix 1, Table 1).

Age: The survey sample comprises answers from rurality (24,7%) and urban regions (74,7%), with 173 valid answers. The respondents age varies from 18 to 71, where the interval of age between 18 to 25 years old accumulates 61,5 %, the 26 to 40 years old acquire 18,4% and the last age interval only 20,1 %, mostly being represented by the generation Z, born between 1995 and 2002 ($M=29,31$; $SD=11,81$), where skewness and kurtosis has positive values, significantly differs in an anticipated direction ($t=32,65$, $p\leq 0,001$), (see Table 2, appendix 1).

Occupation: The sample occupation was represented by 56,9 % students, 41,3% employees and business owners (1,1%) and 1,1 % unemployed, where 20,7

% being men and 78,7% women and significantly differs in an anticipated direction ($t=32,84$, $p\leq 0,001$), where the mean difference are 1,46 with $DF=172$ (Table 3, appendix 1).

Gender: The gender distributions is represented by 123 women (79%) with higher levels of education (Table 4, appendix 1). The generated One-Sample Test shows that gender significantly differs in an anticipated direction ($t=57,89$, $p\leq 0,001$), where the mean difference is 1,79 with $DF=172$, with negative skewness (-1,451) and positive kurtosis (0,106).

Education level: The respondents answer varies from a (primary incomplete: 4,7%) to d (higher education 85,5%) options ($M=4,72$; $SD=0,76$). As other independent variables, the education level as well significantly differs in an anticipated direction ($t=82,01$, $p\leq 0,001$), where the 95% Confidence Interval of the Difference constitutes [4,61; 4,84], after the One-Sample Test generation (Table 5, appendix 1).

5. Discussions and results

The data analysis of dependent variable named “General knowledge and perception regarding EU” with GPEU acronym, revealed statistically important correlations.

After the words free association question sample representation about EU, were received the following associations in numerical order: freedom 24, democracy 21, development 15, education 10, travel 10, culture 9, integration 8, equality 7, future 6, euro 6, security 6, rights 6, prosperity 6, money 6, stability 5, politics 5, economy 4, trade 4, opportunity 4, open 4, diversity 4, tolerance 4, union 4, peace 4, migration 4, respect 4, power 4, Europe 4, civilization 4, market 3, possibilities 3, work 3, justice 3, beauty 3, safe 2, progress 2, collaboration 2, wealth 2, emigrants 2, job 2, cooperation 1, cohesion 1, experience 1, commission 1, muslims 1, multinationality 1, technology 1, brexit 1, feminism 1, happiness 1, motivation 1, solidarity 1, study 1, evolution 1, partnership 1, community 1, currency 1, life 1 etc. The study found interesting that the majority of the respondents associate the EU mostly with freedom, democracy and development. The perception and social representations of Moldova citizens’ concerning the EU foreign politics are similar with EU shared values with EU neighbourhood countries (EU Neighbours East, 2020).

Another valuable evidence of this research states that the samples representations are common with the general information with the reference to how many countries are part of the EU, with the 87,9% accuracy of answers.

The respondents’ opinion about what they would prefer to do firstly in the EU resides mostly in visiting (35, 06%) and living (31, 61), next in studying (13,22%), working (12,64%) and doing business (5,17%). These data state that the human potential of the Republic of Moldova is open to change (by experiencing

(64,4%), social security (63,8%), cultural diversity (86,8%), and religious tolerance (43,7%).

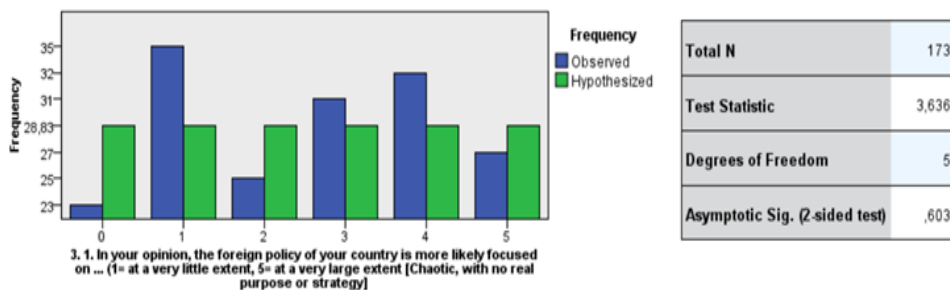
C. External Context (cooperation with main international organisations/actors).

The Moldovans' citizens opinion, mark that the foreign policy of the country is more likely chaotic, with no real purpose or strategy (there are 0 cells (0%) with expected values less than 5, where the minimum expected value is 28,833), (Figure 3). To the question if they "agree with the foreign policy of your country?", the answers distributed between "Fully agree"- 14,9%, "somehow agree" – 14,4%, "somehow do not agree" – 35,6%, "Fully disagree"- 23,6% and "Difficult to answer" – 10,9%. Also, the population lost their trust in the public institutions.

The deterioration of the democracy and the increase of the corruption contributed to a decline in the people support. Therefore, there is a need for better familiarisation of the population regarding the foreign policy of the country and the activities of the government in achieving it.

Germany, France and Italy are three countries seen by Moldovans as the most influential in EU (there are 159 cells (100%) with expected values less than 5, where the minimum expected value is 1,088)

Figure 3. One-Sample Chi-Square Test on External Context (cooperation with main international organisations/actors) strategy

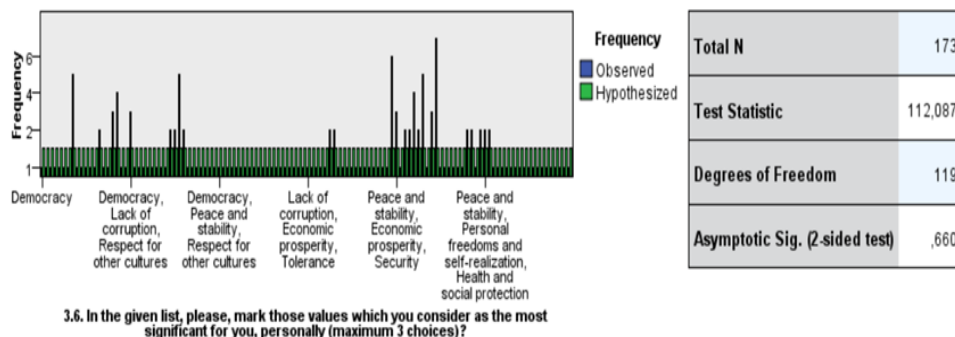


Source: own representation

While asked to associate the statements that more accurately describe the EU, respondents pledged for "Economic and political unification of European countries" (63,8%) and "The unification of all European states, including our country" (56,9%);

The three most significant values of Moldovan citizens representations associate with EU are: Democracy (67,8% of respondents), Peace and Stability (40,2%) and Lack of Corruption (51,1%) (there are 120 cells (100%) with expected values less than 5, where the minimum expected value is 1,442) (Figure 4).

Figure 4. Moldovans' representation data analysis of One-Sample Chi-Square Test on External Context on EU impact



Source: own representation

D. Relations between the European Union and Republic of Moldova

In accordance with nonparametric tests hypothesis test summary the respondents' answers reject the null hypotheses concerning the specific actions and cooperation (CBC) between the European Union and Moldova attributed via 7th complex items and relations between the European Union and Moldova (general framework).

The majority of the respondents (81%) describe the relations between EU and Moldova as being very or rather good and these relations improved (76,6%) compared to a decade ago. 33,3% of the respondents think that the EU-MD relations are primarily based on the Moldovan interests, on the interests of the European Union (20,1%) and 29,3% of respondents see this as an equal and mutually beneficial relationship.

75,3% respondents think that European Union is interested in developing closer ties with Moldova. Also, they do think that EU is very important and reliable (86%) partner of the Republic of Moldova, supporting it through its financial and technical assistance, the economic and social development. Moldovan citizens are aware about the importance of EU investments (92%) and have heard of project that were financed with European funds and implemented in their city/village through cross-border cooperation programs (88,5%).

E. Specific actions and cooperation (CBC) between the European Union and Moldova

Cross-border cooperation, economic (incl. trade) cooperation, civil society Forum and EaP are seen as the most important ways/types of cooperation developing today between the European Union and Moldova. Moreover, the data shows that Moldova and EU should collaborate more (73%) and highlight the following area where Moldova could benefit the most from cooperation with the European in order to

enhance democracy and good governance, foster the economic reform and education, fight against corruption and crime and improve law supremacy.

The data shows that there is a direct relation between the level of education of respondents and their perception about the EU (i.e. the respondent with higher education do have positive image about the EU and recognize the importance of EU interest in Moldova development and, but also have an increased interest to hear/find out what is happening in the EU (66,1%) and in terms of EU-Moldova relations (74,9%).

The most often sources Moldovans consult if they want to get information about cooperation with the European Union in the field of politics, economics, cultural life and ecology are: radio (40,8%), newspapers (36,8%), social networks (27,6%), television (26,48%) and the Internet (sites, news portals) (12.1%). Given the multitude of information channels and the rich informational content, respondents also expressed their ambiguity towards choosing an information source, 123 of respondents ticking the answer “difficult to answer”. In this context, it worth mentioning that in order to tackle the low level of information about the EU and EU-Moldova relations, in 2007 the Ministry of Foreign Affairs and European Integration of the Republic of Moldova adopted a Strategy of Communication with the main purpose to create a sound informational basis in this regard. However, this strategy expired in 2012 and no other strategy was adopted (Morari, 2016). Still, the official web page of the Republic of Moldova’s government, some dedicated information portals (i.e., infoeuropa.md, europa.md), the websites of other NGOs implementing EU funded projects, radio and television represent important channels for Moldova’s population familiarization about the EU and EU-Moldova relations.

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Conclusions

The EU has spent a great deal of resources in the EaP countries during the last decade and that has yielded positive long-term benefits. Modernizing institutions, improving civic society organizations serving as regulators to hold policymakers responsible, and more organized, more diversified business systems are all the product of the disruptive influence of the EU in the region. It's only a matter of time until both demographic transition and political conjuncture contribute to shifting forms of governance.

Republic of Moldova has a lot of obstacles in its journey towards European integration. Sometimes, the intentions of the Moldovan government, society and EU do not intersect. The Moldova Government want to satisfy their interest by being financially supported by EU, while the citizens want that Republic of Moldova to become a European member state. The political elite used the European integration as a tool to establish their power, and implemented selectively the reforms for their benefit. Despite the actions of the government the Moldovan citizens, still continue to support the Europeanization and future European accession. Realizing that the political elite is corrupt, EU may have ceased their support to the government, but they didn't stop helping the Moldovan population offering different opportunities for self-development. Even if the Russian involvement started to increase, European Union still remains the main economic partner and investor.

Most citizens (74,4% of the respondents) of the Republic of Moldova have a very positive or positive opinion about the European Union (EU), while 13,2% have a neutral or bad perception about the EU (less than 2 %). This comes in line with the other finding, according to which Moldovans perceive EU as friendly (83,8%), and only 15,5% of respondents are neutral or perceive EU as hostile (less than 1%). Also, for the Moldova's citizens, EU does represent a model to follow and Moldova can and has a lot to learn from EU about democracy and good governance, market economy, state security, social security, cultural diversity, etc. The majority of the respondents describe the relations between EU and Moldova as being very or rather good and these relations improved compared to a decade ago.

Cross-border cooperation, economic (incl. trade) cooperation, civil society Forum and EaP are seen as the most important ways/types of cooperation developing today between the European Union and Moldova. Moreover, there is more room for EU-Moldova cooperation, especially in such areas as democracy and good governance, economic reform and education, fight against corruption and crime and improve law supremacy, where Moldovans think that their country could benefit the most. Also, Moldovans do think that EU is very important and reliable partner of the Republic of Moldova, supporting it through its financial and technical assistance, the economic and social development. Moldovan citizens are aware about the importance of EU investments and project that are financed from EU funds and are implemented in their city/village through cross-border cooperation programs or other programs.



It will be interesting to have a comparative analysis on the perception of citizens in the other EaP countries, this being established as a research endeavour to be achieved in the future.

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COMPARATIVE LEGAL ANALYSIS OF THE IMPLEMENTATION OF ASSOCIATION AGREEMENTS IN CENTRAL AND EASTERN EUROPE: EXPERIENCE FOR UKRAINE

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Abstract

Legal frameworks of EU's interactions with neighboring countries is treaty-based. The types of agreements concluded between the EU and ENP countries differ as to their purpose, scope and objectives of cooperation. This contribution aims to compare the practices of implementation of the Association Agreements (hereafter - AA) signed between the EU the countries of Central and Eastern Europe with particular focus on the experiences in Poland, Lithuania, Romania, Croatia and Ukraine, who developed their own doctrinal and practical approaches towards fulfilment of the AA obligations. The main research hypothesis is that the efficiency of the AA implementation in Central and Eastern European countries depends on the domestic practices of implementation of international law, deployed in these countries. Following from the hypothesis the research questions are: what are the constitutional and statutory provisions in Poland, Lithuania, Romania, Croatia and Ukraine, on which implementation of the international legal norms is based, and how these countries implemented or are currently implementing the AAs. This contribution is based on the desk-top research of the available legislative framework of the implementation of the AAs in these countries.

Keywords: association agreements, CEE countries, implementation of international law, Poland, Romania, Lithuania, Croatia, Ukraine

Introduction

Since the dissolution of the Soviet Union the relations between the EU and the countries of Central and Eastern Europe experienced significant political, social, economic and legal transformations, as a result of which some of them, such as Poland, Lithuania, Romania and Croatia have already joined the EU, whereas others, such as Georgia, Moldova and Ukraine are still on the way to the EU

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pursuing different national policies towards the EU and the EU membership. From the legal perspective the core EU-related transformations in their legal systems are directed towards ensuring the compatibility of their legal and administrative practices with the EU *acquis* and reflect the domestic practices related to the enactment, application and execution of the international legal norms in their domestic legal orders.

The domestic practices of the EU-compatible transformations of the legal systems of Poland, Lithuania, Romania and Croatia can also be traced back to the respective AA, which Poland and Romania as post-socialist countries and Lithuania as a post-Soviet country concluded in 1991, 1993 and in 1995 respectively; Croatia signed the association agreement with the EU in 2001, where the issues of the legislative and regulatory approximation played a crucial role in aligning the functioning of their legal systems to the EU *acquis* and preparing them for the full EU membership. In the case of Georgia, Moldova and Ukraine, who signed their AA in 2014, a lot of questions arise both in terms of the AA implementation and approximation as a key legal issue.

The first part of this contribution presents the overview of the AAs signed with post-socialist and post-Soviet countries in Central and Eastern Europe after collapse of the Soviet Union, their legal features and peculiarities. The second part of this contribution addresses the constitutional dimension of the AAs implementation in Poland, Lithuania, Romania, Croatia, Georgia, Moldova and Ukraine, and the third part focuses on the domestic practices of the implementation of the AAs in these countries.

1. Association Agreements between the EU and CEE countries: the overview and developments

Association Agreements between the EU and third countries are one the most important tools, which regulate contractual relations between the parties in political, economic and social matters. The possibility to conclude AAs was firstly provided by the Treaty of Maastricht, where the European Economic Community was equipped with the right to “[...] conclude with a third state, a union of states or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures”¹. This provision was widely used by the European Communities at first, and since the conclusion of the Treaty of Lisbon this provision was embedded into Article 217 of the Treaty of Functioning of European Union (hereafter – the TFEU). At the same time separate provision on cooperation with the neighbouring countries have been added to the Treaty on European Union (hereafter – TEU), also opening the discussion on the correlation of both articles for purposes of the AAs conclusion and their relevance for the legal regulation of relations with third countries.

¹ Article 238 EEC Treaty.

Despite the provisions on the conclusion of the AAs were widely used by the EU for the regulation of its relations with third countries in Europe and beyond, the scope and the legal nature of the “association” is defined rather unprecisely. In the academic discourse the association with the EU can be analysed from the international law and EU law perspectives. From the international law perspective, the discussions on the legal nature of the association are often linked to the debate on the issues of membership, trying to find the answer to the question, how many differences exist between the “association” and the “associate membership” (Klabbers, 2014) in the EU in terms of public international rules on the membership in the international organisations. While analyzing the AAs from the public international law perspective it is worth mentioning that Vienna Conventions on the Law of International Treaties (Vienna Convention on Law of Treaties, VCTL 1969; Vienna Convention on Law of Treaties, VCTL 1986) are applicable instruments as to guiding the procedural aspects of their conclusion.

From the EU law perspective, the legal nature of the association is grounded on the ECJ ruling in the case *Demirel* (Case 12/86), where the association was defined as “special, privileged links with a nonmember country,” with the consequence that the third country concerned obtains legal and political opportunities to participate in the EU system.

The contractual practice of the AAs conclusion is so diverse, that the concept of an “association” between the EU and third states is shaped not only by legal regulation as to the cooperation between the EU and third states, but also is co-determined by the geopolitical context and political considerations.

As a result, the scope and content of the “association” between the EU and a third state is quite flexible as to the degree the EU and a third country decide to liaise their legal systems as well as political and economic cooperation.

Regardless the fact that the AAs are quite ambiguous as to the exact content and scope of the association, they have some similarities. These common features are, beyond being concluded as the mixed agreement under Art. 217 TFEU, that AAs address political, economic and sectoral dimensions of the cooperation; they also establish a long-term institutional cooperation framework between the EU and a third country, including the dispute settlement provisions. While establishing the associations with Poland, Lithuania and Romania, the Europe Agreements (the EAs) with Poland (Europe Agreement with Poland, 1991), Romania (Europe Agreement with Romania, 1994) and Lithuania (Europe Agreement with Lithuania, 1995) define the aims of such association in a slightly different way: while the EAs with Poland, Lithuania and Romania set up as one of the association objective the establishment of the cooperation framework for gradual integration to the EU in conjunction with strengthening the political dialogue and support of economic reforms, each of the EAs highlights a particular field of interest for the countries at stake – for Romania the support of social development, for Poland – the cooperation on cultural matter as the area of particular interest and for Lithuania the Internal Market access as such. The EAs as the AAs particular type are based

on the idea of the spillover effects with the expectation that enhanced economic cooperation will "...lead to a greater political convergence" (Europe Agreement with Poland, 1991: Article 2). In terms of organizing the institutional cooperation the EAs have similar approach – Association Councils (ACs), the Association Committees and the Association Parliamentary Committees have to be established, with the ACs equipped with supervisory powers and dispute settlement competencies. Besides acting as primary body for disputes related to the interpretations of the EAs, ACs play crucial institutional role in the establishment of arbitration proceedings in the case when the dispute is not resolved by the decision at the AC level. The EAs contain a set of provisions related to the approximation of the national legislation of these countries to the EU *acquis*, which had rather a framework character (Art. 69-71 of EA with Lithuania, Art. 69-71 of the EA with Romania, Art. 68-70 of the EA with Poland).

Being of the same nature as the EAs with Poland, Romania and Lithuania, the Stabilization and Association Agreement with Croatia of 2004, generally known as SAA (Stabilisation and Association Agreement, 2004) had similar association objectives, however it did not textually provide the possibility of the country's gradual integration to the EU and focused on issues of the regional cooperation as particular priority for the cooperation between the EU and Croatia. It suggests EAs' similar institutional framework with the conventional dispute settlement instruments, which are limited to the Association Council's binding decisions on the matters of the SAA application and interpretation (Art. 113 SAA) and mandatory consultations (Art.121 SAA). The SAA provisions on the approximation of laws are formulated differently, they contain the Croatia's obligation to start the approximation process on the date the SAA is signed (Art. (1)69 SAA), as well as to establish the association within 6-year period after the SAA enters into force (Art.5 SAA). Moreover, the SAA provisions envisage that rules on modalities of the SAA implementation and the monitoring of the approximation progress will be subject to a jointly agreed approximation program with the particular focus on fundamental freedoms' regulations.

The EU-Ukraine Association agreement (EU-Ukraine Association Agreement, 2014), signed in 2014 and in force since 2017, represents a more sophisticated framework for the association relationship in multiple dimensions. First of all, among the association aims the gradual integration of Ukraine to the EU has not been mentioned *expressis verbis* (Art. (2)2 AA with Ukraine), being replaced with the commitment to enhance values-based cooperation allowing Ukraine to participate in the EU programs and agencies, to develop deep and comprehensive economic and trade relations and to promote peace and stability in the region. The provisions of the AA with Ukraine contain detailed regulations with regard to political cooperation, as well as the economic and sectoral ones, imposing a number of concrete obligations, not of the framework character. As a result, in the course of this AA implementation the public authorities are bound very often by precise obligations which arise directly from the text of the treaty, and are clear enough to be interpreted strictly and implemented in the domestic



legal order *directly* with rather simple transposition practices. The AAs institutional framework evolved as well besides the AC, the Association Committee and the Parliamentary Association Committee the summits were institutionalized as the highest cooperation body in the areas of political dialogue (EU-Ukraine Association Agreement, 2014: Article 460) and the civil society platform was established for ensuring the role of the civil society institutions in the course of the AA implementation). The AC role in the AA implementation seems to be limited more to the supervisory and monitoring functions, whereas dispute settlement procedures are regulated separately for trade and trade-related issues, sectoral cooperation and other cases. Moreover, dispute settlement procedures contain differentiated approaches towards dispute settlement in trade-related cases and other issues: rules on consultations (Art. 305 AA with Ukraine), arbitration proceedings (EU-Ukraine Association Agreement, 2014: Articles 306-326) as well as the mediation (EU-Ukraine Association Agreement, 2014: Articles 327-336) might be applied to a trade dispute. Moreover, in the cases when the dispute concerns the interpretation of the EU Law, the arbitration panel is obliged to suspend the case and to refer the interpretation question to the European Court of Justice for a ruling. Another difference the AA with Ukraine has if compared to the EAs and SAA is the content and intensity of regulation on the regulatory and legislative approximation, that, as *Tyushka* suggests, Ukrainian association occurs through approximation (Tyushka, 2015).

As *Van Eluswege and Chamon* point rightfully out, it is quite difficult to classify the AAs due to their flexibility and lacking finality as to the scope of the rights and obligations the EU and third countries regulate, they suggest to classify based upon the variety of criteria (geographical proximity, bilateral or multilateral nature, as well as the final intensity of links which the parties aim to achieve in their relations) the AAs as the pre-accession instruments, the AAs as the substitution for the membership in the EU and AAs as the frameworks for the privileged relations between the EU and third countries (Van Eluswege, Chamon, 2019). Thus, for the European countries contemporarily there are two types of the AAs commonalities: the AAs as the pre-accession tool (as in cases of Poland, Lithuania, Romania and Croatia) and the AAs as an alternative to the EU membership (as in cases of Georgia, Moldova and Ukraine). In both cases it imposes on the third country an obligation to align its legal system to the EU as the ultimate condition for opening of new opportunities for the cooperation with the EU.

To sum up, the AAs are one of the most effective and flexible legal instruments, on which the EU grounds its relations with third countries and which aims reflect the level and degree to which the EU opens its system for the country concerned. At the same time for opening this access to the third countries, the issue of the AAs implementation into their domestic legal orders is detrimental for efficient interaction between the EU and the third countries concerned. In third countries the AAs are understood as international treaties, to which the VCTL 1969

and VCTL 1986 are applicable, and thus their national practices reflect the traditional approaches towards the application of international conventional and customary treaty law thereto. Despite the VCTL 1969 and the VCTL 1986 can be identified as a common regulatory framework for the issues of conclusion, ratification, validity and applicability of international treaty law, the legal basis for their application in Poland, Lithuania, Romania, Croatia and Ukraine differs slightly. Croatia as a former Yugoslav Republic is a signatory party to the VCTL in the way of succession from 1969 with the ratification procedures being finished in 1970. Ukraine joined the VCTL 1969 in 1986 as the Ukrainian Soviet Socialist Republic, based on Soviet approaches towards the application, enforcement and implementation of the international treaties. Poland and Lithuania joined the VCTL 1969 as independent states in 1990 and 1992 respectively. Among the countries analyzed Romania is not a signatory party to the VCTL 1969, it applies arguable the VCTL as the customary international law; and Croatia is the only country which joined the VCTL 1986 in 1994 in the way of accession, whereas Poland, Lithuania, Romania and Ukraine did not join the VCTL 1986, so the applicability of the VCTL 1986 to their legal cooperation with international organizations seems not to follow the unified pattern, allowing for more flexibility in shaping their conventional cooperation with international organizations.

It needs to be mentioned, that Poland, Lithuania, Romania, Croatia and Ukraine developed their own approaches to the application, enforcement and implementation of international treaties, based on their constitutional regulations and statutory legislation, which have both common and different features.

2. Constitutional dimension of the implementation of the Association Agreements in the Central and Eastern European Countries: experiences of Poland, Romania, Lithuania and Croatia

Poland, Romania, Lithuania and Croatia, as the countries, experiencing impact of the Soviet and socialist legacy on their domestic political, economic and legal life, developed after the collapse of the USSR their own relations with the EU, which led to their full membership thereby. On their ways to the full EU membership these countries were affected by the transformations which affected their legal systems as well. Their legal systems had to find the solution to the issues of shaping relations with the EU as a legal order *sui generis* and aligning their domestic legislation to the *acquis*. The approximation of the legislation to the EU rules and standards became the core element in the implementation strategies of the AAs with Poland, Romania Lithuania and Croatia.

The constitutions of Poland, Lithuania, Romania, Croatia and Ukraine were adopted shortly after the Soviet Union collapsed and are marked very often with the provisions, which manifested the turn of these countries from the joint communist and socialist past. Being adopted in the period of 1990-1997, these constitutions, however, dealt with the international cooperation and foreign policy matters very fragmentarily, usually through rules on the status of the international



law and international treaties in their domestic legal systems. All these countries also underwent and some of them still undergo huge re-orientation of their foreign policy towards the EU and NATO, so that the vision of the European future of these countries started to shape the development of their legal systems as aligned to the European legal traditions.

Figure 1. Outlook on the relations between the EU and Poland, Lithuania, Romania, Croatia and Lithuania: constitutional dimension

					
AA	Signed 1991, in force since 1994	Signed 1995, in force since 1998	Signed 1993, in force since 1996	Signed 2001, in force since 2005	Signed 2014, in force since 2017
EU membership application	1994	1995	1995	2003	-
Accession	2004	2004	2007	2013	-
Constitution	1997	1992	1991	1990	1996
EU-relevant amendments to the Constitution	New Constitution adopted	Since 1996 amendments in the text, separate CA in 2003 2003	Chapters introduced on the EU and NATO membership added in 2003	Constitutional amendments in the text of the Constitution, the most important of 2004	Constitutional amendments 2019

Source: authors' representation

The legal debate on the rapprochement of the domestic legislation of the CEE countries to the EU focused traditionally on such questions of constitutional character as: 1) how the CEE countries, namely Poland, Romania, Lithuania and Croatia amended their domestic legislation, in particular, the constitutional provisions on cooperation with international organizations in the course of the AA implementation and preparation to the EU membership; 2) how do national constitutions shape the national practices with regard to the implementation of the AAs and 3) which national approximation practices were developed by Poland, Romania, Lithuania and Croatia that helped to overcome the ambiguity of domestic constitutional regulations. Obviously, all these countries have different approaches towards these issues based on their national practices of the application and enforcement of international law in their legal orders.

2.1. Poland

The extended cooperation between Poland and the EU dates back to 1991, when the Association Agreement with the EU was signed. The EA with Poland entered into force in 1994 and was accompanied by the submission of the

application for the EU membership in the same year. The implementation of the EA with the EU, as well as the perspectives of the full membership thereto implicitly contributed to the changes in Polish constitutional framework on the application, validity and enforcement of international law, as well as on the cooperation with international organizations.

The current Constitution of the Republic of Poland was adopted in 1997, providing general framework for the regulation of its external and internal policies, including framework rules determining the cooperation with international community. The duty to respect the binding international law is provided already in the first Chapter of the Polish Constitution (Constitution of the Republic of Poland: Article 9). In conjunction with Chapter III “Sources of Law” the place of international agreements seems to be clarified in several aspects: firstly, the duly ratified international agreements are recognized as a source of law in Poland (Constitution of Poland: Article 87); secondly, duly ratified international agreement are directly applicable unless they require the additional legislative or regulatory efforts (Constitution of Poland: Article 91(1)); thirdly, the international agreements, which require the ratification through the adoption of a statute, shall have the precedence over the statutes “if such an agreement cannot be reconciled with the provisions of such statutes” (Constitution of Poland: Article 91(2)); and fourthly, the Constitution of Poland provides the possibility for the recognition of the direct applicability of laws of international organizations which Poland joined and shall have the precedence over the domestic legislation in the cases of the conflict of laws (Constitution of Poland: Article 91(3)). The Constitution of Poland also provides the rules for the cooperation with international organizations, stipulating that competences of state bodies can be delegated to international organizations by the virtue of international agreements (Constitution of Poland: Article 90(1)), which are to be ratified by the Sejm and Senate at least “...with a two-thirds majority vote in the presence of at least half of the statutory number of Deputies” (Constitution of Poland: Article 90(2)) and can be subjected to the nationwide referendum (Constitution of Poland: Article 90(3)). The constitutional framework as to the ratification of international treaties vested the respective powers to the Parliament in cases when such a treaty deals with political and military issues, human rights, Poland’s membership in international organizations, financial responsibilities for the state and cases, when statutory regulation is required either by law or by the Constitution.

Even though the constitutional framework on the international affairs has been modernized in 1997, Czaplinski argued, that it still includes very fragmentary and incoherent constitutional regulation in this area, leaving a lot of questions on the correlation between domestic and international law open and requiring very often the judiciary to rule on (Czaplinski, 1998; Wójtowicz, 2018). The situation becomes even more complicated, once the issue of the validity of the EU Law in Polish legal system is to be analysed.

Moreover, besides the constitutional framework, Poland developed very pragmatic approach towards the cooperation with the EU at the statutory level.



Already in 1996 in Poland the Office for European Integration was established with the aim to assist the Polish Government and ministries with the coordination of national policies and domestic legislation with the relevant EU standards. In 1997 the National Strategy for Integration (Strategia, 1997) was adopted by the Polish Parliament, which systematized Polish policy towards the EA implementation and future EU membership as well as positively influenced the process of approximation of the Polish legislation to the EU *acquis*. Significant legislative and regulatory changes were introduced, e.g. in 2000 Poland adopted its Law “On International Treaties” (Ustawa 39 poz.443, 2000), which defines Polish practices of the VCTL 1969 implementation. Besides clarifying the procedural aspects of the conclusion, ratification and enforcement of international treaties in Poland, it addresses the way the EU legal acts are to be introduced into Polish legal system: it stipulates that EU legal acts, foreseen by Art. 48 (6) TEU, Art. 25, 218 (2), Art. 223 (1), Art. 262 or Art. 311 (part 3) are to be ratified as well (Ustawa 39 poz.443, 2000: Article 12a).

Despite having a mechanism of implementation of the EU law in the domestic legal order since the EA was signed, the issues of application of the EU Law in Polish legal order seem not to have a clear pattern. The ambiguities enshrined in the constitutional provisions, the rules provided by its statutory legislation on the application of international treaties, and the reluctance² to recognize the direct effect and supremacy of the EU law in Polish legal order against the ECJ rulings (Joined Cases C-585/18, C-624/18 and C-625/18) seem to create the pattern, on which existential conflicts between the EU law and the national law in the Polish legal system emerge.

To sum up, it can be stated that Polish constitutional provisions reflect the VCTL 1969/VCTL 1986 framework regulating international practices with regard to the international treaties. It leaves a lot of open questions regarding the applicability of international law in the Polish legal system, especially when the supremacy of the EU primary and secondary legislation over the constitutional regulation is addressed. Moreover, the national implementation practices, being based on the concept of ratification of the EU legal acts, seem to be contradictory to the constitutionally embedded idea of direct applicability of international treaties in the Polish legal system. In the situation when such ambiguities occur, the role of judiciary gains importance.

²In March 2021 the Polish Prime Minister Mateusz Morawiecki lodged the application before the Constitutional Tribunal of Poland on the primacy of the EU Law. (Text of the application available at <https://ruleoflaw.pl/wp-content/uploads/2021/05/K_3-21_application.pdf>. In May 2021 the Constitutional Court of Poland heard the case dealing with controversial Polish legislation on judges’ appointment and dismissal procedures, the nomination of the National Council of Judges through the Parliament.



2.2. Lithuania

Lithuania, being the post-Soviet country, clearly articulated its pro-European aspirations in 1990s, after it became independent. In 1996 the Constitution of Lithuania experienced the first amendment caused by the perspectives of the future EU membership: the provision on acquisition of land in Lithuania was open to foreigners (Constitution of Lithuania: Article 47). In 2001 the constitutional amendments related to the future EU membership were not passed by the Lithuanian parliament, being deemed as not necessary by the Parliamentary Amendment Commission, however, in 2003 provisions on the transfer of powers to the EU were addressed again and the Constitution was amended by the Constitutional Act “On Membership of the Republic of Lithuania in the European Union” of 13 July 2004 (hereafter – the CA).

Chapter XIII of the Constitution of Lithuania regulates country’s foreign policy and defense matters and provides rules on country’s adherence to the universally followed and recognized international legal norms and principles (Constitution of Lithuania: Article 135); the accession to international organizations, if compliant with country’s national interests and independency of the state (Constitution of Lithuania: Article 136). It also stipulates that once duly ratified, international treaties are part of the domestic legal system (Constitution of Lithuania: Article 138). The Constitution of Lithuania also provides the basic rule that law or any legal acts contradictory to the Constitution are not valid (Constitution of Lithuania: Article 7), the constitutional review regarding the compatibility of the international treaties with the Constitution of Lithuania is stipulated in Article 105 of the Constitution of Lithuania.

Lithuania followed the way of introducing the special regulation on relations with the EU at the constitutional level. The CA is a constituent part of its Constitution (Constitution of Lithuania: Article 150). The CA provides regulation on the transfer of powers from the Republic of Lithuania to the EU institutions and confirms the direct applicability and supremacy of the EU founding treaties and secondary legislation over laws and other legal acts in Lithuania.

