

**CRISTIAN ÎNCALȚĂRĂU • ANDRA IFTIMIEI  
LOREDANA MARIA SIMIONOV • MIRUNA PATRICHE**

*Editors*

**THE WORLD IN MOTION:  
CHALLENGES,  
TERRITORIAL DYNAMICS  
AND POLICY RESPONSES**

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**EURINT 2022**

CONFERENCE PROCEEDINGS

*May 20-21, 2022*



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## FOREWORD

*EURINT Proceedings 2022: The world in motion: challenges, territorial dynamics and policy responses*

The EURINT conference series was launched by the Centre for European Studies in 2013 in the framework of the Jean Monnet Life Long Learning Programme. With each following edition, EURINT series has managed to become one of the most visible academic events in the field of European Studies from Central and Eastern Europe. By addressing academics, policy-makers, stakeholders, and representatives of civil society who show a genuine interest in European Studies, EURINT builds up a transnational network of contacts and partner entities.

The 2022 edition of the conference debated some of the most stringent challenges the EU is currently facing. In the aftermath of the COVID-19 pandemic, the 2022 year did not allow a smooth economic recovery. Conversely, additional challenges emerged, such as the conflict in Ukraine, followed by an unfolding energy crisis, and rampant inflation rates which recall debates concerning the most adequate solutions. The dynamism of national and global events requires rapid responses from governments. Territories can become stronger through cooperation and effective policies. Thus, by organizing this conference, the discussions related to territorial dynamics in the context of various emerging challenges, as well as those regarding the recovery policies at different levels of spatial scale are of real interest.

The papers included in this volume address some key mechanisms which might help the EU to better cope and mitigate the variety of challenges it faces. Overall, the EU citizens seem to be satisfied with the way the EU has helped the Member States to manage the pandemic, which further strengthened their trust in the European project. However, they emphasize the need for more democracy, transparency, and involvement of citizens in the EU institutions' decision-making processes. Addressing institutional bottlenecks also seems to lead to tighter economic relations with partners from the EU's Eastern Neighbourhood. In addition, economic diplomacy, through activities carried out by diplomatic representations abroad appears to boost foreign trade as well. Whilst the acts committed by the Russian Federation against Ukraine are contrary to the very essential core rules of International Law, the solidarity of the EU is more salient than ever in order to find the most appropriate responses. Besides the conflict in Ukraine, the EU also struggles to keep up the pace with the US and China as worldwide leading innovators. With digitalization and green transformation as fore priorities, the EU Cohesion policy should find ways to better address the innovation–convergence trade-off.

**Editorial team**





# THE IMPACT OF THE EUROPEAN FUNDING ON THE ROMANIAN SMEs. CASE STUDY ON THE REGIONAL OPERATIONAL PROGRAM 2007-2013

Diana Elena ABALAȘEI\*, Liviu-George MAHA\*\*,  
Elena-Daniela VIORICĂ\*\*\*

## Abstract

*Romania's accession to the EU has allowed access to significant financial instruments for economic and social development. Their main role was to boost job creation, economic growth, and investments across Europe, with particular focus on the least developed regions and in sectors with growth potential, and Romania subscribes to this goal with all its regions. One of the most important pillars in economic development is to encourage the growth and development of SME's, which have significant economic and social effects in terms of increasing employment, encouraging innovation and stimulating competitiveness on the European market. During the 2007-2013 budgetary period, one of the main programs including financial support for enterprises was the Regional Operational Programme, through which European funds were allocated for the creation and development of microenterprises in the urban areas. The aim of this paper is to analyse the impact of these funds on the economic performance of the urban Romanian SMEs. It was evaluated how these microenterprises performed once they benefitted from the European funding, and if and to what extent these financing instruments contributed to their growth and development.*

**Keywords:** European Funds, Romania, microenterprise, economic performance

## Introduction

Ever since the creation and implementation of the now-called European funds, their main role was to improve the economic potential of the receiving countries and enhance their economic development, particularly the ones that are lagging behind, in order to reduce the economic disparities between European regions and countries.

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Over time, the Structural Funds have become one of the main instruments for financing policies in order to promote regional development of its member states, covering today a third of the total of the EU budget.

The issue of regional discrepancies has been ruled since the beginning of the European Union, as it affects the economic performance of an area (Bache and George, 2009), but the first steps in addressing this problem were really taken in the early 70's, once with the creation of the European Regional Development Fund (ERDF) in order to reduce disparities between Member State's regions. Since then, several types of structural instruments were created, in order to encourage the development of different types of policies.

In the last two programming periods (2007-2013 and 2014-2020), the Cohesion Policy (ERDF, ESP, CF) accounted for a third of the European budget, showing the constant interest of the EU in reducing the gaps in the European regions and the support for sustainable economic development.

Taking into account the amount of money that are invested at EU-level nowadays through the European Structural and Investment Funds (ESI Funds), the literature in the field of assessing the impact of these financial instruments has rapidly developed, scientists and researchers questioning whether their use can lead to economic increase and may generate medium or long-term economic development.

Romania has been a net beneficiary of these funds since 2007, completing the programming period 2007-2013 and approaching the end of the second one, 2014-2020. As the official reports after the ending of the 2007-2013 period have indicated, Romania was placed last in terms of absorption in the ranking of the EU member states. Thus, scientists and researchers have approached this subject (Brasoveanu *et al.*, 2011), (Tăulescu and Pătruți, 2014) trying to identify which were the causes of this result and what improvements need to be done in order to avoid the same result in the following programming periods.

Even so, some of the programs implemented in Romania during the 2007-2013 period have proved to be more successful than others, having a greater addressability from the potential beneficiaries and conducting to greater results in terms of absorption. Such a program has proved to be the Regional Operational Program (ROP), co-funded by the European Regional Development Fund (ERDF), whose main objective consisted in supporting the development of Romania's regions from an economic, social, sustainable and territorially balanced point of view, while supporting the sustainable development of urban growth poles and improving business environment and basic infrastructure.

As one of the major objectives of the Cohesion Policy is to increase the employment rate in EU member states, especially in the newer and less developed countries, and also to create over 15.000 new jobs by the end of 2015, the ROP program allocated a significant amount of money for the creation of microenterprises in order to enhance employment and encourage competitiveness. Studies in the field (Taj and Bilal, 2016) have shown that microenterprises play an important role in employment creation and income generation, as they employ much more labour

force than the multinational corporations and help accelerate growth in developing nations. Thus, under the ROP Programme, the Key Area of Interest 4.3-Supporting the development of microenterprises (KAI 4.3) aimed at strengthening the development of micro-enterprises in the field of construction, production and services, located in urban areas, in order to promote an overall increase in the competitiveness of micro-enterprises and the use of new technologies, innovations, equipment and ICT services, with an allocation of 260 billion Euro at EU level.

Since Romania is one of the least developed European countries which benefits from the Cohesion Policy through its funding programmes and also is one of the countries with access to large amounts of European money, the aim of the present paper is to analyse the impact of the European funds allocated within the Regional Operational Programme during the 2007-2013 on the economic performance of the urban Romanian micro-enterprises. In order to achieve this aim, we have set two research objectives: 1. To determine whether the ESI funds granted under the ROP programme 2007-2013 had any impact on the economic performance of the microenterprises, and 2. To determine if, and if so, to what extent did the EU Funds contribute to the growth and development of the urban Romanian SME's.

The methodology used in order to observe the impact of the ESI funds over the micro-enterprises in Romania consists of a three-step counterfactual analysis where the outcomes of the intervention are compared to the outcomes that would have been achieved if the intervention had not been implemented. The data used is based on a set of 787 micro-enterprises, out of which 287 – are beneficiaries of the ROP programme, KAI 4.3 and 500 are non-beneficiaries, selected from 3 of the 8 regions of Romania, namely Bucharest-Ilfov, North-East and West. The regions considered consisted of 12 counties and the indicators considered were selected for the 2008-2019 period.

## **1.The evolution of Cohesion Policy in the European Union**

Economic Cohesion Policy is one of the main priorities on the European agenda nowadays and has been so for several decades. The Treaty on European Union states, at article 2, that the EU “shall have as its task (...) to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States<sup>1</sup>. Even so, the idea of a European integration appeared earlier, in 1957, once with the signing of the Treaty of Rome, whose one of the main objectives was to “establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy,

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<sup>1</sup> 191, O. J. (1992). Treaty on European Union. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11992M/TXT>

aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment”<sup>2</sup>. As it can be seen, the Treaty recognized the importance of sharing the economic growth by all the Member States and regions in order to seek convergence on life standards (Brasoveanu *et al.*, 2011).

In this context, the first structural funds were launched in 1958 under the name of *European Social Fund (ESF)*, whose main role was to reimburse the member states with 50% of the costs spent for the professional training and installation allowances given to the workers affected by the economic restructuring. Later on, the ESF was oriented towards combating the unemployment among young people and to the more disadvantaged regions, along with the enlargement of the EU. Not long after, in 1962, the *European Agricultural Guidance and Guarantee Fund (EAGGF)* was created, in order to finance the common agricultural policy, as well as to support the development of rural regions and the improvement of agricultural structures, separated later in the Guarantee and Guidance sections. Although the slow pace of development of the European Community did not require the adoption of a regional policy yet, in 1972, regional policy was described as an „essential factor in strengthening the Community”, and the Thompson Report published by the European Commission in 1973 (immediately after the accession of Denmark , Ireland and Great Britain) concluded that „although the objective of continued expansion established by the Treaty has been achieved, ensuring balance and harmony have not yet been achieved”. Thompson also specified that „regional policy is in the general interest of Europe...it is as much in the interest of the richer regions of Europe as in the interest of the poorer regions” (Hall, 2014). Thus, in 1975, the *European Fund for Regional Development (ERDF)* was established, whose purpose was to reduce the gaps between the degrees of development of the regions, to compensate for the reduced benefits that Great Britain received following the application of the Common Agricultural Policy (CAP) and to correct the problems arising in regions affected by industrial change and structural unemployment. As we may see, the main focus of the 1970’s to 1980’s was the support given to the lagging regions, alongside the redistributive policies and equity. As Jacques Delors (1987) mentioned “all regions of the Community ought to be able to share progressively in these benefits (...). It is for this reason that the transparency of the large market should be facilitated by supporting the efforts of regions with ill-adapted structures and those in the throes of painful restructuring. Community policies can be of assistance to these regions, which in no way absolves them from assuming their own responsibilities and from making their own effort”.

The development of the regional policy was strongly influenced by the expansion of the European Community (at the time) towards Greece, Spain and Portugal during 1981-1986. The political belief that European economic integration was likely to foster the development of core regions at the expense of the periphery led to the introduction of the principle of “economic and social cohesion” in the

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<sup>2</sup> Rome, T. o. (1957). Retrieved October 03, 2022, from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016ME/TXT-20160901&from=EN>

Single European Act, which led to a radical reform of regional development policies in 1989 (Rodriguez-Pose and Fratesi, 2007). The above-mentioned concept was specifically referring to the elimination of the economic discrepancies between regions, having as main scope to create the premises for an independent economic and social policy to facilitate the accession to the single European market for the states of southern Europe. The reform from 1989 implied the coordination of the existing Structural Funds under the principles of territorial and financial concentration, programming, partnership and additionality, and also a doubling of the funds in the following 4 years, up until 1993 (Rodriguez-Pose and Fratesi, 2007).

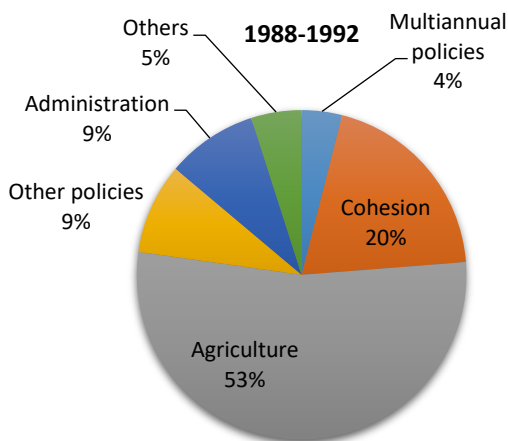
Furthermore, in 1993, the *Cohesion Fund (CF)* was created, destined to support the least advantaged member states of the Community, to manage the challenges imposed by the single market without fulfilling the convergence criteria requested by economic and momentary union. Thus, after the wave of liberalism which started in the 1980s, during the next decade, regional policies for the sheer reduction of disparities became difficult to sustain, so that it had to improve growth and competitiveness, by focusing on mobilizing endogenous assets and resources in all regions. According to (Camagni, 2002) in a globalising economy, territories and not just firms increasingly find themselves in competition with each other. In fact, unlike the case of countries, cities and regions compete in the international market for goods and production factors, on the basis of an absolute advantage principle, and not of a comparative advantage principle (...). Moreover, (Camagni, 2002) considers that weak and lagging territories risk exclusion and decline to a larger extent than in the past, taking into account the present techno-economic phase that considers an increasing importance of knowledge factors, of immaterial elements linked to culture, the innovative utilisation of the existing stock of codified knowledge and technologies that require greater investments in human capital, management and organisation, etc. Thus, we can see that the starting with the 2000s the emphasis in the Cohesion Policy was put upon the competitiveness, alongside the convergence principle, as the EU was getting larger and the issues regarding the regional disparities was adding more pressure.

Today, the objective of the regional policy is to demonstrate the solidarity of the European Union through social and economic cohesion, reducing the gaps between regions from different member states (Drosu Șaguna and Găinușă, 2011), supporting job creation, competitiveness of the firms, economic development, and sustainable development and improving the quality of life. Starting with 2010, the objectives of the Cohesion Policy faced a turn towards a more balanced set of principles, with emphasis on the environment, climate changes, urban-rural linkages and digitalization. Also, several economic and social shocks, such as the Global Financial Crisis, the Covid-19 pandemics and climate crisis have created a more flexible and reactive frame for the implementation of the Cohesion Policy.

## Evolution of the expenditure in the EU budget

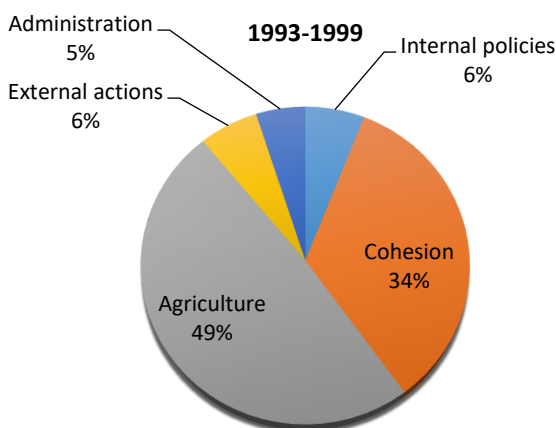
The figures below show the main categories of expenditure included in the multiannual financial plans starting with the Multiannual Financial Framework (MFF) 1988-1992 up to the one proposed for the period 2021-2027, in order to observe the investment priorities of the European Union over time, in accordance with supported policies.

**Figure 1. Total expenditure EU 1988-1992**



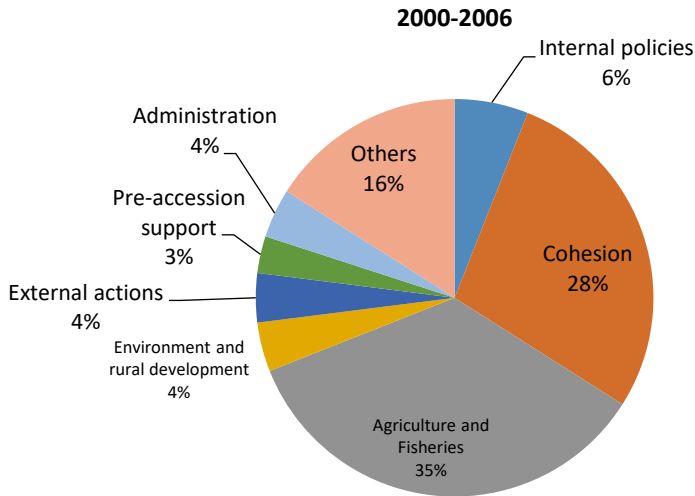
*Source:* Authors' representation

**Figure 2. Total expenditure EU 1993-1999**



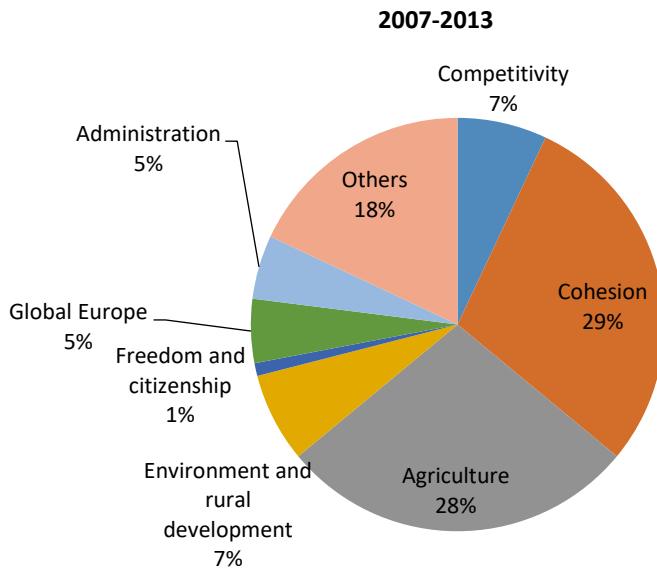
*Source:* Authors' representation

**Figure 3. Total expenditure EU 2000-2006**



*Source:* Authors' representation

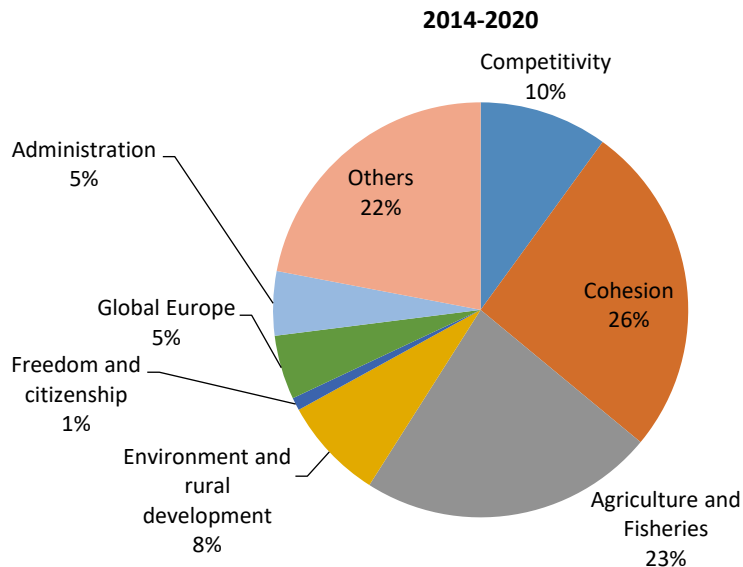
**Figure 4. Total expenditure EU 2007-2013**



*Source:* Authors' representation

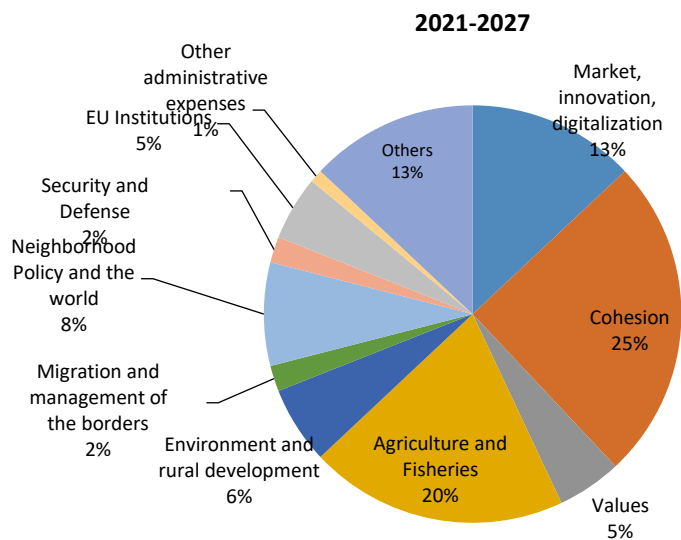


**Figure 5. Total expenditure EU 2014-2020**



*Source:* Authors' representation

**Figure 6. Total expenditure EU 2021-2027**



*Source:* Authors' representation

As it can be seen from the above, in the period 1988-1992 (Figure 1) the focus was on investments in agriculture and cohesion policy, preparing the budget for the transition to the internal market. In 1993 (see Figure 2.) the total budget increased to allow investments in cohesion in preparation for joining the euro area in the late 1990s, as well as in domestic policies, which included research and innovation. Furthermore, the 2000-2006 (see Figure 3) financial perspective followed the preparation of the European budget and economy for the integration of 10 new member states, so that the spending on internal policies, research and development and pre-accession aid increased, while spending on the agricultural sector reduced. Subsequently, the MFF 2007-2013 (see Figure 5.) slightly increased the investments made within the cohesion policy and competitiveness, with the accession of 3 new member states, in order to encourage the national economies of the member states to recover from the regional gaps. Funds allocated to agriculture and rural development also decreased, while a new policy began to be funded separately, that of citizens, security and justice. The next MFF continued the trend started in 2007-2013, with spending on competitiveness increasing (especially for the research and innovation sector), while investment in agriculture continued to fall.

With regard to the MFF 2021-2027, there are changes regarding the orientation of expenditure, so that the competitiveness sector is renamed the Single Market, including spending on innovation and digitization, the Erasmus+ program is removed from the competitiveness field, and the Values program appears to have an own budget line. Also, the expenses related to agriculture and cohesion decrease, and in order to reduce the problems related to the migration and security crisis, the Citizenship and Global Europe chapters are reconfigured and receive greater funding within their own areas (European Parliament, 2019).

## **2. Measuring the impact of the EU Funds**

While the budget for the Cohesion policy kept increasing in the last programming periods, the interest for the evaluation of the European fund's medium and long term effectiveness also started to gain importance among the researchers, but also among the habilitated private and public institutions.

To this matter, there are numerous studies that evaluate the impact of the EU funds in the reduction of the economic gaps among European regions, but also there are a series of studies that evaluate the national impact. Even so, the literature in the field is complex and the results vary greatly and have not reached yet a common conclusion, as the empirical studies are depending on the periods considered, the indicators provided, the availability of the data taken into consideration, the methodologies used and also on a series of regional, national and geographical characteristics.

Several regional-oriented studies have shown that there are positive results when it comes to evaluating the impact of the EU funds (Cappelen *et al.*, 2003; Becker *et al.*, 2010; 2012; 2018). In a study researching the impact of the EU regional support on growth and convergence in the EU, the authors show that the structural funds

have a significant and positive impact on the growth performance on EU regions and, hence, contribute to greater equality in productivity and income in Europe (Cappelen *et al.*, 2003), but the impact is stronger in more developed countries. Several other studies (Mohl and Hagen, 2010) (Pellegrini *et al.*, 2012) come to strengthen the same conclusion, arguing that there is a positive impact of the EU regional support on the growth performance of the EU regions. Furthermore, (Psycharis *et al.*, 2018), in a paper studying the effects of EU funds upon the Greek regions have shown that large-scale EU co-financed projects enhance competitiveness and are able to reduce regional inequalities, while more targeted small-scale interventions are critical factors for local economic growth and development. Furthermore, (Becker *et al.*, 2018) argue that the Structural Funds induced positive effects on the recipient regions and countries for all the 4 programming periods that existed so far, underlining that the transfers were weaker during times of economic crisis. Also, the authors observed that even though the transfers show almost immediate effects, they do not prove to have long-term effects in terms of real-capita-income growth in recipient regions. Also, on a study regarding the effects of EU Funds on Romania and Bulgaria, (Surubaru, 2020) has shown that even though there was an increase of the GDP growth due to EU transfers, the evidence shows that also other factors could have equally influenced the internal economic growth.

On the other hand, other studies suggested that the EU funds did not manage to demonstrate a significant impact on the economic development of the recipient regions (de la Fuente *et al.*, 1995; Rodriguez-Pose and Garcilazo, 2013). Moreover, in a paper researching the impact of the EU funds on the regions in Southern Italy, (Guido de and Emanuele, 2015) also found a limited impact on local measures for employment, population and house prices. (Ederveen *et al.*, 2006) also argue that European support as such did not improve the countries' growth performance, but it does enhance growth in countries with the right institutions.

Besides the country-level and regional-level studies that seek to evaluate the medium and long-term effects of using EU funds, the literature also offers us a large framework of studies that involve their effects on certain policies or fields: the impact of the EU's Cohesion Policy on firm growth in the period 2007-2013 (Bachtröglara *et al.*, 2019) which showed that the beneficiaries of the CF boosted both value added and employment growth, but the impact on productivity tended to be smaller. Furthermore, (Mack *et al.*, 2020) argue about the effects of EU rural development funds for micro-enterprises and tourism activities in Romania, showing that on average, funds did not contribute to the creation of new enterprises in Romanian rural communities during 2009-2014, but, however, it was found that the higher the treatment intensity it was, the more newly established enterprises were created.

In Romania, up to this point, there are no studies conducted in order to assess the impact of the European funding on the urban SME's through the ROP Programme. The only analysis that were developed are based on the results of the program and on their indicators, which calculate the quantity of projects that were

submitted and finalized and analyse the final indicators achieved compared to what was planned, but these studies do not focus on the effects in time of the EU funding nor do they focus on the economic development of the funded companies.

### **3. The role of the ROP Programme in Romania in 2007-2013. Key Area of Interest 4.3**

Romania has been a net beneficiary of the European Funds since 2007, starting with the MFF 2007-2013. Although it was ranked least in the European countries when it comes to absorbing the EU Funds, having an absorption rate of 92% in 2017 (compared to the EU rate of 96%), some of the programs implemented have proved to be more successful than others. Even though it benefitted from the n+2 rule, which prolonged the implementation period for the projects up to 2015, the final calculation of the achievement of the results and indicators, as well as the final estimations of EU payments were only available after the actual implementation phase of the programs and after the technical and financial audit of the projects.

To this matter, the ROP Programme has shown that there was an increased interest from the beneficiaries (public or private entities) to apply for these funds and to manage to fulfil successful projects.

The general objective of the ROP programme 2007-2013 was to support an economic, social, territorially balanced and sustainable development of the Romanian regions, corresponding to their needs and specific resources, by focusing on the urban poles of growth, by improving the infrastructural conditions and to the business environment to make Romania's regions, especially those lagging behind, more attractive places to live, visit, invest in an work.

The strategic objectives of the ROP programme 2007-2013 were: (1) creating 15,000 new jobs by the end of 2015 and (2) reducing disparities between regions in the period 2007-2015 in terms of GDP/capita.

The achievement of these 2 objectives was expected to be done through an integrated approach, based on a combination of public investment in local infrastructure, active policies to stimulate business activity and support for the development of local resources, which will be met through calls for projects. within 6 priority axes:

- Priority Axes 1 – Support for sustainable development of urban growth poles
- Priority axes 2 – Improving local and regional transport infrastructure
- Priority axes 3 – Improving social infrastructure – creating the premises for a better access of the population to essential services
- Priority axes 4 – Strengthening the local and regional business environment - creating and developing support structures for businesses of local and regional importance
- Priority axes 5 - Sustainable development and promotion of tourism
- Priority axes 6 – Technical Assistance

The total value of the ERDF funds allocated for the ROP programme for 2007-2013 was of almost 4 billion euro, and by the end of October 2016 the implementation rate was as it follows (table 1):

**Table 1. Implementation rate of the ROP programme 2007-2013**

Allocated	<b>100%</b>
Submitted	217,4 %
Approved	127,7%
Contracted	108,7%
Paid	77,7%
Reimbursed from the EC	94,5%
Finalized	73,8%

*Source:* Authors' representation based on data obtained in the Final Report of Implementation for the ROP Programme 2007-2013<sup>3</sup>

After the approval of the program by the EC in 2007, the launch of the project applications during 2007-2008, the intensification of the process of signing the financial agreements in 2009-2010 and the acceleration of payments to beneficiaries during 2010-2013, the main feature of the ROP programme during 2014-2017 was the intensification of the process of physical and financial completion of the financed projects. As a result, implementation stages of the ROP 2007-2013 are presented in Table 2.

**Table 2. Implementation stages of the ROP programme 2007-2013**

No.	Criterion	Value	ERDF contribution
1	ROP total allocation	4,66 (bil euro)	3,96 bil euro
2	No. of grant applications	10.056 (13,99 bil euro)	8,62 bil euro (217% ERDF of ROP)
3	No. of approved grant applications	5.180 (8,19 bil euro)	5,02 bil euro (127%)
4	Signed grant agreements	5.164 (7,91 bil. Euro)	4,80 bi. Euro (121,1%)
5	Finalised projects	2.294 (3,67 bil. Euro)	2,93 bil. Euro (74%)

*Source:* Authors' representation based on data provided by Final Report of Implementation for the ROP Programme 2007-2013

Out of all the Priority axis of the ROP, it appears that 4.3 - referring to business environment, had the least allocations, but it was the most successful one in terms of certified payments, as it can be seen in Table 3.

<sup>3</sup> Available at [https://www.adrse.ro/Documente/POR\\_2014/CMPOR/RFI\\_POR\\_2007\\_2013\\_FINAL.pdf](https://www.adrse.ro/Documente/POR_2014/CMPOR/RFI_POR_2007_2013_FINAL.pdf), accessed at 12.09.2022

**Table 3. ROP allocation and certified payments per Priority Axes**

Priority axis	Total allocation of the program	Total of eligible costs certified by the Payment Authority	Public contribution	Certificated payments (%)
PA.1.Urban development	1.438.98.380	1.236.173.329,66	1.236.173.329,66	85,91
PA.2.Road infrastructure	952.105.021	797.627.591,39	797.627.591,40	83,78
PA.3.Social infrastructure	864.474.865	739.396.046,21	738.900.182,02	85,47
PA.4.Business environment	561.685.142	593.957.676,21	504.886.013,44	89,89
PA.5. development and promotion of tourism	717.378.873	624.415.460,31	571.896.611,04	79,72
PA.6.Technical assistance	131.506.650	115.869.083,55	115.869.083,55	88,11
<b>Total</b>	<b>4.666.139.931</b>	<b>4.107.439.187,33</b>	<b>3.965.352.811,11</b>	<b>84,98</b>

Source: Data retrieved from RFI.. Final Report of Implementation for the ROP Programme 2007-2013

### Key Area of Interest 4.3 – Supporting the development of micro-enterprises

The aim of the 4.3 KAI was strengthening the development of micro-enterprises in the field of construction, production and services, located in urban areas, in order to promote an overall increase in the competitiveness of micro-enterprises and the use of new technologies, innovations, equipment and ICT services.