In Lithuania the constitutional provisions on the application and enforcement of international law and cooperation with the EU are also formulated in the framework character. The domestic legislation dealing with the implementation, application and enforcement of international treaties dates back to 1991: The Law “On International Treaties of the Republic of Lithuania” (Law on International Treaties, 1991), being the domestic practice of the implementation of the VCTL 1969, was adopted prior to the Constitution. It is formulated reflecting general practices for conclusion and execution of international treaties in Lithuania, and does not address the issue of direct applicability and direct effect of the international treaties within the domestic legal system. It stipulates that international treaties have the force of law on the territory of the Republic of Lithuania ((Law on International Treaties, 1991): Article 12). In 1995 in the case 8/95 the Constitutional Court of Lithuania ruled on the compatibility of Article 12



of the Law 1991 to the Constitution, affirming the approach of transformation (incorporation), which the country uses to implement international treaties in the domestic legal system (Case 8/95). In 2006 the Constitutional Court of Lithuania ruled, that "...in cases where national legal acts (inter alia, laws or constitutional laws) establish such a legal regulation that competes with the one established in an international treaty, the international treaty is to be applied" (Ruling of 14 March 2006: 2006) With regard to the supremacy of the EU law over the national legislation, the Constitutional Court of Lithuania follows the same approach, denying however the precedence of the EU law over the Constitution. It also follows the position that the EU law is a source of interpretation of the Lithuanian law, so the question remains open as to the status of the EU law in its domestic legal system. As Jarukaitis and Švedas rightfully point out, the Constitution of Lithuania provides the possibility of the direct effect of international law and the EU law, however, the supremacy of international law and the EU law over the Constitution is denied (Jarukaitis, Švedas, 2019).

2.3. Romania

Romania signed the EA in 1993, however its implementation speeded after 1999, when it was granted the status of the accession country. Being trapped in economic difficulties, political and corruption scandals prior to the accession of Romania, the EU developed a conditionality policy, which determined the framework for the EU-Romania relations in the pre-accession as well as in the post-accession periods (Pridham, 2007). Just like in Poland, once the EU membership perspective was opened, the constitutional amendments were introduced, which determined the interaction between the EU legal order and the Romanian legal system.

The current Constitution of Romania was adopted in 1991 and amended in 2003 with chapters dealing with country's relations with the EU and NATO. Since 2010 there has been an internal discussion on the necessity of the revision of the Constitution, f.e. in order to reflect the latest development in the family law issues (national referendum 2018 on this matter failed). Romania is not a signatory party to the VCTL 1969 and VCTL 1986, so the constitutional provisions on the role of international law and international treaties are drawn in the basic lines. The Constitution of Romania stipulates the duty to fulfil duly the commitments arising from international treaties Romania is a party thereto (Constitution of Romania: Article 11 (1)). It also provides that treaties, if ratified by the Parliament, are part of the national law (Constitution of Romania: Article 11 (2)) and in case an international treaty contradicts to the country's constitution, it can be concluded only after the respective constitutional amendments are introduced (Constitution of Romania: Article 11(3)). Moreover, in case the Constitutional Court of Romania finds an international agreement unconstitutional, it shall not be ratified (Constitution of Romania: Article 147 (3)). The Romanian Constitution contains

provisions on the legislative acts (Constitution of Romania: Articles 73-79), but no exact rules on the role of international law and international treaties in the country's legal order are provided. The amendment of 2003 introduced the legal basis for Romania's accession to the EU and provided procedural framework thereto. The Constitution required a two-third majority vote in the joint sitting of the Chamber of Deputies and the Senate presenting two-thirds of deputies and senators (Constitution of Romania: Article 148(1)); it also confirms the precedence of the EU founding treaties and mandatory secondary EU legislation over the domestic law if compatible with the accession act (Constitution of Romania: Article 148 (3)). It also provides joint responsibility of the Romanian parliament, government and judiciary for the fulfillment of the obligations arising from the accession act and the EU membership (Constitution of Romania: Article 148 (4)). These framework regulations leave a lot of open questions with regard to the interaction between the domestic and international law in Romania, where the role of judiciary seems, especially of the Constitutional Court of Romania to be crucial (Gáleo, 2020).

2.4. Croatia

The Constitution of Croatia was adopted in 1990 and since that time has experienced numerous amendments. The basic framework rules on the application of international law in Croatia are to be found in Chapter VII of the Constitution. It provides that if signed and ratified the international treaties are part of the domestic legal order with the precedence over the statutory legislation and regulatory acts under the condition that they entered into force and are published officially (Constitution of Croatia: Article 134). In the case of the international treaties, which grant powers of the Croatian state to international institutions, they are to be ratified by the two-thirds majority vote in the Parliament from all deputies (Constitution of Croatia: Article 133).

Like in the case of Poland and Lithuania, the Constitution of Croatia contains provisions on the regulations of the relations with international organizations and poses the mandatory two-thirds voting in the Croatian parliament and nationwide referendum (Constitution of Croatia: Article 135). Like in the case of Romania, the provisions regulating the relations with the EU are included directly into the text of the Constitution of Croatia and provide the most advanced regulation on the transfer of powers to the EU (Constitution of Croatia: Article 141a), rules on the participation at the EU institutions (Constitution of Croatia: Article 141b), norms on the application of the EU law in Croatia legal order (Constitution of Croatia: Article 141c), and the legal status of the EU citizens in Croatia (Constitution of Croatia: Article 141d). The constitutional review of the compatibility of international treaties with the Constitution can be assumed to be vested to the Constitutional Court of Croatia based on Article 125* of the Constitution, since the review of the constitutionality of international treaties is not mentioned therein *expressis verbis*. Like in Poland, Lithuania and Romania, the



role of the Constitutional Court in addressing the EU matters is crucial (Božac and Carević, 2015; Goldner *et al.*, 2019).

Thus, this short overview of the experiences of Poland, Romania, Lithuania and Croatia underlines, that the post-Soviet and post-socialist countries, despite having the common socialist legacy developed their own approaches towards the implementation of the international law in their domestic legal orders and, consequently, the implementation of the association agreements with the EU. The domestic constitutional regulation on this issue is mainly of the framework character and reflects national practices of the VCTL application regardless whether these countries are signatories to the VCTLs or apply it as the customary international law. The constitutional provisions on the application and enforcement of the international law are based on the rule, that if ratified duly, the international treaties form a part of the domestic legal order, usually being subordinated to the constitutions, but having the precedence over statutory laws and other regulatory acts. Moreover, some constitutions recognize the possibility of direct applicability of international treaties in their domestic legal systems (f.e. Art. 91 of the Constitution of Poland) and provide constitutional review of the compatibility of international treaties with domestic constitutions (Article 188 (1) of the Constitution of Poland, Article 148 of the Constitution of Romania, Article 105 of the Constitution of Lithuania, Article 125* of the Constitution of Croatia). As the practices of the constitutional review of international treaties in cases of Poland, Lithuania, Croatia and Romania show, the outcomes of such reviews in different legal systems, as *Mendez* notes, differ much (Mendez, 2017). Once these countries defined the membership in the EU as one of their foreign policy priorities, they faced the situation that existing constitutional provisions are not ensuring the prompt, efficient implementation of association agreements, thus the amendments to their constitutions were introduced addressing the issue of the delegation/transfer of state competencies to the EU and the issue of the direct applicability of the EU founding treaties and secondary legislation in the domestic legal orders of Poland, Romania, Lithuania and Croatia, leaving open the the question about the correlation and supremacy of domestic constitutions and the EU law, especially EU primary law.

3. National practices of the implementation of the Association Agreements in Central and Eastern Europe: lessons for Ukraine

Ukraine became independent in 1991 after the dissolution of the Soviet Union. Like any country in the post-Soviet area it started to develop its contractual relations with the EU focusing at first at the maintenance of the cooperation in trade and trade-related matters. Gradually the cooperation between the EU and Ukraine became intensified: with the signature (1994) and entering into force of Partnership and Cooperation Agreement between the European Union and Ukraine (1998, hereafter – PCA) the political dialogue between the EU and Ukraine became



institutionalized within the Ukrainian legal system. According to the PCA Ukraine for the first time unilaterally agreed to align its domestic legislation to the *EU acquis*, so that domestic practices on the rapprochement of its legal rules and regulatory practices to the EU became an essential part of the bilateral cooperation discourse accompanied by the discussions on structural reforms, combatting corruption and stabilizing the economic situation.

The approximation practices in Ukraine evolved from the implementation of the Article 51 PCA (Partnership and Cooperation Agreement, 1994), which contained the lists of areas, where the compatibility of the Ukrainian legislation and regulatory practices of the EU rules was expected, however the clarity as to the terms and procedures for the adaption of the Ukrainian legislation to the EU *acquis* was lacking. The national approach towards the approximation practices, however started to be shaped merely by active governmental efforts, which started to develop a statutory and secondary legislation in this area already at the turn of the XX-XXI centuries with particular focus on the EU law compatibility checks, translation of the EU *acquis* and institutionalization of the decision-making and control over the implementation of the Ukrainian obligations under the treaties with the EU.

The national legislative and approximation practices are based in terms of constitutional regulation on Article 9 of the Constitution of Ukraine, which determines the correlation between international treaties, to which Ukraine is a party and which are duly ratified by the Ukrainian Parliament, and acknowledges their status as a part of the domestic legislation. Like in the case of Lithuania, Romania and Croatia, international treaties, if contradictory to the Constitution, can be signed and ratified only after the constitution is amended. The Constitution of Ukraine does not contain clear rules regarding the place of international treaties in the legal system of Ukraine. Statutory legislation often provides that international treaties, if ratified and duly in force, are to be applied in the same manner as the national legislation is enforced. Where the national legislation contradicts international treaties, the latter have priority over the Ukrainian legislation.

Unlike the Constitutions of Poland, Romania, Lithuania and Croatia, the Constitution of Ukraine does not provide general coherent regulation on Ukraine's cooperation either in the case of the application and enforcement of the international law in general terms nor in the case of the development of cooperation with international organizations, leaving here the space open as to the constitutional prerequisites of the transfer of powers to international institutions. Like in Poland, Romania, Lithuania and Croatia the Constitutional Court of Ukraine is vested with powers to determine the compatibility of international treaties with the Constitution of Ukraine (Constitution of Ukraine: Article 151) and is entitled to express its opinion on this issue.

This constitutional provision shaped the debate on the implementation of the PCA; it also determines the contemporary domestic practice of the implementation of international treaties in Ukraine, including the EU-Ukraine AA and gives floor for the debate on the correlation of the international law and the domestic law,



since the enforcement of international legal rules in Ukraine in different fields, e.g. human rights, causes a lot of controversies both in practical and theoretical terms, since a coherent approach towards such fundamental issue is not achieved yet neither by state policies nor in the academic environment (Koziubra, 2020; Petrov, 2014). Like Romania and Lithuania, the Constitutional Court of Ukraine is vested with powers to determine the compatibility of international treaties to the Constitution of Ukraine (Constitution of Ukraine: Article 151) and is entitled to express its opinion on this issue.

The Law of Ukraine “On International Treaties”, as the VCTL 1969 implementation practice, does not contain a separate provision on the direct effect of international treaties. It confirms the constitutional rule that if ratified by the Ukrainian Parliament, the international treaties are to be applied as the domestic legislation and shall prevail over it in the case of the conflicts (Law of Ukraine (1906-IV), 2004: Article 19). The Ukrainian statutory legislation does not contain special provisions on the direct applicability of international legal norms in Ukraine with one exemption: the European Convention of Human Rights is directly effective and applicable (Law of Ukraine (№ 3477-IV), 2006). However, in this case the judiciary should fill the gap, as *Petrov* argues, and recognize the primacy and the direct effect of PCA provisions over the conflicting domestic legislation (Petrov, 2014: 5). In Ukraine, such judiciary activism occurs in an inconsistent and sporadic manner.

The national legislative framework for the approximation of the domestic legislation of the EU *acquis* dates back to 1998, when the Government of Ukraine adopted the National Strategy of the Integration of Ukraine into the EU, where the approximation discourse was defined in general terms. In 1999, the Government of Ukraine adopted the Concept of Adaptation of Ukrainian laws to the legislation of the EU (Decree 1496, 1999). In 2004 the Ukrainian Parliament approved the National Programme on the Adaptation of Ukrainian legislation to the EU *acquis* (Law of Ukraine (1629-IV) 2004), where, as *Petrov* argues, Ukraine voluntarily agreed to introduce the EU *accession acquis* without the perspective of full membership in the EU (Petrov 2014: 12). In the course of the AA implementation Ukraine made extensive use of deploying national secondary legislation at the level of by-laws to regulate the approximation issues: e.g. the compliance check for the domestic legislation was introduced in 2009 in the Rules of Procedure of the Government of Ukraine (para. 46 on the compliance check for conformity of Ukrainian draft law with the EU *acquis*) (Rules of Procedure, 2009) and exarbedated in the Ruling on the Governmental Office for European and Euro-Atlantic Integration, where most procedural rules are contained (Ruling 759, 2017).

Until 2017, the institutional framework of approximation in Ukraine was based on the idea that approximation and the EU law compliance check were to be organized within the government by line ministries, which actually very often caused a lack of coordination leading to delays in the approximation process. In 2016, Ukraine transferred from the decentralized institutional framework for EU



matters to the single-body focused model of the national institutional mechanism on the EU-Ukraine relations: it established the position of the vice-premier for issues regarding the European and Euratlantic Integration of Ukraine. Thereafter, in 2017, the Governmental Office for the Coordination of European and Euro-Atlantic Integration of the Secretariat of the Cabinet of Ministers of Ukraine (Ruling 759, 2017) was established in order to direct, coordinate and control governmental efforts in the implementation of the EU-Ukraine AA, including the approximation of Ukrainian legislation to the EU *acquis*.

Thus, Ukrainian practices on the AA implementation are based on the constitutional provision on the international treaties, which determines the framework for domestic practices of the implementation of international treaties.

Despite the Ukrainian legislature, executive and judiciary recognize specific nature of the AA, a complex framework legal structure that contains not only specific norms able to govern the functioning of the association relations between the EU and Ukraine is still missing. The constitutional amendments (Constitution of Ukraine, 1996: Constitution Preamble, Article 85(5), Article 102, and Article 116 (1¹)) were introduced in 2019, reflecting the European expectations of the Ukrainian population, however both the implementation practices for the international legal rules in general and the implementation of the AA itself did not receive a coherent and transparent structure.

Conclusions

The national implementation practices of the association agreements in Central and Eastern European countries are basically linked to the constitutional provisions, which refer to the status of international law, international treaties and rules on cooperation with international organizations. As experiences of Poland, Romania, Lithuania, Croatia and Ukraine show, the general constitutional provisions are containing the framework rules on the interaction between international law and domestic legal orders. These constitutional provisions are circumstanced by domestic practices of the implementation of international law. The constitutional provisions very often stipulate that if signed and ratified, international treaties, form the part of the domestic legal orders, however the applicability of international treaties within these countries is regulated differently: Poland recognizes the direct applicability of international treaties in its domestic legal order, as opposed to Romania, Lithuania, Croatia and Ukraine, which do not address the direct applicability or direct effect of international treaties *expressis verbis* in their constitutions. The conclusion and ratification of the AAs between the EU and these countries, especially once the perspective of the EU membership was open, modernized national practices of implementation of the international treaties, especially due to the fact, that the recently concluded AAs include provisions on extensive legislative and regulatory approximation of the domestic legal systems to the EU *acquis*. The AAs with CEEs evolved from the agreements which contained basically the framework rules regulating relations between the EU



and third countries like in the cases of EAs with Poland, Romania and Lithuania, to the treaties, which contain detailed, clear and self-sufficient regulations, like in the case of Ukraine, with rather a limited margin of appreciation left to the states in the course of the AAs implementation. This opens the discussions on the direct applicability of such AAs in the domestic legal orders of such countries as Ukraine. The issue of direct applicability of international law has a clear constitutional dimension, and gives a new rise for the debate in Ukraine on the precedence of the international law over the domestic legislation, especially over its Constitution.

It needs to be mentioned that Poland, Lithuania, Romania and Croatia dealt with the issues related with the EU membership at the constitutional level prior to their membership. Technically, the most important issue that the legal systems of Poland, Lithuania, Romania and Croatia needed to address at the constitutional level was the direct effect and direct applicability of the EU Law, which required to be addressed both at the constitutional level and at the level of the secondary legislation. All countries but Poland follow the way of the introduction of the amendments to their constitutions, whereas in 1997 Poland adopted the Constitution with the general framework regulation on its cooperation with international organizations. Even if amended, the countries Poland, Romania, Lithuania and Croatia do not recognize the supremacy of the EU Law over domestic constitutions. The judiciary (constitutional and supreme courts of these countries) address the ambiguities related to the EU Membership and the application of the EU Law. Ukraine in this context also follows the line of amending the text of its Constitution, both in the way of application of the rules on constitutional amendments and in the way of judiciary activism. The last one, especially through the jurisprudence of the Constitutional Court of Ukraine, is very often seen as an instrument of the tacit amendments to the Ukrainian constitution.

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INFLUENCE OF NON-WESTERN ACTORS IN THE BALKANS

Roland LAMI*, Blendi LAMI**

Abstract

In recent years, the balance of power of international actors has changed significantly. The emergence of non-Western powers on the global and especially regional stage is reducing the Western domination in the Balkans. Any weakness or insecurity of the institutions towards its real challenges on the one hand, and the weakening of the role of the European Union in the integration processes with the countries of the Western Balkans, on the other hand, gives non-Western actors a chance to further extend their influence in this region. Russia, Turkey and China are creating a strategic triangle that is openly challenging in some cases the United States and its Western allies, in geopolitical and geoeconomic terms. In this paper we want to emphasise that there is opportunity of the influences of other non-Western actors on the political life in the country in the region.

Keywords: hegemony, non-western actors, geopolitics, geoconomy, European Union

Introduction

In recent years, the balance of power of international actors has changed significantly. The emergence of non-Western powers on the global and especially regional stage is minimizing Western domination in the Balkans. In this context, Albania is not immune to these influences; on the contrary, any weakness of the institutions towards its real challenges on the one hand, and the weakening of the role of the European Union in the integration processes with the countries of the Western Balkans, on the other hand, gives non-Western actors a chance to exert their influence in the region.

According to Shopov “The development gap between the Western Balkans and the EU is not an abstract concern but a genuine problem. So is Western policymakers’ ambivalence towards the region. While this gap emerged largely due to local deficiencies in governance, repeated delays to the accession process and

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the lack of a realistic road map for convergence between the region and the EU will continue to create openings for third actors. And these shortfalls will encourage Western Balkans governments to adopt a purely transactional approach to foreign policy, in which they grasp every economic opportunity regardless of how it affects the integration into the EU of the region's economies and societies." (2021, p 22).

It is worth noting that Russia, Turkey and China are creating a strategic triangle that is openly challenging in some cases the United States and its Western allies, in geopolitical and geoeconomic terms, which are associated with important implications for the countries of the region and Albania in particular. The struggle for hegemony in the region has begun as the international arena itself has become so in recent years. Ian Bremmer points out that "we have entered a new world: G-Zero with many transnational challenges such as global economic stability, climate change, cyber attacks or terrorism, and the need for international cooperation has never been greater. But cooperation needs leadership. Exactly, this component is missing. "The world no longer has a leader to impose." (2008, p.47).

According to Bremmer, we live in G-Zero world (in contrast to, say, the G-20), a period of „tumultuous transition" in which „many countries are now strong enough to *prevent* the international community from taking action, but none has the political and economic muscle to *remake* the status quo." (2008, p.24). The author describes in cogent detail the various reasons why no one—not the United States, not China, not the European Union or institutions like the World Bank—is presently in a position to provide or impose global leadership. As a result we have entered an unstable time when nation-states will pursue their own interests relatively unrestrained by other nations or alliances. Economic strength, not military strength, will determine the new international balance of power. Some nations—e.g., „pivot states" like Brazil—will thrive by building „profitable relationships with multiple countries without becoming overly reliant on any one of them." States in the shadow of a powerful neighbor, like Mexico, or friendless rogue states will likely wither. The ongoing effects of China's economic expansion and America's response to it will be key factors in determining the world order that will emerge from the G-Zero. Such is the arena even non-Western powers are trying to behaving the Balkan region. To have a clearer geopolitical picture of this arena, we can refer to the scenarios predicted by Ian Bremmer. In *Every Nation for Itself: Winners and Losers in a G-Zero World*, Ian Bremmer predicts five scenarios for the future international relations: G2—a U.S.-Chinese partnership; Concert—a G 20 that actually works; Cold War 2.0—or something worse; a World of Regions—to each his own; and Scenario X—the G-subzero (Bremmer, 2008),

As the European Union seems unable to resolve the frequent crisis in the Balkans, we see the emergence of non-Western actors. Furthermore, the US is being withdrawn from the region and for many security problems declares that these are European problems. In this leaderless world, "there is growing power vacuum in international politics as no country or group of countries has the political and economic leverage to drive an international agenda or provide global



public goods” (Bremmer 2008, p.132). It is very likely that in this scenario the pivot states will be even more successful. The lack of multilateral agreements will enable them to seize opportunities to conclude bilateral agreements with other countries. An essential feature of this system is unilateralism, which essentially means unilateral action without reference to conventions or without respect for multinational institutions. According to Bremmer, emerging powers like Turkey, Russia and China certainly poised to take advantage of new opportunities to play a more prominent diplomatic role in this new order.

The implications of this reality in the global and regional arena are also noticed in Albania. The set of actors that aim to influence and influence is diverse. Precisely to understand how diverse their interests and influences in Albania’s foreign and domestic policy are, it is worth briefly analyzing some of them. For this reason, some of the main actors that have influence in the region and specifically in Albania have been selected. Among the most influential actors in the region besides the EU and the US, are Turkey, Russia and China.

In this paper, we are not going to assess the degree of influence of the countries in question compared to the EU and the US, as the leading role of the EU and the US in the region and in Albania specifically is known, but, more to say that in the region the possibility of influences of other non-Western actors on the political life in the country. Also, to underline that influences are not static but dynamics, and the future perspective does not exclude the possibility of facing another reality of influence of international actors in the region.

1. Russia - a strategy of tension

Analysts argue that Russia is trying to increase its influence in the Western Balkans to slow down EU and NATO enlargement in the region. According to Clark and Foxall (2014), Russia is pursuing a strategy of tension, creating problems in the Balkans, to give importance to itself as a factor in international negotiating tables. They point out that almost all countries in the area have embarked on the path of Euro-Atlantic integration, which must now be accelerated.

Experts in the field of diplomacy in Albania claim that Moscow is using the delays of the Euro-Atlantic integration of the Balkan countries to factorize in the region. Former Foreign Minister Starova, head of the Albanian Atlantis organization, says that „Russia has its influence in the Balkans and is working to expand it in spite of NATO and the EU, insisting on being asked about European issues and world. „ While Murati in his book „Balkan Russia” argues that „... initially Russia tried to influence the Balkan economy through energy projects with SouthStream and TurkishStream, but after the events in Ukraine Russia’s interest in the Balkans took on a military character and it „I am using Serbia as a base for my goals in the region.” (Murati, 2016, p.2).

The former ambassador of Albania to the Republic of Kosovo, Lauka, says that the Russian influence is significant even in the north of Kosovo to the radical elements. He says: “Russian influence aims to grow, it aims to expand through



many forms; through corruption, money, economic pressure, the use of certain instruments that Moscow has, such as vetoes, for example.” Such forms are seen as a potential danger in Albania as well. According to Bugajski, corruption of elites and the need for support are some of these forms. To influence the Balkans, the Russians are also using the religious factor, such as pan-Slavic ties and the so-called „brotherhood” of Orthodox countries. Scholar Murati argues that “.... they are not sparing either with joint landing exercises with Serbia, or with the support of the Montenegrin opposition, or with the procrastination of the 20-year-old problem for the name of Macedonia. Moreover, Russia is not sparing to influence also in Albania, a NATO member country and always closer to the EU.” (Murati, 2016, p.2).

There have been strong statements from the US and the EU about Russian influence in the region. US General in Europe Curtis Scaparrotti has warned that the Balkan region is facing growing pressure from Russia and that Washington and NATO need to do more to keep the region from destabilizing. Foreign policy expert David Phillips also says the danger posed by Russian and Turkish influence in the Balkans is real. „The leaders of Albania and Kosovo must take this threat seriously and must maintain a clear stance on their alliances.” (VOA, 2018) Not without reason, the leaders of NATO intelligence agencies met in Tirana, where they discussed the tensions created in Albania by Russian politics and influence.

The increased Russian influence in the region does not lack the positions of a number of EU countries. One of the reasons that many EU countries were in favor of opening negotiations for Albania and Northern Macedonia, was to limit the possibility of Russian influence in the region. For Chancellor Merkel, „non-opening of negotiations with Tirana and Skopje poses a risk to Russian influence.” (Shqiptarja.com, 2020). The European Council on Foreign Relations says in the report: “In Russia’s eyes, the EU approach to the Western Balkans is neither serious nor systematic, so it offers opportunities for Moscow” (Shqiptarja.com, 2020). Even the former president of the European Commission, Jean-Claude Juncker goes on to say: „If such a complex area of Europe gives the impression that we are not serious about its European perspective, we will experience sooner than we expect what we have seen in the Balkans over the years. 1990.” (Shqiptarja.com, 2020). On the other hand, Russia’s reaction was immediate after the decision of the European Council, where Moscow made an unexpected offer to Tirana and Skopje, inviting them to join the Eurasian Union. (Dosja.al, 2019). The Eurasian Union - in President Putin’s idea - is simply a reconstruction of a Kremlin-led Russian Empire. This “empire” regroups as much as possible the former Soviet states into an economic system based directly on an economy under the control of the state and the oligarchs - a model developed in post-Soviet Russia. Through the realization of this project, President Putin hopes to restore confidence in Russian power and establish a „managed democracy” in which the law protects the state, not the rights and freedoms of the ordinary citizen.



2. China – an ambitious foreign policy

Another important actor in the region is China. China's approach to the Balkans is dualistic. On the one hand, China develops a unilateral policy with the Balkan countries, excluding Kosovo, but, on the other hand, Beijing has built a regional platform known as „16 + 1”. This platform aims to intensify and expand cooperation with 11 EU member states and 5 Western Balkan countries. (Marleku, 2019) The nature of investments is mainly focused on infrastructure: construction of highways, construction of bridges, increase of energy capacities and use of seaports. This strategy commentary in different way. Pepermans (2018) argues that China employs a strategy which combines positive economic statecraft with the cultivation of soft power in order to increase China's economic and political influence in CEE. Jian (2018) argues that the geopolitical connotations of a deeper economic exchange between China and the Balkan countries and the concerns that their own standing and influence in the region will be subsequently weakened, make the EU and other regional powers increasingly uncomfortable about China's involvement in the region, despite Beijing being “the weakest player in this geopolitical game.” Other authors Giusti and Mirkina (2013) argue that on the back of the “Belt and Road Initiative” (BRI) China is establishing “a trans-EU political space in the EU neighborhood and re-shaping the political and economic context in the Balkans. This, authors argue, represents a contestation of the EU power in itself, as the regionalization strategies of the EU and China are completely different yet come head-to-head in the Balkans. One is based on the “one-size-fits-all” regionalism and pooling of sovereignty (the EU), while the other one consists of a more flexible and less stringent form of cooperation (as is the case with BRI).

On the other hand, Keukeleire identifies the EU engaging in “structural diplomacy” and “structural foreign policy” in other regions, “pursuing and supporting long-term structural changes, both in the internal situation of these countries concerned and in the inter-state relations and general situation of these regions through transferal of ideological and governing principles” (2003, p.47). Such approach is based on the use of political-diplomatic and economic-financial instruments. The former revolve around the institutionalized form of regular dialogues in a large number of policy areas through which others are persuaded, convinced, and pressurized, while the latter involves financial means put on disposal for support and cooperation programs in a variety of strategically important sectors and areas such as energy, transportation, regional development and the associated trade and investment policies, etc.

Meanwhile, China's approach is bilateral. It does not focus on the standardization of regional parameters but on economic relations with the respective countries without worrying too much about the level of corruption, the low level of law enforcement, informality, low salaries, etc. It exploits the weak level of institutions and investment needs that countries have to attract capital and financing from abroad. Cooperation with external actors such as China seems to

offer these countries a bright future in which they are no longer caught in limbo. In response, the EU should attempt to gain public support in the Western Balkans by establishing a common sense of belonging. There is growing evidence that Beijing is expanding and embedding its presence across the Western Balkans in a variety of sectors, while engaging with an increasing number of local actors. The process appears to be accelerating at a time when there is an emerging Western consensus on the challenges posed by Beijing's forays into the region. Despite the fact that in economic terms, "the position of EU in the region is unrivalled. In 2018, the EU accounted for 71.9 percent of the region's exports in goods and 57.7% of its corresponding imports. On the other hand, China represents 8.2 percent of the region's imports and 0.7 respectively" (Bieber and Tzifakis, 2019, p. 21) It is worth noting an important trend: China is increasingly getting involved in the Western Balkans markets.

Table 1. Western Balkans' trade in goods with the EU and China, as percentage of the total trade, 2019

	EU	EU	China	China
	<i>Imports</i>	<i>Exports</i>	<i>Imports</i>	<i>Imports</i>
Albania	58% (1)	76% (1)	9% (3)	2% (4)
BiH	61% (1)	72% (1)	7% (3)	-
Kosovo	49% (1)	33% (1)	10% (3)	-
Montenegro	47% (1)	37% (1)	8% (3)	4% (5)
N. Macedonia	50% (1)	79% (1)	6% (4)	2% (4)
Serbia	59% (1)	68% (1)	9% (2)	2% (7)

Source: European Commission 2019 factsheets on Trade in Goods

The dynamics of the volume of exports and imports – given above - demonstrates that the region's direct trade exposure to China is consistent among all the countries. While engagement as a percentage of the total trade is less than 10 per cent, China has risen to be the second or third most important import partner. In other words, while the EU is still by far the most important partner, China has managed to offset other traditional partners of the region like Russia or Turkey.

Beijing has exploited the geopolitical ambivalence of many Western capitals, grasping the opportunities to invest in strategically important sectors that arise from the persistent development gap between the Western Balkans and the EU, as well as the region's lack of sustained political and economic convergence with the bloc (ECFR 2017, p. 2) Thus, despite the perceptions of China's growing power in the Western Balkans, Beijing's agenda-setting and implementation ability has actually been substantially weakened by the EU's reinvigorated "structural diplomacy" in the region, and the space for independent action and policy-making of China and the Western Balkans states within their relationship significantly narrowed.

The country that has attracted the most investment so far is Serbia. This includes the 350 km long high-speed railway between Budapest and Belgrade. China is also investing in Belgrade in building a \$ 160m bridge over the Danube River and has given Serbia a 700m-euro loan to build electricity capacity. The same approach, albeit on a smaller scale, has been used with regard to Northern Macedonia. The largest investments are two road projects Skopje-Stip and Kicovo-Ohrid, for the realization of which China has lent Macedonia 580 million EUR. In addition, around € 500 million has been earmarked for the project related to the New Silk Road Initiative. Also in Greece in 2009, COSCO, China's largest shipping and port concern, invested more than 250m euro in the port of Piraeus, and another 650m later to secure a majority stake in the port. Also, President Xi Jinping recently signed 16 economic agreements in the field of agriculture, telecommunications, innovation, tourism, culture and justice worth about 600 million euro and signed the agreement for the opening of two branches of the International Bank and Commercial Bank of China (ICBC) (Top Channel, 2019).

Regarding the presence of Chinese investments in Albania, it is noticed that China has become a valuable trade partner for Albania, as a number of companies such as Geo-Jade Petroleum have found a territory of great interest for investments. The Shanghai-based company bought control of two oil fields in Patos-Marinza for \$ 442.3 million. In 2016, another company took a concession for the next ten years to Mother Teresa Airport. Balancing the development of bilateral relations between Beijing and Tirana, Ambassador Yu stressed that both sides have signed a total of 28 cooperation documents covering 17 areas, while Chinese investment in Albania has increased 40 times. „From 20 million US dollars in 2014, Chinese investments have already reached more than 800 million US dollars, making China the main source of foreign investment in Albania. Tirana became part of the gigantic infrastructure project „One Belt One Road”.

„In the Western Balkans, Chinese investments now make up 20% of the total stock of foreign direct investment, about 14 or 15 billion dollars, with Serbia leading with about 10 billion.” If we compare it with investments in the EU, Chinese investments in the EU make up about 2% of the total stock, while in the Balkans they have reached about 20% mainly in infrastructure”, - says Zeneli (2020, p.1) , The risk of Chinese investment lies in the fact that unlike the EU, for example, in the Balkan countries, Chinese projects have also financed projects that, in technical terms, have not yet matured. In Montenegro, for example, the Bar-Boljare highway has seen its cost increase significantly because access roads to the highway were not foreseen.

These developments have raised EU and US concern about China's growing influence in the region. According to former Enlargement Commissioner Hahn, some Balkan countries are borrowing large sums from China to invest in infrastructure projects which, he said, will increase the risk and potential of damaging their fragile economies. A similar concern was expressed at the Munich Security Conference, held in 2019. Among other things, it highlighted the problems that the Balkan countries may face, which have borrowed from China to develop



their infrastructure projects, but on the other hand they do not have enough capacity to repay these loans. The fear of EU politicians is that this financial cooperation will turn into a political cooperation and will keep these countries under Chinese political influence. US Secretary of State Pompeo also warned Balkan leaders of the potential risks of Chinese investment in technology and major infrastructure projects.

It is worth noting that Chinese investments are also associated with the corresponding risks. The risk of Chinese investments lies in the fact that, unlike the EU, in the Balkan countries, Chinese projects have financed projects that in technical language have not yet matured. The case of contracting the Tirana ring road where the two lots with 20 million euro per kilometre, was cancelled because the preparation of documents was a messy - even ridiculous - process”, says Zeneli (2020, p.1). This is not an isolated case but repeated in other countries other of the region. The EU has warned the Balkan countries and has reiterated the position that every sovereign state has the right to choose partners and investors. But, on the other hand, those countries, if they want to make progress in the EU integration process, must respect the high standards of the bloc, including those for major infrastructure projects. Albania, being in the phase of opening negotiations with the EU and waiting for the holding of the first Intergovernmental Conference of Albania with the EU, has been inclined to take into account this position of the EU.

On the other hand, we cannot help but notice the differences in the way Chinese and EU companies operate, says an expert of „Marshall Center”. The difference in the social, political and cultural context of countries like Albania creates greater opportunities for investment by Chinese companies. Chinese companies have a significant advantage over Western investors. First, they are backed by large government subsidies and state-owned banks. Second, they are willing to build at low cost regardless of environmental or social standards. In the end, the biggest benefits go to Chinese companies because they are the implementers of these projects.

The last few years have marked an increase in China’s media presence across the Western Balkans. For instance, between 2016 and 2019, the number of stories related to the Belt and Road Initiative (BRI) published in Albania jumped from 42 to 194. Referring to the Albanian Security Barometer 2020, it turns out that although China is among „external actors”, as opposed to the countries of the Euro-Atlantic alliance, it is seen as having a positive impact on Albania’s security – as reflected on a growing percentage of citizens (Dyrmishi, 2021).

A report published by the Konrad Adenauer Foundation highlights China’s growing influence in Southeast European media, including Albania, as well as its expanding presence in the economic, political, social and cultural life over the past decade. In Albania, the greatest influence is evidenced in public media such as the Albanian Telegraphic Agency, ATSH and the Albanian Radio Television, RTSH, which have signed cooperation agreements with respective agencies in China. „A significant amount of products are offered for free by the Chinese. The agreement



also facilitates the broadcast of documentaries on China's system of government, such as „China: Time of Xi,” the report said, referring to TV series about Chinese Communist Party leader Xi Jinping.

3. Turkey – a force to reckon

Turkey is another important influential actor in the region. Based on the „Strategic Depth” doctrine, Turkey has re-dimensioned its foreign policy to increase its influence in the Balkans and beyond. The economic and cultural dimensions have taken on a specific weight in the application of Turkish foreign policy. „As long as the AKP intends to revive the Ottoman past, the Balkans are important to them,” said scholar Gozaydin (2016, p.334). „I also see a revival of Islamic identity and Turkish influence in the region,” said Balkans expert Bagci (2016, p.332).

The budget of the Agency for Cooperation and Coordination (TIKA) has been increased recently. TİKA initiates and assists several projects abroad in the field of health, safety, education, renovation, infrastructure and institutionalization in the Balkans. TİKA is also an important actor in reviving the forgotten Ottoman past in the region. To achieve this, TİKA is renovating old Ottoman monuments, schools (madrasas) and financing the reconstruction of mosques across the Balkans. TİKA also coordinates the financial assistance provided to the Balkan countries, which is estimated at 154 million dollars if we refer to 2015.

The Yunus Emre Institute is another important branch for the exercise of Turkish soft power in the region, whose main task is to spread Turkish culture and language throughout the Balkans. Thanks to their contributions and efforts, today the Turkish language is being taught as an elective subject in primary and secondary schools in many Balkan countries, especially in Bosnia. Through Yunus Emre and other state and non-state institutions, Turkey offers scholarship programs to students from relatively less developed countries in the Balkans.

It is also important to note that similarities in tradition between people in Turkey and the Balkans have made the region a very lucrative market for Turkish companies. According to an EBRD report referring to data from the Turkish Institute of Statistics (TUIK-Turkstat), in 2016, the share of the 10 Balkan countries together in Turkey's total exports was 5.2%, while in total imports was 4.5%. According to the Ministry of Economy, the cumulative value of Turkey's foreign direct investment in 10 Balkan countries, including Turkish investments made through third countries, in 2016 was about \$ 5 billion. In terms of investment, the Balkan country where Turkish firms are most active is Romania. In 2016 the total value of Turkish capital in this country was about \$ 1.2 billion. Apart from Romania, other countries in the region that have absorbed relatively more Turkish capital are Albania with \$ 982 million and Bulgaria with \$ 864 million. The cumulative value of Turkish foreign direct investment in Bosnia and Herzegovina is \$ 256.3m and the total value of Turkish contracting projects is \$ 563.6m (TRT, 2017).

In recent years there has also been a significant increase in Turkish investments in Macedonia, Croatia and Kosovo. In fact, the total value of Turkish direct investment in these three countries from \$ 235 million in 2011 has increased to \$ 1.3 billion by the end of 2016. According to data from the Ministry of Economy of the Republic of Turkey, by the end of 2016, the cumulative value of Turkish capital in Macedonia is estimated at \$ 500 million, in Croatia \$ 430 million and in Kosovo \$ 341 million. In Montenegro, the smallest country in the Balkans in terms of population, Turkish investment has remained at a relatively lower level, \$ 39 million. While in Serbia they have increased from one million dollars in 2011 to 200 million dollars in 2018 (TRT, 2017).

Referring to the presence of Turkish let say that Turkey has great interest in Albania as it is considered the most appropriate state to promote Turkish interests within the Western Balkan region. Though there are several obstacles limiting Turkey's full penetration into Albania, the transformations are increasing gradually (Bagci and Doganlar, 2009, p.14). In related with turkey company in Albania there are more than 400 Turkish companies operating in Albania such as: in the field of energy, mining, telecommunications, textiles, banking system, logistics and health. The Ambassador of the Republic of Turkey in Tirana, Murat Ahmet Yörük said: "The total value of Turkish private sector investments in Albania is close to 3 billion dollars, while our trade volume in 2017 was about 450 million dollars (TRT, 2017).

The above data speak of a cultural, cultural and religious economic presence of Turkey in the Balkans. European leaders have expressed concerns about what they call Turkey's expanding influence in the Balkans on several occasions. French President Emmanuel Macron last year urged the European Union to promote its influence in the Western Balkans, warning that otherwise countries in the region would return from Russia or Turkey.

The former Italian Prime Minister, at the same time the former President of the European Commission Romano Prodi, in a special editorial on the Italian-Albanian relations called on the Italian government to pay more attention to the relations with Albania. The former Italian prime minister was concerned about the growing Turkish influence, which according to Prodi has replaced the former Italian influence. Also, the scholar Cagaptay in his book „Erdogan Empire” argues that the Turkish influence in the Western Balkans is quite stable. There are historical factors that help the presence of Turkey there, there are ethnic, cultural and linguistic ties. „There is also a very coordinated Turkish policy to fill the gap left by the EU absence in the Western Balkans.”(2019, p.34). In the same line, the researcher David Phillips states: „The leaders of Albania and Kosovo must take this threat seriously and must maintain clear positions on their alliances.” (VOA, 2021). As for Bugajski, „Turkey does not represent a political model for these societies. Muslim secularism, and the only way to gain more influence is if these countries are to be abandoned by the EU and the US.” (VOA, 2021).



This context is created by this way of exercising soft power, which is basically about the ability to inform, engage and influence a country. According to the prominent author of this field, Joseph Nye, this is achieved through several characteristics. These include: preferences formatting (the ability to set preferences tends to be associated with assets such as culture, values, and political institutions); attractive power (soft power is more than just persuasion or the ability to change people's perceptions); and the use of soft power resources: a) culture (in places where it is attractive to others); b) political values (when they coincide with the values of another country) and c) foreign policy (when others consider it legitimate and with moral authority).

Referring to the Security Barometer in Albania, conducted by the Institute for the Study of Democracy and Governance, it turns out that Turkey is „one of the friendliest countries” in Albania, as 75% of citizens claim that Turkey has a positive or very positive impact on security of Albania.” (Dyrmishi 2021, p.35). This is a confirmation of Turkey's triumph in its geopolitical strategy and the exercise of public diplomacy. As part of this „major Turkish strategy”, public diplomacy has served as an essential tool for enhancing Turkey's international status through soft power. Specifically, Turkey has exploited two dimensions in this domain: the spread and transmission of Turkish identity and economic projects. These developments have also led to an increase in Turkey's credibility in the international arena, and its acquisition of regional leader status. Another element of the growth of the Turkish stature is the current international order, which is characterized by an attraction of great traditional powers and the emergence in the global arena of what are called emerging economies or powers.

The study of the Institute for the Study of Democracy and Governance finds a correlation between Turkey's role as a developing power and its exercise of public diplomacy - on the one hand - and the growing perception of Albanians of their security in relation to Turkey - on the other hand. This undertaking is part of the Turkish strategic vision, according to which Turkey will become one of the ten largest world economies in 2023. With the end of the Cold War, after the political configurations changed, interactions between Turkey and Albania intensified. Turkey discovered that it could exert its political influence in these areas with a geopolitical vacuum. In a euphoric way, the then president, Sulejman Demirel, often spoke of a „Turkish world from the Adriatic Sea to the Great Wall of China.” Thus, Turkish foreign policy was resized according to a new model. This re-dimensioning became necessary with the emergence of a multi-polar world in the international political system. Considered a bridge between East and West in many ways, Turkey - seeking the widest possible influence in the region - has played an important role in Albania's foreign policy. Turkey as a pivot state, according to Ahmet Davutoglu, should play a proactive role in the political, economic and cultural spheres in the Balkans, and its new geopolitical status should be seen as a means of gradually opening up with the world and to transform regional influence”, based on two main elements: geographical depth and historical depth.

Theoretically, this influence through soft power is the ability to attract and



(inform, engage, influence), instead of imposing (hard power). The soft power of a country relies on its sources of culture, values and policies. In Albania, this diplomacy operates in many fields: on television screens through soap operas; in numerous educational projects; in endless religious programs (whether the erection of mosques or the restoration of places of worship); health assistance (hospital in Fier); earthquake assistance military or police assistance, etc. In fact, Turkey is directly influencing this election campaign, as it has done in previous campaigns.

Conclusions

Thus, the presence of other non-Western factors in the region and specifically in Albania is evident. We are not able to assess the extent of influence for each of the above actors as it requires another study, but at least we understand the risk of the possibility of influencing Albania's domestic and foreign policy. This risk is like a red flag – a warning of EU and US officials, as well as foreign policy scholars. Any weakness or insecurity of the institutions towards its real challenges on the one hand, and the weakening of the role of the European Union in the integration processes with the countries of the Western Balkans, on the other hand, gives non-Western actors a chance to further extend their influence in this region. Russia, Turkey and China are creating a strategic triangle that is openly challenging in some cases the United States and its Western allies, in geopolitical and geoeconomic terms. Under these conditions, the game of local actors in relation to the international community and vice versa becomes very complex and difficult to decipher. Moreover, in recent years there has been an ambiguity of the EU regarding enlargement as well as a different strategy of the US presence in the Balkans and beyond.

China, Russia and Turkey seek to extend its influence in order to increase its superpower status. Western Balkan countries are diverse. For instance, Albania mainly follows a pro-Western line in foreign policy, because for US Albania is part of the development of new European security architecture and the EU monitors the process of Albania's integration into the Union and aims to implement deep reforms for the transformation of the country.

But Albania is pursuing a foreign policy with alternatives. So do the other Balkan countries. Ian Bremer uses the term „pivot state” to describe a state that is able to build profitable relationships with one or more major powers and - at the same time - not become dependent on any of them. This capability helps to avoid the influence - in terms of security and economy - of another single state. This term is mainly used in the literature for medium power, but its application cannot be limited. Therefore, since in today's fragmented world no major power sets the international agenda, winners and losers will be determined by the ability to find and utilize the right alternatives. Western Balkan countries have shown to be open to new alternatives - though with reservations often dictated by the transatlantic geopolitics. This situation is an impetus for reflection and should be a debate for



policymakers and intellectuals. As long as the Western Balkan countries do not have a respective clear strategies or a platform to inform and guide them, they will not be able to position themselves in relations with Russia, China and Turkey.

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EUROPEAN UNION' ACTORNESS EFFICIENCY CONCERNING THE PRESENCE OF RUSSIAN FEDERATION IN UKRAINE

Carmen MOLDOVAN*

Abstract

Recently, the European Union decided to extend the sanctions on Russian Federation until July 2021 but there are serious doubts on their efficiency. The present paper aims to analyze the impact of the restrictive measures adopted by the European Union institutions since 2014 against the Russian Federation following the military invasion in Ukraine and the annexation of Crimea, the effects (if any) and outcome of the sanctions applied by the European Union. The situation will be examined from the perspective of notions, principles and specific concepts of International Law on prohibition of the use of force and admissible legitimate reactions to acts contrary to this principle.

Keywords: principles of International Law, state responsibility, countermeasures, use of force

Introduction

The intrusion of Russian military forces into Ukrainian territory that culminated with the annexation of Crimea was considered by States, academia and other legal entities to be illegal and an act of aggression (according to the definition issued by the United Nations General Assembly in its 3341 Resolution from 1974). The European Union shared the same view and acted accordingly by repeatedly imposing restrictive measures on Russia.

The paper will address the topic of economic sanctions applied to Russian Federation by the EU since 2014 following the military invasion in Ukraine and the illegal annexation of Crimea. The main question to be asked is if these sanctions are efficient or not.

Recently, the Council of the European Union decided to extend the sanctions on Russian Federation until June 2022 (Council of the European Union, 2021) but there are serious doubts on their efficiency. For the purpose of this paper, the situation will be examined from the perspective of notions, principles and specific concepts of International Law on prohibition of the use of force and admissible

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legitimate reactions to acts contrary to this principle and in the context of sanctions or restrictive measures recognized as legitimate and legal by International Law. First and foremost, it must be emphasized the lack of a codification of sanctions in International Law or European law whatsoever, yet there are special bodies at the universal and regional level provided with the competence of applying such measures when they are considered fit. As a general feature, sanctions or restrictive measures may be taken against the State or/and against the individuals having the nationality of the said State. This logic is shared by the United Nations and the European Union, both having special sanctions committee and a procedure for applying the measures decided. Within the United Nations, at the level of the Security Council which is the institution in charge of respect of international peace and security and who can take action to maintain or restore international peace and security in accordance with Chapter VII of the United Nations Charter, the Sanctions Committee and the Consolidated Sanctions List were established (United Nations Security Council, Sanctions, 2021).

Within the European Union, the Council of the European Union has the prerogative to decide the adoption, renewal or lifting the restrictive measures (Council of the European Union, 2003; Council of the European Union, 2004; Council of the European Union, 2018) within its foreign policy framework when it is considered a necessary instrument in case of violation of territorial integrity and state sovereignty.

It must also be underlined that although the notion used at the European Union level is 'restrictive measures' (Helwig *et. al*, 2020) rather than 'sanction', their concrete form excludes the use of force of a means in solving a situation that violates international rules or as a response to the wrongful conduct of a State according to Article 2 paragraph 4 of the United Nations Charter which imperatively states that:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

International responsibility of States for wrongful acts may be established in accordance with the Draft Articles on the Responsibility of States for Internationally Wrongful Acts (International Law Commission, 2001).

According to Article 1 of the Draft Articles

Every internationally wrongful act of a State entails the international responsibility of that State.



Therefore, an act inconsistent with International Law committed by the State or which can be attributed to a State, is the essential condition for responsibility. In this case the concept envisaged is the legal responsibility of the State.

The legal qualification of the facts is not that complicated despite the Russian explanation that in Crimea the right to self-determination was put into practice and given effect. The acts of alleged Russian military forces made the object of an investigation open in November 2016 by the Office of the Prosecutor of the International Criminal Court in the Hague (Office of the Prosecutor of the International Criminal Court, 2020). All these facts describe misconduct of Russia and a violation of International Law principles.

1. The acts of Russian Federation and their legal qualification

The situation in Crimea escalated very quickly in 2014 following pro-Russian protests in the Republic of Crimea after the change of the Ukrainian President. Russian military troops were already present in Crimea on the basis of an agreement between Russia and Ukraine allowing the presence of Russian Sea Fleet in Crimea. Key locations in Crimea were seized on February 27 and 28 by armed militia under the justification of an invitation from the former Ukrainian President, local authorities of the Republic of Crimea and for the protection of nationals (Harris and Sivakumaran, 2015). The following events in Crimea took place in a great speed. Thus, on 16th March 2014, a referendum was held in Crimea presenting the only two choices: to become part of Russia or to restore the 1992 Crimean constitution, which would allow the Crimean assembly to decide with whom Crimea will establish relations; remain a part of Ukraine was not an envisaged option. included among the choices. Actually, the only choice was to become a part of the Russian Federation and this was the vote expressed by more than 90 percent of the voters (McGee, 2014, p. 2). Taking into consideration the history of Crimea that belonged to Russia until 1954 when it was transferred to Ukraine, the fact that about 58 percent of the population is ethnically Russian and that on 6th March 2014 the Supreme Council in Crimea voted to become part of Russia, the outcome of the referendum was not actually surprising. Therefore, the legal debate on its legally and its truthful character is challenging both from a theoretical and a practical perspective. The referendum was considered a 'sham' and a forced act supported by the presence of military forces in Crimea qualified as an occupation (United States Mission to the OSCE, 2015).

As it appears from the speech of the Ambassador Churkin of the Russian Federation to the United Nations, during a Security Council debate „ the legitimately elected authorities of the Republic of Crimea have asked the President of Russia to help them to restore clam in Crimea. Such assistance is entirely legitimate under Russian law, given the extraordinary situation in Ukraine and the threat posed to Russian citizens, our compatriots, and the Black Sea fleet of the Russian Federation in Ukraine. The President of Russia therefore went before the Federation Council to request that the Russian armed forces be permitted to deploy



in the territory of Ukraine until the civic and political situation there has been normalized” (United Nations Security Council, 2014).

The Russian narrative on legitimizing its presence in the Ukrainian territory and the annexation of Crimea was centered on the right of self-determination of peoples, enshrined by the United Nations Charter and recognized as a fundamental principle and a rule of general international law, yet its application in this case is debatable. Another point of the Russian legitimization discourse was related to the humanitarian factor, sustaining that the Crimean population was in danger because it did not support the so-called takeover of power in Kiev (Marochkin, 2017; Rotaru, 2016). Having as a starting point the provisions of Article 1 of the Draft Articles and the general rules and principles of International Law, the presence of Russian Federation in Ukraine since 2014 followed by the annexation of Crimea were considered an act of aggression by the United Nations, European Union and widely by scholars.

By *Resolution 68/262 on the territorial integrity of Ukraine* adopted on 27 March 2017, the General Assembly of the United Nations, after recalling the fundamental principles of territorial integrity and prohibition of the use of force and especially Article 2 of the Charter of the United Nations and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (United Nations General Assembly, 1970), the General Assembly

Underscores that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol; (*United Nations General Assembly Resolution 68/262 of 27 March 2014, para. 5*).

In terms of Public International Law, the statement means that there is no legal title for the presence of Russia in Crimea and Sevastopol under the simulation of a referendum. The resolution of the General Assembly is explained by the absence of a resolution at the level of the Security Council, the body of the United Nations with prerogatives set by the United Nations Charter regarding peace and international security (Bennouna, 2017) and where Russia is a permanent member enjoying the special status of veto power according to the provisions of Article 27 of the United Nations Charter (Combacau and Sur, 2016; Moldovan, 2019). Thus, adoption of a resolution on Crimea by the Security Council was blocked (United Nations, 2014).

In this context, only informal Aria-Formula meetings were organized since 2014 by Belgium, Estonia, France, Germany, the United Kingdom, and the United States of America in partnership with Ukraine, and by Russia as well (Security Council Report, 2021).



The presence of Russia in Ukraine and the annexation of Crimea constitutes an act of aggression as defined by the General Assembly Annex to the resolution 3314 adopted on 14 December 1974 (United Nations General Assembly, Resolution 3314/1974; Wilmshurst, 2008).

Thus, according to Article 3 of the said resolution

Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

and according to Article 5 paragraph 3 of the Annex

No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Therefore, under International Law principle of prohibition of the use of force, Russia lacks any legal grounds for the military presence on the territory of Ukraine and the takeover of Crimea constitutes the consequence of an act of aggression, which is the most serious violation of International Law and gives rise to international responsibility in the wording of Article 5 paragraph 2 of the Annex to the 3314 Resolution.

The act of annexation is also a violation of the principles of territorial integrity and sovereignty of Ukraine over Crimea and according to International Law, occupation and acquisition of new territory by use of force is illegal (Dixon, 2013). As already stated by the International Court of Justice, which is the principal judicial body of the United Nations in the *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian territory* from 2004, in such a case the territory does not belong to the conqueror State (International Court of Justice, 2004).

The debates within the Security Council, the body of the United Nations charged with ensuring the international security (Bennouna, 2017) following the February-March 2014 events were really intense and tensioned as both sides have made real efforts to convince the other States of the legality of their arguments.

In 2014 the Minsk Protocol was signed for containing a peace plan for Eastern Ukraine (Mission of Ukraine to the European Union, 2014), but this was really ineffective as the conflict continued in 2015 and at the moment military operations are taking place as it does not present obvious benefits for the Russian Federation (Menkiszak, 2017). On 2019 there were new peace talks and prisoners swap but this was the only progress (European Parliament, 2020). The crux of the conflict is represented by the sovereignty issue of Ukraine over Crimea Peninsula, seen as limited by Russia (Allan, 2020).



Following the 2014 events, the position of Russia was firm, President Putin confirmed that the soldiers present in Crimean Peninsula were Russian following its orders (United States Mission to the OSCE, 2015).

The European Union constantly maintained the same public position not recognizing as legal the continuous presence of Russia on the Ukrainian territory nor the elections held in Crimea (Council of the European Union, 16 March 2020; Council of the European Union, February 2021) and continues to condemn this violation of International Law and therefore the restrictive measures are prolonged (Council of the European Union, June 2021). The European Union supported its priority partner Ukraine since the beginning of the events in Crimea for ensuring its independence, territorial integrity and sovereignty, at least in theory.

Already at the beginning of the process of imposing sanctions on Russia for the presence in Crimea questions on their efficiency were raised (McGee, 2014) and they continue to be topical taking into consideration that the situation hasn't changed, that Russia's attitude is consistent and there is no indication that this will change.

Despite the aim on the sanctions to restore international peace and security and put an end to a situation that violates International Law, their application implies a cost not only for the target State but also for its population and other international actors and this was demonstrated regarding Iraq, former Yugoslavia, Iran, Siria (Giumelli, 2017). Also, Member States may be affected by the sanctions imposed which change their commercial relations with Russia (Giumelli, 2017).

2. The meaning and forms of sanctions in International Law

The concept of 'international sanctions' or 'sanctions' is not entirely clear in International Law because it is not codified. It must be underlined the fact that International Law is not based on the idea of sanctions, common to the domestic law and this is the main reason why International Law norms usually lack sanctions from their structure (Moldovan, 2019). This is one reason for which international legal order may be considered an imperfect one, yet at the same time we should bear in mind that violation of a rule does not have the meaning of its non-existence, but is the expression of the subjective attitude of the State towards the assumed obligation and it triggers the mechanism of international responsibility (Cançado Trindade, 2006; Decaux and de Frouville, 2016). However, this feature is also determined by the application of the *pacta sunt servanda* principle that constitutes the basis for the respect and execution of the international obligations assumed by States through international treaties or rules of general international law (Moldovan, 2019).

Through the lenses of Public International Law, non- recognition of a situation or an act considered illegal may also be qualified as a collective sanction (Crawford, 2012; Cassese, 2005). In accordance with this idea, the Resolution



68/262 adopted by the United Nations General Assembly provides the following in its paragraph 6

Calls upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

Regarding the terms used in practice and doctrine to designate these measures some observations are in order. Thus, for the measures adopted individually by States the term 'countermeasures' is used, and for those undertaken collectively, the term 'sanctions' is generally used (White and Abass, 2014, p. 537). Regardless of this distinction, essential features are common to both of them.

Taking into consideration the actual status of International Law which prohibits the use of force according to Article 2 paragraph 4 of the United Nations Charter, there is a general acceptance of the possibility of imposing economic sanctions (Curtis Henderson, 1986; Doraev, 2015); the most important and undisputed feature of a sanction to be considered admissible is the exclusion of the use of force. Therefore, the notion includes economic, commercial, financial measures undertaken collectively by states or unilaterally by one state as a response to an illegal conduct and with the aim of persuading that state to stop its behavior contrary to international rules. Terms such as retaliation, reprisals, embargo, restrictive measures, countermeasures are usually used to designate this category.

The Draft Articles on State Responsibility defines only the notion of countermeasures which may be undertaken by the injured State by an illegal act, in Article 49 which reads as follows

1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under part two.
2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State.
3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question.

The concept of countermeasures implies measures that would be considered contrary to the international obligations of the injured State according to international law rules and towards the author State, if they were not the reaction to an internationally wrongful act aiming to obtain cessation of this conduct and reparation of the prejudice (International Law Commission, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001). Countermeasures are subject to limitations meaning that they cannot affect



obligations arising from essential principles such as prohibition of the use of force, protection of fundamental rights, respect of international humanitarian law, *jus cogens* and must comply with the principle of proportionality, according to Articles 50 and 51 of the Draft Article on State Responsibility.

Previously, the notion of countermeasures was used in a 1978 arbitral award in the *Air Services Agreement Case*, between France and the United States of America (Arbitral Tribunal, *Air Services Agreement Case*, 1978, para. 81) in the following terms:

(...) If a situation arises which, in one State's view, results in the violation of an international obligation by another State, the first State is entitled, within the limits set by the general rules of international law pertaining to the use of armed force, to affirm its rights through „counter-measures.

In recent years, the term was used to replace reprisals which is strongly connected to the concept of armed reprisals now prohibited by International Law.

The imposition of sanctions or restrictive measures with the aim to persuade the author State to end the conduct inconsistent with International Law rules is supported by the principle to settle international differences exclusively by peaceful means (Dcaux and de Frouville, 2016; Selejan-Guțan and Crăciunean, 2014) also an essential principle of International Law and a result of its evolution and progressive development.

Article 41 of the United Nations Charter provides the competences of the Security Council to impose sanctions or any other measures it considers fit in cases of acts of aggression or that constitute a threat to peace, in the following wording

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

From the text we can observe the discretionary power of the Security Council in this matter and the fact that they exclude the use of force, in accordance with the fundamental principles of International Law. In case that these measures prove unsuccessful or inadequate, the Security Council may undertake those provided by Article 42 of the United Nations Charter.

3. Types or restrictive measures undertaken by the European Union

The European Union does not recognize the annexation of Crimea and Sevastopol by the Russian Federation as a lawful act and continues to condemn this



violation of international law, in line with the declaration by the High Representative for Foreign Affairs and Security Policy on behalf of the European Union on 25 February 2021.

From the perspective of International Law, economic sanctions were used since the Cold War and in recent years sanctions have become an increasingly popular tool of foreign policy, not only at the multilateral level of the United Nations, but also regionally (at the European Union level in particular) and unilaterally.

The nature of the measures imposed has also changed: from comprehensive sanctions regimes (discredited since Iraq in the 1990s) to ‘targeted’ or ‘smart’ sanctions (Kondoch, 2016; Warren, 2017; Happold and Eden, 2019), directed at specific individuals or entities (through asset freezes and travel bans) or prohibiting particular activities (arms embargoes and export ban of goods).

There is a wide range of sanctions constantly imposed against Russia by the European Union since 2014 as part of its Common Foreign and Security Policy (Council of the European Union, *Council Decision 2014/145/CFSP*, OJ L 78/16, 2014) yet they are narrow in scope (Korhonen, 2019) aiming either sectors of the Russian economy such as finance, energy, defense, dual-use goods, individuals or entities responsible for undermining Ukraine’s territorial integrity, sovereignty and independence, business in Crimea and Sevastopol, diplomatic measures and restrictions on economic cooperation (Council of the European Union, 2021).

On 21 June 2021, the Council of the European Union decided to renew sanctions against Russia for the annexation of Crimea and Sevastopol until 23 June 2022 (Council of the European Union, 2021). The restrictive measures adopted by the European Union against Russia are subject to a renewal in precise time frames (every six months or 12 months) considering the specific type of sanction applied.

The sanctions against individuals and entities are currently targeting 177 natural persons and 48 legal entities substantially controlled by Russia and considered responsible for undermining Ukraine’s territorial integrity, sovereignty and independence. The individuals are in general politicians and members of the self-proclaimed governments of Crimea, Donetsk and Luhansk (Council of the European Union, 2021). In concrete terms, the measures undertaken towards them presuppose that the EU based assets of those sanctioned are frozen, that the EU operators are prohibited from making funds available to those sanctioned and also the prohibition of those concerned to travel to the European Union. These types of measures are renewed every six months.

The European Union imposed restrictions on business in Crimea and Sevastopol as well, consisting in import ban on goods from the territory, export ban on certain goods and technologies, ban on tourism services in Crimea and Sevastopol. These measures are renewed every 12 months.

Diplomatic measures are also in place in the form of suspension of the regular EU-Russia summits and the suspension of Russian presence at the G8 meetings. The scope of measures is completed by the restrictions on economic cooperation consisting in non-granting new loans to Russia by the European



Investment Bank (EIB) and by the European Bank for Reconstruction and Development (EBRD).

In practical terms, it is prohibited to purchase or sell, or provide brokering or assistance in relation to transferable securities and money-market instruments with a maturity exceeding 30 days, if these have been issued by certain banks or certain companies from the energy and defense sectors after September 12, 2014- applies to securities and instruments issued by one of the following banks or companies: Sberbank, VTB Bank, Gazprombank, Vnesheconombank (VEB), Rosselkhozbank OPK Oboronprom, United Aircraft Corporation, Uralvagonzavod, Rosneft, Transneft or Gazprom Neft; there is also a prohibition to grant new loans or credit to the banks and companies listed above with a maturity exceeding 30 days. Restrictive measures also include an arms embargo, and military items may no longer be supplied to Russia.

All in all, the entire possible arsenal of restrictive measures was set against Russia. The ultimate goal of the restrictive measures undertaken against Russia is to weaken Russia's economy in the hope that this will constitute a significant pressure point of pressure for reinstating the previous legal order by reversing the annexation of Crimea and withdrawing Russian troops from Ukraine (Warren, 2017).

The outcome of the sanctions applied against Russia by the European Union is not entirely clear. Financial evolution of Russian Federation - the foreign funding of Russian banks in particular has been affected by financial sanctions. Economic growth decelerated since 2015, but the imposition of sanctions had no impact on Russian domestic politics (Wang, 2015) nor its international one and the prospects are far off.

4. Legal proceedings instituted by Ukraine

In addition to all diplomatic efforts and recourse to international organizations, Ukraine has lodged applications against the Russian Federation before the European Court on Human Rights and the International Court of Justice, both of them still pending. The rulings delivered by these international courts should provide at least a partial solution to the situation in Crimea.

The Ukrainian Government complained before the European Court of Human Rights that Russia was responsible for an administrative practice of human-rights violations and invoked several provisions of the European Convention - Article 2 (right to life), Article 3 (prohibition of inhuman treatment and torture), Article 5 (right to liberty and security), Article 6 (right to a fair trial), Article 8 (right to respect for private life), Article 9 (freedom of religion), Article 10 (freedom of expression) and Article 11 (freedom of assembly), Article 14 (prohibition of discrimination), Article 1 of Protocol No. 1 (protection of property), Article 2 of Protocol No. 1 (right to education) and Article 2 of Protocol No. 4 (freedom of movement).



By a ruling of the Grand Chamber, delivered on December 2020, the European Court of Human Rights (ECHR, Grand Chamber 16 December 2020) declared the application of Ukraine partially admissible and a judgement on merits will follow. Concerning the jurisdiction issue, analyzed according to Article 1 of the European Convention on Human Rights, the Strasbourg Court found that the Russian Federation has jurisdiction over Crimea (meaning Autonomous Republic of Crimea and the City of Sevastopol) as from 27 February 2014 on the basis of effective control that it exercised therein. The significant elements considered by the Strasbourg Court were the size and strength of the increased Russian military presence in Crimea and the lack the Ukrainian authorities' consent.

It should be noted that the analysis of the Strasbourg Court is limited to the provisions of the European Convention on Human Rights and thus the Court cannot dispose on the violations of international obligations determined by the fundamental principles of Public International Law.

The procedure instituted before the International Court of Justice on 16 January 2017 on the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination on all Forms of Racial Discrimination* (International Court of Justice, 2017). The current procedural stage is that of the filling of the Counter-Memorial by the Russian Federation, already extended several times (International Court of Justice, 2021). The application of Ukraine contains a very detailed presentation of the facts and the actions committed by the Russian Federation or under its control. The Judgement of 8 November 2019 on the preliminary objections submitted by Russia rejected them by a majority and found that the Court has jurisdiction in relation to the claims submitted by the Applicant State (International Court of Justice, 2019). Yet, a judgment on the merits of the case will not be delivered any time soon and until then the present situation will continue.

5. Recent developments

On June 2019 the Parliamentary Assembly of the Council of Europe decided to restore Russia's voting rights with 118 votes in favor, 62 against and 10 abstentions (Parliamentary Assembly of the Council of Europe, 2019). This situation raises serious questions on the unity of the actors that supported the idea of restrictions against Russia and on the legal qualification of its conduct as well. Previously, the approach of the Parliamentary Assembly of the Council of Europe was substantially condemning the acts of Russia and considered the secession of Crimea and integration into the Russian Federation as 'instigated and incited by the Russian authorities, under the cover of a military intervention' the referendum was unconstitutional and the annexation was illegal and the presence of the troops was considered an unprovoked military aggression against Ukraine' (Parliamentary Assembly of the Council of Europe, Resolution 1988, 2014, paras. 15,16,17).



Moreover, recently on 26 May 2021 President Macron admitted that the sanctions against Russia don't work and added that

With Russia, the policy of progressive sanctions on frozen situations is no longer an effective policy,” „I think that we are at a moment of truth in our relationship with Russia, which should lead us to rethink the ... tension that we decide to put in place.

It is not clear how this statement should be interpreted and if there will be any changes concerning this issue. On the other hand, the French President did not specify any other means of solving this situation and may be interpreted as a precarious balance on the European Union consensus on the matter.

Conclusions

Despite the general view of States, international organizations and the constant measures undertaken by the European Union in response to the continuous presence of Russia in Crimea and on the Ukrainian territory, violating fundamental principles of International Law and the applications made by Ukraine before the European Court of Human Rights and the International Court of Justice, the Russian Federation appears relentless in its efforts and finds justifications for all its acts submitting rules and principles of International Law.

Crimea is still disputed between Ukraine and Russia and it is unlikely for the situation to change in the foreseeable future. The presence of Russia in Crimea and on Ukrainian territory remains a direct challenge to international security, with serious implications for the international legal order that protects the territorial integrity, unity and sovereignty of all States. The European Union showed its commitment to Ukraine by all actions and all measures adopted. It is difficult to sustain that the restrictive measures or sanctions undertaken against Russia at the international level including the European Union aimed to persuade Russia to change its policy and put an end to its presence in Ukraine but rather establish a balance in its future relations with the European states. Even if the measures at the level of the European Union were undertaken more than 6 years ago, it is clear that the goal was not to reverse the consequences of an illegal act and given the continuous presence of Russia in the Ukrainian territory, the European Union as an international actor failed to obtain effective results.