The support granted to micro-enterprises under KAI 4.3 was for the restructuring of the underdeveloped areas with economic growth potential, especially in small and medium towns, aiming at the creation of new jobs. The expected result indicator refers to the number of newly created jobs in supported micro-enterprises, thus reflecting the main objective pursued by the intervention. In total, by KAI 4.3 were financed 2019 companies, through 2103 projects completed in the period 2009-2016 (ROP Evaluation Office, 2019). The comparison between the target indicators and the realization rate can be seen in Table 4.

**Table 4. Results of the ROP program**

Program indicator	Indicator Type	Estimated through signed contracts	Realised through finished projects	ROP 2007-2013 target	Contracting rate	Realization rate
Financially assisted micro-enterprises	Output indicator	2019	2103	1500	140%	140%
New jobs created through micro-enterprises	Result indicator	9270	9714	3000	324%	324%

*Source:* Authors' representation based on data obtained in the Final Implementation Report ROP program 2007-2013 and The evaluation report for the KAI 4.3.

The total allocation for this KAI was of 260 million euro, out of which 200 were from the ERDF funds, the rest of 60 million being from national contribution. With regard to the regional financial allocation, the North-East region (which is also the poorest region in Europe) was appointed the most funds, followed by South, South –West and South-East regions, while the least amount of money were dedicated to Bucharest-Ilfov region (which does not qualify as a lagging region thus did not receive a high amount of money), as it can be observed from Table 5.

**Table 5. 4.3 KAI allocation and contract's status per region**

Region	North-East	South-East	South	South-West	West	North-West	Centre	Bucharest-Ilfov
Financial allocation (mil EUR)	32,66	26,51	28,47	28,03	20,69	24,19	21,81	17,73
<b>Contracts by region</b>								
Submitted	940	526	837	537	383	951	655	573
Rejected	494	300	305	303	209	585	453	367
Contracted	310	217	418	234	174	366	203	203

*Source:* Authors' representation based on data obtained in the Final Implementation Report ROP program 2007-2013 and The evaluation report for the KAI 4.3.

Considering the Table 5 above, as well as taking into account the fact that the regions which were appointed the most amounts of ERDF money are also the most under-developed, it would have been expected to show the most interest in the project submitting stage, but also in the contracting one. Even so, table 5 above shows us that even though the North-East region was placed second in the submitting stage by the number of applications, its contracting stage was at 32%, while other

regions, such as South-West or West were at almost 50%. Thus, the table above shows us the number of projects submitted, rejected and contracted by each region.

#### 4. Data and methodology

The aim of the paper is to analyse the impact of the European funds allocated within the Regional Operation Programme during the 2007-2013 budgetary period on the economic performance of the urban Romanian SMEs. Thus, it was evaluated how these microenterprises performed once they benefitted from the European funding, and if and to what extent these financing instruments contributed to their growth and development.

In order to achieve this objective, we have tested our research hypothesis *RH: The funds granted under the ROP Program 2007-2013 improved the economic performance of the beneficiary companies.*

The data collection process consisted of retrieving information from administrative and secondary sources in order to build a database for the quantitative analysis. The lists for the beneficiary firms were collected from the Regional Development Agencies for the three regions considered while the values of the economic indicators for the beneficiaries and for the non-beneficiaries were obtained from the [www.listafirme.ro](http://www.listafirme.ro) database.

The data gathered consisted of a sample of 787 micro-enterprises, out of which 297 were net beneficiaries of the 4.3 KAI, while the other 500 were non-beneficiary firms that did not apply or receive EU funding under the KAI 4.3. The data was collected for 3 regions – Bucharest-Ilfov, North-East and West, comprising 12 counties. In order to gather the data, we first identified the Call of Proposals for the period 2008-2011 of the KAI of interest, and then we identified the public list of beneficiaries of the European Funds. The economic indicators that are used as matching criteria in selecting the matching non-beneficiaries are as it follows:

- turnover
- Average number of employees
- Net profit
- Liabilities
- Fixed assets
- Current assets
- Equity

The period chosen is 2008-2019, as 2008 was the first year that the first Call of Proposal for the KAI 4.3 was launched and extended the period to 2019 in order to have a more complete picture of the economic performance of the beneficiaries during and after the use of the European Funds.

The outcome variable considered was the net profit. The net profit is the difference between income and expenses. The amount of income represents, in fact, the turnover of a company, which must be calculated following certain rules according to the specificities of the company. For example, if a company is a VAT



payer or has obtained funding from an investor or a bank loan, these amounts must be excluded when calculating income. A company's expenses can be divided into three broad categories: production expenses (starting with raw materials to the salaries of the employees who actually work in productions), operational expenses (from rent to marketing expenses) and taxes and duties owed to the state. If the production expenses are deducted from the turnover, the gross profit is obtained. From this, the operating expenses are subtracted and the operating profit results, to which fees and taxes are applied. What remains after deducting all these expenses is net profit.

The quantitative analysis was conducted to estimate the impact of the funding over the urban Romanian SME's and constituted of a counterfactual analysis in which the outcomes of the intervention are compared to the outcomes that would have been achieved if the intervention had not been implemented.

The counterfactual analysis was conducted on a 3 - step methodology:

- A propensity score model (PSM) is estimated via a probit model to determine the predicted probabilities that will be used for matching the units
- Units matching – each unit from the treated group (beneficiaries) gets a match, using certain characteristics, previously presented, from the control group (non-beneficiaries)
- A difference-in-difference model (DID) is estimated, in order to asses estimated value of the impact of funding on the outcome of the beneficiaries and the net effect of the program.

The DID model is estimated as it follows:

$$Outcome = \beta_0 + \beta_1 Time + \beta_2 Treated + \beta_3 Time * Treated$$

Where:

Outcome (y) is the Net Profit

Time is a binary variable (1 – year  $t$ , 0 – year  $t-1$ )

Treated is the treatment variable (1 – beneficiaries  $B$ , 0 – non-beneficiaries  $NB$ )

Time\*Treated is the interaction variable, for Time=1 and Treated=1

The  $\beta_3$  coefficient measures the net effect of the funding on the outcome, and is determined as it follows:

$$Net\ effect = (\bar{y}_{tB} - \bar{y}_{tNB}) - (\bar{y}_{(t-1)B} - \bar{y}_{(t-1)NB})$$

## 5. Results of the empirical research

To answer the research question, after selecting matching units for beneficiaries, using PSM, an impact analysis is conducted, where treatment effects are estimated, namely the average treatment effect on the treated (ATT) and the net treatment effect of the program. The matching step of our research resulted in 222 matching pairs (beneficiary – non-beneficiary companies) for each year, after eliminating the NA's.

For each year, averages and standard deviations of the outcome are calculated for the groups of beneficiaries and non-beneficiaries (Table 6). There is a matching

heterogeneity of both groups, for the entire period. The average outcome is observed to have an increasing trend after 2011, for both groups. But there are differences in outcome between beneficiaries and non-beneficiaries, the average for the beneficiaries considerably exceeding the average for the non-beneficiaries, especially in the second half of the analysed time period

**Table 6. Summary statistics for the interest groups**

<b>Year</b>	<b>Beneficiaries</b>		<b>Non-Beneficiaries</b>	
	Average	Std. deviation	Average	Std. deviation
<b>2008</b>	99301	196358	122725	364052
<b>2009</b>	88953	146606	145206	142284
<b>2010</b>	89933	152845	94924	162446
<b>2011</b>	113457	223734	101603	126910
<b>2012</b>	131291	264702	100813	131248
<b>2013</b>	151208	462080	128827	505940
<b>2014</b>	156475	345770	129320	269293
<b>2015</b>	245174	539372	144321	294597
<b>2016</b>	290719	669008	166693	280692
<b>2017</b>	341246	576635	200112	281121
<b>2018</b>	370898	715254	236426	342250
<b>2019</b>	431113	772713	292222	439289

*Source:* Authors' representation

The estimated ATTs are presented in Table 7 and will represent the effect of the funding among SMEs who received it, regardless of membership to the beneficiaries or non-beneficiaries groups. To calculate the ATTs, the matched non-beneficiaries group is a counterfactual for the beneficiaries, acting as beneficiaries that could have gotten the treatment, but did not received it.

A positive and significant ATT (where Average Treatment effect on the Treated is the averaged difference between the profit of the beneficiaries of the funds and the profit of the non-beneficiaries) indicates that the treatment (funding) has impacted the outcome of the beneficiaries by causing a significant increase of their net profit, situation that can be observed since 2015.

As we can see in Table 7, European funding has positively impacted the beneficiaries, meaning that there is a significant increase of their profits on medium-term. This impact can be continuously observed starting with 2015, as it is positive and significant. Before 2015, only in 2012 we can observe that this impact has been positive and significant, while in 2009 it is negative and significant. Also, in the period 2008-2010, the impact is negative and non-significant, with the exception of 2009.

**Table 7. Estimated ATT**

<b>Year</b>	<b>Estimated ATT</b>	<b>T-stat</b>	<b>p-value</b>
<b>2008</b>	-22334	-0.81222	0.41667
<b>2009</b>	-39687**	-2.5693	0.01019
<b>2010</b>	-4537.2	-0.29453	0.76835
<b>2011</b>	11941	0.75185	0.45214
<b>2012</b>	30478*	1.7081	0.08762
<b>2013</b>	22381	0.52083	0.60249
<b>2014</b>	27155	0.93257	0.35104
<b>2015</b>	100853**	2.5149	0.01191
<b>2016</b>	124026**	2.6532	0.00797
<b>2017</b>	141134**	3.5345	0.00041
<b>2018</b>	137290**	2.6718	0.00754
<b>2019</b>	138891**	2.3971	0.01652

Note: \*\* significant at 5%; \* significant at 10%

Source: Authors' representation

In interpreting the results above, we may also have to consider the fact that the world was facing an economic crisis starting with 2008, whose effects lasted for several years, up to 2012-2013, so that when the program first started, in 2008-2009, the companies were already starting to feel the effects of the economic crises. Furthermore, we have to mention that even though the program officially started in 2007 on paper, the actual call of proposals for projects were not launched until mid-2008 and after, which means that the actual funds were allocated to the firms by the end of 2008 -2009, the earliest. This means that they were spent over the period 2009-2010, which leads us to the conclusion that the effects only started in 2010 the earliest. Another reason for the time-lapse that shows in our results, indicating positive effects only starting with 2015 is the fact that 2007-2013 was the first multiannual financial framework that Romania was part of as a European member state, which translates into the fact that it took several years for the preparation of the functioning of the ROP program, its institutions, its instruments and its control and managing authorities which delayed the effectiveness of the results. Moreover, the beneficiaries did not have any prior experience in the implementation of the EU funds so that every issue that they might have met on the road was a problem whose solution took a bit longer to be found as it was something new to react to.

The results of the DID coefficient estimates can be observed below, in Table 8.

We used the difference-in-difference method in order to compare the changes in outcomes over the period 2009-2019 between the beneficiaries (the treatment group) and the non-beneficiaries of European funds (the control group). Mainly, the net effect of the program is positive, except for three periods, but the effect is not sufficiently large to be significant, or the groups are not homogenous enough. As we can see from Table 8, the net effect of the program for two consecutive periods is mainly positive, with the exception of 2009 compared to 2008, 2013 compared to 2012 and 2018 compared to 2017. Even if it is positive, the only significant net effect

can be observed in 2010 compared to 2009. Furthermore, we have also compared 2008 to 2013 and 2008 to 2015 for a more robust test. In the first case, the results are positive but not significant, while in the last case, where 2008 is the first year of implementation and 2015 is the last year, there is a significant positive impact of the European funds over the net profit of the beneficiary firms. Also, when we compared 2008 to 2019 (the last available data for the beneficiary and non-beneficiary firms) we also obtained a significant and positive result, which showed the impact of the EU funds over the treated firms. Moreover, our computations also included the 2013 vs 2015 period, where the results turned positive, but not significant.

**Table 8. DID coefficients estimates – the net impact for periods of interest**

Period	DID	T-stat	p-value
2009/2008	-32829	-1.060	0.289
2010/2009	51261	2.525	0.011740**
2011/2010	16846	0.737	0.461
2012/2011	18623	0.708	0.479
2013/2012	-8097	-0.162	0.872
2014/2013	4774.3	0.087	0.930
2015/2014	73697	1.455	0.146
2016/2015	23173	0.363	0.7166
2017/2016	17108	0.263	0.7925
2018/2017	-6662	-0.097	0.92249
2019/2018	4419	0.055	0.9559
2013/2008	45805	0.853	0.394
2015/2013	78472	1.270	0.204
2015/2008	124276	2.500	0.0126**
2019/2008	162315	2.467	0.0137**

Note: \*\*significance at 5%

Source: Authors' representation

We may explain the results above by saying that in the period 2008-2010 there were only a few call of proposals for submitting EU projects and the firms were not very interested in the calls, as they did not have the experience to implement them. Also, the bureaucracy and other similar administrative factors were a challenge for many firms that were accepted in the program so that they gave up to the financing. The results that show us the net effect in 2010 compared to 2009 can be explained through the fact that the financing allowed the beneficiaries to invest a sudden amount of money in a short period of time, which led to an increase in their economic indicators for a short period of time, immediately after receiving the financing. Moreover, the economic crisis that hit worldwide and started in 2008-2009 has spread its negative effects on companies until at least 2012-2013, which led to the results we can see in table 7. Also, during the 2012-2013 period of time, the program got suspended from the EU as there were several issues regarding corruption and economic fraud during 2007-2012 which has led to a period of suspending the EU

payments and the lack of call of proposals. Even so, when comparing the first and last year of implementation (2008 vs 2015) we observe that there is a significant positive result, which indicates that the EU funds had a positive impact over the treated firms, as did the computation 2008 vs 2019. These calculations show us that the impact from one year to another may not be significant, even though positive at some points, but when a longer period of time is considered, especially one that takes into consideration key-moments of the start and end of a programming period, the results are significant and positive, indicating that the effects of the use of the EU funds may have effects on medium term.

### **Conclusions and further research**

The study we conducted over the implementation of the ROP programme regarding the use of the EU funds in the urban SME's during the MFF 2007-2013 is the first one of its kind in Romania. The results showed us that the counterfactual analysis indicates that the EU funds had a positive impact on the net profit of the beneficiary companies, leading to a significant increase by observing the ATTs, confirming our research hypothesis. Further, the DID method, applied on 222 matching pairs of beneficiaries-non-beneficiaries of the programme, showed a mainly positive estimated effect of the funds over the net profit, but not significant. Also, the results indicated that there are positive and significant effects of the use of EU funds when longer periods of time are considered, especially taking into account the start and end date of a programme, in order to observe the medium-term effect.