Faced to this outrageous situation that violates International Law and the rights of the Ukrainian State, the reduced efficiency of the economic and financial sanctions undertaken by the European Union, Ukraine only has the possibility to make use of all peaceful means provided by international rules that appear insufficient at the moment.



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SCIENTIFIC VALUES ON THE EUROPEAN LEGAL REGULATION ON THE CONSUMER CREDIT AGREEMENT

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Abstract

With the increase of revenue, including in the budget sphere, which stimulates the planning of purchases of products that could improve the quality of life, with the reduction of interest rates by banks, the citizens are increasingly stimulated to conclude credit agreements. The subjects of the civil legal relationship in consumer law must be on the one hand the consumer and on the other hand the professional, the entrepreneur, the creditor. From the essence of the notions, obtained by the common law and Directive 2008/48 / on consumer credit agreements, it follows that the notion of consumer and professional, is notions that includes the legal relationship in the sense of consumer protection law, and the notion of creditor. Through this research paper we propose to analyze the credit agreement both from the perspective of common law and agreement to special rules established by Directive no. 2008/48 and the Law Rep. of Moldova no.202 / 2013 regarding the credit agreement for consumers.

Keywords: consumers, protection, contract, credit, interests, agreement

Introduction

From the essence of the notions of the “professional” from the Civil Code and “entrepreneur” from Law no. 105 of 13.03.2003, emerges the idea of the legal relationship within the meaning of consumer protection law, but also the notion of creditor, or the person who offers a loan. The loan being offered on the basis of a contract to a person who meets the conditions of the notion of consumer will have different specifications than a loan contract provided by the regulations of common law, ie the Civil Code. The subjects of the civil legal relationship in consumer law

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must be the consumer on the one hand and the professional (i.e. the entrepreneur, the creditor, etc.) on the other.

1. Scientific valences on the credit agreement

The origins of the credit date back to ancient times, in the 2000s before Christ in the old cities of Assyria and Babylon, when the retail banks granted loans in grain to farmers and traders who transported goods. Money transactions were also registered during the Roman Empire, when creditors operating in temples came up with two innovations, namely accepting the deposit and exchanging money. In China and India, archaeologists concluded that such activities were also common in those times.

According to the explanatory dictionary of the Romanian language, „*credit is a sum of money made available to someone for borrowing*”¹. Therefore, a credit is being perceived as a monetary relationship between a natural or legal person (creditor), who grants a loan of money or who sells goods or services on debt, and another natural or legal person (debtor), who receives the loan or buys on the debt, the loan granted (repayable and usually conditional on the payment of interest) (Investopedia, 2021).

Thus, the concept of credit outlines the elements of a legal act, that is to say, of a civil contract. From the beginning of the investigation of the anatomy of the civil contract, the notion of the Civil Code of Republic of Moldova as early as 1964, which reflects, contracts are „*acts committed by citizens and organizations in order to give birth, modify or extinguish civil rights and obligations*” (old Civil Code of the Republic of Moldova, 1964)

Based on the ideas, principles and norms of the system of continental law, or as it is known, the legal family of Romanesque tradition, identifies that the civil contract manifests two qualification criteria: the agreement of will and the legal purpose. In the broad sense of the agreement of will, it is understood that each part of the contract manifests a certain desire to achieve a purpose. So the construction of the civil contract is based on the principles of consensualism, based on moral rules to keep your promise, to be in good faith, to respect the interests of the other (Cimil, 2012, p. 15).

The German doctrine reflects the concept of the contract as an agreement between the partners to regulate legal relations or an agreement of will between two or more persons in order to achieve a legal outcome. Whereas, Russian civilists, Golitov V.B., define the contract as a special form of the binding legal relationship, based on the freely expressed will of the parties, which consists in the assessment and realization of its factual actions in order to achieve the legal consequences in personal interests (Cimil, 2012, p. 19).

¹ Definition of the word consumer (retrieved from <https://dexonline.ro>).

The Romanian concept does not differ much from those previously mentioned, the contract being described as „*the expression of freedom of the envy*” in private law (Stanciulescu, 2017).

The Moldovan legislature provided a general concept of the contract in art. 992, paragraph 1 of the Civil Code, namely „*the contract is the agreement of will between two or more persons by which legal relations are established, amended or extinguished*”. Therefore, the analysis of the credit concept in different legislative frameworks highlights the fact that the basis of the contract is in itself the desire/will of the persons to achieve a certain purpose between them and thus, the contract will be shaped as an agreement of wills between the parties.

By transposing the identified characteristics of the credit concept over the concept of a contract, the idea that a credit itself emerges following the conclusion of a contract is shaped. In fact, the concept of credit encompasses the defining elements of the contract, or reverts to the essence of the credit, this time in the light of the concept offered by the national legal norm, art. 1763, para. 1 of the modernised Moldovan Civil Code, „*By credit agreement, a bank or a non-bank lending organisation (creditor) undertakes to make available to another person (debtor) an amount of money as a loan, provided that it is reimbursed, paid interest and other related payments, or assumes any other commitment to a claim or to make a payment to extend the repayment period of the debt or to issue any guarantees.*”, it is identified that two legal conditions are required for the occurrence of a credit: receiving the loan and offering the loan, which is governed by the legal norm of the modernised Moldovan Civil Code.

2. Characteristics of the credit agreement

From the anatomy of the contract in general and the credit agreement in particular, according to Cimil (2012) there can be distinguished four defining features:

- The credit contract is an agreement of will between two or more persons alive at the time of the conclusion of the contract;
- The agreement is reached by free expression of will;
- The purpose of the contract is to make, amend or extinguish legal reports;
- The contract involves the consideration of public order and good morals.

The first and second defining features give rise to the principle of freedom of contract, which specifies that contracting parties may, within the limits of the mandatory rules of law, conclude freely a contract and freely determine their content, and that the obligation to conclude a contract is prohibited, except where the obligation to contract is provided for by the Moldovan Civil Code or arises from a voluntary obligation. The same applies for the credit agreement. Thus, the conclusion of such a legal act is due only to the contractual freedom, to the individual desire of the person (Cimil, 2012, p. 16).

In the order set out, the credit agreement is legally characterised as a consensual contract, i.e. it is considered to be a credit agreement when the parties’



agreement of will is reached on the essential terms of the contract. It is a contract for consideration, a fact identified in the text of art. 1763, para. 1 of the Moldovan Civil Code: „... *make available an amount of money as a loan, subject to its repayment, payment of interest and other related payments, or undertake any other commitment to purchase a claim or to make a payment to extend the repayment period of the debt or to issue any guarantee*”, in other words, for the credit granted, the debtor is obliged to pay interest and other related amounts provided for in the contract.

Also from the above referred text, the legal character with regard to the performance of the contract is identified. Thus, the credit agreement is a contract with successive execution – the mutual benefits of the creditor and the debtor are carried out over time. Since both parties to the credit agreement undertake each other to fulfil obligations and also to obtain each other's rights, that contract is synalagmatic in nature.

In addition to the characteristics listed above, it should be noted that a contract within the meaning of the legal rules in force will be considered only when it meets the elements of the contract. The first element of the credit agreement is the subjects or parts of the contract. As subjects of the contract in general, they may be natural persons and legal persons who have full capacity to exercise and exercise their rights and obligations (Chibac *et al.*, 2010, p. 93).

The subjects of the credit agreement are called debtor and creditor. The first is the party that receives the loan and pays interest, other related payments, etc., and the creditor is the person offering the loan. It should be specified that the creditor, in accordance with art. 1763 of the Civil Code of the Republic of Moldova, has special quality, i.e. the creditor can be „a bank or a non-bank lending organization”. In the case of the debtor, the art. in question does not specify who may be a debtor, limited to the concept of '*persons*'.

According to art. 2 of the Moldovan Law on the National Bank (Law on the National Bank of Moldova, 1995) in conjunction with art. 3 of the Moldovan Law on Financial Institutions (Law of financial institutions, 1995), the bank as a creditor represents entities that have the capacity to use the means attracted from natural and legal persons to grant loans. It is also apparent from those rules that other financial institutions may be able to be a creditor.

In accordance with art. 26, paragraph 1 of the Moldovan Law on financial institutions, credit granting is one of the financial activities carried out by the banks alongside other types of financial services (i.e. consumer and mortgage loans, factoring with or without right of recourse, financing of commercial transactions, etc.), and the bank can perform these activities only based on the authorization issued by the National Bank of the Republic of Moldova.

However, the Moldovan Law no. 202 of 12.07.2013 regarding credit agreements for consumers, in art. 3, identifies the creditor as a natural or legal person who grants or undertakes to grant credits or loans in the course of his/her business or professional activity (Consumer Credit Agreement, 2013).



The material object of the respective contract is the money, thus the idea that the credit agreement has many characteristics of the loan agreement. In fact, even the Moldovan Civil Code legislates this in art. 1763, para. (3): *„The provisions relating to the loan agreement shall apply to the credit agreement in so far as the rules of this Chapter do not provide otherwise or the essence of the credit agreement does not show otherwise.”*

So, if the loan agreement in the material object of the contract can be even a good, then in the case of the credit agreement it is limited to money. The special object of the credit agreement is the service of making the amount of money available to the debtor under the conditions laid down in the contract.

In general, the subject matter of the contract is nothing more than what the parties want to achieve through the conclusion of the contract. That is, in the existence of the contract, several conditions are imposed to the object, such as: to be in the civil circuit; to be determined or determinable; to occur at the present moment or some time in the future; to be legal (false money cannot be considered as an object that meets the legal conditions for the validity of the contract).

Another element of the contract is the price. Thus, from the meaning of the concept it is clear that the credit contract is for a fee, or the creditor with the offer of credit pursues the purpose of obtaining some income, and the debtor has the obligation to execute. The price of the credit agreement is represented by the interest and other related payments, or any other undertaking to purchase the claim or to make a payment, to extend the repayment period or to issue any security (Chibac *et al.*, 2010, p. 93).

With regard to consumer credit agreements, the price of the contract is even specified in art. 3 of the Moldovan Law no. 202 of 12.07.2013 regarding credit agreements for consumers: *„the total cost of credit to consumers shall mean all costs, including interest, commissions, fees and any other costs which the consumer must bear in connection with the credit agreement and which are known to the creditor, with the exception of notarial fees; the costs for the ancillary services relating to the credit agreement, in particular the average amount of insurance premiums, shall be included where obtaining or obtaining the credit in accordance with the terms and conditions presented is subject to the conclusion of a service contract.”*

Also, in Moldavian Law no. 202 of 12.07.2013 regarding credit agreements for consumers, in art. 3, there is the notion of the effective annual interest, which is considered as the total cost of the credit for the consumer expressed as an annual percentage of the total value of the credit, including the costs mentioned in art. 23 para. (2), as appropriate.

In fact, art. 3 also enuumerates the list of costs that do not relate to the annual interest rate: *„For the purpose of calculating the annual interest rate, the total cost of the credit to consumers shall be determined, except of costs other than the purchase price, which, for the purchase of goods and services, it is obliged to pay, regardless of whether the transaction is carried out in cash or on credit”.*

Also, in the consumer credit contracts, according to art. 23, para. (2) of the Moldavian Law on Consumer Credit Agreements, in the contract price are also included:

- the costs of administrating an account that records both payment transactions and withdrawals;
- the costs of using means of payment for both payment transactions and withdrawals;
- as well as other costs relating to payment transactions which are included in the total cost of credit to the consumer.

According to art. 3 of the same law, the exception to the costs listed above is made if the account opening is optional, and the account costs have been clearly and separately indicated in the credit agreement or in any other contract concluded with the consumer.

It was previously specified that the credit agreement also meets the conditions of the loan agreement if the rules governing the former are not contrary. So, from the analysis of both the legal norms regarding the credit agreement and the loan agreement it is identified that this type of contract is to be concluded in written form and this fact represents a condition of validity, it being also stipulated in art. 316 para. (2) of the Moldavian Civil Code that the form is a condition of validity of the legal act only in cases expressly provided by law.

Regardless of the fact that both the doctrine and the legal norms related to the legal act outline that the legal acts between legal entities, between legal entities and individuals and between individuals, which exceed the value of 1000 lei are concluded in writing, however art. 321 of the Civil Code, is an exception, namely: *„and in cases provided by law, regardless of the value of the object.”*

Moreover, the art. 1763, para. (2) of the Civil Code expressly mentions that the form of the credit agreement is the written one. Therefore, once the written form of the contract is not respected, its nullity is attracted, a fact legislated in art. 322, para. (2) of the Civil Code: *„Failure to comply with the written form of the legal act shall invalidate it only if this effect is expressly provided by law or by agreement of the parties.”*

Regarding the term of the contract, it is not an essential clause, the parties being free to set the term of the contract, and in the absence of a contractual provision, it will be considered concluded without a term. The disadvantage is that the term of the contract is not specified, ie the creditor can request the repayment of the loan at any time, the debtor having only 30 days from the date on which he received the request for repayment of the amount security (Chibac *et al.*, 2010, p. 71).

Logically, in accordance with the principle of freedom of contract, the contract shall cease at the time of the parties' agreement. But there are other situations of termination of the contract, for example: the contract ends when the debtor's obligation has been honored, when a deadline has been written in the text of the contract or in the case of a resolution.

Regarding the resolution, the Moldavian Civil Code does not provide any exhaustive circumstances, but art. 1769, para. (1) regulates the following situations: *“the creditor may terminate the contract and request the repayment of the credit and the related amounts if: the debtor has become insolvent; the debtor did not provide the required guarantees or reduced the guarantees offered without the creditor’s consent; the debtor does not pay the interest within the established term; the debtor has not fulfilled the obligation to repay at least 2 installments of the loan, when the contract provides for the repayment of the loan in installments; the creditor may terminate the contract in other cases as well”* (Civil Code of the Republic of Moldova, 2002).

It should be noted that the resolution for the reasons listed above takes effect only when the creditor has given the debtor a period of 15 days to pay the outstanding amount and the payment has not been made. Therefore, it is noted that the resolution is dedicated only to the creditor, being registered as a right of the creditor if the debtor „falls” under the conditions mentioned, while the creditor is offered the right to revoke the contract.

In the essence of the revocation, an interpretation in this chapter is offered by the lawyer Victoria Goncearuc: *“the revocation consists in the termination of a contract based on the will of both parties or of one of the parties, as mentioned in the commentary of the Civil Code. The moment from which it ceases to produce legal effects, the revoked contract depends on the nature of the contract. Or, in the case of contracts with instant execution - the revocation will terminate the contract with retroactive effect from the moment of concluding the contract, and in the case of the contract with successive execution as a result of the revocation the contract will cease to produce effects for the future. It is specific to the revocation that unlike the resolution, the revocation must not contain any justification. Its essence comes from the fact that it can only be used by the consumer who is protected by law as the weakest part of a contract with an economic operator”* (Goncearuc, 2016).

3. Legal relationship between creditor and consumer in credit agreements

As mentioned previously, the legal relationship between its subjects, namely the creditor and the debtor, represents the base of a credit agreement. In general, the creditor and the debtor of a credit agreement may be both legal and natural persons, and no exceptions are registered in this respect.

The credit agreement for the development of a business is concluded between professionals, while a consumer agreement can occur between a natural person (consumer or debtor) and a professional, viewed in the light of the concept of creditor.

As set out in the preceding paragraphs, each part of the credit agreement has the possibility to establish and negotiate proportionately the contractual terms in order to reach a common denominator. Thus, the participants in the credit agreement in general can be considered to be in an equal position, although in the



case of consumer legal relations, the participants are always in a position of inequality: on the one hand, there is the trade that is on the „*strong side*”, and on the other hand - the “*weak part*”, that is, the consumer (Goncearuc, 2016).

The position of inequality is the consequence of the fact that the person of the consumer is presumed to not know the creditor’s field of activity, although the creditor is a person specialised in his field of activity, therefore the creditor knows both the advantages of the field and the levers of deception, which may not coincide with the principle of good faith of the consumer in particular.

The debtor (consumer) may be any natural person who does not engage in entrepreneurial or professional activity, who, as a result of the conclusion of the contract, is obliged to repay the amount of money received from the creditor, and to pay the interest and other related payments, or undertakes any other obligation to purchase a claim or to make a payment to extend the repayment term of the debt or to issue any guarantees. According to Băieşu and Plotnic (2014), the consumer finds himself in a situation of triple inferiority to the trader/creditor/economic agent:

- a technical one, stating that the trader is well aware of the services he provides to the consumer, while the consumer may be aware of them when presented to him, giving him a more limited time to analyse the situation;
- a economic one: creditor has a disproportionate economic force towards the consumer;
- a legal one, or the creditor owns a whole “*army*” of employees who pre-establish contracts, with well-prepared clauses, instead the consumer finds himself deprived of any possibility of negotiation and is forced to join the creditor’s proposals.

The reasons for hasty decisions are in fact the precarious economic situation or the desire to solve some problems in the shortest possible time, not least the lack of consumer information.

Although the debtor-consumer portrays himself as a sovereign, or consumers have the freedom to choose what and from whom they will contract, he presents many weaknesses as previously reported. The consumer is sovereign because the entrepreneur’s decision to place offers to take out a loan depends on the consumer’s request. That is, supply and demand are considered. Therefore, if the consumer class is increasingly positive towards taking out a loan, then economic operators also show an interest in obtaining the consumer’s agreement in contracting. Thus, with the consumer’s request, the trader actually pursues the aim of obtaining a considerable income in terms of its proportions. Consequently, the trader having that purpose fails to provide a qualitative service, not taking into account the consumer’s rights themselves.

In fact, the vulnerability of the debtor-consumer and the supremacy of the creditor is inferred from their rights and obligations. Obviously the thing is that the creditor, i.e. the creditor, compared to the debtor-consumer has many more



obligations, and at the discretion of the debtor-consumer remains the action to be informed.

In the context of art. 3 of the Moldovan Law of the Republic of Moldova No. 202 of 12.07.2013 in respect of consumer credit agreements, the creditor is the natural or legal person who grants or undertakes to grant loans or loans in the course of his commercial or professional activity. Hence, the creditor who grants credit or intends to grant credit to a consumer will have to act strictly, or on the other side of the legal relationship, is not only a source of income, but also a person with requirements and rights requiring appropriate vigilance.

The rights of the debtor-consumer actually appear from the moment the creditor comes up with an offer. Therefore, according to art. 4 of the above-mentioned law, advertising of credit offers must necessarily contain as follows:

- the interest rate on the loan, fixed and/or floating, together with information on any costs included in the total cost of the loan.
- the total amount of the credit;
- effective annual interest;
- the duration of the contract (if necessary);
- in the case of a credit in the form of deferral of payment for a particular good or service, the current price and the amount of any advance payment;
- the total amount payable by the consumer and the amount of payment rates, if necessary;
- the consumer's warning of the responsibility for repayment of the credit.

Thus, from the information on the conditions for granting consumer loans by creditors, important data are presented in credit offers:

- credit currency;
- the total amount of credit in national currency;
- the interest rate on the loan, fixed/floating, in national currency (minimum/maximum) / in foreign currency (minimum/maximum), as well as the method of calculating the interest rate on the credit;
- the duration of the credit agreement in national currency (minimum/maximum) / the duration of the credit agreement in foreign currency (minimum/maximum);
- payments other than the interest rate on the loan in national/foreign currency, which are included in the total cost of the loan;
- the actual annual interest on credit in national currency/foreign currency and the information set out in Art. 4(3) of the Consumer Credit Agreement (note that the interest amount is different, depending on the credit offered/requested and depending on the creditor's granting the credit).

In addition to the above-mentioned, the annexes serving as the necessary information for consumers also include the mode (rates, in full) and the frequency of payments – in general both economic operators use the method of payment by monthly annuities; the documents necessary for obtaining the credit (overall the indispensable documents are the credit application; the identity card and confirmation of the consumer's income respectively), depending on the desired

credit, additional additional information may be requested, such as the extract from the Real Estate Register, documents confirming ownership, etc.

Also, a credit insurance may be required. The most oftenly used forms of insurance requested by the financial institutions are mortgage or collateral (especially when when the consumer-debtor's income is not sufficient to provide the credit and its value), while for multi-option credits, espresso credits, overdrafts credit for salary projects (with the use of bank cards) generally guarantees are required. De jure, a guaranty/surety shall be required if the consumer does not present sufficient income for the repayment of the contracted credit. As regards forms of credit insurance, the microfinance company would require a guaranty or a surety in any case. The basis of this form of insurance would be the high creditworthiness of the debtor consumer (Plotnic, 2010).

The Annexes also provide information on the effects of the early repayment, as well as the penalties attached to the credit agreement. Here it is considered what payments will be beared by the consumer if they have the desire to pay the credit in advance, and the amount of this payment – commission, is dependent on the trader/creditor as well as the type of contract concluded.

The banking-type economic agent shall also include the conditions under which the interest rate may change.

Overall, by reporting all the information indicated the creditor/trader, practically, sets out from the outset the terms of repayment, and from the annexed tables it is identified that both the microfinance economic operator and the banking economic operator, from the very beginning, impose conditions on the consumer. Therefore, the consumer – the borrower will receive the credit conditions as granted, i.e. if you accept the conditions are are given the credit, if not – you do not sign the credit agreement. Thus, the question where is th eprotection of consumer arises again, or the information which the creditor is obliged to provide in advance is in fact presented under the form of well-established contractual clauses, to which the consumer only have to agree. Therefore, the consumer – debtor in relation to the creditor – the economic agent, is very vulnerable, sometimes hastily entering into a credit agreement without checking the official website of the creditors/economic operators, due to the lack of time, patience and knowledge, or simply because he/she is being pressed by the financial situation.

Moreover, it is well inferred from the annexes that the creditor/trader has the privilege of analysing the potential debtor very well, having as source of information the documents which the consumer presents in order to demonstrate his/her income. The purpose of this verification and analysis is to conclude on the creditworthiness of the debtor, i.e. whether or not it is in the possibility of repaying the credit.

Therefore, even though there are some obligations the creditor/trader has in front of the consumer, it is not clear how the debtor qualifies as a consumer, nor is it clear the difference between an economic operator contracting in general rules



with a physical person and an economic operator contracting in the special rules with a consumer.

It should also be reiterated that a consumer in general is regarded as a physical person intending to procure or who orders or uses products, services for his needs, but not related to entrepreneurial or professional activity, whereas the consumer wears the debtor's coat, when he intends or contracts a credit agreement for personal purposes.

The question of whether or not a person acts outside his profession has arisen in doctrine and case-law (Băieșu and Plotnic, 2014), taking into account three criteria:

- the criterion of the “*direct relationship*” of the contract with the professional activity reveals the professional nature of the contract, in which case the legal person will be deemed to have concluded that contract for the purpose for which it was established;
- the criterion of “*indirect relationship*” between the contract and the professional activity indicates the situation in which the contract, although concluded for professional purposes, falls outside the professional's sphere of competence;
- the criterion “*extra-professional*”, places the contract outside the professional activity, i.e. in the area of personal, family needs.

In practice, the creditor in order to secure an effective contract, in the contractual clauses expressly indicates the purpose of the credit agreement.

The analysis of two credit agreements (from a banking and non-banking financial institution)², reveals the existence of a clause dedicated to ‘The purpose of the credit’. If there is a credit agreement for personal needs, this type of contract will fall under consumer credit agreements and the debtor will also be protected in the light of the legal rules on consumers protection, while the economic agent/the creditor will have a dual responsibility, as he is dealing with a person who is vulnerable from a legal point of view (Plotnic, 2014).

4. Credit agreement at European level: specific notions and trends

Council Directive 87/102 / EEC of 22 December 1986 on the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit lays down rules at European level for consumer credit agreements (Council Directive 87/ 102/EEC). In 1995, the Commission presented a report on the implementation of Directive 87/102 / EEC and carried out a wide-ranging stakeholder consultation. In 1997, the Commission presented a summary report on the reactions to the 1995 report. In 1996, a second report on the implementation of Directive 87/102 / EEC was drawn up.

² The credit agreement (retrieved from www.energbank.com); The credit agreement (retrieved from <https://microinvest.md>).

These reports and consultations highlighted substantial differences between the laws of different Member States in the field of credit for individuals in general and consumer credit in particular. An analysis of the national laws transposing Directive 87/102 / EEC shows that Member States use various consumer protection mechanisms in addition to those provided for in Directive 87/102/EEC due to different legal or economic situations at national level.

The factual and legal situation resulting from these national differences leads in some cases to distort competition between EU creditors and impedes the proper functioning of the internal market, where Member States have adopted different binding provisions, stricter than those laid down in the Directive 87/102 / EEC. This situation limits the ability of consumers to make direct use of the gradually increasing cross-border supply of credits. Such distortions and limitations may, in turn, have consequences for the demand for goods and services.

In order to ensure consumer confidence, it is important that the market provides them with a sufficient degree of protection. Thus, the free movement of credit offers should be able to take place under optimal conditions, both for those who provide credit and for those who request it, taking into account the specific situations in each Member State.

For the purposes of this Directive, the following definitions shall apply:

- (a) “consumer” means a natural person who, in the course of operations covered by this Directive, is acting for purposes which are outside his trade, business or profession;
- (b) „creditor” means a natural or legal person who grants or promises to grant credit in the course of his business or profession;
- (c) „credit agreement” means a contract whereby a creditor grants or promises to grant a consumer credit in the form of deferred payment, loan or other similar financial facilities, except for contracts for the continuous provision of services or for the supply of goods of the same kind, when the consumer pays for them in installments, during their supply.

The endeavors of the EU to protect its consumers while accessing credits resulted in adopting in 2008 a Consumer Credit Directive (2008/48/EC). Directive 2008/48/EC on credit agreements for consumers has the objective to secure a high level of protection and thus increasing the confidence of Europeans involved in taking out loans. The Directive also seeks to create the best possible conditions for the free movement of credit offers and to establish a level playing field for providers in different Member States (European Commission, 2021b).

In 2020, a New Consumer Agenda was approved, revealing the perspective for an EU consumer policy from 2020 to 2025, highlighting its key priority areas, for example the digital transformation and specific needs of consumer groups susceptible of being vulnerable in the digital era (European Commission, 2020a). Also, in September 2020, in order to achieve consumer protection and financial stability in the internal market, but also build an innovative financial market in the EU, the Commission adopted a Digital finance strategy and legislative proposals on



crypto-assets and digital resilience (European Commission, 2020b). The main priorities of the EU Digital Finance Strategy are aligned with the new Capital Markets Union action plan (published in September 2020), that comes with few recommendations to help member countries to better strive towards a green, digital, inclusive and resilient recovery after COVID-19 pandemics (European Commission, 2020c).

Also, continuous efforts have been realized in order to deepen the Economic and Monetary Union (EMU) by 2025, especially in the field of cross-border integration and risk reduction in the EU banking system. All these efforts resulted in the initiative of the EC to come with a renewed proposal of a directive on consumer credits, which has been put on a table in June 2021. This is going to repeal and replace the Consumer Credit Directive (2008/48/EC) (amended in 2011, 2014, 2016 and 2019) and aims to establish an even more harmonised EU framework for consumer credit, to facilitate the emergence of a smoothly functioning internal market in consumer credit, to ensure enhanced consumer information and understanding of consumer credits, to better protect consumers from irresponsible lending practices, and provide a higher level of consumer protection in order to ensure consumer confidence (European Commission, 2021a).

Conclusions

In conclusion, it is identified that a credit agreement is where a person called a creditor makes available or undertakes to make available to another person, called a borrower, an amount of money as a loan, as a result of which the creditor will be entitled to collect the payment of interest, related payments, or other commitments to which the borrower has been bound in order to repay the loan.

According to the elements of the credit agreement, it is identified that the credit agreement covers the general characteristics of the loan agreement and the general legal act, with the exception of special regulations, which are envisaged both in the Moldavian Civil Code and in the Law No. 202 of 12.07.2013 on consumer credit agreements.

In the comment of all those relied on, the legal relationship between the creditor/economic agent and the consumer in a credit agreement is governed by special legal rules and is dictated in particular by the vulnerability of the consumer, i.e. the creditor having the primary obligation to effectively inform the consumer of all the terms of the contract and the risks in the event of non-compliance with the contractual obligations. The debtor in a consumer credit agreement shall be legally a consumer not from the time of conclusion of the contract but even from the moment he intends to contract, and from the moment when economic operators (potential creditors) publish information on consumer credit agreements, or as previously stated in the obligations of the creditor, shall also include the fact of informing the consumer of the general provisions of an account credit card for consumers, in this respect even information extracted from the official websites of banking and non-bank operators is attached.

Consequently, the creditor-consumer ratio in the credit agreement is based in particular on the fact that the consumer is regarded as the vulnerable party and the creditor is regarded as a professional who knows his activity. The relationship between the creditor and the consumer is in fact regarded as a relationship in which the creditor appears with the obligation to train the consumer alone, to give him the time necessary to inform him of all the nuances of a consumer credit agreement, or to the contrary the creditor himself in the light of the consumer credit agreement may suffer both legally and economically.

Along the years, a number of relevant pieces of legislation regarding consumer credit agreements have been enacted in EU and the Republic of Moldova, this being determined by the rapid evolution of digitalization, but also the endeavor to ensure a greater protection of its consumers. The last developments of EU consumer policy aim to facilitate the emergence of a smoothly functioning internal market in consumer credit, to ensure enhanced consumer information and understanding of consumer credits, to better protect consumers from irresponsible lending practices, and provide a higher level of consumer protection in order to ensure consumer confidence.

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THE IMPACT OF THE COVID-19 ON ENTREPRENEURSHIP IN THE NORTH EAST REGION - RESILIENT GROWTH SOLUTIONS

Gabriela PRELIPCEAN*, Carmen BOGHEAN**, Mariana LUPAN***

Abstract

The relevance of entrepreneurship is given by the fact that micro, small and medium-sized enterprises (SMEs) represent 99% of EU businesses. They provide two thirds of the private sector jobs while contributing with more than half of the total added value created by EU businesses. The systemic plans for economic recovery and resilience play a key role in the sustainable development of the business ecosystem following the COVID-19 crisis. Supporting the business environment, they, SMEs especially, represent the solution to reduce unemployment and increase employment. This paper analyzes the state of entrepreneurship at both national and regional levels, in order to identify the impact of the COVID-19 crisis on the resilience of SMEs. Based on the published data, we will conduct a quantitative research on the evolution of entrepreneurial activity in 2020.

Keywords: entrepreneurship, resilience, pandemic crisis, economic recovery

Introduction

It is unanimously accepted that in all economies the entrepreneurship is the engine of economic development having a vital role in the sustainable functioning of the markets. In this context, the impact of the COVID 19 pandemic has generated new approaches to economic recovery, reconstruction and strengthening the resilience of SMEs. The year 2020 meant a real challenge for the economic field in general, but especially for the field of entrepreneurship in particular. It is a year that marks the start of irreversible transformations, which would have happened anyway, but maybe much slower (Agenția pentru Dezvoltare Regională Nord-Est, 2021, p.199).

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From an early stage in the COVID-19 pandemic, economists have stressed the importance of individuals endogenously changing their behavior to reduce their risk of infection (Droste and Stock, 2021, p.9). The COVID-19 pandemic fundamentally changed the entrepreneurial way of thinking, generating innovative actions and perceptions on both the market and the business model. (G20, Young Entrepreneurs' Alliance, 2018, p.29). The global business environment and, therefore, the Romanian one, expected an economic crisis anyway, but nothing foresaw a crisis of such proportions and with consequences in so many areas of our society and our life (European Commission, 2020, p.18).

The data analysis aims to highlight the way and the extent to which the business environment was affected during this pandemic period, when a series of measures were taken to restrict social and economic activity, how the entrepreneurs responded and adapted to these measures, and the needs identified by entrepreneurs for the recovery of their business.

1. The context of economic development at national and regional level

According to Eurostat in 2008, EU-27 represented approximately 15% of the world trade of goods, the value of the international trade of goods being much larger than that of services (approximately three times larger), which means that the nature of certain services may be an obstacle in cross-border commerce. In 2018, EU-27, The USA and China represented 42% of the world trade of goods, thus, in 2019 being the EU-27 main export partner of the USA, and the main import partner being China (Radica Lupu *et. al*, 2020, pp. 213). At national level, we can state that our country has a certain experience on the international markets, which is emphasized by the data presented in the trade balance as follows.

The Romanian export and import are conducted mainly, with the European countries 87.8% of the export and, respectively, 88.5% of the whole import. The inter-country commerce with the 27 European countries represents 76.7% for export and 74.8% for import.

According to Business Environment Barometer for North-Eastern Europe 2020, in 2018 Romania managed to export to the world countries over 67 billion euro, 5 billion more than in 2017, but much less than it succeeded in importing from other countries, 83 billion euro – which means a difference of 15 billion euro. By far, the most exchanges are with Germany, over 15 billion export and almost 17 billion imports. The only country with over 1 billion exchanges in its favour is Great Britain, while other exchange partners with more export in favour of Romania are the USA, France, Moldavia, Egypt, and Norway. On the other hand, Romania imports more from Turkey, China, Austria, Poland, and Bulgaria.

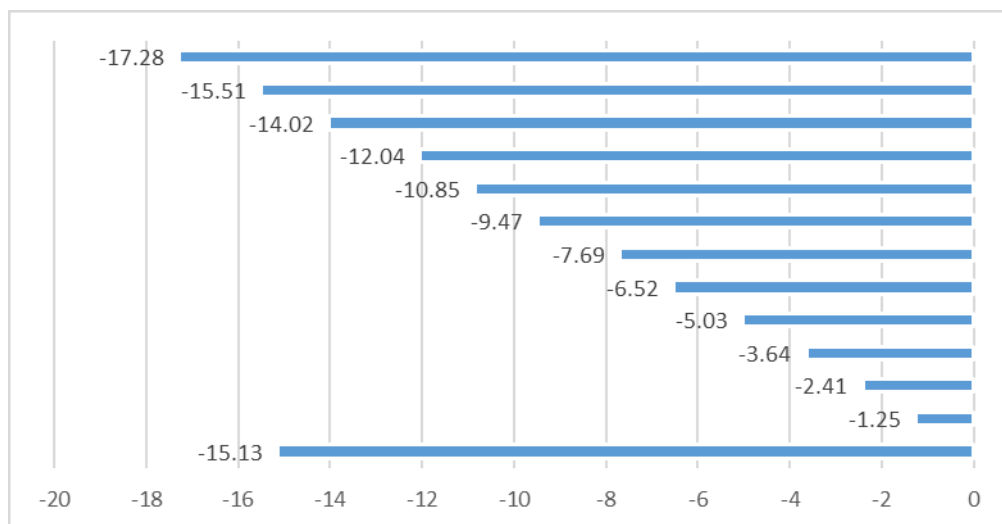
In the first 9 months of 2018, the first 10 countries for Romanian export were: Germany (with 23.5% of the Romanian export), Italy (11.3%), France (7%), Hungary (4.5%) Great Britain (4.3%), Bulgaria (3.3%), Spain (3.2%), Poland (3.2%), Turkey (3.1%), The Czech Republic (3.0%), with a total of 66.4% for all these countries for export.