The results showed in the present paper should also take into consideration the fact that during the analysed period there was a worldwide economic crisis whose effects spread until at least 2012-2013 and also that for Romania, the 2007-2013 programming period was the first one since its accession in the EU. Thus, the managing and control authorities, as well as the beneficiaries, took a longer period of time to prepare and adjust for the programme and face the issues that appeared on the way.

Given the results in the study, one of the limits of our study is the fact that we only considered one control variable so that future research will consider more outcome variables, such as medium number of employees and also another set of predictors (such as region or other set of economic characteristics), to reduce as much as possible heterogeneities caused by other factors than treatment. The study can also be extended by taking into consideration a longer period of time for the beneficiaries of the 2007-2013 programming period, in order to explore the effects of the EU funds over a longer period of time and assess the impact they have over the economic performance of the urban Romanian SME's funded through the ROP programme. Moreover, another development of the present study may take into consideration a larger number of beneficiaries and non-beneficiaries firms, thus including other regions in the study.

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# EVOLUTION OF FOREIGN TRADE OF THE REPUBLIC OF MOLDOVA WITH THE TWO ECONOMIC UNIONS - RISQUES AND OPPORTUNITIES

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## Abstract

*This paper presented a brief analysis of the evolution of the foreign trade of the Republic of Moldova with the states of the European Union (EU) and with the states of the Eurasian Economic Union (EUEA) for the period 2015-2020. The period selected for analysis was determined by several reasons. Firstly, the ratification of the Association and Free Trade Agreement of the Republic of Moldova with the EU in 2014, which marked the beginning of a new era of economic relations between both parties and manifested itself in an unprecedented boom in trade, on the other hand, the emergence of a new economic and political entity, the EAEU. With the latter, consisting of 5 former Soviet states, the Republic of Moldova has established economic relations since the USSR and then the CIS. Within this organization, the Republic of Moldova has the status of an observer state, which, to a certain extent, would facilitate trade. Last but not least, the paper is an attempt to give a prompt answer on the place of the Republic of Moldova in the family of European nations and in the regional and international economic architecture. The paper presents a brief history of the beginning and evolution of political and economic cooperation with both unions. The article presents and examines statistical data on the main partner states and the main categories of goods exported and imported by both parties, as well as the states with the highest export and import rank in both unions.*

*Keywords:* foreign trade, European Union, Eurasian Economic Union.

## Introduction

All the states of the former USSR immediately after the proclamation of independence and the breaking of economic ties faced a series of problems regarding the choice of new economic development models, funding new commercial partners

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and new markets. These were characterized by economic recessions accompanied by social grievances, high unemployment, high level of crime, etc.

The Republic of Moldova emerged as an independent state on August 27, 1991 by proclaiming independence, and from the very beginning faced the problem of developing new international economic relations. Unlike the Baltic states, which have made it clear that they want to join the European Community, the Republic of Moldova has faced the dilemma of choosing the EU or the newly formed Commonwealth of Independent States. For a long time on the agenda of the central authorities, relations with the EU were not a distinct priority and only the signing of the Partnership and Cooperation Agreement and subsequently of the Association Agreement allowed the development of foreign trade to be boosted. However, the political authorities has always oscillated between East and West, which has also determined the socio-economic development of the country. The emergence of a new integrationist entity - the EAEU, in 2015, brought the opportunity to join this union. Given the fact that the EU accession process is quite sophisticated, the geopolitical interests of the Russia and their proxy political forces in Republic of Moldova are trying their best to join the EUEA, although the interest in reality is not economical as declared.

The best answer to this uncertainty would be both the economic benefits for the country and the system of principles and values shared by both unions.

The analysis of statistical data, at the moment, is a bit difficult because it requires a careful selection and systematization, given the fact that so far it is not presented statistics data between the EAEU and the Republic of Moldova but only with the CIS states. Moreover, official statistics do not include statistical data on export-import operations for enterprises on the left bank of the Dniester and the city of Bender.

Next, we set out to make an analysis of one of the most important aspects of economic relations between the Republic of Moldova and both unions - in terms of foreign trade.

## **1. The general characteristic of the trade of the Republic of Moldova in recent years**

The analysis of the foreign trade of the Republic of Moldova in the last year highlights the following moments:

*Exports of domestic goods* in 2021 amounted to \$ 2,433.2 million (77.4% of total exports), increasing by 28.9% compared to 2020, which contributed to the increase in the total value of exports by 22.1%.

*Re-exports of foreign goods* (after processing and classic) in 2021 amounted to \$ 711.2 million (22.6% of total exports) or 22.7% more compared to 2020. This growth has influenced increase in total exports by 5.4%.

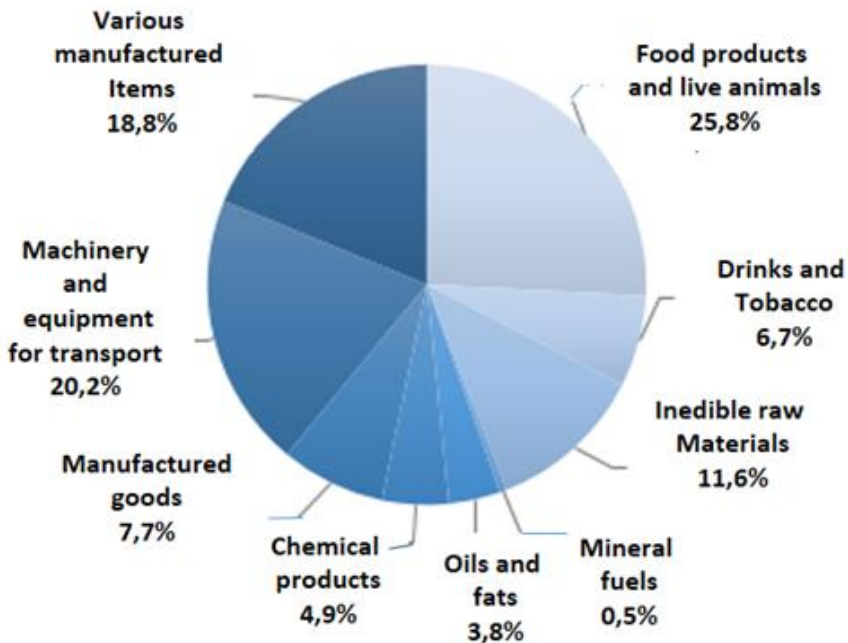
*Re-exports of goods* after processing (including clothing, footwear and footwear parts, spark plug sets and other sets used in means of transport, coaxial cables, electric conductors and transformers, bags, leather and textile goods , shelled

walnuts, chairs, seat parts, toys, steering wheels, columns and steering boxes for motor vehicles) accounted for 15.2% of total exports, and the classic re-exports of goods, which did not undergo essential transformations (diesel, medicines, articles for transport or packaging of plastics and wood, cigarettes containing tobacco, tobacco for water pipe, whiskey, vodka, liqueurs, wine or grape distillates, sparkling wines, rum, gin, beer, perfumes, water toiletries, beauty products) - 7.4% (BNSRM, 2022).

In the structure of exports, since 2021, six sections of goods from the International Classification of International Trade (CSCI Rev.4) hold 90.8% of total exports, as follows: food and live animals (25.8%); transport machinery and equipment (20.2%); different manufactured articles (18.8%); inedible raw materials (11.6%); manufactured goods (7.7%); beverages and tobacco (6.7%) (BNSRM, 2022).

The pandemic crisis, as well as the economic sanctions applied to the Russian Federation as a result of the military invasion of Ukraine, have significantly altered the international economic relations with the corresponding implications, which will bring changes to the structure of foreign trade.

**Figure 1. Structure of exports by sections of goods in 2021, in%**



Source: Authors' representation based on BNSRM data, 2022

In 2021 compared to 2020, exports of cereals and cereal products increased (2.9 times), metal ores and metal wastes (3.2 times), machinery and electrical

appliances and parts of them (+ 10.0%), clothing and accessories (+ 14.6%), oil seeds and oleaginous fruits (+ 15.2%), road vehicles, mainly re-exports (2.1 times), medicinal and pharmaceutical products, mainly re-exports (1.5 times), yarns, fabrics, textiles and related products (+ 29.6%), alcoholic and non-alcoholic beverages (+ 10.3%), furniture and parts thereof (+ 12.8%), fixed, crude, refined or fractionated vegetable fats and oils (+ 17.1%), articles of non-metallic minerals (+ 33.4%), articles of metal (1.6 times), sugar, sugar products; honey (1.8 times), vegetables and fruits (+ 3.8%), iron and steel (8.7 times), wooden articles, excluding furniture (+ 32.0%), industrial machinery and apparatus with general applications; parts and spare parts of these machines (+ 25.1%), raw and processed tobacco (+ 48.0%), footwear, mainly re-exports (+ 11.2%), prefabricated constructions; other installations and accessories for sanitary, heating and lighting installations, mainly re-exports (+ 29.8%), pulp and waste paper (2.6 times), paper, paperboard and articles of pulp, of paper or paperboard (+ 28.8%), coffee, tea, cocoa, spices and their substitutes (+ 29.9%), travel goods; bags and similar, mainly re-exports (+ 20.6%), meat and meat products (+ 33.2%), tanning and coloring products (3.1 times), essential oils, resinoids and perfumed substances, toilet preparations, beauty products (+ 14.4%), oil, petroleum products and related products, mainly re-exports (+ 10.2%), influencing the increase in total exports by 27.5% (BNSRM, 2022).

At the same time, there was a decrease in exports of organic chemicals (-25.9%), live animals (-27.8%), tools and equipment, professional, scientific and control (-5.9%), food for animals (-4.0%), specialized machinery and apparatus for specific industries (-8.5%), mitigating the increase in total exports by 0.8% (Consiliul UE, 2022).

The analysis of the evolution of imports by countries in 2021 compared to 2020, reveals the increase of imports from the Russian Federation (1.7 times), Romania (+ 31.3%), China (+ 29.5%), Turkey (+ 40.1%), Ukraine (+ 26.5%), Italy (+ 28.2%), Germany (+ 20.9%), France (+ 40.6%), Poland (+ 20.5%), United States (1.6 times), Austria (1.6 times), Belarus (+ 27.7%), Spain (+ 28.6%), Hungary (+ 21.0%), Czech Republic (+ 19.6%), Netherlands (+ 28.7%), Greece (1.7 times), South Korea (+ 34.7%), United Kingdom of Great Britain and Northern Ireland (+29.2 %), Bulgaria (+ 23.1%), Argentina (4.1 times), Japan (+ 19.5%), Belgium (+ 25.7%), Slovakia (+ 28.4%), Vietnam (+ 16.8%), India (+ 17.6%), Portugal (+ 31.1%), Taiwan (+ 32.7%), Turkmenistan (4.2 times), Uzbekistan (1.7 times), Norway (+ 45.4%), Slovenia (+ 14.9%), Sweden (+ 17.5%), Thailand (+ 37.0%), Latvia (+ 27.0%), Finland (+ 26.3%), Denmark (+ 21.0%), Switzerland (+ 8.5%), Egypt (+ 40.4%), which influenced the increase in total imports by 32.8%.

At the same time, imports from Kazakhstan (-72.8%), Serbia (-13.3%) and Azerbaijan (-65.2%) decreased, thus mitigating the increase in total imports by 0.9%.

The total value of imports of the Republic of Moldova in 2021 amounted to \$ 7,176,590.69 thousand.

In the structure of imports, from 2021, six sections of goods from the Standard Classification of International Trade (CSCI Rev.4) represent 95.4% of total imports, as follows: transport machinery and equipment (25.4%); manufactured goods

(18.3%); mineral fuels (15.0%); chemicals (14.4%); miscellaneous manufactured articles (11.6%); food and live animals (10.7%).

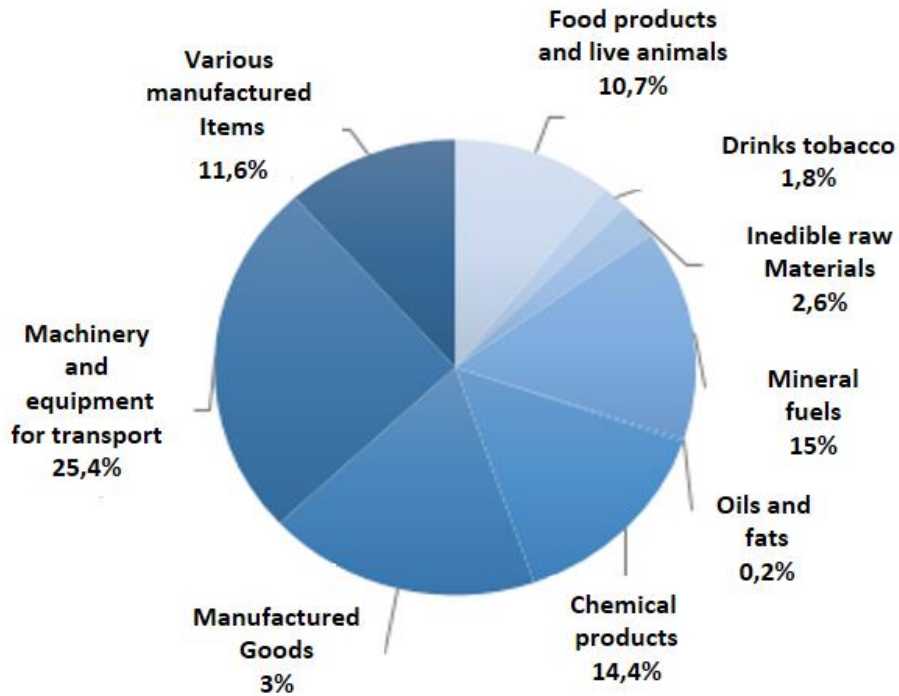
In 2021 compared to 2020, there was an increase in imports of oil, petroleum products and related products (1.7 times), gas and industrial products obtained from gas (2.2 times), road vehicles (by 1, 5 times), electrical machinery and apparatus and parts thereof (+ 26.1%), specialized machinery and apparatus for specific industries (+ 49.7%), medicinal and pharmaceutical products (+ 30.4%), clothing and accessories (+ 44.6%), yarns, fabrics, textiles and related products (+ 23.1%), industrial machines and appliances with general applications; parts and spare parts of such machines (+ 23.6%), iron and steel (+ 33.0%), processed articles of metal (+ 25.1%), processed plastics materials (+ 28.2%), tools and appliances, professional, scientific and control (+ 44.9%), essential oils, resinoids and perfumed substances, toilet preparations, beauty products (+ 23.3%), plastics in primary forms (1.5 times), articles of non-metallic minerals (+ 18.2%), articles of wood, exclusively furniture (+ 27.4%), alcoholic and non-alcoholic beverages (+ 43.7%), meat and products (of 1, 6 times), furniture and its parts (+ 37.8%), prefabricated constructions; other installations and accessories for sanitary, heating and lighting installations (+ 36.8%), paper, paperboard and articles of pulp, paper or paperboard (+ 21.7%), telecommunications apparatus and equipment, and for sound and image recording and reproduction (+ 11.4%), wood and cork (+ 44.5%), fish, crustaceans, molluscs (+ 27.5%), dairy products and poultry eggs (+20.7 %), office or automatic data-processing machines and apparatus (+ 25.0%), processed rubber (+ 25.7%), mineral or chemical fertilizers (+ 21.3%), oil seeds and oleaginous fruits (+ 38.3%), footwear (+ 30.2%), coffee, tea, cocoa, spices and their substitutes (+ 17.4%), animal feed (+ 25.9%), tanning and coloring products (+ 18.8%), non-ferrous metals (+ 12.3%), processed leather and fur (+ 14.5%), power generating machines and their equipment (+ 32.6%), cameras, equipment and supplies optics; watches and clocks (1.5 times), cereals and cereal-based preparations (+ 5.7%), vegetables and fruits (+ 2.4%), travel goods; bags and similar (+ 36.3%), machines and apparatus for metalworking (+ 20.1%), thus contributing to the increase in total imports by 30.7%.