As far as import is concerned, the first 10 partner countries of Romania (countries for extra-Community imports and dispatching for intra-Community imports) make up a total of 67.8% of the total import realised in the first 9 months of 2018, respectively: Germany (20.7%), Italy (9.5%), Hungary (6.8%), Poland (5.4%), China (5.3%), France (5.2%), Turkey (4.2%), Holland (3.8%), Russia (3.6%), and Austria (3.3%).

The deficit of 17 billion euro which our country had in 2019, did not reflect entirely in the deficit of payment balance, on account of a more rapid increase in export than goods import, where we have an excess, which covers almost half of the deficit of the commercial balance. At present, goods export represents approximately a third of the Romanian GDP, and if we add the value of the services, then, they reach approximately 45%, but we still are under the European average value of 54% according figure 1.

Figure 1. The evolution of the commercial deficit of Romania, throughout 2019



Source: own representation according to the National Statistics Institute, INS

According to the data published by the National Bank of Romania (BNR), in the first eight months of 2020, the balance of the current account registered a deficit of 5.8 billion euro, having a decrease by 18% as compared with the same period in 2019. The commercial balance of Romania was counterbalanced to a certain extent by the commercial surplus in services in the first 8 months of 2020. Romania exported services of 15.1 billion euro and imported 9.2 billion euro in services. Consequently, Romania experienced a commercial surplus in services of 5.9 billion euro in the first 8 months of the year, with an increase by 9% as

compared to the same period of the previous year, when services registered a commercial surplus of 5.4 billion euro.

Transportation contributed to the commercial surplus of services with 2.5 billion euro, however, the pandemic transportation restrictions imposed this year are noticeable – the surplus of services in transport was, in the first 8 months of 2019 of 2.9 billion euro, an increase by 14%. The transportation sector was one of the most severely affected businesses by the restrictions imposed by the pandemic.

The IT sector is the winning one in the pandemic and the analysis of export and import services confirms: the most surplus was registered in “other services”, where the IT sector is placed. These experienced a surplus of 2.8 billion euro in the first 8 months of 2020, an increase of 27% as compared to the same period in 2019, which had a surplus of 2.2 billion euro. The fact is that companies were forced to invest in IT, taking into consideration the fact that, if possible, employees were allowed to work from home. Moreover, there was investment in IT in online commerce.

The current account balance – The foreign currency which entered Romania as compared to what left the country – registered in the 8 months of 2020 a deficit of 5.8 billion euro, a decrease by 18% as compared to the same period in 2019, according to the National Bank of Romania. Services contributed the most to the payment balance, however, the deficit of 11.8 billion euro in foreign trade in goods titled the current account balance to deficit. The deficit of the commercial balance of Romania (FOB/CIF) increased by 908,7 million euro (5.85%), in the first 11 months of 2020, as compared to the same period of the previous year, reaching 16.433 million euro (National Statistics Institute, 2020).

According to the NIS, in November 2020, FOB exports amounted to 6.029 billion euros, and CIF imports amounted to 7.603 billion euros, resulting in a deficit of 1.573 billion euros. Compared to November 2019, exports in October 2020 increased by 0.6%, while imports increased by 1.5%. Between January 1st and November 30th, 2020, important shares in the structure of exports and imports are held by product groups: machinery and transport equipment (48.4% for export and 37% for import) and other manufactured products (30.4% both for export and import).

From my point of view, the increase of exports is a beneficial thing for the Romanian economy as long as we maintain the same quality of the products for both exports and what remains on the local market. Ideally, exports would exceed imports, which is conditioned by Romania being evaluated as a producing country, situation which unfortunately does not suit us, since Romania is being included on the list of consuming countries, because we consume more than we produce. In this regard, greater efforts should be made to support the country's economy, also taking advantage of the facility of exports at optimal costs.



2. The particularities of entrepreneurial environment at regional level

All over the world, small and medium-sized enterprises (SMEs) are the engine of the economy. They have a vital role in the sustainable functioning of local markets, but also of the global market because these organizations employ 50% of the total workforce globally, while in Romania it represents 66%. In addition to SMEs, and as a distinct category of them, small business type start-ups and scale-ups, which are at the beginning of the road and which are defined by a process of accelerated growth, contribute significantly to socio-economic development by:

- creating new jobs;
- increasing economic dynamism by stimulating innovation;
- creation of new industries.

In fact, one of the strengths of the European Union is represented by the start-up ecosystem: since 2017 it has generated revenues of over 430 billion euros. In order, for the European ecosystem to grow and companies to expand and enter others markets, new VAT regulations are needed, technologies and innovations that can be challenged and restricted by current EU laws.

We can identify five important factors that stimulate the development of the entrepreneurial environment (Amway, 2020):

- tax management;
- existing rules and regulations in each country;
- the education system as a provider of necessary skills;
- available technology;
- the economic situation in that country.

Romania is below the global average regarding these issues, so there are still important steps to be done in terms of improving policies and public procedures for the entrepreneurial environment.

Entrepreneurial ecosystems are generally made up of government, which creates rules and regulations to support entrepreneurship, business angels' industry and venture capital, which provides the initial and the growth capital needed to support entrepreneurship, the financial market, which provides financial incentives and ways of funding for start-ups, and ultimately entrepreneurs, who form real communities and start businesses. Regarding the national entrepreneurial ecosystem, 62% of the existing businesses are operational, have customers and a percentage of 38% of the total are start-ups in the early stages, still working on the idea or the launching of the product. As a result, the Muntenia and Bucharest region claim a third of the projects in the launch phase, followed by Transylvania, with a number of 78 projects and Moldova, with 66 projects (Impact HUB, 2020).

At European level, a significant proportion of businesses on the market offer an online service / product while only 0.7% of them offer offline solutions. In addition to well-represented sectors such as IT / Software Development (19.1%) or



Software as a Service (18.5%), new companies were created in trendy sectors such as Green Technologies (4.0%) and FinTech (5.1%) (European Commission, 2018).

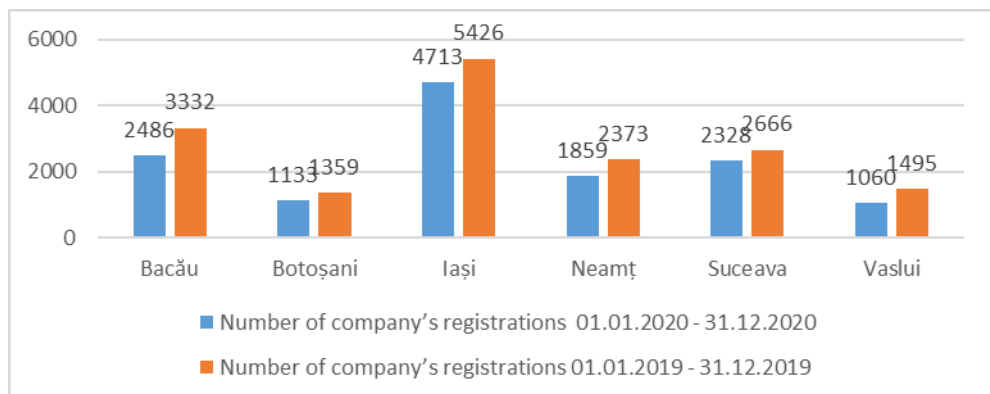
3. The dynamics of entrepreneurial initiative in North-East region, in the context of the crisis

In order to highlight the way and extent to which the health crisis has influenced the entrepreneurial environment, we have analyzed the official information presented by National Trade Register Office (ONRC), for the counties within the North-East region for the year 2019 and the year 2020.

According to ONRC information, at *national level*, the number of newly created companies, an indicator that shows the business appetite in the economy, decreased by 58% between March and May 2020, compared to the same period in 2019, with a collapse of 80% in month April. (National Trade Register Office, 2020). Thus, with the declaration of the state of emergency, in March 2020 and until the end of May, 16,600 new companies entered the local economy, compared to almost 40,000 in the same period in 2019.

Thus, from an average of 12,000 - 14,000 new companies monthly, in April 2020 were identified only 2,500 newly-created companies at national level. Therefore, in terms of entrepreneurship, year 2020 is one in which those who would have liked to enter the market have postponed this decision due to uncertainties and vulnerabilities in the entire economy. Thus, from an average of 12,000 - 14,000 new companies monthly, in April 2020 were identified only 2,500 newly-created companies at national level. Therefore, in terms of entrepreneurship, year 2020 is one in which those who would have liked to enter the market have postponed this decision due to uncertainties and vulnerabilities in the entire economy.

Figure 2. Registrations of individuals and legal entities in the NE region, in the period 01.01.2020 - 31.12.2020 compared to the same period in 2019



Source: own representation according to ONRC data, December 2020

As can be seen in figure 2, the number of company's registrations in 2020 was lower than the ones registered in the previous year in all counties of the North-East region. The largest decrease was registered in Bacău County, where the number of registrations decreased by 846 in 2020 compared to the previous year. According to the evolution from figure 2, the largest percentage decrease registered in the North-East Region was in Vaslui County, where the number of registrations decreased by approximately 30% in 2020 compared to 2019. In Suceava County was registered the smallest percentage decrease of 12.68% in 2020 compared to 2019.

In Botoșani County there was the smallest decrease in the number of registrations, with only 226 fewer registrations in 2020 than in 2019. In Suceava, the number of registrations in 2020 decreased by 338 compared to 2019. By areas of activity, according to CAEN, the number of registrations decreased in almost all activities except transport and storage activities, where there is an increase from 11029 in 2019 to 11688 in 2020, the main cause being the home deliveries and e-commerce which increased greatly during the crisis triggered by Covid 19. Another area of activity in which the number of registrations increased was the production and supply of electricity and heat, gas, water where the number of registrations increased by 100, reaching 186 in 2020.

Figure 3. Registrations of natural and legal persons according to CAEN carried out in the NE region in 2020 compared to 2019

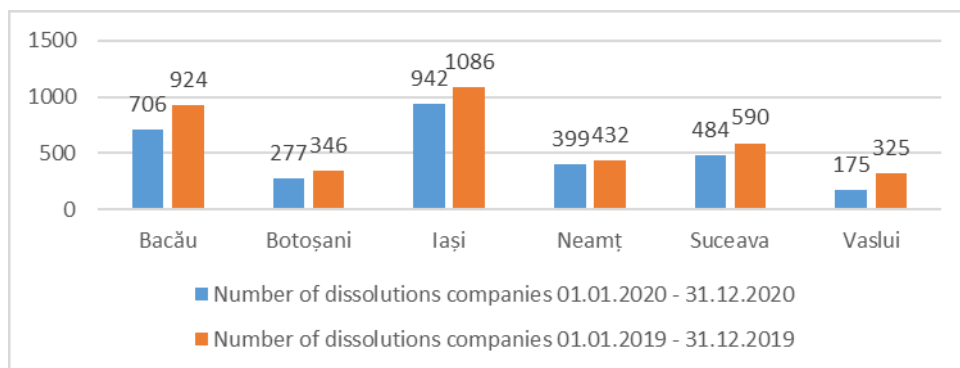


Source: own representation according to ONRC data, December 2020

By activities of the national economy according to CAEN, the largest percentage decrease was registered in agriculture, forestry and fishing of about 50%. In transport and storage activities, the number of registrations increased by approximately 6% in 2020 compared to 2019. The number of registrations in the field of production and supply of electricity, heat, gas, hot water increased by over 116%, the main cause being the liberalization of the electricity market. Data on company registration dynamics are among the tools that can measure the impact of the pandemic on the business environment the fastest (National Institute of Statistics, 2020).

As we can see according to figure 4, the number of company dissolutions in 2020 compared to the previous year was lower throughout the region. In Iași County, only 942 companies were dissolved in 2020 compared to 2019 when there were 1086. The largest decrease in the number of dissolved companies was registered in Bacău County, where the number decreased by 218 in 2020 compared to 2019.

Figure 4. Dissolutions of companies in the NE region in 2020 compared to 2019

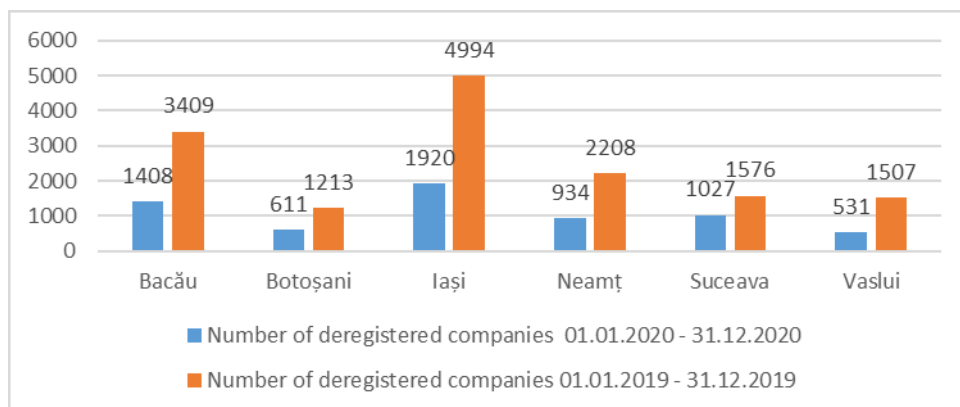


Source: own representation according to ONRC data, December 2020

As a percentage, the number of dissolutions decreased in Vaslui by over 45% in 2020 compared to 2019. The smallest percentage decrease was registered in Neamț County of approximately 8%. In Suceava County, the number of dissolutions decreased by approximately 18% in 2020 compared to 2019. By activities of the national economy, most dissolutions were registered in the field of wholesale and retail trade, car repair, decreasing in 2020 compared to 2019. Another field of activity in which the number of dissolutions was quite high in the year 2020, but decreasing compared to 2019, was the field of constructions. The amount of deregistration in the North-East region has decreased in all counties of the North-East region. As we can see in Figure 4, the highest amount of deregistration in 2020 was registered in Iași county, and the lowest number in Vaslui county (531 deregistration).

Regarding the establishment of SRL-D, the largest number of SRL-Ds /(LLC-begginers) established until December 31, 2020 was in Iași County. Of the 1552 SRL-Ds established, 1219 were in operation and 333 were deregistered. The smallest number of SRL-Ds were established in Vaslui, where out of the 347 established during 2020, only 309 were still in operation at the end of the year, 38 being deregistered. Most name reservations were made in Iasi, but of these, 513 were expired, only 3 being on term. In Vaslui there were 56 rervations for the name, of which 56 were already expired at the end of the year. At the end of 2020, 58 SRL-D/LLC were being set up in Iași, this being the largest number registered in the NE region. Suceava County was on the 3rd place with 28 SRL-D in the process of being established after Bacău County.

Figure 5. Evolution of deregistered companies in 2020 compared to 2019, in the NE region



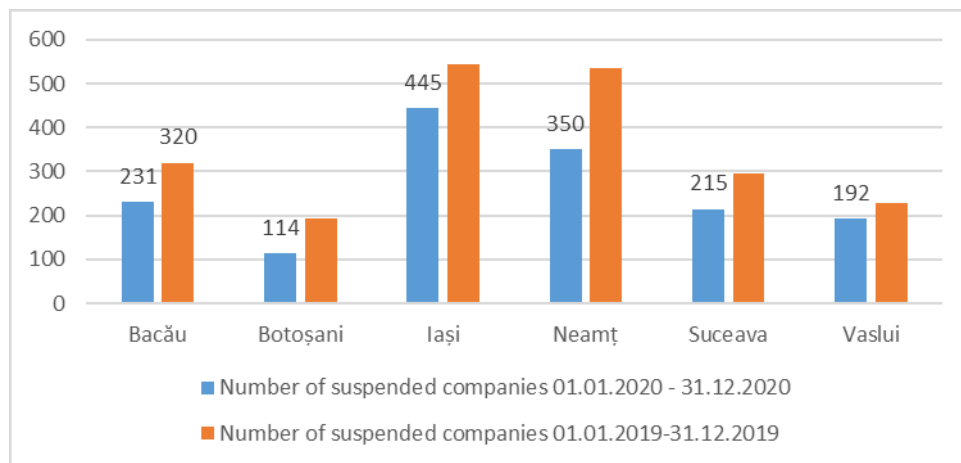
Source: own representation according to ONRC data, December 2020

The largest decrease in the number of deregistration was in Iași County, where there was a decrease of over 3000 deregistration in 2020 compared to 2019. In percentages, the largest decrease was registered in Vaslui County of approximately 65%, followed by the county Iasi with over 61% as we can observe in figure 5. By activities of the national economy, according to CAEN, most deregistrations were in the field of wholesale and retail trade, repair of motor vehicles, motorcycles, the number of these activities registering a significant decrease in 2020 compared to 2019 due to the emergence and manifestation of the crisis. From the analysis we can observe that in 2020 in the field of agriculture, forestry and fishing there was a significant decrease in the number of deregistrations, of about 80%.

Figure 6 shows that the number of companies suspended in 2020 has decreased in all counties of the North-East region. The largest reduction was

registered in Neamț County where 350 suspensions were registered in 2020 compared to 535 in 2019.

Figure 6. Dynamics of companies suspended in the NE region, in 2020 compared to 2019

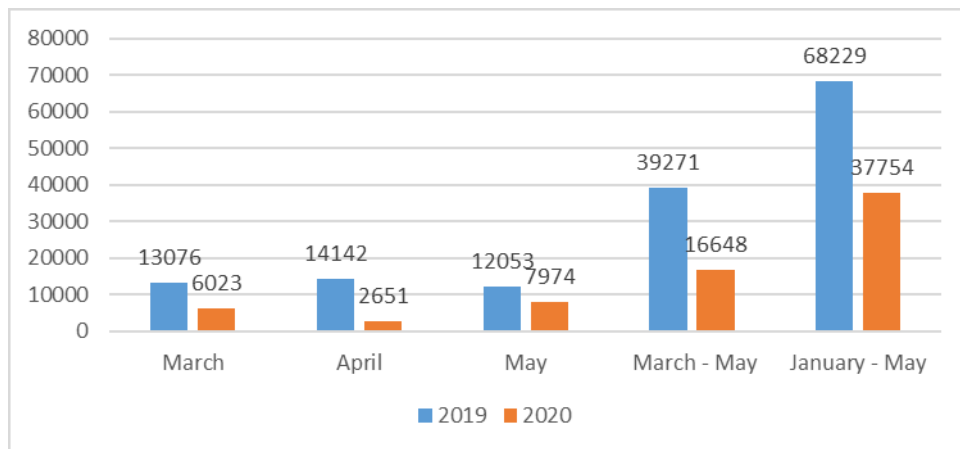


Source: own representation according to ONRC data, December 2020

The highest number of suspensions in 2020 was in Iași County, decreasing by approximately 100 suspensions compared to the previous year. In percentage, the largest reduction of suspended companies was in Botoșani County, of over 40%, and the smallest reduction was registered in Vaslui of approximately 16%. Regarding the suspended companies on activities of the national economy, it is observed that the largest number of suspensions in 2020 were in the field of wholesale and retail trade, repair of motor vehicles and motorcycles, but decreasing compared to 2019. The number of suspensions increased visibly in 2020 compared to 2019 in the field of education.

According to the evolution captured in figure 7 we can observe that the number of newly created companies in January-May 2020 compared to the same period of the previous year, decreased significantly in both absolute and percentage values. The largest decrease was recorded in April 2020 compared to the same month of 2019. At national level, the number of newly created companies decreased by 18.09% in 2020 compared to 2019.

Figure 7. The evolution of the number of new companies created in 2020 compared to 2019



Source: own representation according to ONRC data, December 2020

From the analysis of data provided by the official website of the National Trade Register Office (ONRC) for 2019 and 2020, it can be seen that in the North-East region the situation of entrepreneurship followed the national trend, that of decline and contraction.

However, the number of companies, suspended, deregistered or dissolved did not encountered significant decreases in 2020 compared to 2019, entrepreneurs showing sustained resilience and adaptability. We can appreciate that entrepreneurs have tried to maintain their businesses and make them functional, while also showing confidence in the government's initiatives to support this sector of activity.

4. Need for resilient growth

As a result of the data from ONRC detail regarding the behavior of companies / number of suspended companies / entrepreneurial initiative in 2020, it is observed that existing companies have shown sustained resilience but also an extraordinary adaptability and creativity.

The increase of competitiveness in the region pursues the objectives proposed by the national competitiveness strategy proposed for 2014-2020 and continued for the financial year 2020-2027, taking into account the national areas of excellence, including the perspective of the territorial dimension and rural development. (Nicolescu *et al.*, 2020, pp. 47).

The strategy includes the following priorities:

- formation of production and technological development centers of regional and international competence;

- industrial revitalization through intelligent specialization and transformation of knowledge into a source of competitive advance;
- redefining industrial policies by focusing on innovation and strengthening the market functioning mechanism;
- integration of network industries in the value creation circuit;
- better regulation of the business environment at national level and the development of the regional capacity of economic administration;
- integration of the urban-rural space and capitalization of the territorial capital in the circuit of formation of the economic value;
- preparation for 2050 generation;
- opening the business environment to investment and research directions with an impact on societal challenges.

In the sustainable development of the business ecosystem at national and regional level, the systemic plans for economic recovery and resilience play a key role; supporting the business environment, especially SMEs, its resilience is also the solution to reducing unemployment and increasing employment, but also the key to economic recovery (European Commission, 2015).

The temperate behavior of entrepreneurs, even in a crisis situation, was due to the existence of a sustained entrepreneurial education and a rigorous business behavior (European Commission, 2020). At present, the SME sector is refreshing, diversifying and reinventing itself in an attempt to move forward.

Responsible public authorities have taken a number of measures to counter the harmful effects of the pandemic and help economic operators meet this global challenge by creating and implementing financial aid programs and schemes for companies and employees.

Depending on the local context and the objectives pursued, measures to support entrepreneurship can focus on any of the following directions:

- increasing the number of entrepreneurs and new businesses set up;
- increasing the survival rate of new businesses;
- increasing the number of entrepreneurs who generate jobs and well-being.

The SME support measures had as main purpose to ensure job retention for employees working in industries severely affected by the restrictions imposed in the context of the pandemic.

- the SME Invest program;
- payment of technical unemployment by the government;
- payment of a re-insertion allowance for employees who are technically unemployed;
- tax advantages such as the suspension of the obligation to pay certain taxes;
- tax credits, etc.

Fiscal stimulus packages have been adopted by almost all governments around the world in an attempt to limit the negative impact of this lockdown: technical unemployment, deferral of tax payments, suspension / deferral of credit installments or their maturity. The analysis of the measures taken by different states is a useful exercise that indicates what the best practices globally are.

We can identify two categories of measures adopted and applied in 2020, in order to support companies in difficulty:

Fiscal-budgetary measures:

- additional funds for the health system;
- technical unemployment of 75% of the maximum average gross salary in the country, including partial coverage of the salaries of the self-employed;
- postponement of the payment of taxes during the state of emergency and for another 30 days after the ending of state emergency;
- initial guarantees of 10 billion lei for SMEs;
- faster VAT refund;
- suspension of enforcement of remaining debtors;
- postponement of the payment of the property tax by three months, maintaining the bonus of 10%.

Monetary-financial measures:

- reducing the monetary policy rate by 0.5 percentage points to 2%;
- providing liquidity to credit institutions through repo transactions (repurchase transactions with government securities);
- the purchase of government securities on the secondary market;
- measures to defer the payment of instalments for households and enterprises affected by COVID-19 for a period of up to nine months.

We can identify some particularities for the profile of European start-ups. At national level we can make a profile of existing start-ups. Among the start-up companies existing on the market 41% of businesses are a mix between B2B and B2C, and the proportion of B2B versus B2C is balanced, representing 29% each.

At the same time 28% of the initiated businesses aim at the development on the local market, 33% aim at the national market, 10% at the regional market and 29% at the international market (Impact HUB, 2020).

We can identify some particularities for the profile of European start-ups too. 46.1% are new entrants, 33.7% are in the process of expanding their activity. Regarding the typology: 82.1% are B2B (business to business) and generate all their revenues (46.5%) or mainly (25.3%) by collaborating with other companies. Geographical area in which it operates: start-ups that record revenues are mostly in continental Europe (84.2%), with a large base in the country of origin of the company (62.4%), followed by other EU countries (17.7%) and the United States (8.9%). Expansion in international markets: 88% of start-ups plan to enter markets in one or more countries in the next 12 months. Popular sources of financing: founders' savings (77.8%), business angels (29%) or venture capital (26.3%).

From the point of view of the industries targeted by future entrepreneurs, there are numerous green initiatives, wellness solutions, healthy food, micro farming, coaching, holistic therapy centres, apps with information about the health of young children or smart wallet for the blind, consultancy for HR companies, specialized in the wellbeing of employees and their clients.



Conclusions

Following the analysis and the particularities of the business environment in 2020, due to the Covid 19 crisis, we identified some significant obstacles encountered by Romanian entrepreneurs in starting a business: bureaucracy, as the main problem; unclear or unstable legislation; the relationship with the state authorities (difficult to approach, often with incompetent employees); excessive taxation; corruption, especially among institutions; local mentalities.

In order to diminish the effects of the crisis and support the entrepreneurial activity, the government initiated a series of measures that tempered the shock produced by the Covid-19 crisis (as highlighted by the analysis based on the data considered (the 6 counties of the Northeast region). However, the intensity and impact of these measures depend on the specifics of each economy.

The year 2021 began under more optimistic auspices. In the first quarter of 2021, 41.251 new entities were registered nationally, compared to 27.129 last year. The IMF forecasts a strong recovery of the Romanian economy this year with a growth of 7%. In this context, the absorption of EU funds will be crucial for the further growth of the economy, accompanied by a moderation of increases in public sector wages and pensions.

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METHODS OF INTERPRETATION IN THE NATURE-BASED TOURISM – A QUALITATIVE SURVEY

Maria TĂTĂRUSANU*

Abstract

Interpretation of cultural and natural heritage is a current direction of research in the sector of tourism, derived from the present-day broader concerns regarding the identification of appropriate ways to contribute to the objectives of developing a sustainable tourism that uses more rationally the cultural and natural resources that it is based on and takes into account the needs and interests of all stakeholders involved in its development. The methods of interpretation used by specialists are either personal or non-personal and concern the effective ways of performing it. The present paper analyzes, through a qualitative approach, the main methods of interpreting the natural heritage, reflected in the literature. It is noted that managers use personal and non-personal interpretation methods adapted to the visited site, the effective involvement of tourists and staff being essential in achieving the objectives related to visitor satisfaction, their attitude and behavior towards the impacts generated by tourism. At its turn, the use of new technologies in interpretation is both a concern and a way to achieve these goals.

Keywords: natural site, nature-based tourism, methods of interpretation, new technologies, the impacts of tourism, natural environment

Introduction

At present, nature-based tourism highly attracts the customers due to multiple reasons. The most frequently mentioned reasons are: the loss of roots because of the massive urbanization of the last decades and of the fact that cities are stressful, the diversified tourist offer, especially among emerging countries, that bring new natural destinations in the international circuit, the environmental issues awareness. Moreover it is to be mentioned the increasing demand for tourism generated by the improvement of the living standard in many countries, the tourist products acquiring characteristics par with basic necessities. The interpretation is becoming more and more important due to the support provided for visitors to understand the significance of natural resources, the need to conserve them and to

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minimize the negative impacts that tourism activities can generate, using various methods and techniques proposed in literature. Some authors (Newsome, Moore and Dowling, 2013, p. 295) emphasizes the three key-roles for interpretation: educational activities, recreational and conservation supporting behaviours. First of all, by interpretation the visitors are informed about the site, they can acquire new knowledge and skills and they can better understand the locals as well as the environmental issues. Recreational activities are designed to increase the level of visitor enjoyment and his wellbeing, to stimulate the visitor emotional involvement and to support visitors to understand the significance and the value of the site. Conservation-supporting behaviours are stimulated by the interpretation activities which are designed to increase the visitor awareness of human impacts on natural environment, to encourage visitor to support for environmental protection initiatives and to adopt some attitudes and behaviours to minimize the negative impacts on the natural environment.

The interpretation can improve visitors' experience. It can also consolidate the relation between the site and those living nearby and, by increasing the attractivity of a historical or natural site, interpretation can lead to economic growth in that particular area. Managers in protected areas, museums and patrimony sites, in tourist regions and destinations may lead to accomplishing their organisation's mission regarding their target audience and stakeholders by reaching objectives related to teaching people about their site or topic, by raising awareness of the significance of the site and by winning community's support in the preservation and management as well as in the increase of number of visitors and revenues from high quality interpretation programmes and activities (Jarolimkova *et al.*, 2021, p. 77). The quality of the site's and local community's image is improved by sending information from satisfied visitors (Heritage Council Ireland, 2015). A good quality interpretation also helps both visitors and locals develop their curiosity, their will to discover more and more information on the natural or cultural site they inherit and to understand why a past place, collection, object or event is considered significant (Poria, Biran and Reichel, 2009, p. 101). Interpretation uses a non-formal approach meant for people who spend their free time to reach a deeper understanding of significations and relations because what they see can prove relevant to them (Jarolimkova *et al.*, 2021, p. 77). Beyond facilitating inherited patrimony-related knowledge, interpretation may add a visit or simply gather opinions from specialists and visitors. A negative experience can lead to the erroneous transmission of a site's historical significance as well as to the enstrangement of those visiting it.

Interpretation means to inform, to involve and to educate visitors in different activities comprised by the interpretation plane. The interpreters and managers of the natural or cultural sites use appropriate methods and techniques to achieve the envisaged objectives. Guided tour is the most efficient method in many situations but is not preferred by visitors to some religious sites (Tătărușanu *et al.*, 2021). The sites could preserve the natural environment by using the new technologies in



interpretation (interpretive centers), but in the same time the satisfaction of visitors decreases in some cases (because the visitors prefer to experiment themselves the wildlife in a natural park).

1. Nature-based tourism

The concept of nature-based tourism is described in literature as a type of tourism that comprises a wide range of activities (swimming, trekking, picnics, learning, diving, photography, spending time with friends or family) performed in natural areas untrodden by humans (Metin, 2019, p. 177). Nature-based tourism consist in various type of activities such as wildlife tourism and tourism based on plants, vegetation, natural scenery, that rely to undisturbed natural environment and futures (Buckley, 2009, p. 2). It can also be defined as the type of tourism dictated by the desire of people to enjoy wilderness or undeveloped natural areas and that may include natural attractions such as landscapes, topography, streams, vegetation, wildlife and cultural heritage and activities such as hunting or white-water rafting (World Bank, 2017). It is subordinated to the sustainable tourism, which focuses on the use of its resources taking into account current and future economic, social and environmental impacts, “in order to meet the needs of visitors, industry, the environment and the host community” (United Nations, 2021). In its turn, the responsible tourism implies maximizing the benefits for the local community and minimizing the negative social and environmental impacts and it supports the community in its efforts to preserve fragile culture and habitats (CREST, 2002, in United Nations, 2021). The latter refers to a certain behaviour towards stakeholders in the long-term maintenance of the resources that tourism activities are based on, in benefit-sharing and in the decrease of negative impacts that tourists and companies in the field can generate on the cultural or natural environment and on the involved host communities. Ecotourism, sometimes used as a synonym for nature-based tourism, involves the responsible use of natural resources in tourism activities, taking into account the need to decrease the negative impacts and it envisages the importance of interpreting, educating and appreciating the local community (Martin and Da Silva, 2018, p. 490).

The tourists’ motivations to participate in nature-based activities consists in enjoying the nature and escaping from daily routine, discovering new type of travels, pursuing healthy life and pursuing intimacy (Kim *et al.*, 2015, p. 15). Some studies show that the motivations for ecotourists are nature, multiple motives and reward and escape (Carrascosa-López *et al.*, 2021, p. 13), while novelty seeking (novelty learning, adventure, relaxation, and boredom relief) is one of the most important motive for travelling at a natural park from Laos (Kitouna and Kim, 2017, p. 55). Other studies conclude that novelty, prestige and physical activity are the main motivations for tourists who decide to participate in wale safaris, fishing and hiking (Mehmetoglu and Normann, 2013, p. 7). As a conclusion, the authors emphasize the role of novelty, prestige, learning, adventure, pursuing a healthy



lifestyle, relaxation and escaping from daily routine as main travel motivators in nature based tourism.

Nature-based tourism is on an accelerated uptrend, especially for ethical reasons - awareness of environmental issues and the need for the tourism sector to provide an appropriate response, concerns about irrational consumption of natural resources (Metin, 2019, p. 175) and for the need of people to get closer to the roots, to nature, to retreat from urban, crowded and noisy areas in quiet places, but also for the desire to learn and experience something new, different.

2. Methods of interpretation in the tourism sector

Interpretation of natural and cultural heritage is *an educational activity* that aims *to reveal meanings and connections* through the use of original objects, first-hand experience and appropriate media and *not just the communication of factual information* (Tilden, 1967, p. 8). It refers to all ways of conveying the meaning of an element (Heritage Council of NSW, 2005). Interpretation implies the detection of the deep meaning of the elements of natural and cultural heritage and its transmission to the interested public, using real elements (artifacts, landscapes, etc.) and an appropriate media, in order to achieve the following goals: education, understanding of authentic meaning by tourists, awareness of the importance of conserving existing resources and the need to protect them for present and future generations. Environmental interpretation refers to a type of communication that focuses on how to explain environmental concepts to the public, by using specific methods and techniques.

There are some principles in interpretation the nature and wildlife for tourists (Association for Heritage Interpretation, 2017). It is recommended by the first principle to encourage the active involvement of participants, based upon first-hand experience for supporting them to better understand the impacts of human activities and the need of protecting the natural environment. The second principle refers to the need of facilitating the maximum use of the senses to experience new situations and feelings (visitors are encouraged to use their smell, see, hear, feel and taste things). The third principle is about encouraging people to self-discovery and actively search for wildlife. The last principle refers to the requirement of understanding the segments of visitors and adapting the interpretation to their interests and motivations.

The methods of interpretation may be, depending on the interaction, or not with people (employees or volunteers) in the activities offered when visiting the site (Jarolimkova *et al.*, 2021, p. 77):

- Personal interpretation - takes place with the help of an animator, when an actor plays the character of a person from a certain period. Interpretation can also take place in the form of a demonstration - when an actor does not put himself in a certain type of character, but talks about a historical period.



- Non-personal interpretation - is performed by an interpreter, who is an expert in a particular subject, but does not dress specifically for the described period.

Interpretive staff may include indigenous representatives, tour guides, tour operators, museum guides, security staff and educators, curators or park rangers, experts in different areas (biology, archeology etc).

The main advantages of personal interpretation are (Association for Heritage Interpretation, 2017, p. 3-4): the interpretation can be easily updated and tailored to the needs of visitors, it is effective and stimulates the active involvement of visitors in various activities, help visitors better understand the nature and the issue of natural environment protection.

Non-personal interpretation could be furnished by using various techniques tailored on different visitors' groups. The strengths of these methods and techniques are (Association for Heritage Interpretation, 2017): information is always available and can be easily updated, it allows visitors to explore the site at their own pace, to experience themselves the life in the natural environment. By using new technologies (virtual reality and augmented reality), visitors can "travel" in different places from their home, to engage in virtual events and to inform themselves about natural sites and to improve their knowledge in the area of natural environment and wildlife.

The media used in the interpretation and presentation of interpretive content consists of virtual environment, interactive devices, educational signals, graphics, sound, smell, exhibitions (interactive or static).

The methods and techniques can be, in this case: guided tours, self-guided tours, trekking, concerts and festivals, theater, traditional dances, virtual tours, places, web pages, demonstration, exhibition, narration, workshops, ceremonies, conferences, museums, interpretive centers etc.

In a book dedicated to the interpretation of nature and wildlife for tourism, the methods and techniques of interpretation are classified upon on the media used to inform the public about the site promoted (Association for Heritage Interpretation, 2015, pp. 3-4):

- a. Publications and websites: the information are presented in a static way, on printed paper or e-content format;
- b. Visitors centers, viewing points and roadside exhibits: the interpretation content is presented at a focal point on paper-based, audio, video, life exhibits;
- c. Wildlife viewing hides: the visitors can looking to the wildlife and to acquire more information presented in a static form by using graphic panels;
- d. Involving rangers, guides and volunteers (guided-tours and face to face interpretation); tours can cover a wide range of topics and the information can be furnished by using stories, drama, music, walks, events and different props (example: a binocular for watching the wild animal in their habitat);



- e. Self-guided trails: visitors can follow a designated trail using a leaflet, map, signs, pannels or an audio-guide;
- f. Electronic tools: the interpretation is furnished by using a camera, mobile devices and apps, podcasts, interactive maps and downloadable audio trails.

The methods and techniques must be tailored to visitors' interests, motivation, demographic profile, as well as to specificity of the natural site. Some of them require large spaces or a specific infrastructure that can be expensive (interpretive centers). Other methods require available trained staff that can be difficult of hiring and maintaining on long term (naturalist guide, scientists and even locals who can talk about the history of the site, about communities and their role in nature preservation). Even though it is expensive, the new technology is very useful in interpretation the natural resources, especially at the protected areas and species or dangerous places. A wide range of equipment and tools have been developed in the last decades and these support visitors to inform about the nature and wildlife (displays, computers, websites). The apps downloaded on mobile phone contribute to better understand by visitors the life of the animals in their natural habitats (games, simulating the real life).

3. Content analysis-based study

In order to identify the methods used in interpretation for nature-based tourism, a content analysis was conducted. A first analysis was made on the Scopus databases, the largest database that includes peer-reviewed abstracts and literature and provides smart analysis tools for interested researchers and institutions. By usig keywords, there can be identified authors, publishing houses, journals, the number of published articles, the affiliation of the authors, the fields in which the research was carried out. In this case, there were performed analysis based on three sets of keywords: "methods of interpretation in nature-based tourism", "interpretation in nature-based tourism" and "methods of interpretation", "nature-based tourism". The number of articles identified by searching on the exact topic, with the keywords "methods of interpretation in nature-based tourism" was 9 (the articles were repeated in the next search). The second analysis focused on the results obtained by selecting the papers based on the keywords „interpretation in nature-based tourism". There were 59 papers published between 1994-2021, most of which were in the field of social sciences (29.1%), environmental sciences (18.4%), economics, econometrics and finance (3.7%) (Scopus, 2021). Subsequently, the articles that addressed the topic of interpretation were selected, either directly or by describing the existing interpretation methods at the sites studied in the context of the overall research. In table no. 1 the main selected articles are presented, being described in accordance with the objectives they aimed at and the methods of interpretation presented.



Table 1. Methods of interpretation identified in studies on nature-based tourism

Author	Goals Results	Methods of interpretation used
Raikkonen <i>et al.</i>, 2021	Conceptualization- nature-based science tourism (wildlife tourism and ecotourism): tourism-based on scientific knowledge, tourism with specific adventures or volunteering, scientific research tourism.	- Guided-tour with scientific interpretation; - Intensive scientific excursions;
Priskin, 2003, p. 201-203	The influence of nature-based tourism in the degradation of marine coastal areas - different perceptions of visitors, depending on socio-demographic characteristics (age, origin, education)	- experimenting: swimming, boating, fishing, diving and snorkeling, (wind) surfing, sandboarding, four-wheel driving, (bush) walking, camping, horseriding and sightseeing.
Hofman, <i>et. al.</i>, 2021	- VR snorkeling and snorkeling tour in real contribute similarly to the enhancement of conservation behaviour	- snorkeling tour in real life; - snorkeling tour in virtual reality;
Sunarta <i>et al.</i>, 2019, p. 341	- Different interpretations are developed by different stakeholders involved in nature-based tourism: experts, community, tourism companies.	- ritual ceremonies - productive works; - trails; - canoe trips;
Kyoung <i>et al.</i>, 2010	The interpretation significantly influences the attitude towards certain specific aspects, but it does not have an important impact on the attitude and general behavior of the tourists towards the environment. Interpretation that contains emotional messages may have a higher effect on visitors' intentions to promote preservation.	- signs, brochures, guided walks, talks to the staff, - publications, an internet website, and the Heritage Center; - Exhibitions/ displays and video materials (films); - computer interactions; - educational tours;
Jacobs, and Harms, 2014,	The problems generated by nature-based tourism can be taken into consideration in the interpretation programs, through objectives of educating tourists.	
Orams, 1996, p. 91-92		
Madin, and Fenton, 2004, p. 121	Reef-based visitor interpretation programs (off-site) may influence the comprehension of visitors of environmental problems on a marine site (barrier reef).	- safari (watching wildlife) on foot - guided-hikes - briefings before safari - discussions during safari - stories, taking photos in the park; - enjoying landscapes
McNamara, and Pridaux, 2010	Visitors read little of the information displayed on public sites in comparison with the commercial ones.	- signs - displays

Dybsand and Fredman, 2021, p. 148	Guidance and interpretation are essential factors in the satisfaction of tourists towards wildlife tourism.	- guided trails
Sivakami, and Bindu, 2020, p. 86-87	The facilities offered are important for the satisfaction of visitors, and their demographic profile influences the perception of the experience at natural sites.	- watching nature: jungle safari, trekking, rafting, bear path trekking, bamboo rafting, camping, jungle camp, pugmark trekking, shopping, nature watch, elephants safari - exhibition of arts craft - web sites, blogs, newspapers - tribal symphony
Healy <i>et al.</i>, 2016, p. 580-581 Coghlan, and Carter, 2020	Visitors prefer the low-intensity interpretation to the highly technological one, being attracted primarily by the landscapes and the connection with the natural environment; To analyze how games can be designed and used to elicit positive emotions among tourists	-Visitor centers
Rahman, 2019, p. 55	Design of an ecological interpretation center at a mangrove conservation park	- walking trail - a library, an animal museum and a plant museum - seminar - watching the scenery and the forest
Black, 2017	The importance of initiating interpretive conversations at natural and cultural sites	- Interpretive conversation between tourists and staff

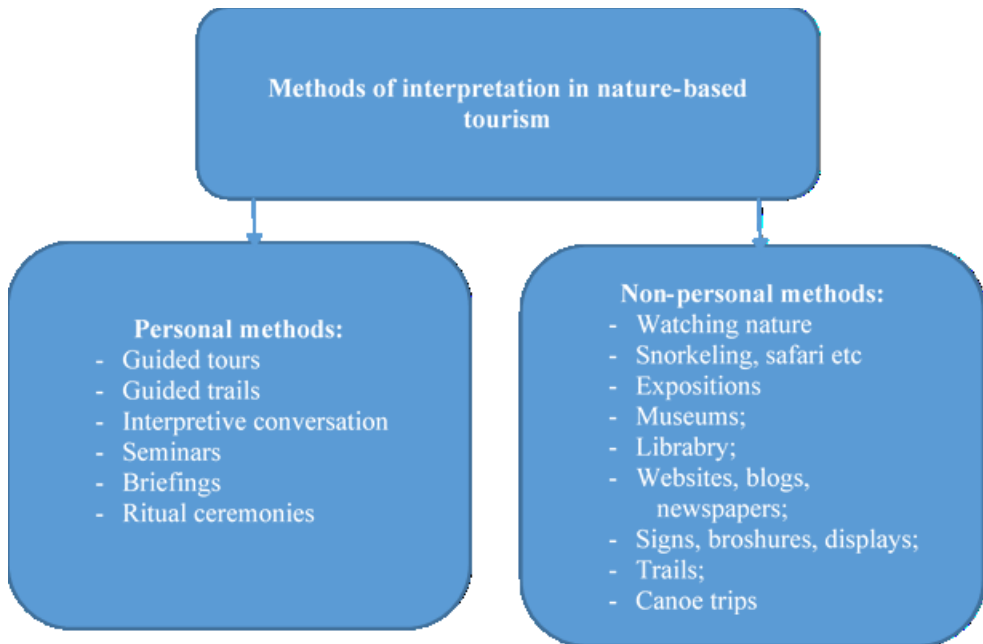
Source: own processing

- The approached topics in the resulting works refer to:
- Understanding by nature-based tourism stakeholders of the impact of climate change and how it influences behavior change (stakeholders are considered: tourists, tourism companies, local community, natural environment);
 - Evaluating the interpretation on the behavior and attitudes of tourists towards environmental issues;
 - The impact of nature-based tourism on the wilderness;
 - Visitors' perception on attachment to a certain wild area;
 - Use of new technologies for interpretation in nature-based tourism;
 - Conceptualizing nature-based tourism and the science of natural tourism;



- The contribution of different methods and techniques of interpretation to the satisfaction of visitors in nature-based tourism.

Figure 1. Methods and techniques of interpretation in nature-based tourism



Source: own representation

The methods of interpretation used in nature-based tourism described in the literature are (figure 1): non-personal methods, such as signs, brochures, websites, watching the scenery and the forest, trails, blogs, newspapers, exhibitions, rafting, trekking, museums/visitors centers, methods based on new technology (virtual reality and augmented reality). At the natural parks the content of interpretation delivered to visitors by using signs and displays is more efficient in public sites than in commercial ones (McNamara and Pridaux, 2014), but the interpretation methods which contain an emotional message can influence the intention of visitors to promote preservation (Kyoung *et al.*, 2010; Jacobs and Harms, 2010; Orams, 1996). The interpretation programs (off-site) may help visitors understanding the environmental problems on a marine site (Madin and Feyton, 2004) and impacts of the human activities on the nature (Priskin, 2003, p.189). The interpretation and guidance influence the visitors satisfaction (Dybsand and Fredman, 2021, p. 148) and facilities are perceived as a satisfaction factor depending on the socio-demographic profile of visitors (Sivakami and Bindu, 2020, p. 86).

However, in natural tourism, personal methods, that ask for the implication of the specialized staff, whether referring to tourist guides or experts in various subjects, depending on the type of site visited (biologists, marine biologists, archaeologists, etc.) are very important. Thus, in literature there are highlighted: guided tour, guided hike, interpretive conversation, ad-hoc discussions with staff, seminars, briefings. In their research, the authors emphasize the importance of interpreting nature-based tourism to educate visitors in order to protect natural resources, to improve their awareness of ecology, to better understand human connection with nature and to participate in long-term maintenance of these resources. Also, the accelerated development of new technologies that improve the visitors' experience is of a particular interest, especially when we talk about the effects of the Covid-19 pandemic, that led to a significant decrease in people's mobility and, including, travelling for the purposes of tourism. In this context, non-personal interpretation has almost entirely taken the place of personal methods of presenting interpretation, natural site managers being increasingly convinced of the usefulness of interpretation through virtual reality and augmented reality, which allow interaction in the virtual environment with staff, participation at events, concerts, interactive games on smart devices. The results of the study shows that researchers are interested in developing apps for interpreting the natural resources (Coghlan and Carter, 2020), evaluating the perceived differences between the interpretation in real life and in virtual reality (Hofman *et al.*, 2021) or the visitors preferences low-intensity interpretation or highly technological one (Healy *et al.*, 2016, p. 580). In the nature-based tourism, it seemed that visitors prefer to experiment themselves, to see interesting places and wild animals, to interact with the nature and admire its beauty. They appreciate the methods of interpretation that encourage them to live new and interesting experiences.

Conclusions

Interpretation is essential in understanding the significance of natural sites and in educating visitors and other stakeholders about the need to protect the natural environment in which nature-based tourism activities take place and in awareness of the need to minimize the negative impacts generated by practicing these activities and increasing visitor satisfaction.

The papers analyzed in the present study focuses on conceptualization the nature-based tourism, nature-based tourism science, the impacts of this type of tourism on the natural environment and wildlife as well as visitor satisfaction and interpretation. The central issue of many research and case studies presented focuses on how to interpret the nature and wildlife to make visitors, locals, managers, and other stakeholders better understand the negative impacts generated by human activities on the natural environment and to encourage them to participate in environmental activities protection. Another important issue consists in measuring the contribution of the methods of interpretation to visitor satisfaction

and economic benefits. Some research analyzes the perception of the stakeholders on the interpretation and their intention to adopt such attitudes and behaviours which are more appropriated to the achievement of the natural environment protection goals, reducing the negative impacts of tourism activities on the wildlife and participating to the preservation of the resources for future generation. A number of studies are dedicated to the new technologies and their efficient use in interpreting the nature-based resources for tourism. They could be used for: creating more ecological spaces/facilities for tourists, increasing the level of visitor engagement in tourism activities, enriching the travel experience and tourist satisfaction.

The methods of interpretation used by natural site managers are both personal and non-personal, and the increase of the role of new technologies in conveying messages of interpretation, in amplifying the sensations and experiences of visitors is fully inserted in the interpretation. The studies that were examined reveal the importance of personal interpretation for visitors, especially when envisaging the goal of protection and conservation of the resources that nature-based tourism depends on, but also in understanding their authentic meaning. Also, the actual participation of visitors, throughout the activities at the place of destination, has a significant impact on their attitudes and behaviour towards nature, compared to experiencing tourism activities in the virtual reality.

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DEVELOPMENT OF INTEGRATIONIST POTENTIAL IN EAP STATES IN THE CONTEXT OF EUROPEAN NEIGHBORHOOD POLICY – THE CASE OF THE REPUBLIC OF MOLDOVA, UKRAINE AND GEORGIA

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Abstract

In the article is studied the relationship of the Republic of Moldova, Ukraine and Georgia with European Union, the current situation of these states within Eastern Partnership and European Neighborhood Policy. Authors, also, underline the necessity of consolidation of both, bilateral and multilateral cooperation among partner states, as well as the improvement of existing individual and common working mechanisms on the advancement of European integration process of countries. In this context, is underlined the importance of newly signed memorandum of understanding on establishing cooperation on European integration by the Republic of Moldova, Ukraine and Georgia. This memorandum reflects the necessity for the three states to have a more ambitious approach of European integration as well as a necessity of a rethinking of Eastern Partnership framework in general.

Keywords: Eastern Partnership, European Neighborhood Policy, integrationist potential, memorandum of understanding, Association Trio

Introduction

Eastern dimension of the European Neighborhood Policy (ENP), in particular through the launch and implementation of the Eastern Partnership (EaP) project, represents a special interest for research, as its main objective is the strengthening of the political association and economic integration of six Eastern European and South Caucasus partner states: Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine. Through this policy, the European Union actively collaborates with its eastern neighbors in order to achieve a high

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level of political association and a high degree of economic integration. The Eastern Partnership program was conceived by the EU as an effective platform for collaboration between EU and its partner states, as well as among the partner states themselves. Thus, through its policies, programs, including the neighborhood ones, as the Eastern Partnership is, it has offered to the partner states different opportunities, certainly under some conditions, criteria and requirements. To what extent these opportunities were used, how they were capitalized have depended only on the Eastern Partnership participating states, on their capacity, the political will of governments and the mobilization of efforts to make the most of the offered possibilities.

Since its launch in 2009 (12 years ago) some results have been achieved in the process of implementing the provisions of the Eastern Partnership program: in the field of developing trade and economic relations with EU, in the field of environment and of communications, in the field of governance, democratic development, legal standards, support for civil society and social development. Also, the level of cooperation between the European Union and partner states has increased, as has increased the collaboration among the participating states in both bilateral and multilateral formats. At the same time, it is clear that the integrationist potential of the Eastern Partnership framework has not been exploited to the extent of the opportunities offered, and there are a range of unutilized supplies.

Thus, in the article, we will briefly analyze the current situation of European integration process of the three most advanced Eastern Partnership states, which have signed Association Agreements with the European Union - Georgia, the Republic of Moldova and Ukraine. In this context, will be examined the data offered by the EU reports on countries' progress as well as opinions of national and international experts in domain. The study applies interdisciplinary approach and qualitative research methodology. This enables us to highlight both main achievements and existing problems within Eastern partnership framework. Further, the analysis shows that there are some patterns specific to the development of the integrationist potential of the researched states within European Neighborhood Policy in general and Eastern Partnership in particular. One general trend characteristic to Georgia, the Republic of Moldova and Ukraine reflects that all three countries, in their foreign policies, try to use all available opportunities offered by their partnership with European Union. Following this objective, the states develop necessary reforms according to EU conditionality, in order to strengthen their democratic institutions and to adjust their national legislation to EU key norms and standards. As well, all three states agree and are fully convinced that EU membership prospect is the main incentive for further deeper reforms. Lastly, a certain obstacle in the process of implementation of Association Agreements signed with the European Union is considered to be domestic political and economic problems the trio copes with. Taking into consideration existing similarities, common desire to advance in the relationship with the European Union and certain progress within Eastern Partnership, these states should move forward. Thus, the recent initiative of Georgia, the Republic of Moldova and Ukraine to



define common objectives and mechanisms of cooperation within Eastern Partnership is an expected one and should be developed as much as possible in order to consolidate the political dialogue among partner states and fortify the integrationist process with European Union.

Conclusively, we will come up with some suggestions regarding the development of the integrationist potential of the Eastern Partnership framework in the political, economic and social areas, as well as regarding the collaboration between the three partner states and their joint integration efforts.

1. Potential of the Republic of Moldova, Ukraine and Georgia in the Context of Eastern Partnership

Eastern Partnership is the framework that has regulated the cooperation between the Republic of Moldova, Ukraine, Georgia and EU since 2009 and represents an important evolution in this process, even if it does not confer the prospect of EU membership. This significance comes from the fact that the main aspects of Eastern Partnership are based on the internal dimension of the European process, and namely on the promotion of the political, economic, social and cultural transformations through the adoption of European norms and values. After 12 years from foundation of the EaP framework, within these three countries are registered some visible and tangible results. A milestone in this regard was the signing of the Association Agreement (AA) in 2014 including the Deep and Comprehensive Free Trade Area (DCFTA). In addition, at the EaP Summit in Brussels in 2017, the EU came up with the working plan for the “20 Deliverables for 2020”. According to the document, “a close link between the “20 Deliverables for 2020” document and the overall European Neighborhood Policy is ensured, as well as with relations between the EU and the Eastern Partners, in particular contractual relations and the Association Agendas and Partnership Priorities. The close linkage between EU assistance and national reform plans will also aim to enhance the efficiency of support and encourage partner countries to undertake reforms.” (Eastern Partnership -20 Deliverables for 2020, 2017) Thus, the deliverables are grouped in four key priority areas of 1) economic development and market opportunities, 2) strengthening institutions and good governance, 3) connectivity, energy efficiency, environment and climate change, and 4) mobility and people-to-people contacts (Eastern Partnership -20 Deliverables for 2020, 2017). These established priorities show the effort of the EU to create a concrete vision for the countries of the EaP, which are very general and not rewarded properly, in the sense that if a country receives a candidate status, it will definitely achieve more. We briefly will focus on each country in order to estimate the development of their activity on European integration process in the context of Eastern Partnership, and then will trace a view on their common opportunities to advance in this framework.



1.1. Georgia

Georgian government has declared the European integration process as one of the most important objectives of its foreign policy. Hence, cooperation with the European Union is a priority and Georgia is trying to show its commitment to the cooperation. Georgian government is aware that the European Union would mean a huge modernization for the country and development in such fields as domestic politics, human rights protection, social mobility and environmental protection. In this way, the government is promoting an informational campaign which spreads the idea that being closer to the European Union, or in the best case, joining the Union, would mean a great development for the country and would stand for its Europeanization and total modernization. Indeed, through the framework of the main agreements with European Union (Partnership and Cooperation Agreement, Action Plan Georgia-EU, Eastern Partnership, Mobility Partnership, Association Agreement), Georgia had realized important domestic changes dealing with economic development, poverty reduction, energy sector, agriculture, human rights etc. (Troitino, 2012, p.92) According to facts and figures about EU-Georgia relations presented in 2021, through achievements of Georgia within Eastern Partnership, one of the most tangible is that EU is Georgia's main trading partner, with a 27% share of its total trade. Also, the role of EU is strongly felt as the ongoing opening of the EU market to more Georgian products continually offers Georgians new export and income opportunities. Moreover, through its ENPARD program, the EU is modernizing Georgian agriculture by supporting the rollout of the agriculture cooperative model, leading to the establishment of 1,200 cooperatives in Georgia. Another important fact is that through Local Action Groups, the EU has supported over 500 local development initiatives in rural areas and, in order to ensure equal access to justice for all citizens regardless of their income, the EU has supported the establishment of the State Legal Aid Service. Further, as is indicated in the document, EU has trained over 5,000 judges, prosecutors, prison and probation staff, police investigators, public defenders, and lawyers to increase their skills and efficiency and further protect Georgians' rights. On the other hand, the EU has supported the establishment of 76 Government Community Centers in smaller towns and villages across the country in order to facilitate access to Government services. All these actions highly have contributed to the transformation of judicial and administrative sectors of the country. Another tangible result within Eastern Partnership is that since the entry into force of visa liberalization for Georgians on 28 March 2017, more than 500,000 Georgian citizens have travelled to the EU without a visa on a total of over 1 million trips. It is also worth to mention that since 2018 Georgia hosts the European School in Tbilisi, bringing together students from across the Eastern Partnership region, who receives a high quality education inspired by European and international teaching standards etc. (Facts and figures about EU-Georgia relations, 2021). The last achievement has a special significance, as education in European Studies is a priority not only for the Georgia, but for the Republic of Moldova and Ukraine as



well. In the context of the COVID-19 pandemic, Georgia has received full support from the EU. The EU Association Implementation Report on Georgia of 2021 estimates that as part of the “Team Europe” approach, the EU has reprogrammed EUR 183 million of grants to support Georgia. Besides, the EU allocated an exceptional Macro Financial Assistance program of EUR 150 million, already partially disbursed in 2020. Part of the 2019 bilateral allocation (EUR 127 million) and of the 2020 bilateral allocation (EUR 102.7 million) have been reprogrammed to better support the country’s COVID-19 response in three main areas: socio-economic recovery, health sector, and the most vulnerable population. (Association Implementation Report on Georgia, 2021)

Despite COVID-19, Georgia has remained committed to the implementation, obligations and undertakings of the Association Agreement. According to Association Implementation Report on Georgia of 2021, alignment to the EU acquis as well as to European standards in the area of human rights has broadly continued. However, in the report is underlined that Georgia still has to improve the situation in such fields as the independence of the judiciary system, rule of law, mass -media and to make more efforts for further democratic consolidation. Other important steps that should be undertaken by Georgian government at the moment are those to ensure an inclusive, green and sustainable recovery from the COVID-19 crisis and to make further progress on digitalization and digital literacy. Also, the Report notes that structural reforms remain crucial as they make Georgia’s economy less vulnerable to external developments, notably COVID-19, and enhance the investment climate and trade potential (Association Implementation Report on Georgia, 2021). EU recommendations for Georgia clearly show that, even if the country has registered some important progress in eradication of corruption, improved business sector and developed a range of political and economic reforms in accordance with European requirements, still it have to undertake more actions in order to comply with European standards.

1.2. Ukraine

As Georgia and Moldova, Ukraine also follows the European course and has registered steady progress within European Neighborhood Policy and Eastern Partnership. Analyzing the works of Ukrainian scholars, it becomes clear that European integration was traditionally one of the most intense segments of Ukraine’s foreign policy. Similarly to other Eastern Partnership participating states, Ukrainian government is focused on the implementation of the Association Agreement and other commitments. In the difficult conditions of domestic problems, security issues and external factors this process normally meets some obstacles. As Ukrainian researchers argue, Ukraine is highly active with sector-based convergence with EU standards in selected sectors. On the other hand, it is noted that despite the authorities’ efforts to maintain the set course and pace, the COVID-19 pandemic has played its role. In this way, conforming to the “Pulse of



the Agreement” system for monitoring progress under the Association Agreement implementation action plan, in 2020, Ukraine delivered on only 30% of its commitments, which is considered to be the lowest indicator in all the years of the Association Agreement implementation (Ukrainian Prism, 2021, p. 71). Analytical study realized by the Foreign Policy Council “Ukrainian Prism”, also, underlines that the government and parliament agreed on legislative priorities regarding European integration, including 30 bills on energy, transport, trade, the Green Deal, etc., and the launch of the EU Days in the Verkhovna Rada when only bills on European integration get considered (Ukrainian Prism, 2021, p. 72). At its turn, The European Union fully supports reforms in Ukraine. It also supports the country’s independence, sovereignty and territorial integrity, threatened by Russia’s ongoing hybrid war against the country, which has included the illegal annexation of the Crimean peninsula, the war in eastern Ukraine and disinformation activities. This support is very important for the country and its population. According to EU Parliament report on the implementation of the EU Association Agreement with Ukraine, since 2014, European Union and European financial institutions has offered to Ukraine grants and loans to support reform processes in volume more than €16.5 billion (EU Parliament, 2021). This financial support was given under the strong conditionality in terms of continued reform progress. An important part of this amount includes EU support to Ukraine of over €202 million for immediate and short-term needs arising from the COVID-19 pandemic, as well as €1.2 billion in the form of macro financial assistance to support mitigation of the economic and social consequences of the pandemic (EPRS, 2021).

If we refer to main outcomes of EU-Ukraine cooperation, there can be mentioned that in the area of justice, rule of law and the fight against corruption, Ukraine’s institutional framework now includes the High Anti-Corruption Court (HACC), which began working on high-level corruption cases (Association Implementation Report on Ukraine, 2020). In general, as it is provided by the facts and figures about EU- Ukraine relations presented in 2021, European Union has organized large-scale support to Ukraine’s governance reform through such programs as: anti-corruption (EUACI), the rule of law (PRAVO), public administration reform (EU4PAR), public finance management (EU4PFM), and decentralization (U-LEAD with Europe) (Facts and figures about EU-Ukraine relations, 2021). All these measures are designed to country’s modernization and democratic consolidation. Association Implementation Report on Ukraine released in 2020, notes that in the area of public administration reform, a series of institutional reorganizations and civil service law changes led to the replacement of more than a third of top management posts in Ukrainian ministries and agencies. Also, some good reform progress was achieved in the domains of agrarian and rural development policy, as well as in the domain of digital transformation, where the progress was possible due to the launching mobile application for digital public services. Another outcome is related to visa liberalization that has allowed Ukrainians to make more than 50 million visits to EU Member States and the



Schengen area during this time (Association Implementation Report on Ukraine, 2020). On the economic dimension, DCFTA implementation has registered a continuous increase of bilateral trade between the EU and Ukraine since its provisional application. It has reached €43.3 billion in 2019. As a result, 40% of Ukraine's trade is now with the EU and that makes EU Ukraine's number one trading partner (Facts and figures about EU-Ukraine relations, 2021).

However, there are some moments that still require improvement. In this context, the Association Implementation Report on Ukraine of 2020 underlines that country should seek to minimize the negative consequences of the COVID-19 crisis and overcome the resulting economic challenges with the support of its international partners. It is considered that in this way will be ensured the maintenance of Ukraine's strategic orientation, as enshrined in its Constitution and set out in the Association Agreement, towards closer ties with the European Union. Next, in the report is indicated a range of sectors which require further concerted efforts. These sectors include energy, corporate governance of state owned enterprises along with further critical reforms in the area of judiciary reform and the rule of law more broadly, where Ukraine's citizens can be expected to continue their demand for progress (Association Implementation Report on Ukraine, 2020). Thus, as Ukrainian researchers generalize, while continuing the European integration process, the current Ukrainian government tried to focus its efforts on deepening and developing partnerships with the European Union and on implementing the objectives and assignments set out in the Association Agreement. At the same time, Ukraine's movement towards the EU is hampered by some dangerous domestic and external factors, including issues with inadequate public administration, the fight against corruption, domestic political conflicts, imperfect European integration policy and many others. Meantime, external negative factors include both Russia's ongoing hybrid aggression and different degree crisis and problems within the EU (Ukraine's sectoral integration into the EU, 2020, p. 14).

1.3. Republic of Moldova

Eastern Partnership has provided for Moldova, as well as for other EaP countries, a modernization and reform guidance according to EU values and principles. Within it, all governmental actions are focused on development of key reforms, on economic development, on governance and cooperation in such domains as energy, transport, social protection, education, environment etc. In order to implement the Association Agreement was adopted National Action Plan for implementation of the Association Agreement, initially for 2014-2016, then it was extended to 2019. As result, Ministry of Foreign Affairs and European Integration of the Republic of Moldova announced a realization rate of around 72 %. No doubt, Moldova has registered some good outcomes within Eastern Partnership. The latest data presented by facts and figures about EU-Moldova relations in 2021 shows that since 2019, the EU has been supporting a €10.6 million



program to contribute to the prevention and fight against corruption greatly through increasing the level of citizens' participation in decision-making process. An important part of EU assistance is designed to strengthen democratic standards, the rule of law and efforts to end high-level corruption in Moldova. Also, the EU continues actively to support civil society in Moldova, including by creating links between civil society organizations on both banks of the Nistru River, through its confidence building measures (Facts and figures about EU-Moldova relations, 2021). It is also worth to mention that due to the implementation of DCFTA, EU has become Moldova's largest trading partner and biggest investor in the country. In 2020, it accounted for 66.4% of its total exports and 52% of its total trade (Facts and figures about EU-Moldova relations, 2021). At the same time, the realization rate of Association Agreement is not really high after seven years of work. In this context, alternative national reports, elaborated by civil society, argue, the process of implementation of the Association Agreement has been hampered and affected by the lack of a new national planning document for the year 2020, as well as by the COVID-19. The pandemic conditions certainly impacted the efficiency of the coordination and enforcement process of legislative and implementing measures planned for 2020-2021. The report further underlines that democratic institutions remain fragile and continue to be affected by narrow political and economic interests. National experts find insufficient progress in the area of justice, freedom and security. It is stated that the activity of the General Prosecutor's Office did not provide the expected results on investigating the cases related to the Bank Fraud. The Parliament adopted new regulations on the application of sanctions for money laundering and a draft strategic planning document in this area was drawn up for the next five years. Also, public administration reform did not make significant progress (Groza, 2020). Unfortunately, in case of the Republic of Moldova is observed a kind of paradox. The reform process is continuous, but the expected results are not achieved. Since the Partnership and Cooperation Agreement with European Union, Moldova constantly has arrears in same domains: justice, fight against corruption, state of law, public administration etc. EU comes with different mechanisms within its neighborhood policy, provide assistance and know how, including a certain roadmap for further actions. Nonetheless, the progress is slow. In this context, according to Iulian Groza, the political situation in Moldova in recent years and the state of its relations with the EU demonstrate that more creative and forward looking ideas are needed. Basically, the essential thrust of any new proposals for the future of the EU's EaP policy should be to prevent further backsliding in Moldova by continuing to apply EU conditionality, as it now seems clear that the EU's strict conditionality worked in Moldova (Groza, 2019, p. 53).



2. Discussion

Indeed, EU conditionality, both positive and negative, is the best tool of European community to maintain the dynamic of reform process not only in Moldova, but in other EaP countries as well. Of course, it means that promoted conditionality policy has credibility in the countries where it is applied. The same credibility should have the EaP countries for the European Union too. Hence the main task of the Republic of Moldova is to work on the implementation of domestic transformation. With the establishment of a pro-European government, the Republic of Moldova now should clearly establish its priorities and goals and develop its integrationist potential. As the country does not have a national strategy of European integration, the successful implementation of the Association Agreement should become the one. Accomplishment of this goal will not only contribute to the Europeanization and modernization of the country, but also will provide the necessary basis for a more ambitious format of cooperation with European Union in future. Implementation of the Association Agreement is a complex and multidimensional process. It implies not just government development of reform process. It requires several interconnected activities. Firstly, it is necessary strong motivation and determination to float the necessary reforms into the practice and make them really work. Next, there is a need to improve the partnership between the government and civil society by involving the last one's expertise in the process of negotiation and implementation of European integration process' tasks. Another important dimension would be the promotion of a very good informational campaign that will disseminate and explain the implemented measures. That will help to form a correct public opinion and to obtain necessary support for further actions, especially for those unpopular.