At the same time, the imports of other transport equipment decreased (- 89.8%), attenuating the increase on total imports, by 0.9% (BNSRM, 2022).

The total value of Moldovan exports in 2021 amounted to \$ 3,144,446.16 thousand.

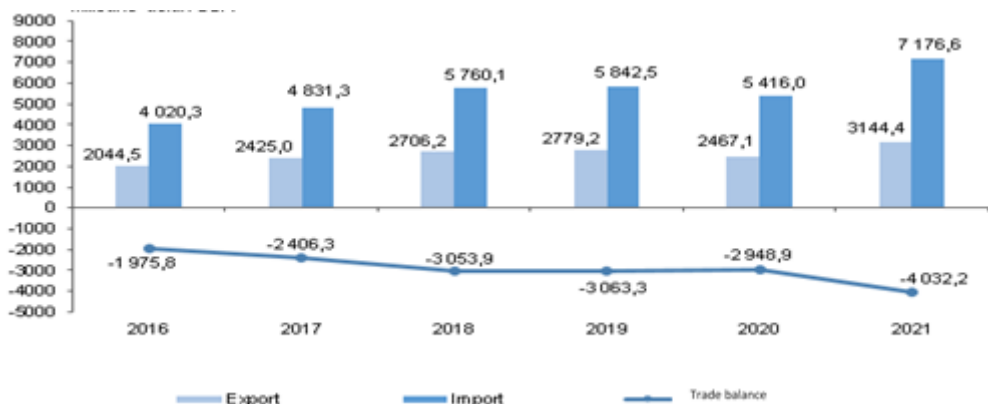
The considerable gap between exports and imports of goods led to the accumulation, in 2021, of a trade deficit of \$ 4,032.2 million or \$ 1,083.3 million (+ 36.7%) more compared to 2020 (BNSRM, 2022).

**Figure 2. Structure of imports by sections of goods in 2021, in %**



Source: Authors' representation based on BNSRM data

**Figure 3. Trends of international trade in goods of the Republic of Moldova, in the years 2016-2021 (million US dollars)**

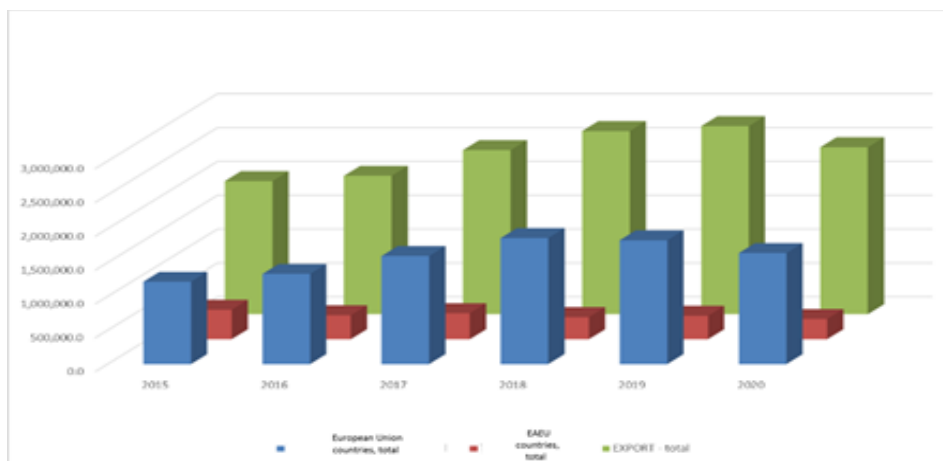


Source: Authors' representation based on BNSRM data

The coverage of imports y exports, in 2021, was 43.8%, decreasing by 1.8 percentage points compared to 2020.

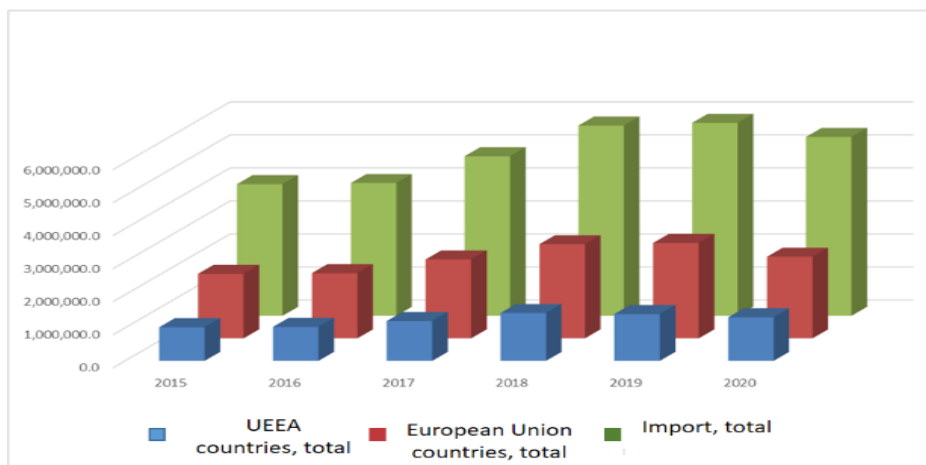
The Republic of Moldova registered the largest exports with Romania - \$ 706.67 million (in 2020), the record being set in 2018 - \$ 792.14 million. Likewise, the largest imports in 2020 were also made from Romania - \$ 631.93 million, the record being set in 2018 - \$ 841.19 million.

**Figure 4. Exports of the Republic of Moldova to the EU and the EAEU in the period 2015-2020** (in thousands of dollars)



Source: Authors' representation based on BNSRM data, 2021

**Figure 5. Imports of the Republic of Moldova from EU and EAEU states in the period 2015-2020** (in thousands of dollars)



Source: Authors' representation based on BNSRM data, 2021

## **2. Political cooperation between the Republic of Moldova and the European Union**

The Republic of Moldova and the European Union have fruitful cooperative relations which began in 1994 with the signing of the Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part. Entry into force on 1 July 1998, the PCA provided the appropriate legal framework for deepening relations, strengthening political association and cooperation between the Parties. The CPA entered into force in 1998 as a basic framework agreement aimed at establishing a political dialogue and developing relations between the Republic of Moldova and the EU in various fields, especially in the economic field (trade, investment, services, competition, different area of cooperation, etc.). Initially, the Agreement was for a period of 10 years, with the subsequent possibility of annual renewal.

On June 27, 2014, the Association Agreement (AA) of the Republic of Moldova with the European Union was signed in Brussels. The event was attended by heads of state and government from the 28 EU member states, who also signed the agreement.

The Parliament of the Republic of Moldova ratified the Association Agreement between the Republic of Moldova and the EU on July 2, 2014.

The European Parliament ratified the Association Agreement on 13 November 2014. On 26 November 2015, the Italian Senate voted to ratify the Association Agreement, with Italy being the last EU Member State to ratify the AA.

Pursuant to Article 456 of the Association Agreement, with effect from 1 July 2016, it repeals and replaces in its entirety the PCA between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, signed in Brussels on 28 November 1994, entered into force on 1 July 1998. References to the PCA, which appear in all other agreements between the parties to the Association Agreement, shall be considered as references to the Association Agreement.

Likewise, as of July 1, 2016, the Association Agreement replaces the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications for agricultural products and foodstuffs, signed on 26 June 2012 in Brussels, which entered into force on 1 April 2013.

The Moldova-EU Association Agreement establishes a new legal framework for advancing the relations between the Republic of Moldova and the EU towards a qualitatively higher level, that of political association and economic integration with the EU. Thus, the Association Agreement (AA) is based on an innovative and ambitious approach, including the creation of a Deep and Comprehensive Free Trade Area - DCFTA. This reduces the tariffs for European companies when exporting to Moldova and streamlines customs procedures.

AA contains compulsory provisions, regulatory rules and broader cooperation arrangements in all areas of interest. Increased attention is paid to the application of AA provisions, including by setting clear deadlines and establishing an appropriate institutional and administrative framework, thus creating the necessary conditions for effective implementation (MAEIE).

With reference to the territorial application of the Association Agreement, following Decision no. 1/2015 of 18 December 2015 of the Association Council of the Republic of Moldova-European Union, Title V (Trade and trade-related matters) of the Association Agreement, applies to the entire territory of the Republic of Moldova. According to the same Decision, Title VII (Institutional, general and final provisions) applies to the entire territory of the Republic of Moldova insofar as it is applied in connection with Title V (Trade and Trade-related Matters) of the Agreement (MAEIE).

In addition, the agreement further facilitates trade by gradually bringing Moldovan legislation, rules and procedures, including standards, closer to those of the EU. AA covers all important areas and provides for the transformation of the economy and trade, public administration, respect for the rights and freedoms of citizens, the fight against corruption, etc. in order to bring it closer to EU standards and norms.

AA contains compulsory provisions, regulatory rules and broader cooperation arrangements in all areas of interest. Increased attention is paid to the implementation and enforcement of AA provisions, including by setting clear deadlines and establishing an appropriate institutional and administrative framework, thus creating the necessary conditions for effective implementation.

On 30 September 2019, the EU and the Republic of Moldova organized the fifth meeting of the Association Council. The Council reviewed the progress made on the implementation of the EU-Moldova Association Agreement at the previous meeting, which took place on 3 May 2018.

The meeting discussed political association, including cooperation and convergence in the field of the common foreign and security policy (CFSP).

At the same time, the Association Council examined cooperation in the fields of justice, freedom and security. Topics covered included reform of the judiciary, visa, and the fight against corruption and money laundering.

In addition, the Association Council reviewed the progress made in the Deep and Comprehensive Free Trade Area. It has also focused on economic and sectoral cooperation, including in the field of energy (Consiliul UE, 2022).

On March 3, 2022, the Republic of Moldova submitted the application for EU membership that was adopted on 22 June 2022.



### 3. Economic cooperation between the Republic of Moldova and the European Union

EU states are Moldova's largest trading partners. The main trade goods between the EU and the Republic of Moldova include machinery and apparatus, vegetable products, textiles and textile articles, as well as base metals.

**Industrial products.** On the date of entry into force of the agreement, the EU abolished all tariffs on industrial products for the Republic of Moldova, while the Republic of Moldova began to eliminate tariffs on certain products during a transitional period of 3-5 years, such as: certain types of plastics and similar products, furniture, various textiles (eg carpets and clothing). The Republic of Moldova has completely abolished its tariffs for these products on September 1, 2019.

**Agricultural products.** The agreement also reduces tariffs on agricultural products.

Republic of Moldova has agreed to eliminate tariffs on most of its agricultural products after a transition period of up to ten years. This is relevant, for example, for: wines, some foods.

In addition, Republic of Moldova has committed itself to eliminating tariffs under specific tariff quotas for a number of sensitive products, such as: pork, poultry, dairy products, meat products, sugars.

Tariff quotas for EU exports of such products to Moldova are set out below:

**Table 1. Tariff quota of the Republic of Moldova (in tons)**

	2020	2021	2022
<b>1. Pork*</b>	4 500	5 000	5 500
<b>2. Poultry</b>	5 000	5 500	6 000
<b>3. Dairy products</b>	1 500	2 000	-
<b>4. Processed meat</b>	1 700	-	-
<b>5. Sugars*</b>	7 000	8 000	9 000
<b>6. Sweeteners</b>	640	-	-

\* Quotas for pork, poultry, dairy products and sugars have been revised in 2020

Source: European Commission - DG Trade, 2022

For its part, the EU has abolished tariffs on agricultural products from beginning, with the exception of specific sensitive products, for which it has also set tariff quotas. This means that, every year, only a limited quantity of sensitive products can be marketed without customs duties. The exact amounts are defined in the Annexes to the Association Agreement.

The tariff quotas granted to the exports of the Republic of Moldova of such products to the EU are presented as follows:

**Table 2. EU tariff quota (tonnes)\***

Tomato	<b>2 000</b>
Garlic	220
Table grapes	20 000
Apples	40 000
Fresh cherries	1 500 000
Plums	15 000
Grape juice	500

\* These quotas are managed on a first-come, first-served basis. The application period is from 1 January to 31 December.

Source: European Commission - DG Trade, 2022

If imports arriving in the EU exceed these tariff quotas, a customs duty will be applied in accordance with the most-favored-nation clause. Certain fruits and vegetables require payment of EU entry fees (eg. tomatoes). This means that extracharges may be added to the import duties on the goods if the import price is lower than the stipulated entry price.

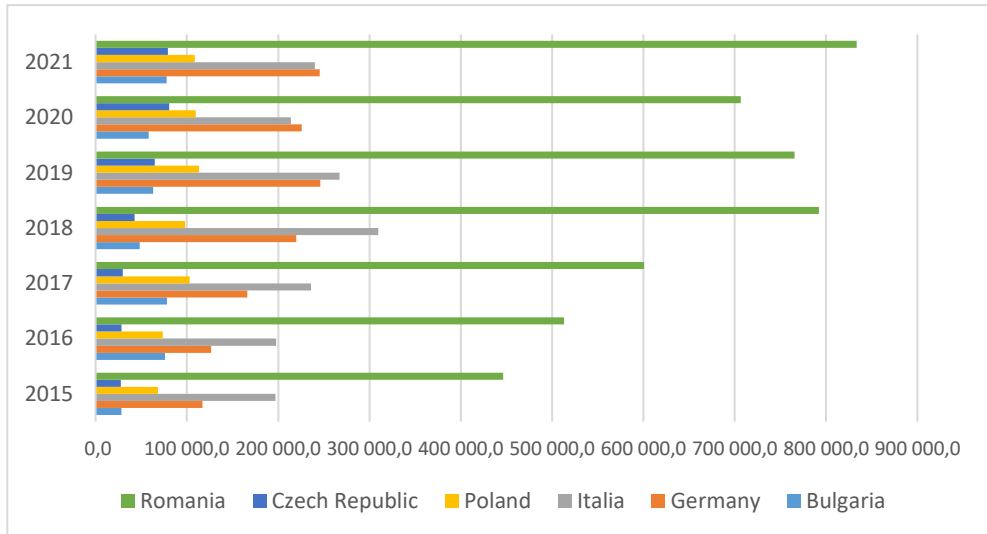
In addition, there is a list of agricultural products for which the EU can apply a „circumvention prevention mechanism”. This means that if Moldovan imports exceed a certain level, the EU can suspend lower tariffs on these products for a period of six months.