Thus, all three countries have made progress within Eastern Partnership, especially in comparison with other participating states. Also, the trio has realized that is time to manifest more ambitious approach in their relationship with European Union. Till present, all three states basically related on the EU guidance within European Neighborhood Policy, Eastern Partnership, as well as in the process of reform implementation under the assumed commitments. In this way it has become obvious the need of some individual actions that will convince the European community that the trio has the capacity to transform, develop and implement European norms and values in order to become more attractive for the Union. Moreover, a more pragmatic and ambitious approach to the development of their integrationist potential will contribute to the confidence that European integration process is indeed a priority of their foreign and domestic policies. In this context, it is worth to mention the foundation of Association Trio, realized when foreign affairs ministers of Georgia, Ukraine and Moldova have signed a memorandum of understanding on establishing cooperation on European integration in Kyiv on May 17, 2021. The primary goal of the new alliance is to make a concerted move toward European integration. Also, as it is being



highlighted in mass-media, the Association Trio represents a mere reaction to recent regional developments rather than fixing the strategic flaws. Ukrainian Foreign Affairs Minister Dmytro Kuleba's statement reflects that reality: "Ukraine, Georgia and Moldova are convinced that the Eastern Partnership needs a strategic renewal." (Rahimov, 2021) Thus, the signed memorandum sets out a series of objectives for the cooperation of the countries associated with the European Union and provides the normative basis for undertaking joint diplomatic steps, trilateral consultations and public communication actions. After the signing of the Memorandum, the Minister of Foreign Affairs of the Republic of Moldova Aureliu Ciocoi stated: "Let me emphasize that our cooperation in this format started some time ago. We have signed joint statements, joint letters and joint position papers on various issues related to the Eastern Partnership. Therefore, this memorandum is a logical continuation and aims to simplify our trilateral dialogue and diplomatic efforts... Last but not the least, let me say that in order to achieve our ultimate goal of joining the European Union, we must join forces and act together. My dear friends, let's work and hope that we will achieve this goal in the next decade, not in decades." (Stratan, 2021) Hence, it is important, to undertake joint energetic actions so that those outlined would be put into practice.

Generally, this initiative was expected, as Eastern Partnership framework evolved and have showed that from EU is needed a new position towards its participating states, according to their commitments and outcomes. Along these lines, Moldovan researchers have come previously with a set of recommendations in this regard presented in one of papers released by the Institute of European Policies and Reforms. Through these recommendations, Moldovan experts noted: firstly, EU should reconfirm its clear acknowledgement of the European aspirations of the three associated Eastern Partnership countries; secondly, the associated Eastern Partnership partners should be invited to selected meetings of the EU Council and EU working parties; thirdly there is a need to consolidate the existing Eastern Partnership achievements and aim at full implementation of the Association Agreements and comprehensive integration of Georgia, Moldova and Ukraine into the EU's Single Market based on the four freedoms; and finally, there is a need to take the Eastern Partnership into policy areas which it covered less so far, but which are absolutely key to the future of the Eastern Partnership states in areas such as security and the environment (IPRE, 2020).

Thus, foundation of the Association Trio was received warmly by the signatory states as well as by European Union. With this new alliance Moldova, Ukraine and Georgia reaffirmed their commitment to the common values on which the European Union is based on, as well as their commitment to comprehensive reforms and harmonization of legislation and assured of their full support to the strengthening of Eastern Partnership as a tool of promotion of peace and prosperity in the region. At the same time, the trio shows its readiness to participate in other complementary European initiatives. For the first time, Moldova, Ukraine and Georgia speak about the fact that countries are European and can ask for the EU membership according to EU criteria. This statement of the Association Trio was



heard by European structures as well and will require lately an answer. In the meantime, Moldova, Ukraine and Georgia should work on their integrationist potential and commitments.

Conclusions

The experience of the whole period since the launch of the EU Eastern Partnership program shows that it was a correct decision to initiate this policy. However, despite some progress, in the development of integration process of the three states there are some common and specific to each country problems. For these reasons we can discuss certain issues following the scenario of a differentiated approach towards the Eastern Partnership states.

As it was stated above, the EU membership prospect is the main incentive for further deeper reforms in the Republic of Moldova, Georgia and Ukraine. This incentive, today, is the catalyzer of all government actions and implementation process of Association Agreements signed with the European Union. Due to political changes within the countries and consolidation of European orientation, we can argue that all three states are oriented to full transformation in accordance with European values and there will be no deviation from this course. At the same time, we can notice that main difficulties in the way of development of integrationist potential of these states are domestic ones, as the countries receive necessary assistance and support from the European Union for reform and different projects development. In this way, further advancement in the relationship with the European Union mostly depends on the governments of these states.

In the case of the Republic of Moldova, in order to develop the integrationist potential of the European Neighborhood Policy within Eastern Partnership framework is necessary to restore the confidence of the European institutions and restore the confidence of citizens in the European perspective of the country. Both, unfortunately, were lost for several reasons, the main one being the so-called „Moldovan policy of European integration”, that in our country permanently, even during the so-called alliances for European integration, was a duplicitous, speculative and demagogic one, as it was argued in a publication of 2004 (Vasilescu, 2004). In terms of relations of the Republic of Moldova with the European institutions, were not used all opportunities and possibilities offered by European policies and projects, including material, financial, technical and structural support. Also, due to the policies promoted by Chisinau, particularly to political instability, high corruption and failure to meet European conditionality the trust of European partners was lost, so now it has become particularly difficult to trust the seriousness and responsibility of political government in Moldova. In terms of citizens' trust in the European perspective of the country, it is clear that as a result of promoted policies, inconsistency, political instability, demagoguery and speculation, support for the direction of European integration has been largely lost. How paradoxical it would be, but if, according to the Public Opinion Barometers



(BOP) and other polls, in the years of the Communist Party's rule the percentage of those who supported the direction of European integration reached over 70%, then in the years of government of so-called Alliances for European Integration, this percentage fell below 50 and even below 40 %. To restore the citizens' trust in the European strategic course of the Republic of Moldova is now complicated, but very important and necessary, otherwise without population's support any development plans, reforms will remain only on paper. Basically, in Ukraine and Georgia there is similar situation with citizens' support to European integration process. The majority of citizens favor the European course of their countries, but the expectations of people should be met. In this sense, it is very important and necessary to raise the level of work with the population in order to train European citizens, to increase the level of consciousness, mentality and European culture of population, without which it is, again, difficult to achieve some development policies and necessary reforms.

Generally, for a more efficient development of the European integrationist potential, it is very important to strengthen the role of civil society. This is especially necessary in the conditions of the Republic of Moldova, when we face political instability, several manifestations of political trajectory, a growing distrust of citizens in political institutions, when there is such an avalanche of parties and political demagogues. Under these conditions, civil society should assume the role of communicator and main trainer of public opinion on the European orientation of the Republic of Moldova, as well as of Ukraine and Georgia.

At the same time, there should be a stronger position and a more differentiated approach from the European Union as well. It becomes obvious that existing format of Eastern Partnership with six member states should be rethought, as Moldova, Ukraine and Georgia are forerunners and the other three countries are more hesitant in their European course. Belarus' withdrawal from the Eastern Partnership (announced by the Belarusian government in June 2021 as a reaction to imposed sanctions by EU) is another challenge for the program itself and for the European Neighborhood Policy. Thus, European Union should revise the Eastern Partnership program in order to not lose its credibility within the participating states, avoid the further deepening between the leading trio and other states, as well as to evade the isolation of Belarus. Hence, it is interesting the latest proposal of European Commission on a new agenda for Eastern partners that is focusing on recovery, resilience and reform (Press release, Brussels, 2021). It is the beginning of Eastern partnership revision and its adjustment to new realities, purposes and objectives. The new proposed agenda will be discussed at the Eastern Partnership summit planned for December 2021 and that means that in 2022 the trio can have a new format of cooperation with the European Union.

On the other hand, a more ambitious approach in relationship with European Union should have the Republic of Moldova, Georgia and Ukraine. The trio have registered some progress within Eastern Partnership, is working on fulfillment of EU requirements and domestic transformation. Still, these states need to do more than that. In this context, an important recommendation, which we would like to



emphasize, would be the creation of a Common Bloc of three Eastern European states - the Republic of Moldova, Georgia and Ukraine, following the well-known example of the Visegrad Group, or V-4 – a cooperation organization founded in 1991 by four Central European states, namely the Czech Republic, Poland, Slovakia and Hungary, within which the member states ensured mutual support for political and economic integration in the European Union. It is very important to note that the V-4 organization was set up even before the participating states began EU accession negotiations, thus laying the foundations for closer regional cooperation between the signatory states, including the important field of collective security. It seems that first steps in this direction were made, taking into account that, as we have underlined above, after a series of declarations, finally, the Foreign Ministers of Moldova, Ukraine and Georgia have signed in Kiev, on May 17, 2021 a Memorandum on cooperation in the field of European integration, which could be considered a good start for the foundation of the Common Block of the three signatory states. It may follow the sample of the Visegrad Group or embrace an institutionalized form, what is important that it should be a really working one. The memorandum of understanding is the basis of cooperation between the countries; the Common Block would become a strong mechanism of elaboration and implementation of clear objectives and strategies within European integration process of states.

Another very important argument why closer cooperation between the Republic of Moldova, Georgia and Ukraine is required is the external factor. Besides the three countries are ex-socialist and ex-Soviet states, the trio has similar problems in relation to Russia. In particular, these problems refer to frozen territorial conflicts within these states, conflicts created and supported directly by Russia. Hence, there is a need to unify the efforts of these states in order to promote a common policy towards Russia, to resolve existing conflict issues and especially to convince the great neighbor not to oppose to their choice of European integration and future EU membership. So, as we argued in one of the previous publications, we must work together with Russia, we must not exclude it, but cooperate with it where it is necessary and possible, both bilaterally and in a common trilateral format (Vasilescu, 2016). History and experience have shown that without Russia many problems cannot be solved, and building a peaceful and prosperous Europe is one of them.

Finally, one more aspect to be mentioned is that the Republic of Moldova, Ukraine and Georgia are neighbors of the European Union and are respectively included in the European Neighborhood Policy. But we are not just neighbors of Europe! We are Europe itself! We have the European perspective, the perspective of being part of the great common European family. This fact must be recognized by the European institutions as well. Republic of Moldova, Ukraine and Georgia must jointly insist on this recognition. Also, the trio must do their best to get closer to the united Europe, to return to Europe, to bring back and implement at home the European values and principles.



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CRIMINOLOGICAL AND FORENSIC CHARACTERISTICS OF THE CRIME MURDER COMMITTED AS A RESULT OF DOMESTIC VIOLENCE

Desislava VIKTOROVA*, Nevena RUSEVA**

Abstract

The purpose of this paper is to attempt an assessment of the prevalence and to trace the dynamics of homicides committed as a result of domestic violence in the Republic of Bulgaria. A definition is given for conventional crime and murder, committed by household motives. The legal regulations in the Republic of Bulgaria regarding murders committed as a result of domestic violence are examined. A five-year statistical analysis of the murders committed as a result of domestic violence and the restraining orders issued under the Domestic Violence Protection Act was made. At the end of present paper, the criminological and forensic aspects of the crime in question, which the competent investigating authorities must be aware of, are discussed.

Keywords: criminology, forensic, prevention, domestic violence, homicide, murder, police education

Introduction

Domestic violence is one of the most serious and widespread human rights violations, affecting not only the personal safety and security of victims¹, but also obstructing their personal and social development.

Given the multifaceted nature of its consequences and the high price that society pays as a result of domestic violence, this phenomenon should be perceived not as an individual, but as a significant social problem.

The study of the processes and phenomena in the main constituent cell of society - the family, builds up perceptions of the modern image of mankind. The

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¹ In many situations, domestic violence experts prefer to use the term "survivor of violence" to describe a person who has experienced violence. In the field of law enforcement, however, the term "victim" is regularly used to describe the affected side (regardless of whether she has experienced violence or not).



family is a factor for socialization and social inclusion, but it is also a source of risks for its members and a territory for interpersonal conflicts².

According to the European Unit Agency for Fundamental Rights (FRA), one in three women (61 million out of a total of 185 million) in the EU has been a victim of physical or sexual violence, or both, after the age of 15. According to researches by non-governmental organizations with a field of application in the area of domestic violence, every fourth woman in Republic of Bulgaria has been a victim of an act of such violence³.

1. Legislation and nature of domestic violence

Modern international legislation on domestic violence either regulates the protection of individuals against violent behavior in general (ICCS, 2015), or specifically defines the rights and obligations of states and citizens regarding the recognition, counteraction and sanctioning of domestic violence (UNDOC, 2015).

In Bulgaria in 2005 a special law was voted and adopted, regulating the problem under consideration - the Law on Protection from Domestic Violence (LPDV). The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence defines in Art. 3, letter „b“ the term „domestic violence“, which is similar to that in the LPDV, but in Bulgarian law the circle of persons who can seek protection is more clearly defined. According to the LPDV, domestic violence includes „any act of physical, sexual, mental, emotional or economic violence, as well as the attempt to commit such violence, the forced restriction of privacy, personal liberty and personal rights committed against persons who are related to each other, who are or have been in a family relationship or de facto cohabitation.“ In practice, however, there is almost always an intertwining of domestic violence forms, so often several types of domestic violence are committed with a single act or omission.

The current Penal Code does not contain acts of domestic violence as specific crimes. Although some of its forms are fully comprehended (physical violence or rape) or partially (female genital mutilation as a bodily injury), they do not constitute specific crimes within a family or domestic context, but crimes of a general nature. With the latest amendments to the Penal Code, the legislator introduces a new qualifying circumstance - „the crime was committed in the context of domestic violence“ and based on the accumulated two and a half years of case law practice to adequately comment on the results and subsequent steps to change the legal framework defining the problem.

According to the current norms of the Penal Code, when a crime is committed, apart from the fact that there is no obstacle for the victim of an act of

² Pushkarova, I., Criminogenic risk factors in children and case law as a tool for their management, Bulletin of the SAA (February 2010).

³ See <https://alpharesearch.bg/post/843-seksualnoto-nasilie-nad-jeni-v-bulgaria.html>

domestic violence to receive protection under the LPDV, the current national legislation does not exclude civil, administrative and criminal liability of the perpetrator. At the same time, the proceedings under the LPDV offer the victim a specific set of measures for adequate protection and speed, aimed at stopping acts of domestic violence and preventing subsequent crimes related to it, which are not available in criminal proceedings.

A specific feature is that in addition to a directly injured by a specific act of domestic violence person, a child, present at an act of violence, may also be a victim of domestic violence, without the act being aimed directly at it (Article 2, paragraph 2 of the LPDV).

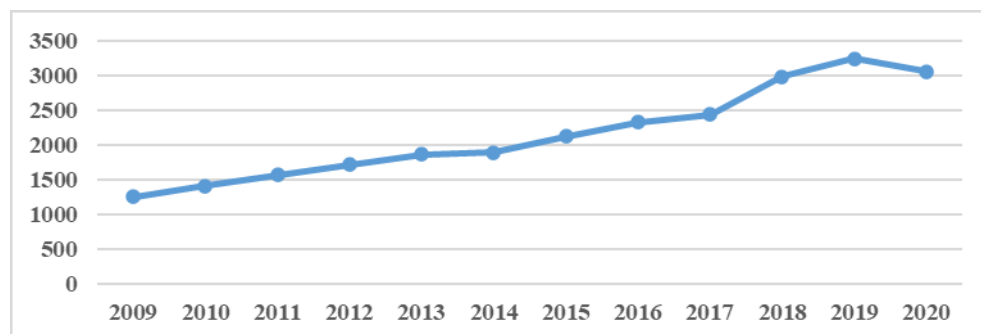
Although the statistics in the international and national plan eloquently show that the predominant perpetrators of acts of domestic violence are males and victims - females, in the current Bulgarian legislation there is no normative or factual obstacle to the reverse life and legal scenario.

The legal regulation of the victim of an act of domestic violence, constituting a crime, is regulated in the measures for protection of the victim under Article 67 of the PPC, informing the victim with specific needs for protection regarding the detention measures (Article 67a of the PPC), the rights of the victim in the pre-trial proceedings (Article 75 of the PPC), as well as in the regulated opportunities for active participation of the injured person in the criminal proceedings (Chapter 8 of the PPC): the right of the victim of a private crime to initiate and maintain criminal proceedings; the right of the victim of a crime of a general nature to participate as a private prosecutor and / or to be constituted as a civil plaintiff for compensation of the property and non-property damages, suffered by him.

The case law on the implementation of LPDV in Bulgaria is characterized by a small volume in the first two years of its entry into force, but since 2009 the stability of the initiated proceedings and the number of issued protection orders has been reported. The analysis of the initiated cases shows that more and more victims are informed about the possibility to seek protection in the framework of proceedings for imposition of protection measures under the LPDV. If in the first few years, the orders issued ranged from about 300 in 2005 to about 800 in 2008, then in the last year their number has increased significantly - 3057 (fig. 1)⁴.

⁴ The data are based on the orders for protection from the respective courts sent ex officio to the regional office of the Ministry of Interior on the grounds of Art. 16, para. 3 and Art. 18, para. 2 LPDV.



Figure 1. Orders issued for protection against domestic violence⁵

Source: own representation

According to Nina Belova, “domestic murder in the narrow sense of the word means crimes that are the result of conflicts between individuals that have arisen on domestic occasions. In a broader sense, however, murders related to rituals for health, fertility and others can be considered as domestic, as well as some serial murders, the motives of which are in the sphere of domestic communication” (Belova, 2012, p. 1). In addition, it should be noted that a victim of domestic murder may be a third party victimized as a result of an accidental, rapidly escalating event, by mistake or as a result of his interpersonal relationship with a person at the root of the conflict with the perpetrator.

2. Murder committed as a result of domestic violence

As the most severe form of assault on the person, Bulgarian and European and global legislation have outlined the murder - whether in its intentional or reckless form.

In the Bulgarian criminal law the commitment of murder under the conditions of domestic violence was introduced by the legislator relatively recently - in January 2019 and is defined in the provision of Art. 116, para. 1, item 6a of the Penal Code.

The specificity of premeditated killings is aptly illustrated by the UN-published scheme of forced death⁶. According to the proposed classification, premeditated murders are divided into: murders related to other criminal activity; killings committed as a result of interpersonal relationships and socio-political

⁵ The study includes both temporary orders for immediate protection, issued in case of data on direct, immediate or subsequent danger to the life or health of the injured person, and final ones, according to the LPDV. It is possible for more than one order to be issued to one person.

⁶ The International Classification of Crime for Statistical Purposes (ICCS), UNDOC, 2015; UNDOC Homicide Statistics (2013).

killings. For their part, domestic homicides committed as a result of domestic violence are an integral part of the second category murders (UNDOC, 2015, 14). In most cases, the perpetrator of murder in a family or cohabitation is the perpetrator of chronic domestic violence, but in practice there are known life scenarios in which the victim of violence commits the incriminating act with a lethal outcome. For the most part, spontaneous - triggered by a recent stressful event or the result of a cumulative accumulation of stress, it is possible that this type of murder is also carefully planned (organized), in which there are often indications to „fix“ the crime in the pursuit of the perpetrator to express his remorse or erase the traces in order to mislead the investigation.

Straddling the divide between the private and public spheres, much of interpersonal homicides is attributed to the very nature of coexisting with others. Central to its definition is the fact that interpersonal homicide is not instrumental to the accomplishment of a secondary goal, but is rather a means of resolving a conflict and / or punishing the victim through violence when relationships come under strain (including from friction due to social and cultural norms).

Its two main sub-types, intimate partner/family-related homicide and homicide related to other interpersonal conflicts are distinguished from each other by the nature of the relationship between perpetrator and victim. This means that in homicides related to intimate partners or family members, the relationship between victim and perpetrator is characterized by an emotional attachment, as well as other links, often of an economic or legal nature, whereas the perpetrator and victim in other interpersonal-related homicide may or may not know each other⁷.

The Penal Code treats the murder of a mother, a biological child, a pregnant woman or a minor person, as an aggravated case of murder (Art. 116, par. 1, items 3-4 of the Penal Code). Although such cases have not been publicised, honour killings can be subsumed under that provision. (Honour-related homicides are the killings of (mostly) women or girls by a member of their family for an actual or presumed act of sexual or behavioural trans-gression (such as adultery, sexual intercourse or pregnancy outside marriage, refusal to enter an arranged marriage, wearing certain clothing or engaging in activities deemed unsuitable) that is perceived to bring shame upon their family. Such killings are the ultimate manifestation of discrimination against women and girls; the ultimate act of gender-based violence).

Regardless of the intense turnover to which they are subjected in modern language, the terms „conventional crime“ and „premeditated murders committed for domestic reasons“ are defined differently by different authors. To date, only a definition in criminological terminology has not been introduced and adopted. In recent years and months, scientists around the world have paid special attention to the importance, theoretical and practical significance of the study of criminological problems in homicides committed for domestic motives.

⁷ https://www.unodc.org/documents/gsh/pdfs/Chapter_2-2.pdf

In a 2016 report “System of Measures of the Bulgarian Ministry of Interior to Limit the Levels of Domestic Crime in the Country”, crime committed for household motivations, also called “conventional crime”, was defined as a term introduced by practice to distinguish it from “organized crime”. It includes criminal encroachments directed against the person and property of citizens, namely: murders; infliction of bodily injuries, crimes against property; crimes against motor vehicles; robberies; drug-related crimes; as well as other criminal acts, which due to their mass nature are a problem for specific settlements.

3. Criminological characteristics of murders committed as a result of domestic violence

The results described below are derived from an author’s study of all premeditated murders registered and discovered in the country for the period from 01.01.2016 to 31.12.2020, and it should be noted that in the other cases, the criminal process is not over yet.

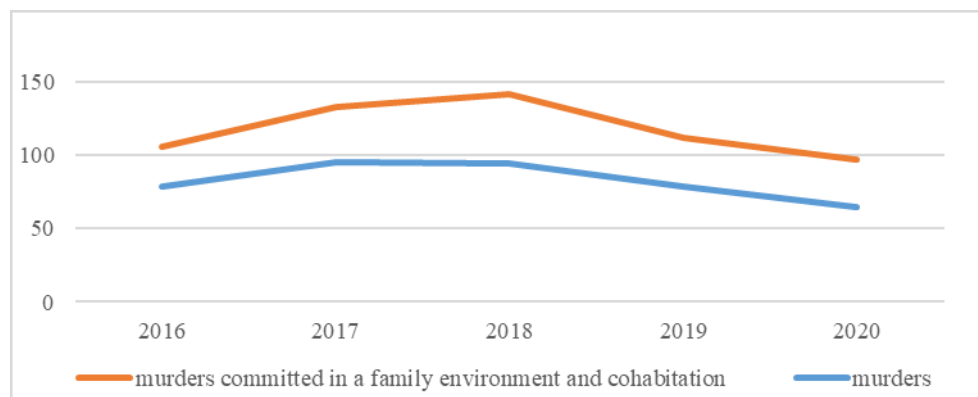
The average relative part of crimes against the person in relation to all criminal offenses committed during the period under review is 6%. On the other hand, the average part of murders committed (Art. 115 - 127 of the Penal Code) in relation to all crimes against the person is 7%. The premeditated murders under Art. 115 - 116 of the Penal Code and Art. 118 of the Penal Code make up an average of 20% of the latter. Characterized by a low relative part (0.02% -0.04%), high and stable detection rates (almost 100%), homicides committed in a family environment or in cohabitation (former or present), as a result of domestic violence, represent a significant problem, given the high degree of danger of this type of crime and the wide public response. Their average part in relation to the murders under the main Art. 115 of the Penal Code, the qualified panels of Art. 116 of the Penal Code and Art. 118 of the Penal Code, in which the legislator has considered the murder committed in a state of strong irritation, which was caused by the victim with specifically described actions, is 30%. Intentional homicides in themselves victimize the families and individuals around the victims, who can be identified as secondary victims. The efforts and interests of the Bulgarian state institutions, non-governmental organizations, private economic entities and the public in general are aimed at preventing and reducing the criminal acts in question.

For the period from 01.01.2016 to 31.12.2020 a total of 412 premeditated murders were registered, of which 178 (43%) were domestic murders committed in a family environment, including an extended one, or in cohabitation (current or former formation), on average 36 per year, under Art. 115, Art. 116 and Art. 118 of the Penal Code (those under Art. 116, para 1, items 1, 2 and 10 of the Penal Code are not included).



Some of the scenarios include family members who may have tried to step in to prevent an intimate partner violence incident that was happening. This could include bystanders, even, that just were at the wrong place at the wrong time.

Figure 2. Intentional homicides in general and homicides committed in a family environment and cohabitation for the period from 2016 to 2020



Source: own representation

Monitoring the dynamics of homicides committed as a result of domestic violence (excluding neonatal homicides and cases of suicide) shows that one volatile resilience was registered in the five-year period under review - out of 27 cases in 2016, 38 for 2017, 48 in 2018, 33 for 2019, to 32 - for 2020 (Fig. 2). Obviously for this type of crime it can be stated that despite the drastic increase in the first period of the study, in the second - the process decreases and maintains a constant level, and in the last 2020, the murders in question accounted for 51% of all premeditated murders committed in the country.

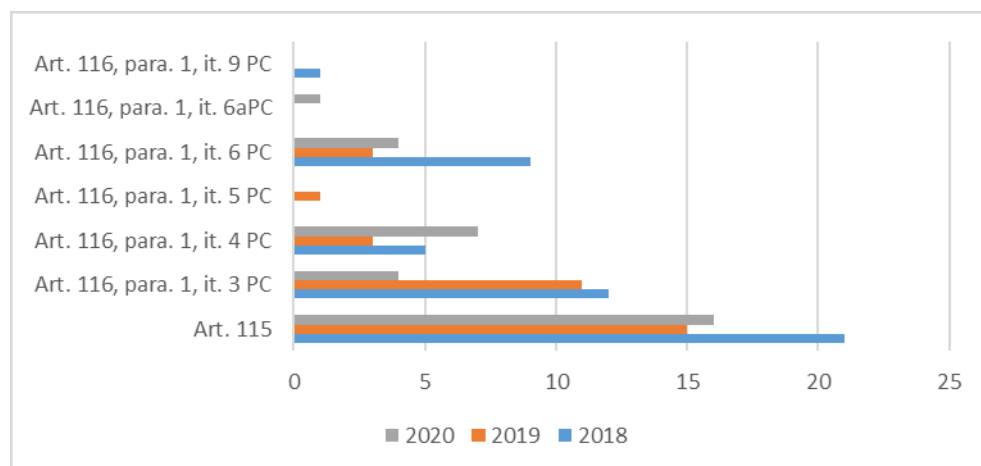
The reasons for this trend can be found in the intensive migration from villages to cities, and mainly to the capital, where logically the largest number of murders of this type are registered. The difficult adaptation of migrants, accompanied by accumulated frustration and the experience of crisis situations lead to the creation of criminological prerequisites for the commitment of such crimes. Lack of education, unemployment, marginalization, weakened social control, alcohol and drug addiction are all factors that make a significant contribution to the observed criminological picture along the line. In no way should we miss the impact of the restrictions imposed in connection with the pandemic of COVID-19 for most of 2020, as well as the introduction in 2019 of the qualified staff under Art. 116, para. 1, item 6a of the Penal Code, concerning the commitment of premeditated murder in the conditions of domestic violence.

The analysis of the data for the last three years shows that the highest risk associated with murders as a result of domestic violence and domestic homicides in

general exists in cities. The priority place for these murders is the victim's home and in the immediate vicinity, as well as in some cases - the victim's place of work.

The structure of the targeted killings for the last three years is illustrated in the next fig. 3:

Figure 3. Murders committed in a family environment and cohabitation for the period 2018-2020



Source: own representation

During the three-year period, a total of 113 premeditated murders committed as a result of domestic violence against family members, household members, former or current intimate partners were registered and solved. In 3 of the studied cases the perpetrators are two in complicity, as co-perpetrators. On the other hand, 6 of the murders are double (in two of them children were killed), one is triple and two have four victims each. Mass homicides (with four and more victims) captures the attention of the public, the media and policymakers the world over, but they are actually low-frequency events.

In the context of the study it is important to point out that “familicide” refers to the killing of multiple family members. In its most common form, it is the killing of an intimate partner and child(ren), but may also include the killing of parents and/or siblings. While typically considered a form of intimate partner homicide, given the number of victims in such events, this type of homicide is often “mass murder”.

At the same time, perpetrators of domestic violence are predominantly 102 male (90%) versus 13 female (10%). Respective, however, is the situation with victims, where women make up 60% (75) and men the remaining 40% (51). This is one of the reasons when talking about domestic violence, to address the issue of gender equality and to comment extensively on gender-based violence.

These findings show that even though men are the principal victims of homicide commonly, women continue to bear the heaviest burden of lethal victimization as a result of gender stereotypes and inequality. Many of the victims of “femicide” are killed by their current and former partners, but they are also killed by fathers, brothers, mothers, sisters and other family members because of their role and status as women. The death of those killed by intimate partners does not usually result from random or spontaneous acts, but rather from the culmination of prior gender-related violence. Jealousy and fear of abandonment are among the motives.

As for the age of male perpetrators, according to statistics, the largest number represent the age range of 31-40 years (20%), followed by the two neighboring decades: from 21-30 years (18%) and from 41-50 years (16%). Despite their modest part, the age groups of 31-40 years (31%) and 61-70 years (23%) are most clearly represented among women. The age group of 71-80 years (9%) and 51-60 years (8%) is most pronounced in men killed in murders in a family environment or cohabitation, while in women these are as follows: 41-50 years (19%), 31-40 years and 61-70 years with 16%, followed by 21-30 years and 71-80 years with 15%, i.e. almost every age is at risk for such a category of crimes against women.

Alcohol abuse or dependence was reported in 31 of the perpetrators of the murders in question (27%), and in 4% - drug addiction or abuse. At the same time, 19% of the perpetrators had some kind of mental problem or illness, and some of them have in the past been placed in mental health centers for treatment of varying duration, and the most common diagnoses are: schizophrenia and manic disorders. In some of the cases, information was gathered that the perpetrators did not take the prescribed medication, which sharply worsened their health and the environment in the household in which they lived with their relatives. Although rare, a combination of non-compliance with treatment and alcohol and / or drug abuse has been reported. 15% of the victims also abused alcohol and 3% drug. Almost 1/3 of the perpetrators have a past criminal record, and 36% are defined as abusers in families or cohabitation on a family basis, in the run-up to 4% of victims. Almost 9% of the killers went into hiding after the crime was completed and were declared wanted nationwide, but 7% called the European emergency phone number 112 or their relatives to report what they had done. Indicators of chronic domestic violence were presented in almost 37% of cases. In these cases, the logical conclusion of the prolonged, systematic, physical and mental harassment exercised over the victim over time, and in some cases sexual harassment, which the victim failed to cope with due to intellectual deficits and manipulateness, as well as due to the negligence of relatives. and the cumbersomeness of the actions of the respective state institutions for social protection of such persons is the violent lethal end.

Low socio-economic status as a result of unemployment, low wages and pensions, overcrowded homes, low culture, alcohol use and abuse, drug addiction, jealousy, sexual impotence, various mental illnesses and other criminogenic factors



create a favorable environment for domestic violence. Apart from the victims of the so-called „marital violence“ (wife by husband and vice versa), in hospitals medical care is provided to persons injured in beatings between other family members: parents - children, grandchildren and vice versa. Data from existing research show that both wives and husbands are subjected to physical violence, but due to the prevalence of physical capabilities of men, women suffer more often. The effect of marital violence covers all degrees of bodily harm, including fatal injuries, with the exception of the „third age“ (the elderly people). Often women have scars of the so-called „abused wives“ - with traces of prolonged, repeated and severe beatings. In parent-child relationships, parents are more likely to be abused, particularly by their sons. The difference between the injured daughters and sons is minimal, and the act was committed in most cases by the fathers.

In the last three years of the 113 murders committed within the extended family circle and cohabitation (current or former format), in 59% men have taken the life of a woman; in 41% - men to men; in 8% - women intentionally killed a man, and only in 4% - women murdered women. Typically, 16% of the total number of murders of the type and period in question were committed in the context of de facto separation or in the process of dissolving a civil marriage between spouses or cohabitants on a family basis. 31 couples living together on a family basis and 18 married are affected.

There are two main theoretical approaches in intimate partner homicide research, notably the “gender perspective” that sees intimate partner violence, particularly against women, as an instrument used by men to maintain their dominance in a patriarchal society, where gender roles and relationships are often crystallized in certain practices and where violence may be a tool to enforce them. The other perspective, the “violence perspective” suggests that the motivation for homicide against intimate partners is no different from the motivation for other types of violence, such as individual defiance or social disadvantage.

In a number of cases, the murder took place against the backdrop of previous antisocial behavior, creating a climate of violence. The perpetrator’s behavior followed the spiral of domestic violence⁸, according to which acts of violence have a consistent and growing aggression, and the murder is the result of an uncontrollable escalation of the same violence⁹.

The jealous motive is typical (in 50 cases), and the usual reason is the victim’s desire to end their relationship with the perpetrator, which explains why most of the victims of such crimes are former or current wives or partners. In

⁸ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence № 210, opened for signature and ratification on 11 May 2011 in Istanbul.

⁹ In 1979, the American criminologist and clinical psychologist Lenner Walker came to the conclusion that most of the human relationships in which there are manifestations of violence are characterized by common features, summarized and described by him in the so-called „cycle of violence“.

practice, however, the motivation for these murders is multi-fragmentary, and in addition to jealousy, there is revenge, a desire for power and punishment, sadistic motives, property gain, and so on. Homicide of this type is the ultimate consequence of unequal power relationships between men and women in the private sphere, which it serves to reinforce and sustain.

In recent years, several cases of advanced melancholic suicides¹⁰ have been registered, and a specific feature of all of them is that the means by which they are committed is a legally possessed firearm. In this regard, the legislator has ordered, in case of orders issued under the LPDV, to immediately confiscate the legal firearm of the perpetrator¹¹. 15% of perpetrators of murders in a family environment or cohabitation have committed suicide after the murder (with a knife, firearm, hanging, acid or falling from a height), 5% have made such an attempt, and 2% have threatened to take their own lives, as in 13% of those who took their own lives - they were transported and received emergency medical care. It is noteworthy that in all cases of suicide of a perpetrator of murder committed as a result of domestic violence, if a knife or pistol is used in the first act, the suicide is committed by the same means, while in cases of beating and pushing from the terrace, the perpetrator subsequently hangs himself or swallows poisonous substances, or jumps from the terrace. In 16% of cases, medical teams made efforts to save the life of one of the victims, but given the previous, categorical, intensive and decisive actions of the perpetrator to kill, during their transportation or later in the hospital, they have died.

The most common violent death in the cases under consideration is the result of: beatings - with hands, kicks or with the help of various handy materials (shovel, pipe, cane, hammer, bat, etc.) - in almost half of the cases; the use of a knife or other sharp and cutting objects (fork, pitchfork, etc.) - in 46 cases and cutting with an ax - in 7 of them; firearms (rifles and pistols, including modified ones), acquired legally or illegally - in 14 cases and strangulation - in 13 cases.