The agreement does not allow customs duties on exports. It also includes a so-called standstill clause. This clause means that neither the EU nor Moldova can increase customs duties or introduce new taxes on goods of the other party. The agreement also prohibits quantitative restrictions on imports and exports, with the exception of restrictions allowed under WTO rules (European Commission - DG Trade, 2022).

The main trading partners of the Republic of Moldova in the European Union are presented in the diagrams below.

The Republic of Moldova had the most important exports to the following EU states:

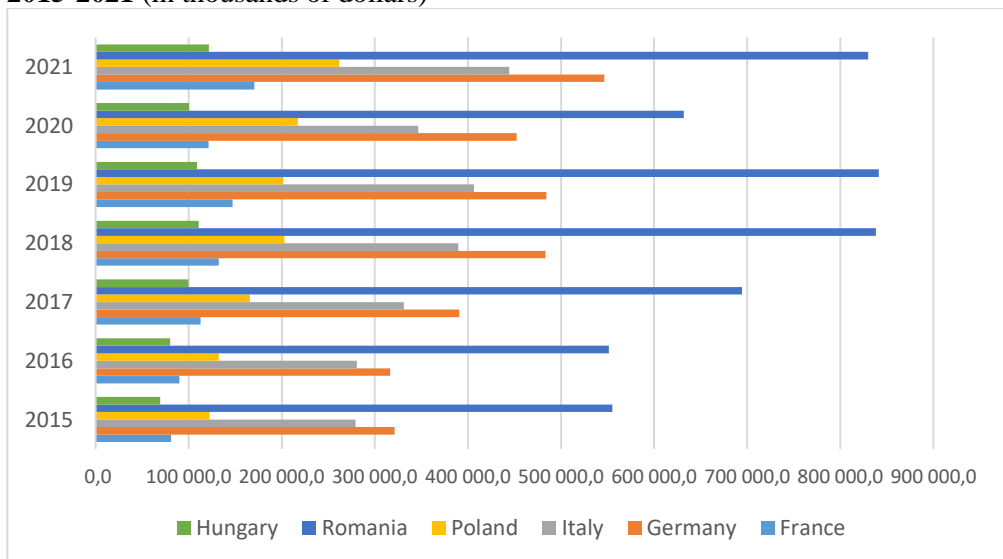
**Figure 6. Exports of the Republic of Moldova to EU states in the period 2015-2021 (in thousands of dollars)**



Source: Authors' representation based on BNSRM data 2022

Exports of goods to European Union countries (EU-27) in 2021 totaled \$ 1,919.4 million (17.0% more than in 2020), accounting for 61.1% of the total exports, down 5.4 percentage points from 2020 (BNSRM, 2022).

**Figure 7. Imports of the Republic of Moldova from EU countries in the period 2015-2021 (in thousands of dollars)**



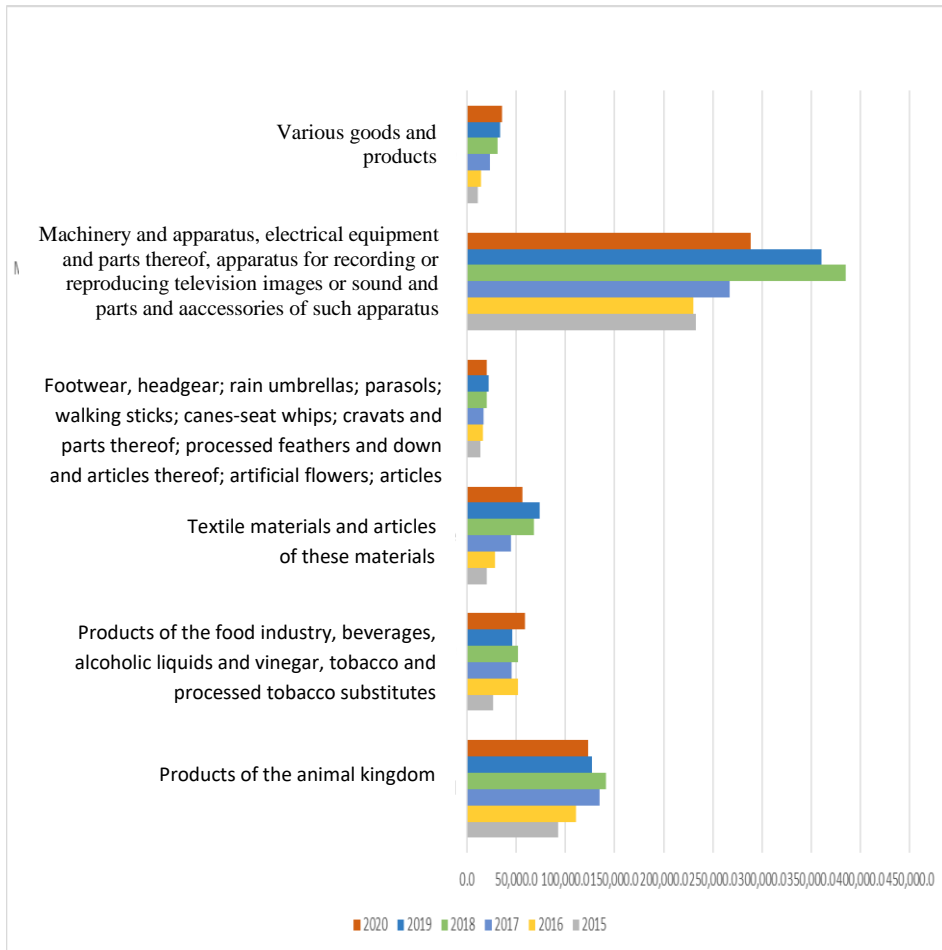
Source: Authors' representation based on BNSRM data, 2022

In 2021, the trade balance with the countries of the European Union (EU-27) ended with a deficit of \$ 1,229.7 million, and with the CIS countries - \$ 1,439.1 million, respectively with \$ 399.3 million (+ 48.1%) and \$ 498.3 million (1.5 times) more than the values recorded in 2020 (BNSRM, 2022).

With the countries of the European Union (EU-27) the degree of coverage of imports with exports in 2021 was 61.0%, decreasing by 5.4 percentage points compared to 2020.

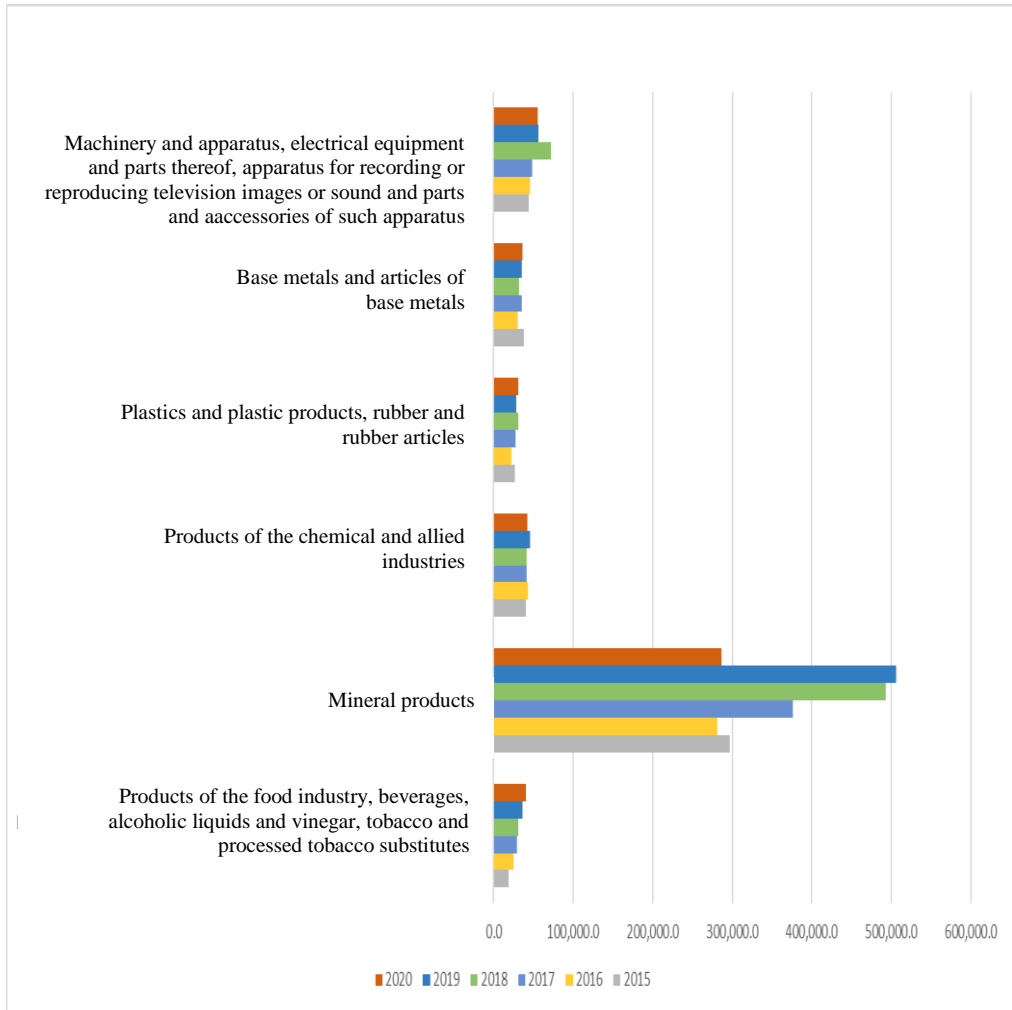
Given the fact that the trade relations between the Republic of Moldova and Romania are the biggest and have a special character, below we briefly present the structure of foreign trade between these two states.

**Figure 8. The main types of goods exported by the Republic of Moldova to Romania**



Source: Authors' representation based on BNSRM data, 2021

**Figure 9. The main types of goods imported by the Republic of Moldova from Romania**



Source: Authors' representation based on BNSRM data 2021

### 3. Political cooperation between the Republic of Moldova and the Eurasian Economic Union (EAEU).

During the first official visit to Russia on March 29, 1994, at the Moscow State University M. V. Lomonosov, the President of Kazakhstan N. A. Nazarbayev came for the first time with the idea of forming the EAEU on the basis of a single economic space and a common defense policy.

Following agreements on the establishment of the Customs Union within the EAEU, which entered into force in July 2010 at the EAEU Summit in December

2010, an agreement was reached on the creation of the Eurasian Economic Union on the basis of the Single Economic Area between Belarus, Kazakhstan and Russia.

The idea of creating the EAEU was set out in the Declaration on Eurasian Economic Integration adopted by the Presidents of Russia, Belarus and Kazakhstan on 18 November 2011. It sets out the goals of Eurasian economic integration for the future, including the task of creating the EAEU by 1 January 2015.

An agreement on the establishment of the Eurasian Economic Union was signed on 29 May 2014 in Astana, Kazakhstan. The document entered into force on 1 January 2015. On 2 January 2015, Armenia officially joined the EAEU, and in August 2015 the procedure for Kyrgyzstan's accession to the EAEU was completed.

The EAEU is an international regional economic integration organization with international legal personality and established by the EAEU Treaty and ensures the free movement of goods, services, capital and labor, as well as the conduct of a coordinated or unified policy in all sectors of the economy.

The EAEU was created with the aim of modernizing, cooperation and increasing the competitiveness of national economies and creating the conditions for sustainable development in order to improve the living standards of the population of the Member States.

On April 3, 2017, a Memorandum of Cooperation between the Republic of Moldova and the EAEU was signed in Chisinau, and on April 14, 2017, in Bishkek, during the meeting of the Supreme Eurasian Economic Council, the decision was adopted to grant the Republic of Moldova observer status at the EAEU. Since May 14, 2018, the Republic of Moldova has the status of an observer country, being the first country with this status within this union.

#### **4. Economic cooperation between the Republic of Moldova and the Eurasian Economic Union.**

The volume of foreign trade of the Republic of Moldova to the EAEU states in 2021 amounted to \$ 357 856.57 thousand, increasing compared to 2020 (\$ 296557.12 thousand).

The volume of foreign trade in goods of the Member States of the Eurasian Economic Union with non-EU countries in 2021 amounted to \$ 844.2 billion, including exports of goods - \$ 525.7 billion and imports - \$ 318.5 billion. Compared to 2020, the volume of foreign trade increased by 35.1%, or \$ 219.6 billion, to export - by 44.1% (\$ 160.9 billion) and to import - by 22.6% (\$ 58.7 billion). Foreign trade positive balance amounted to \$ 207.2 billion, compared to \$ 105 billion in 2020 (2, p. 1).

**Table 3. Volume of foreign trade in goods of EAEU Member States with non-UEEA countries for 2021** (million US dollars)

	Volume	Export	Import	Balance	in % to 2020		
					volume	export	import
<b>EAEU</b>	<b>844 175,7</b>	<b>525 648,9</b>	<b>318 526,8</b>	<b>207 122,1</b>	<b>135,1</b>	<b>144,1</b>	<b>122,6</b>
<b>inclusive:</b>							
<b>Armenia</b>	5 417,5	2 133,6	3 283,9	-1 150,3	115,5	116,8	114,8
<b>Belarusi</b>	40 364,2	22 430,8	17 933,4	4 497,4	128,9	147,8	111,2
<b>Kazakhstan</b>	75 421,7	52 690,7	22 731,0	29 959,7	114,1	125,8	93,8
<b>Kyrgyzstan</b>	3 801,0	855,7	2 945,3	-2 089,6	116,9	60,3	160,6
<b>Rusia</b>	719 171,3	447 538,1	271 633,2	175 904,9	138,5	147,0	126,5

Source: Eurasian commission, 2022a

The increase in the value of exports from EAEU Member States to non- EAEU countries in 2021 compared to 2020 (by 44.1%) was due to the increase in average prices for exported goods (by 46.3%) while the real quantity of supplies of goods decreased by 1.5% compared to 2020.

The value of import purchases increased by 22.6%, and their real quantity - by 13.9%, while average prices increased by 7.6%. The increase of the amount of goods determined 66% of the increase in the cost indicator, the average increase in prices being 34%.

Price conditions in trade with non- EAEU countries were characterized by a favourable price ratio for exported goods and goods purchased by import (price conditions index - 136%). External demand for goods from non- EAEU countries exceeded the total demand of Member States for goods produced in the EAEU (gross terms index - 86.4%).

The increase in the volume of exports from EAEU Member States to non-EAEU countries in 2021 compared to 2020 was conditioned by the increase in deliveries from Belarus (by 47.8%), Russia (by 47%), Kazakhstan (by 25.8%) and Armenia (with 16.8%). The increase in imports was due to an increase in imports of goods into Kyrgyzstan - by 60.6%, Russia - by 26.5%, Armenia - by 14.8% and Belarus - by 11.2%.