In practice, there have been cases where only children have been killed, but the specificity is that, with few exceptions, the crime is directed at their mother and the aim is to punish her for behavior that the perpetrator interprets as rejection, neglect or jealousy.

Respectively, there have been cases in which a victim of domestic violence commits the murder of his abuser in order to stop this process or to protect third

¹⁰ Cases of murders of family members and subsequent suicide or attempted suicide of the perpetrator, defined in the 30s of the last century by the great Bulgarian psychiatrist Prof. Nikola Shipkovenski.

¹¹ According to Art. 58, para. 1, item 6 of the Law on weapons, ammunition, explosives and pyrotechnic products - Permits for acquisition and / or storage of explosives and pyrotechnic articles, permits for acquisition, storage and / or carrying and use of firearms and ammunition for them shall not be issued to a person against whom during the last three For years, protection measures have been imposed under the Domestic Violence Protection Act.



parties who have been abused because of it - children, parents, relatives, etc., and it is possible to fall into the hypothesis of kinship criminal solidarity.

The information available shows that, other than gender-related killings in conflict settings, gender-related killings of women and girls outside the family are relatively rare in comparison to killings perpetrated by intimate partners or other family members.

3. Forensic characteristics of murders committed as a result of domestic violence

The high degree of latency of the various forms of acts of domestic violence, which often remain hidden from others, is rooted in the victims' grounds for not informing the police, namely - fear of revenge; the conviction that the police should not interfere in such delicate relations; the victim's desire to solve the problem on their own; pressure exerted by relatives and friends of the victim, etc. In many cases, victims avoid contacting the police because of doubts about the proper resolution of the case or because of the painful procedures in criminal proceedings. The fact that only a small number of victims of domestic violence share their experiences has been nominated as a major challenge for law enforcement. This, of course, despite the preconditions for a successful investigation of most cases, leads to insufficient effectiveness against acts of domestic violence. The survivor of domestic violence must be informed about the possible actions he / she can take in order to receive protection under the LPDV, but at the same time to seek civil, administrative and criminal liability of the perpetrator.

The actual investigation of a murder committed under conditions of domestic violence takes place in an environment that does not differ much from the established in theory and practice algorithm and methodology for the investigation of domestic murder.

The main and most significant features of the forensic characteristics of the crime in question are contained mainly in the available initial information about the manner and mechanism of its commitment, the circumstances in which it was committed, its time and place, as well as in relation to the personality of the perpetrator of the encroachment in question.

The manner of committing the crime as an element of the forensic characteristic should be understood as the set of objective and subjective factors determining the behavior of the perpetrator of the crime before, during and after the criminal encroachment, as well as the external (outside the will of the participants in the criminal event) manifestations (consequences) that occurred as a result of the commitment of this crime. In this regard, investigators have the task of establishing the perpetrator's behavior at an earlier stage, which concerns a period back in time; the development of the perpetrator-victim relationship; the external factors that determine the development of these relations. The scope of the investigation should



discuss and analyze the methods and means used by the perpetrator to commit the criminal act, as well as the form of guilt - negligence or intent committed in the encroachment.

The indications time and place of commitment of the crime are elements of the forensic characteristic, the clarification of which contributes to the collection of evidence as a whole and should be established in the course of the investigation. Information about the time of the crime can be obtained from various sources and by carrying out various investigative actions - by studying the traces of the crime, including examination of items and objects found at the crime scene relevant to the subject of investigation, by questioning witnesses, as well as by analyzing the state of other accompanying actions, phenomena and processes that preceded, arose and developed in connection with the committed criminal event.

In the forensic literature, the crime scene is most often defined as a section of the area or premises where the crime was committed, and the crime scene as a section of the area or room where traces of the investigated event were found. The scene of the accident may coincide with the crime scene if traces of the crime are found where the crime was committed. Accidents at the same event can be several according to the specifics of the case and the development of the respective investigative situation. Another significance for the crime scene is from the point of view of establishing links between the victim and the perpetrator. There is always a connection, as in the investigation of a murder committed under domestic violence.

Another essential feature - an element of the forensic characteristics of the crimes in question, namely the personality of the perpetrator, includes the study, knowledge and identification of this person (whose criminological features were discussed above). The personality of the perpetrator of a crime is indisputably the subject of criminological knowledge, insofar as he possesses personal individual mental characteristics characterizing his needs, intellect, will and other properties and qualities. The individuality of the perpetrator, however, acquires its forensic significance when it can be a source of versions and information landmark, as well as in making tactical decisions and their implementation in conducting investigative actions in pre-trial proceedings.

Conclusions

Every act of violence and assault on the person of a human individual creates a climate of fear and insecurity, and when justice is not substantial, impunity can lead to greater victimization, which means denying the basic human right to justice. The professional approach requires explanatory and sufficient number of interviews with the relatives of the victims of this type of violence. The aim is both to give a certain line of behavior to relatives and friends, given the special psychological and emotional state of the victims after the injury, and to emphasize the need to monitor the moods and behavior of victims, in view of the risk of suicide and their timely prevention.



Given the desire to provide timely and comprehensive care, as well as effective assistance to victims of domestic violence, the so-called crisis centers for support of victims of domestic violence are assessed as an urgent need for the Bulgarian reality.

The latency of these acts requires constant monitoring of the criminal contingent along the line by the police authorities, given their recurrence and the characteristic increasing intensity of the violence. In this regard, a procedure for building an automated information system is currently underway at the Ministry of Interior. As it is known, good results in the work of law enforcement institutions are obtained when they are familiar with the mechanism and principle of processing the received signals of violence. In this regard, work should be done to increase the competencies of the employees of the Ministry of Interior, social workers, representatives of the prosecution and the court, to recognize and assess violence, as well as adequate intervention. There is a need for constant training and implementation of a policy for prevention of this type of acts, with the assistance of all institutions and non-governmental organizations whose activities are related to combating violence in its various forms, as well as improving service delivery, drafting and amending laws, creation of a mechanism for coordination, education and training of specialists. In order to respond effectively to this phenomenon, specialized training programs for police officers should be developed and implemented, both during their initial training and at a later stage throughout the career process.

The enduring risk factors for intimate partner/family-related homicide may explain some of the stability of its prevalence. When not addressed through non-violent mechanisms of reconciliation, conflicts and disputes between individuals living in family contexts or as couples can have violent outcomes, especially when certain concomitant factors or enablers are at play, such as power relations based on gender, or patterns of alcohol use. Factors of that nature tend not to change in the short term (UNDOC, 2015).

Also a more comprehensive range of coordinated services needs to be provided by the police, criminal justice systems, and health and social services. Moreover, in order to prevent and tackle gender-related killing of women and girls, men need to be involved in efforts to combat intimate partner violence/family-related homicide and in changing cultural norms that move away from violent masculinity and gender stereotypes.

Given the relatively recent addition of the new qualified panel „in conditions of domestic violence“ to the main panel of some acts in the Bulgarian criminal law, it is necessary to take some time to accumulate the relevant case law, on the basis of which to be the relevant analyzes and conclusions concerning the criminogenic situation and the adequate prevention with regard to the considered crimes have been made.

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EU'S ENGAGEMENT IN THE EASTERN NEIGHBOURHOOD AMIDST INCREASED GEOPOLITICAL COMPETITION

Alexandru Laurențiu VOICU*

Abstract

This paper looked into how the Chinese presence in the EaP area is affecting the strategic calculus of the EU and the EaP countries. The eastern neighborhood is at the crossroads of a possible new configuration, where the EaP countries have found themselves increasingly at the intersection of the interests of competing great powers that have changed the international environment. The ongoing conflict between an increasingly assertive and aggressive Russia and the West and increasing interests and financial investment from China as it implements its Belt and Road Initiative have put pressures on the EaP states. This raises the question regarding the possibility of cooperation between Russia and China in the region and how feasible that is. On the other hand, the EU is facing its own challenges regarding its relationship with the Chinese state in an increasingly adverse international environment. While the EU needs a functioning security system on its eastern border while maintaining functioning relations with competing powers, China's geopolitical status is rapidly changing. This is becoming particularly relevant today because Covid-19 has accelerated the US-China strategic rivalry and the prospect of new sanctions hangs over China. Beijing's growing influence in Eurasia has the potential to create new geo-economic divides, requiring the EU to reassess its focus on the EaP area.

Keywords: Eastern partnership, Eastern neighbourhood, competition, Belt and Road

Introduction

The Eastern neighbourhood of the European Union (EU) has found itself between a rock and a hard place in the past years, especially because of the geopolitical tensions that have sent ripples throughout the region in the past decade, culminating with the occupation of the Crimea by the Russian Federation and essentially, the warning that this sent to all the countries in the area, especially those which are cornered by the presence of the frozen conflicts within or around

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their borders, instruments that can always be activated in order to serve Russia's regional interests.

Overall, the region is facing many challenges, being surrounded by an array of international actors with interests in the region, such as the EU, Russia, the US and a more recent addition in the region, China. As the last years have shown, the EU is not the most serious of partners that most countries in the region have been hoping, being beset by internal crises, such as the United Kingdom leaving the European or the rise of the far-right and European skepticism amidst its ranks. Likewise, the relations between the EU and the US were very conflictual during the Trump administration, which affected their cooperation and others' perception of it, which I believe it to be a most important thing, since EU lacks the determination and hard power instruments that the US can provide as part of their partnership.

At the same time, the US itself has seen a decline in relation to its influence around the globe, relative to the growth and expansion of other actors such as China, which means that the US is being forced to pick and choose its main areas of interest. As a traditional presence in this geographical area, this is a development that is raising eyebrows around the leaders of the countries residing here about its commitment to the threats that they are facing, which is a fair question that has been on the minds of the leaders of every allied country of the US, be it in the Atlantic region or in the Pacific region, where the US government is in a full process of rebuilding its alliances and strengthening its allies' confidence in the alliance and US presence in the region.

However, this has allowed for the resurgence and strengthening of the presence of other actors in the Eastern neighbourhood region. This is Russia's traditional sphere of influence and it possesses a vast array of coercive and soft power means in order to ingratiate itself in the issues which are relevant to the future of the region, as was seen in 2014 in Crimea, or as it can always do so in Transnistria, for example. However, a new global player has arrived in the past decade in the region and it is progressing with including the countries into a series of foreign policy instruments meant to extend its influence globally and achieve its national objectives. That international actor is China, a revisionist power and a great power with a global reach, which is solidifying its presence in places starting from Asia, to Europe, Africa and Latin America, promoting its self-rated success story and its flagship foreign policy instrument, the Belt and Road Initiative.

This paints a relatively complex picture for the region because it presents a gathering of great powers with regional and global reach in the region, a region which is beset with long time unresolved issues, such as the competition between East and West, the countries there always being forced to choose between the two, a main cause of the Crimea invasion in 2014. However, this also means more options for the Eastern Partnership countries, China adding not only increased competition and instability to the region, but also representing an alternative, a viable one for the residing countries. It remains to be seen how this will play out in an age of strategic competition such as this one that we are living, which has been



enhanced by the coronavirus pandemic, much in the same way that the financial crisis from the late 2000s helped China advance its interests and presence at a global level.

In this sense, a growing presence in the last few years of Chinese military capabilities around the wider Black Sea region has changed the perspective regarding the increase in Chinese influence in the area. For example, in May 2015, Russia and China concluded their first-ever joint naval exercise, named Joint Sea 2015, in the Mediterranean Sea, demonstrating Chinese readiness to continue with its endeavours in becoming a global naval power. This event was also important because the Mediterranean represents the western end of the ‘New Silk Road,’ the maritime section of the Chinese Belt and Road mega-project to link China with Central Asia, the Middle East and Africa and into Europe.

In the following pages of this paper, my approach to the analysis will be focused on three main things. First of all, understanding the current state of relations between the EU the Eastern Partnership countries, which have been beset by many crises in the past years. Secondly, understanding the presence of China in this region and the level that it has reached, because it has been able to provide a frame in which it is able to promote its interests both at a bilateral and multilateral level. Thirdly, understand the power dynamics in the region, both from the standpoint of the relation between Beijing and the Kremlin, as well as the enhanced strategic competition and the tensions that have been created during the pandemic and the opportunities that it offered for countries such as China to once again promote its interests and increase its influence and presence at a global level.

1. The EU and Eastern Partnership

The Eastern Partnership is a joint policy initiative which aims to deepen and strengthen relations between the EU, its Member States and its six Eastern neighbors: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Its purpose is to promote peace and intensify trade and political relations with the neighbors of the EU, turning them into democratic countries that could potentially join the EU using its normative power. Essentially, the EU is offering assistance and a preferential treatment to these countries based on a certain set of incentives and conditionalities. Has the EU been actually acting as a normative power in connection with its Eastern Partnership member countries? Some would argue that they have not.

Political values and the way the EU formulates its foreign policy are important sources of soft power which are able to build or destroy credibility at an international level. The European Union relies heavily on its soft power and it tries to spread the values on which it is based in its foreign policy. Jean Crombois, which has written extensively on the geopolitics surrounding the Eastern Partnership, argues that instead of actually promoting democracy and acting as a normative power by pushing the countries in question to become democracies, the EU has been unable to move past developing pragmatic relations that push



transformative reactions in these countries even further, which in turn such a move could weaken the EU's role in its eastern neighbourhood but also undermine the added value of its foreign policy (Crombois, 2019).

According to the same Crombois, this basically leads the EU's foreign policy related to the Eastern Partnership to enter a period of inertia (Crombois, 2019), where the results are not being accomplished, only functioning with the purpose of maintaining EU's presence in the region, which is already hurt because of the fact that it has few instruments available in order to react to an event like the one in Crimea, where Russia may decide to make use of the frozen conflicts over which it holds sway and keeps a veto right in these countries, such as Transnistria in Moldova.

One clear case in this line of argument is Belarus. Out of all of the Eastern Partnership countries that I have mentioned above, Belarus is the least integrated with the European mechanisms and institutions provided through the Eastern Partnership. As such, Belarus is not a member of the Council of Europe and its engagement within the EaP is very basic, the two sides having never ratified a Partnership and Cooperation Agreement and so Belarus was never included in the different tracks of relations provided through the Eastern Partnership. This leads back to the argument above, meaning that contact with Belarus has only been done for the sake of doing it, keeping intact an array of supposedly incentivising tracks of political and trade relations, but with no continuous dialogue between the two sides about political, institutional, or economic reforms in Belarus (Foundation Robert Schuman, 2021).

A similar case is unfolding in Georgia, where political polarisation remains a strong source of tension inside the country and democratic reforms are nowhere to be seen in the near future, considering the fact that the Georgian Dream, the dominant party since 2012, has succumbed to the temptation to control the political scene, including by arresting an opposition leader (Foundation Robert Schuman, 2021). Likewise, Sergiu Bușcăneanu, analyses in his article „EU Democracy Promotion in Eastern ENP Countries” that only a half of the countries that are members of the Eastern Partnership initiative (Georgia, Moldova, and Ukraine) have attempted to carry out certain democratic reforms throughout the past decade, since the program has been in function, those ones being debatable as well, since they were not sustained reforms that would plunge the countries into a full democratic process (Bușcăneanu, 2015).

Alongside these notions, there are the issues which have given a grave blow to the EU's soft power, namely its own homegrown crises, such as the rise of the far right inside the European Union and the leave of the one of the biggest and most important members of the bloc, a country with tradition regarding the crafting of the human rights agenda in Europe and one of the few countries which was able to provide a hard power edge to the EU's strategies and instruments, namely the United Kingdom. Information must be credible. This is the issue that most differentiates public diplomacy efforts from propaganda: credibility. Politics have



become a competition for credibility and governments no longer compete only with other governments for credibility but also with countless other actors, from non-governmental organizations and corporations to intergovernmental organizations, all due to the abundance of information and the one that gains a reputation. the actor who provides credible information wins, which is especially important in the face of the phenomenon known as fake news (Gass, 2009).

This is especially important in the context of the fact that I have described in the initial pages of this paper, which is that there are new actors with the possibilities and the influence to offer the same type of pragmatic relations without the incentives and the conditionalities that the EU is offering currently to the Eastern Partnership countries. Likewise, right now we are finding ourselves in a great pandemic that has affected us all deeply. The pandemic caused by the coronavirus has plunged the states into a real medical, social and economic crisis, the effects of which are very severe, both in terms of the number of victims and in terms of numbers indicating the economic performance of states, with the EU actually implementing a new type of Marshall Plan to revive the economies of the EU members states.

In this context, the leaders of each state has had to face their own test in managing the outbreak and implementing a response. While Western governments are under increasing pressure to stop the spread of the virus and find a solution to the increasingly visible economic problems, China has taken the opportunity to change the narrative around the coronavirus and its own efforts. domestically as well as internationally. During the rush to produce and deliver vaccines to every country, China makes vital deliveries to other nations, as part of an effort to present the CCP's efforts to combat the virus as a symbol of its leadership and power. At the same time, the Chinese state is using vast resources for a very aggressive propaganda and misinformation strategy, aimed at spreading chaos and confusion and inciting the distrust of governments in democratic countries (The Diplomat, 2020).

This intensive process in which Beijing was engaged in the context of the crisis caused by the coronavirus pandemic is a continuation of China's constant efforts in recent years to emerge as a capable leader on the global stage, to increasingly influence the structure of the international order according to its interests, and to export its economical and political. This pandemic provides a good opportunity to creates new relationships and set the agenda regarding recovery plans, which means that the competition on the global stage is that much more intense. This presents a much more competitive landscape in the Eastern neighborhood area, which requires a refreshed approach by the EU.

This is highly important in the context of the perceived decline in US power and the Obama administration's strategic approach of leading from behind" in the Middle East, as the term was coined by a White House official in 2011 to describe President Obama's Libyan policy, was already worrying some of its allies with regard to whether the US will continue to respect its security commitments (Moyar, 2016). The Trump administration was exacerbating this issue with a commander-



in-chief that seemed to want to pull back the US from its traditional role as guarantor of the liberal international order and who has publicly questioned the US commitment to defend its NATO Allies.

Even if that did not end up being the case, the perceived relative decline of the US is well recorded by its allies, partners and enemies around the globe and it has real consequences. In this case, there is also a question related to whether the US will be able to continue to commit resources in this area when its focus seems to be on the Korean peninsula and the maritime areas in the East and South China seas. All of this paints a very complex image to the Eastern neighbourhood area.

2. Russia and its sphere of influence

Considering the soft power push that the EU was doing in the traditional sphere of influence of the Russian Federation, two divergent political models were being constructed and going head to head between the EU and Russia, the later becoming an obstacle that constantly impeded economic and political development set by the ENP in the region. One of the main concept, policy drivers, that the Russian government pushed to set it as a big differentiator between themselves and the EU was their idea of sovereignty, which was essentially born through the Kremlin's leadership search for a concept that would place Russia in a distinct ideological space at an international level.

This concept was introduced in 2006 by Vladislav Surkov, then deputy chief of staff of the Russian president, during a meeting with foreign journalists and he coined the term in the context of how the West perceives Russia's domestic policy. Surkov argued that a double standard is applied to Russia's political system and that Russia's way of perceiving democracy is no different from its generally accepted European concept and that in the same, it will not allow Russian democracy to be ruled from the outside (Okara, 2007).

The development of this concept of sovereign democracy has the role of representing the foundations of Russia's national idea (Popescu, 2006). Originally, the concept of sovereign democracy was born in Ukraine in the sense that it comes from the way the Kremlin leadership conceptualized the Orange Revolution that took place between November 2004 and January 2005 in Ukraine (Krastev, 2007). Ivan Krastev believes that sovereign democracy is thus Russia's response to the combination of populist pressure and international pressure that destroyed Leonid Kuchma's regime, with the Orange Revolution posing the greatest threat to Moscow: remote-controlled popular uprising (Krastev, 2007). We can thus consider that this concept of sovereign democracy is a response for the entire international community, more precisely for the European Union and the United States, for the way in which they try to undermine Russia's influence in the post-Soviet space. In 2005, shortly after the end of the orange revolution in Ukraine, Putin said that Russia was aware that certain non-governmental organizations in Ukraine were being funded by foreign governments (The Guardian, 2005).



As I have said earlier, one of the main ideas that Russia comes up with when proposing this concept is that the Russian nation is a democracy like any other, just like the European democracies, so any type of accusations towards Russia are unwarranted. However, these democratic values that the EU and Russia supposedly share will be implemented by Russia according to its own history and tradition (Ryzhkov, 2005). This concept gives Russia legitimacy to maintain a strong presence in the post-Soviet space. In the words of Vladimir Putin, Russia must play a strong role in its neighbourhood as "dictated by its civilizational model, its great history, geography and cultural genome in which foundations of a Western civilization and centuries-old experiences of interaction are organically combined with the East, where centers of economic power and political influence are actively developing" (Putin, 2012).

In this way, Russia seeks to extend this notion of sovereignty over its neighborhood, proposing the idea that it has a responsibility for its neighbors, taking on the task of guiding their development, which shows that, for example, the policies of the Union European principles for the promotion of democratic principles are not needed in the post-Soviet space. Russian minorities throughout this space are the preferred tool used by the Kremlin to aid their arguments. A person's Russian ethnicity is recognized only in that its native language is Russian, and ethnic Russians living outside the Russian Federation do not constitute a diaspora, but are an integral part of a broad Russian civilization that was divided after the fall of the Soviet Union (Russia Today, 2012).

This concept of a great Russian civilization that stretches across the post-Soviet space and even beyond it, in fact wherever there are people who claim to be of Russian ethnicity, which is characterized by Putin as having a common identity and history it is closely related to another concept, namely that of *Russkiy Mir* (Russian World). The Russian world was first proposed in 2003 by Anatoly Chubais, but the ideas contained in this concept have been exposed since the 1990s, in an attempt to fill the identity gap left by the collapse of the Soviet Union. He argued that Russia's mission should be to promote Russian culture and protect the Russian population in its vicinity, while establishing a dominant position in the world of trade and business and guaranteeing the freedom and democratic principles of Russia to its neighbors (Polegkyi, 2011). In other words, this concept does not only refer to the Russian diaspora, but it is a concept that refers to the mission of Russian culture and dominance in Russia's neighborhood.

Based on this type of Russian exceptionalism and 'duty bound role' in its neighborhood, Russia has developed its polycentric view of the world, arguing that the day when the US was the preeminent power in a unipolar system is long gone, the US/EU having no right to intervene in its sphere of influence. These are explained in the foreign policy concept from Russia in 2013. This concept is based on a changing world, characterized by a weakening of the West's power to control world politics and the economy. In such a world, Russia must strengthen its international position and become an influential player, which can restore stability in certain areas destabilized by the West, like the post-Soviet space, due to the



inability of states to maintain their dominance (Russia's Ministry of Foreign Affairs, 2013).

Such a period, which can be characterized as a period of decentralization of the global system of governance, the regional system of governance is becoming more and more important, transforming the international system into a polycentric one (The Bureau of the President of Russia, 2014). This term, polycentric, which implies the existence of several centers of power, is a strong one in the concept of foreign policy of Russia. Thus, Russia emphasizes an emergence of a new world order, in which Russia, in its individual form and as a member of international organizations such as the BRICS, must play an important role in this new world order, being an actor that will lead in the development and stability of the international system.

3. China and Russia's converging interests

In this sense, China and Russia are natural allies in promoting a multipolar world and undermining the US on the global stage. In his speech at the 19th National Congress of the Chinese Communist Party (CCP), Chinese President and CCP Secretary-General Xi Jinping reaffirmed his commitment to fulfilling the „Chinese dream”, announcing a new age for the Chinese nation and promising the fulfillment of the Chinese dream of national rejuvenation (Xinhua, 2017). This statement essentially represents the promise of the CCP under its most powerful leader after Deng Xiaoping of not repeating the mistakes of the century of humiliation that caused China's decline and allowed its fragmentation at the hands of foreign powers. In the past it was a tool often used to mobilize the Chinese people in support of the CCP's actions, but this rallying cry was reshaped by Xi Jinping and is now being used to promote the Chinese dream of national rejuvenation, which is the promise of bringing China back to its former glory, when it was empire placed in the center of the world.

This new era announced by Xi Jinping demonstrates major implications for China's role in international relations, presenting itself as a real and viable alternative for developing nations, as Xi Jinping said, while guaranteeing the „preservation of their independence” (Xinhua, 2017, p. 9). The ideal promoted by the CCP through the promise of rejuvenating the Chinese nation was accompanied by a strengthening of the CCP's domestic authority and an aggressive foreign policy, and these reforms were aimed at securing China's core interests, such as maintaining China's sovereignty, territorial integrity and political unity in the form of assuring the long rule of the CCP (Zhou, 2019). The effects of this can be seen in the Xinjiang region of northeast China, Hong Kong, the South China Sea and, of course, in China's relationship with Taiwan, to which Beijing has taken a more aggressive in recent years.

These goals mentioned above have the strategic purpose of ensuring the development and internal stability of the Chinese society and the protection of its



external borders. To this end, China must ensure it has access access to natural, financial and technological resources so that it can develop its military capabilities and ensure the CCP's capabilities so that it can compete on the global stage. Within this context, the fundamental interests of China, as mentioned above, were established by examining external threats to China's development, obstacles to China's access to overseas resources and goods with which its economy can keep growing and maintain the rule of the CCP.

In this context, China's relationship with the United States is extremely important, the latter being the main strategic rival of the Chinese state. For China, the current liberal international order, while bringing great economic benefits to it, has become increasingly a reflection of American hegemony, which in fact halts China's development because it does not take into account the interests of developing countries and does not fit the democratic criteria promoted by Washington and the West, in the same way like the argument provided by Russia (Lippert *et al.*, 2020). Again, similarly, China is dissatisfied with the predominant role of the United States in areas that affect China's economic and security interests, seeking to have a greater say in international rules and regulations governing certain areas. Thus, both states consider that the actions of the other are threatening and destabilizing for their vision of the international system.

In this case, as I have mentioned above, Beijing and the Kremlin are natural allies that can sustain each other in reaching this particular goal. Russia continues to maintain nuclear parity with the United States, and China competes with America as the world's most important economic power. Both states have considerable influence as permanent members of the UN Security Council and share countless international positions on a number of important issues, in direct contradiction with the preferences and interests of Western democratic nations. For both states, the United States and its system of alliances are the most serious threat to their regional security interests and the main obstacle to their ability to shape the regional security environment. The interests of the two states converge on the idea that the US is wielding excessive power in the international system dominated by Western values that make up the international liberal order and that it must cooperate on diplomatic, military and economic issues to combat this fact (Chase *et al.*, 2017).

Nonetheless, it must be mentioned that the two powers are engaged in a tough competition in areas such as Central Asia, where China seeks to establish itself as the dominant force in political and economic relations among the regional states, of course, to the detriment of a traditional force such as Russia. However, at the regional level, China seeks to dismantle the US-established alliance system after World War II and replace it, thus having the same purpose as The Russian Federation. An important tool in achieving these goals is the Belt and Road Initiative. Although it can be described as having economic importance in the first place, along with other efforts such as the Asian Bank for Infrastructure Investment it is used to achieve strategic objectives for Beijing.

Being more than an engine for building infrastructure to strengthen connectivity between China and Europe, the destination of the land and sea routes that make up the Belt and Road, the latter is China's main policy tool to increase its influence at global. This tool uses Chinese investment to strengthen its presence and increase its capacity to influence decision-making processes in target countries in line with strategic interests. According to the document „Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road” issued by the Chinese government in 2015, the Belt and Road project is a much more comprehensive strategy, highlighting its role in strengthening cultural ties, political relations, connections between people, in the field of finance and so on (The State Council of China, 2017).

In the long run, China's strategy with the Belt and Road at its center is seen as a threat to the international order based on free market principles, because these projects are implemented by China without the political conditions and economic standards affirmed by Western states and are supported by institutions created by Beijing, such as the Asian Infrastructure Investment Bank (AIIB), which do not have high evaluation standards for the economic and societal impact of the proposed projects, in many cases serving only China's geopolitical aims (UN, 2017).

4. EU's perceptions regarding the Belt and Road

The EU's interest in Belt and Road became quite clear in 2015, when a number of European states joined the AIIB, trying to strengthen their relations with China and influence the institutional structure that these organizations created by China will have, so that they can be complementary to institutions created by Western states and not their rivals (DW, 2015). Overall, however, the positions of European states on the Chinese project to increase connectivity have been mixed. EU Member States in southern and eastern Europe have been more open to Chinese investment, given the promise of economic development, while states such as France or Germany saw it as a threatening scheme meant to disrupt EU's unity (CFR, 2021).

The main critique that the EU has towards the Belt and Road is the threat it poses to the principles of the free market (EU Parliament, 2016). One such example is the second component of the Budapest-Belgrade-Skopje-Piraeus route whose goal is to connect the port of Piraeus in Greece, controlled by China Ocean Shipping Company since 2016, with the markets of Central and Western Europe. Although China, Serbia and Hungary reached an agreement in 2014, the project stalled due to non-compliance with European regulations, with the European Commission launching an investigation in February 2017, nowadays the contract having been secretized by the Hungarian government (The Diplomat, 2020).

Hungary is an EU Member State, which means that it has to comply with EU regulations which stipulate that a public process must be started for this type of

infrastructure investment. However, no contract has been made public for the construction of the railway section in Hungary. Instead, a bilateral treaty between China and Hungary in November 2015 drew attention to an appeal made to certain companies already selected for this construction. The project was to be financed by China Exim Bank, the construction was to be done by a consortium of Chinese companies, including China Railway International and China Communications Construction Company, and implemented by the Hungarian State Railways. This circumvented the European rules on public tenders, delaying the project and causing the Hungarian government to resume the tender in a more transparent way. This poses a risk both to European companies seeking to participate in these projects and to EU investment rules (The Diplomat, 2020).

In the EU's Eastern Partnership countries, China has been making strategic investments. China was interested in a series of notable investments in the region over the years, such as the investment of China Railway International Group Georgia's Anaklia Deep Sea Port project, on the shores of the Black Sea city of Anaklia, near Georgia's breakaway Abkhazia region. However, that project was stopped after a three way spat between the US, Russia and China (The Central Asia-Caucasus Analyst, 2020). In 2019, China Harbour Engineering Company has expressed its interest in investing in the Bulgarian Black sea ports of Varna and Burgas (Port Strategy, 2019). Ukraine is also an important for Chinese investments, China Harbour Engineering Company already winning a contract in May 2017 to dredge the approach to Yuzhny port near Odessa (Ports Europe, 2018).

The dominance of Chinese companies and non-compliance with EU rules is a problem not only within the EU, but also in relation to the EU's eastern partners. In the long run, they may be inclined to no longer comply with EU rules in exchange for promises of accession, as long as they are presented with an alternative source of funding, as the Chinese development model is contrary to EU rules on public procurement and state aid. This could lead to the erosion of EU rules and regulations promoted by Brussels in the eastern region. Although European states participated in the Belt and Road Forum in May 2017, some of them, such as major European powers such as France, Germany and the United Kingdom, refused to sign the joint declaration at the end of the meeting because it did not mention principles such as social sustainability and environmental protection or the notion of transparency. Germany's requests to include guarantees on free trade and fair competition in the declaration were also ignored (The Guardian, 2017).

The EU is also increasingly concerned about issues of reciprocity and access to the Chinese market for European companies. Despite several years of negotiations, there is still no bilateral investment treaty, and European companies are finding it increasingly difficult to do business in China, given China's political setbacks in recent years and attempts to to strengthen state and party control over the economy (Politico, 2021).

In the long run, perhaps the biggest threat to the EU that Chinese investment in Belt and Road poses is the internal cohesion of EU states. The concern is



heightened by the fact that Chinese investment in Europe is supported by the 16+1 economic cooperation format between the countries of Central and Eastern Europe and China. The format brings together 11 EU members from Central and Eastern Europe, as well as five EU candidate countries in the Western Balkans, and other countries such as Greece and Ukraine have expressed interest in cooperating in this format. This framework ensures a long-term political presence in the region for China, which will intensify its relations with the states in the region formed on the basis of cooperation in the Belt and Road projects.

The effect of the rise of Chinese influence in Central and Eastern Europe is already visible on the EU's internal cohesion, with several events drawing attention to this. In July 2016, Hungary and Greece, some of the main beneficiaries of Chinese investment, opposed the inclusion of a direct reference to China in an EU statement on the Hague Tribunal's ruling on the invalidity of China's legal arguments in South China Sea (Reuters, 2016). In March 2017, Hungary derailed the EU consensus by refusing to sign a joint EU letter denouncing the reported torture of lawyers detained in China. In June 2017, Greece blocked an EU statement to the UN Human Rights Council criticizing the Chinese government's human rights violations (Reuters, 2017), and later opposed the creation of an EU-wide mechanism for more rigorous analysis of third countries' investments in Europe.

Conclusions

Considering these, I believe there is an important set of conclusions that can be drawn from this analysis. First of all, the EU has been engaged in an important normative process at its Eastern borders, but these have generally failed to provide the envisioned results, become more of a bureaucratic process that keeps these countries next to the EU without actually having them commit to a democratic path. Not only that, but the Russian government has available a set of coercive measures related especially to the frozen conflicts existing in the post-Soviet space, which act as actual veto powers for the Kremlin.

Secondly, the Russian Federation is well determined to keep hold of its influence in the post-Soviet space and regardless of the usually frowned upon lackluster of its economical plans for the region, but it is trying to provide a pan-russian conceptual basis for its control of the region, trying to argument its presence in the region and in such particular cases like the frozen conflicts. It is Russia's own stamp of soft power, one imbued in a series of coercive instruments.

Thirdly, the Chinese presence in this region provides a very much needed economic stimulus to the region, especially in the real of big projects, like the cancelled port constructions in Georgia, however that will certainly add a new dimension to the geopolitical competition in the Eastern neighborhood area, especially in the context of the relation between Beijing and the Kremlin, where they have a set of strategic objectives that are converging. Likewise, the Russian

government will most likely receive with open arms a new source of investment in the region, increasing the opportunities of developing the region without the incentives and conditionalities of the EU. As we have seen, it is already well prepared to engage with this country both at a bilateral and also a multilateral level.

Overall, for the EU, this has the potential to increase the geopolitical divide in the region against itself because it adds viable alternatives for its Eastern Partnership countries that do not want to perform in terms of democratic reforms and instead choose to remain in a pragmatism type of relation, focused on trade and on particular points that serve their national interest.

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