The increase in export in reciprocal trade was registered in all EU countries: in Kyrgyzstan - by 44.9%, Kazakhstan - by 34.9%, Russia - by 34.3%, Armenia - by 25.2%, Belarus - by 24.7% (EECa, 2022).

Compared to 2020, the positive balance of foreign trade of Russia to non-EAEU countries increased from \$ 89.7 to \$ 175.9 billion, Kazakhstan from \$ 17.6 to \$ 30 billion and into Belarus, the foreign trade deficit of \$ 952.5 million in 2020 has been replaced by a surplus of \$4,497.4 million in 2021. The negative balance of Armenia's foreign trade with non-EU countries has increased by at 1,034.3 to 1,150.3 million dollars and Kyrgyzstan - from 414.8 to 2,089.6 million dollars (2, pp. 1-2).

The main customer of goods exported by EAEU member states is the European Union - 42.2% (in 2020 - 37.6%). Towards the countries of the European Union, the most important deliveries of goods were oriented to the Netherlands -

9.3% (in 2020 - 7.9%), Germany - 6% (5.4%), Italy - 5.4 % (4.6%), Poland - 3.7% (3.1%). Following the economic sanctions applied to the Russian Federation after the military invasion of Ukraine, the next period will be characterized by a sharp decline in trade with the EU. 28.3% of all exported goods were delivered to APEC countries (in 2020 - 29.7%), of which: to China - 15.1% (16.4%), USA - 3.6% (3, 2%), South Korea - 3.6% (3.7%). CIS countries represent 5.8% of EAEU exports (in 2020 - 6.3%), of which to Ukraine - 2.7% (2.7%), Uzbekistan - 1.6% (2.0%). In 2021 compared to 2020, the most significant increased deliveries from the EAEU to Moldova (by 71%), Ukraine (by 42.6%) and Azerbaijan (by 31.4%).

The largest imports were from APEC countries - 47.5% (in 2020 - 45.8%) and the European Union - 33.8% (35.5%). Among the APEC countries, the largest volumes went to China - 27.4% (in 2020 - 25.5%), the USA - 6% (5.7%), South Korea - 4.4% (4, 7%) and Japan - 3.1% (3%). The largest imports to the EAEU are from the EU were from: Germany - 9.8% (in 2020 - 10.5%), Italy - 4.3% (4.6%) and France - 4.2% (3.6%).

CIS countries account for 3.8% of EAEU imports (3.8% in 2020). In 2021, compared to 2020, imports to the EAEU increased significantly from Tajikistan (3.1 times), Uzbekistan (39.1%) and Azerbaijan (35.6%).

The main share of exports from EAEU Member States belongs to intermediate goods (83.8%), the share of consumer goods and investment goods is 3.8% and 2.4% respectively (2).

**Table 4. Foreign and reciprocal trade of goods in the Eurasian Economic Union** (million US dollars), data at 15.03.2022

	2015	2016	2017	2018	2019	2020	2021	January 2022
<b>Export</b>								
<b>to countries outside the Union (foreign trade)</b>	373845,1	308264,8	386922,4	490722,0	460749,2	364810,4	525648,9	50770,2
<b>inclusive:</b>								
<b>Armenia</b>	1 227,7	1 397,8	1 666,7	1 724,0	1 879,4	1 827,1	2 133,6	178,3
<b>Belarusi</b>	15 653,9	12 154,9	15 592,3	19 979,3	18 391,1	15 175,9	22 430,8	1 980,7
<b>Kazakhstan</b>	40 835,5	32 806,8	43 240,7	55 064,4	51 659,4	41 868,9	52 690,7	5 492,3
<b>Kyrgyzstan</b>	1 072,7	1 126,0	1 222,8	1 196,2	1 344,4	1 418,7	855,7	46,4
<b>Rusia</b>	315 055,3	260 779,3	325 199,9	412 758,1	387 474,9	304 519,8	447 538,1	43 072,5
<b>between EAEU countries (reciprocal trade)</b>	45 615,7	42 960,3	54 711,6	60 261,5	61 634,0	55 053,9	72 611,3	5 002,6
<b>inclusive:</b>								
<b>Armenia</b>	256,2	393,9	571,0	688,5	769,2	709,9	888,8	70,7
<b>Belarusi</b>	11 007,8	11 384,8	13 651,0	13 932,2	14 569,7	14 009,0	17 464,0	1 298,5
<b>Kazakhstan</b>	5 120,3	3 930,2	5 262,5	6 046,8	6 406,2	5 671,9	7 648,9	592,4
<b>Kyrgyzstan</b>	410,2	447,1	541,5	640,6	641,7	554,5	803,2	71,0
<b>Rusia</b>	28 821,2	26 804,3	34 685,6	38 953,4	39 247,2	34 108,6	45 806,4	2 970,0



<b>Import</b>								
<b>from countries outside the Union (foreign trade)</b>	205 537,4	201 107,9	247 271,3	263 114,4	275 026,7	259 817,1	318 526,8	25 484,5
<b>inclusive:</b>								
<b>Armenia</b>	2 218,9	2 163,4	2 782,9	3 534,8	3 830,6	2 861,4	3 283,9	241,5
<b>Belarusi</b>	13 088,6	12 234,7	14 525,9	15 689,1	17 280,5	16 128,4	17 933,4	1 168,1
<b>Kazakhstan</b>	19 356,2	15 513,2	17 081,5	19 561,1	24 411,9	24 220,6	22 731,0	1 605,1
<b>Kyrgyzstan</b>	2 088,8	2 374,5	2 631,1	3 130,7	2 888,3	1 833,5	2 945,3	349,0
<b>Rusia</b>	168 784,9	168 822,1	210 249,9	221 198,7	226 615,4	214 773,2	271 633,2	22 120,8
<b>between EAEU countries (reciprocal trade)</b>	45 654,2	42 427,2	53 812,5	59 732,4	61 861,1	54 163,1	71 439,5	4 846,0
<b>inclusive:</b>								
<b>Armenia</b>	988,8	1 062,6	1 314,2	1 440,7	1 707,0	1 721,9	2 072,9	174,0
<b>Belarusi</b>	17 207,6	15 381,2	19 715,8	22 760,5	22 205,9	16 649,2	23 887,3	1 831,5
<b>Kazakhstan</b>	11 211,6	9 863,5	12 518,1	14 097,4	15 297,4	14 708,5	18 442,8	1 152,8
<b>Kyrgyzstan</b>	2 065,1	1 626,0	1 863,7	2 161,3	2 100,8	1 885,4	2 624,9	194,0
<b>Rusia</b>	14 181,1	14 493,9	18 400,7	19 272,5	20 550,0	19 198,1	24 411,6	1 493,7

Source: Eurasian commission<sup>1</sup>

At the state level, the EAEU's main trading partner is China with 19.7% of total foreign trade (exports of \$ 79.2 billion and imports of \$ 87.3 billion).

Although the Customs Union included countries that not long ago constituted a single state with a common economy, today the economic situation for each of them is different.

During the USSR, each country was specialized in the production of a particular product / service. After the collapse of the Soviet Union, the economies of all countries underwent huge changes: each state began to seek its own niche on the world market.

Countries that are geographically far from each other have entered the current Union. The structure of their economy is different, common interests are almost absent. But there are also problems affecting all countries. These states need Russia's market, and Russia needs goods provided by other participating countries (Visasam, 2022).

According to experts, the trade policy of the EAEU states reproduces, almost entirely, the trade policy of the Russian Federation, which is also the main beneficiary. This can be seen in the rates of customs duties being distributed as follows: Russia - 85.3%; Kazakhstan - 7.1%; Belarus - 4.59%; Kyrgyzstan - 1.9% and Armenia - 1.11%.

<sup>1</sup> Внешняя и взаимная торговля товарами Евразийского экономического союза / [External and mutual trade of goods in the Eurasian Economic Union] (retrieved from [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/tradestat/time\\_series/Pages/default.aspx](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/tradestat/time_series/Pages/default.aspx)).

In addition to that, Russia, Kazakhstan and Belarus have the most advantages in terms of customs duties. This is due to existing agreements, which made it possible to sell cars produced in the Union without paying taxes (Visasam, 2022).

Over the last six years, the EAEU has significantly strengthened its position in the international arena. Many states, regional integration associations and international organizations are particularly interested in the Union.

The EAEU Commission is actively working to form an institutional basis for the development of large-scale cooperation with foreign partners.

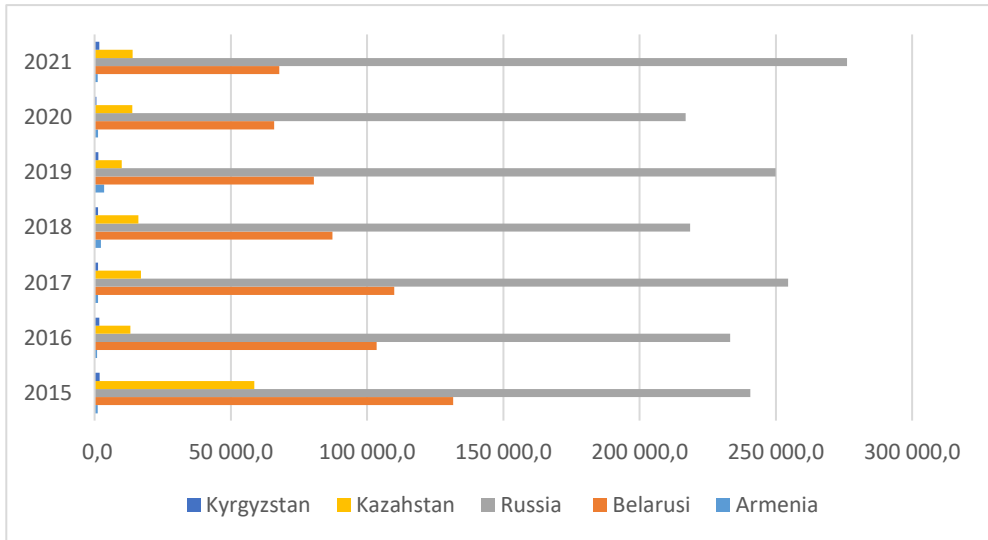
The international activity of the EAEU allows solving an important strategic task for the development of Eurasian integration by forming the Union as one of the development centres of the modern world, which is reflected in the Declaration on the further development of EAEU integration processes and the 2025 Strategy. The strategy consists of conceptual positions, and about 330 regulations and mechanisms grouped into 11 system blocks. Their implementation will contribute to the additional achievement of direct and indirect economic benefits as well as multiple benefits for participants in the integration process (EECb, 2020).

The weaknesses of the EAEU states, which are reflected in the low positions of countries in international ratings are: the development of the financial market, the quality and efficiency of public administration, personal freedoms and public health (Prosperity Index) (EECb, 2020 p. 5).

Republic of Moldova's trade with the EAEU is notable for the fact that the main exports to the EAEU states in 2020 the Republic of Moldova had with the Russian Federation - \$ 216.83 million, the record being recorded in 2012 - \$ 655.13 million. Figure 10 shows the export of Moldova to the EAEU states for the period 2015-2020. Figure 10 shows the evolution of R. of Moldova's exports to the EAEU states.

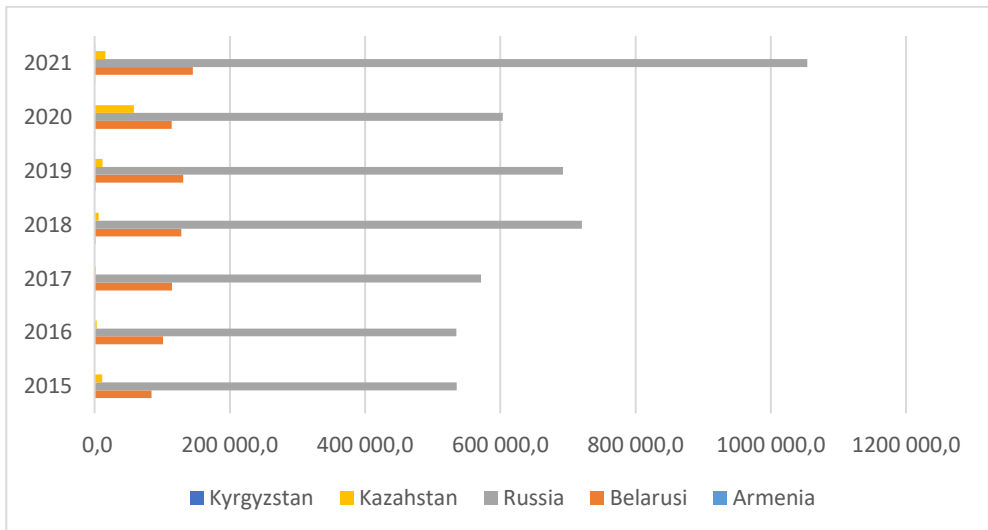
At the EAEU countries, the Republic of Moldova registered the largest imports with the Russian Federation - \$ 603.5 million (in 2020), the highest being recorded in 2011 - \$ 822.96 million, for comparison, in the same year, the Republic of Moldova imported goods from Romania worth \$ 631.93 million, being surpassed only by imports from China - \$ 645.83 million, this being the record in the history of trade relations with this country. Figure 11 shows the import of Moldova to the EAEU states for the period 2015-2020.

**Figure 10. Exports of the Republic of Moldova to the EAEU states in the period 2015-2021 (thousand dollars)**



Source: Authors' representation based on BNSRM data, 2022

**Figure 11. Imports of the Republic of Moldova from EAEU countries in the period 2015-2021 (thousand dollars)**



Source: Authors' representation based on BNSRM data, 2022

The economic relations of the Republic of Moldova with Ukraine are characterized by a large fluctuation in terms of value. In recent years (2018-2020) exports have decreased from \$ 80.28 million to \$ 69.48 million, the record being obtained in 2007 and amounted to \$ 167.86 million. Imports of the Republic of Moldova of goods from Ukraine in the same period (2018-2020) were characterized by a continuous decrease from \$ 577.09 million to \$ 527.42 million, the maximum values being obtained in 2008 - 838.98 million dollars (BNSRM, 2021).

The EU as an economic space has proven over time that it is a serious and predictable partner in contrast to the Eurasian space characterized by multiple economic crises and political instability. These contributed to the strengthening of commercial relations between the Republic of Moldova and the European Union, that contributes to the upward development of the national economy.

## Conclusions

The war started by the Russian Federation in Ukraine will make it difficult, and in some places practically impossible, to transit Moldovan goods in order to trade them on the market of the EAEU states for a long period of time, according to experts. However, despite the positive evolution of economic and political relations between the Republic of Moldova and the EU, we believe that the traditional economic relations with the eastern states established and existing for many decades should not be neglected. We consider that in the foreign trade of the Republic of Moldova both with the EU and with the EAEU should increase the share of products with higher added value, and this would be possible by creating a favorable investment climate, attracting investments and more actively promoting Moldovan products on both markets.

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# THE IMPACT OF ECONOMIC DIPLOMACY ON FOREIGN TRADE. EMPIRICAL EVIDENCE FOR THE EUROPEAN COUNTRIES

Cătălina BRATOSIN-VASILACHE\*, Liviu-George MAHA\*\*

## Abstract

*Lately, economic diplomacy has been gaining attention in the empirical studies, many of them focusing on the contribution of the diplomatic service and emphasizing the relevance of diplomatic relations in boosting trade. Thus, quantitative research design, mostly based on the gravity model of international trade, is being applied in analyzing the impact of economic diplomacy on international trade or foreign direct investments. This paper aims to present a comprehensive perspective of the empirical studies that consider economic diplomacy as one of the determinants of foreign trade in the European countries. The findings of this paper suggest that economic diplomacy, through activities carried by diplomatic representations abroad, such as embassies, consulates and export promotion agencies, has a positive impact on foreign trade.*

**Keywords:** economic diplomacy, foreign trade, exports, gravity model, economic growth

## Introduction

After the end of the Cold War, Samuel Huntington stated that in a world where a military confrontation between the great powers is unlikely, economic power will play a key role in determining the supremacy or subordination of states (Huntington, 1993). The changes that have taken place in the global economic structure, influenced by technological developments, have had an undeniable impact on the understanding of international policies, power and diplomacy (Strange, 1992). D. Lee and B. Hocking claim that global economic evolutions have allowed focusing the attention on analyzing matters of economic, social and political interdependency, as well as issues regarding the interconnection of state and non-state actors in the international system (Lee and Hocking, 2010).

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Traditionally, the main objectives of diplomacy have focused on political cooperation and maintaining security and peace. However, the recent transformations of the global society, including the economic aspects, have led to an increase of the importance of international economic relations in diplomacy and have also created the premises for new forms of diplomacy, such as economic diplomacy. At the same time, governments have realized the importance of using the instruments and methods of diplomacy, and especially economic diplomacy, to enhance the economic growth and development of their states.

Defining economic diplomacy is a complex process, because it is not limited only to fulfilling economic or trade objectives, but it also involves accomplishing major national interest objectives, of political, strategic and economic nature, with states establishing strategies in the field of economic diplomacy in order to ensure economic well-being and security. Economic diplomacy is a part and a means of foreign policy which concentrates on using political and economic instruments in the decision-making process (Veenstra *et al.*, 2010). Berridge and James also consider economic diplomacy as an instrument for implementing foreign policy, which serves to fulfill economic objectives (Berridge and James, 2003). Thus, the role of economic diplomacy can be divided into two levels of implementation: macroeconomic and microeconomic. At the microeconomic level, economic diplomacy implies supporting particular companies, following individual actions of economic agents, while at the macroeconomic level it consists of actions targeting the development and protection of national interests in resolving problems regarding the integration of the national economy in the world economy, focusing on the interaction between national economic systems (Șerban, 2010).

The purpose of this study is to present the current understanding of economic diplomacy's impact on foreign trade. The motivation in choosing this topic is represented by the actuality of the subject in the European context, economic diplomacy being one of the main components of the European states and non-state actors' foreign policy. Accordingly, the study will pursue the following objectives: presenting conceptual delimitations on economic diplomacy, presenting the objectives of European states' economic diplomacy and exhibiting the empirical studies following the impact of economic diplomacy on foreign trade.

## **1. The concept of economic diplomacy**

The increase of the importance of foreign trade has had a major influence on diplomacy, leading to a series of changes in the development of diplomatic practices and in the specialization of diplomacy. The diplomatic doctrine has always treated the connection between diplomacy and trade with the utmost importance, considering that the Venetian diplomatic service, one of the first diplomatic services in the world, focused mainly on commercial issues (Nicolson, 1942).

Traditionally, the economic diplomacy concept focused only on commercial actions, regularly conducted by consuls, as representatives of their states, bearing in mind that initial economic diplomacy had a commercial focus. Nonetheless,

following the end of the Cold War, countries started developing a new type of international cooperation, centered on supporting the world's general progress, helping to eliminate poverty and raising the global wellbeing, causing commercial diplomacy to evolve and encapsulate elements such as trade policy, trade diplomacy, economic security, business diplomacy, thus setting up economic diplomacy. Even if the term economic diplomacy is frequently used interchangeably with the term commercial diplomacy, most of the studies consider commercial diplomacy to be a subset of economic diplomacy (Visser, 2017).

The concept of economic diplomacy has a noticeable interdisciplinary character, comprising of elements typically used in domains such as economics, business studies, international relations, economic policy or public diplomacy. A study on economic diplomacy stated that this type of diplomacy has evolved constantly, creating stronger ties over the years among international actors, in accordance with human development (Vlădoiu, 2017).

Literature has yet to identify such a unanimously accepted definition of the concept of economic diplomacy, for it has different meanings taking into consideration factors such as: objectives - economic diplomacy was defined as the activity aimed at promoting trade, promoting investment, attracting technology and support for development (Rana, 2000), the pursuit of economic security within an anarchic international system (Lee and Hocking, 2010), business promotion and facilitation activities conducted by diplomatic actors (Ruel and Visser, 2012), government service to business community aiming the development of the socially beneficial international ventures (Kostecki and Naray, 2007); interests promoted - the use of political influence by states, in order to achieve economic interests in international markets; parties involved - the activity undertaken by the representatives of the ministries responsible for relations with multilateral bodies in the field of economy and international trade (Perez-Castejon, 2013).

At the same time, literature consists of opinions stating that, on the one hand, economic diplomacy is considered to be part of a state's decision-making process (example: commercial bilateral and multilateral negotiations) without including investments and foreign trade promotion (Woolcock and Bayne, 2013), and on the other hand, according to experts in international economic policy, the term can also be attributed to promoting activities (Bergeijk and Moons, 2017).

In addition, Woolcock and Bayne (2013) considered that in the field of economic diplomacy governments try to reunite three types of tensions: those between politics and economics, between international and domestic pressures, and those between government and other actors, presenting it as a form of diplomacy that involved the use of all economic instruments for protecting national interests. When referring to its actors, Ruffini defines economic diplomacy as the connection between the actors involved in commercial activities or foreign investments and diplomats, the latter acting as representatives of their states on the international stage and responsible for implementing their countries' foreign policies (Ruffini, 2016).

Another key element in economic diplomacy studies is its multilateral approach. In 2020, for example, Chatterjee drew attention to the differences between



bilateral and multilateral economic diplomacy. According to him, the main objective of economic diplomacy on a national, bilateral level, is to settle agreements that strengthen foreign policy relations and benefit both states involved, while at an international, multilateral level, economic diplomacy should aim at developing regulations of general interest, whether in the form of conventions, resolutions or declarations. The tactics and strategies within the two types of diplomacy are different. While bilateral economic diplomacy aims to protect the national economic interest by identifying common benefits, multilateral economic diplomacy aims to obtain benefits for the entire existing community.

Although economic diplomacy has been an instrument of foreign relations before the appearance of state institutions responsible for foreign policy and diplomacy, it can be seen in the scientific literature that, at the academic level, economic diplomacy has recently begun to display interest in the study of international relations (Okano-Hejimens, 2011). There are few research studies concerning economic diplomacy and whether it is effective, literature consisting mostly of frameworks related to exports promotion (Visser, 2017).

At the European level, research studies on economic diplomacy are reduced, from a quantitative point of view, and the few existing ones are mainly theoretical. According to the authors I. Peternel and M. Gress empirical studies at European level lack a comprehensive approach in assessing the performance of economic diplomacy. The two authors consider that the existing gaps in the scientific literature on economic diplomacy are partly due to the fact that this type of diplomacy is a new phenomenon, even for the European states (Peternel and Gress, 2020).

However, in the scientific literature there is a steady increase in interest regarding economic diplomacy. P. Sousa considers that this increase is determined by factors such as: the growing importance of economy in foreign affairs, the globalization process, the gradual elimination of borders and the permanent development of international relations (Sousa, 2019). The theory is also confirmed by S. Scholvin and M. Wigell, who added that the diminishing possibilities of initiating direct military confrontations between the great powers have opened new horizons for international cooperation (Scholvin and Wigell, 2019).

According to L. Yueh, diplomacy will face a new series of challenges, given the global economic evolutions, the rigidities between USA and China, adverse reactions to globalization, so using the means of economic diplomacy, states should focus on finding a balance between commercial openness and strategic objectives of foreign policy (Yueh, 2020). Nonetheless, the Covid-19 pandemic represents an example of the variety and unpredictability of the problems certain states could face and which requires a mobilization of diplomatic resources and coordination of all their efforts, including in the fields of science and politics (Chohan, 2021). Another example which is difficult to anticipate and also represents a new challenge for economic diplomacy, is given by the current Russian Federation – Ukraine situation, economic sanctions against the Russian Federation bearing effects upon other European countries and determining a rise of the importance of economic diplomacy in foreign policy and in bilateral and multilateral relations.

## 2. Economic diplomacy at the European level

After the fall of the USSR, companies from Western states entered Eastern markets and new diplomatic ties were born, while the older relationships were renewed. At the same time, countries invested in building new diplomatic relationships, but there were a few considerable differences, caused by the level of investment, since some governments chose to invest more than the others. France, for example, was one the active countries, opening 15 new embassies in Eastern Europe in less than 10 years, while some countries chose to open only small diplomatic representations, like consulates (Afman and Maurel, 2007).

One of the characteristics of the current era is the intensity of multidimensional relations between states and individuals globally, which creates many trade opportunities in emerging markets, and this economic potential is one of the reasons for the growing interest in economic diplomacy among researchers and decision makers (Bergeijk and Yakop, 2009). This theory is also supported by S. Woolcock and N. Bayne, the two authors considering that the increasing importance of economic diplomacy is determined by the rising relevance of international economic relations, in detriment to political and security relations, while globalization has reduced the capacity of states or groups of interests in modeling results individually (Woolcock and Bayne, 2013). Currently, states are trying to find efficient and innovative solutions to support their national business environment, promoting their products more and more intensely in foreign markets and investing in human capital, thus obtaining a new model of business environment, based on knowledge and information (Vlădoiu, 2017).

When considering the case of European states, there is a difference in both the way in which the concept of economic diplomacy is implemented and the objectives that each state seeks to achieve. Even if the main goals of economic diplomacy are aimed at increasing exports and attracting foreign investments, in the case of some European countries, there are certain peculiarities specific to each state.

Therefore, in Spain for example, according to the Ministry of Foreign Affairs<sup>1</sup>, economic diplomacy is implemented in collaboration with the Spanish government and its main purposes are to defend and promote Spain's economic interests overseas and to provide support for the internationalization of its economy and businesses. Its main objectives are to promote an open economy with the aim of increasing exports, foreign investments, tourism and facilitating better access to financing. Economic diplomacy is one of Spain's main tools of foreign policy and represents a political objective in order to protect Spain's economic interests and its companies abroad. Portugal's economic diplomacy strategy focuses, on the one hand on promoting trade and foreign investment, and on the other hand on identifying opportunities of foreign investment in Portugal, assisting Portuguese companies in the internalization process. The Ministry of Foreign Affairs of Portugal plays a key role in the

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<sup>1</sup> Ministry of Foreign Affairs of Spain, 2022 (retrieved from <https://www.exteriores.gob.es/en/PoliticaExterior/Paginas/DiplomaciaEconomica.aspx>).

Portuguese export promotion efforts (Pacheco and Matos, 2021). The Croatian government established the following main purposes of economic diplomacy: assisting Croatian exports, protecting the interests of Croatian entrepreneurs in foreign countries and attracting foreign investments, Ministry of Foreign and European Affairs being the leading actor of the Croatian economic diplomacy (Peternel and Gress, 2020). Ukraine has a relatively young institutional mechanism for economic diplomacy (Raneta and Kunychka, 2015), with the following tasks: to promote exports, to attract foreign investments, to develop and promote Ukrainian tourism, Ukraine's representations abroad being considered "the ambassadors of Ukrainian businesses abroad". The United Kingdom concentrated its efforts on attracting foreign direct investments, scientific and technological skills and underlining the role of public relations in the field of business support.

At the same time, in Germany, even if the government does not explicitly use the concept of economic diplomacy and instead uses the term of external economic policy, the aims are to help companies in accessing international markets and improving business conditions.

For the French Ministry for Europe and Foreign Affairs (2022), economic diplomacy represents a political priority, and besides supporting exports and attracting foreign investments, it has a series of objectives aimed at shaping the international regulatory framework in accordance with France's economic interests and to promote French businesses. In the meantime, the Ministry of Foreign Affairs of the Netherlands<sup>2</sup> established the following goals of its economic diplomacy: promoting international trade, strengthening the economic law at an international level, concentrating on societal responsibilities, promoting policies that strengthen the competitiveness of the national and EU market, promoting international business while supporting the national businesses. Dutch economic diplomacy includes business support offices, embassies, consulates and foreign bilateral Chambers of Commerce, that offer stimulating activities and individual guidance for companies that want to enhance trading with the host countries (Creusen and Lejour, 2011). According to the current government program, in Romania, the objectives of economic diplomacy are to attract foreign investments and identify investment opportunities for Romanian companies, as well as to stimulate trade. Also, one of Romania's economic diplomacy's fundamental purposes is consolidating Romania's profile as a pillar of political and economic stability in the region and a preferred destination for investments.

The effects of economic diplomacy on foreign trade, as well as the effectiveness of economic diplomacy, are conditioned both by the objectives pursued by each European government and by a number of factors, such as effective cooperation among governmental and non-governmental institutions, quality of work by supporting institutions responsible for promoting exports and foreign direct

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<sup>2</sup> Ministry of Foreign Affairs of Netherlands, 2022 (retrieved from <https://www.government.nl/ministries/ministry-of-foreign-affairs>).

investment, and finally the quality and structure of the networks of representations abroad, which serve as provision points for entrepreneurs (Vlădoiu, 2017).

Moreover, the way economic diplomacy offices are organized can differ, but typically economic offices operate from within the diplomatic mission. The effectiveness depends on the responsibilities of the diplomat, because an economic diplomat might have other tasks besides the economic ones, for example, political duties. Another relevant element is the way economic diplomacy is being implemented. For instance, usually, the commercial services offered by the embassies are free of charge, but recently this approach started to be questioned and some commercial diplomatic systems started charging for their services. The commercial diplomatic representations of Ireland, Switzerland and France for example, charge for a range of commercial diplomatic services, while other countries offer the same services at no extra cost (Kostecki and Naray, 2007).

### **3. Empirical evidence for the European countries**

The first research studies on the impact economic diplomacy holds on foreign trade and foreign direct investments were conducted in the 1980s. According to authors such as Moons and van Bergeijk, early studies on economic diplomacy (Pollins, 1989; Bergeijk, 1992) consisted of cross-sectional analyses of the bilateral relation from a political perspective and focused on diplomatic cooperation between countries. In comparison to recent research studies regarding economic diplomacy, past studies presented a series of shortcomings, caused by the lack of data and limited by the technology available at the time.

At the same time, emerging studies on economic diplomacy often analyzed both the positive and the negative character of diplomatic interactions, such as the suspension or closure of certain diplomatic missions, applying sanctions.

Studies conducted between 1980 and 2000 have confirmed the existence of a positive relationship between foreign trade, investment and interstate cooperation. Although after the dissolution of the Soviet Block there was a decrease in the academic interest towards economic diplomacy, after 2005 this subject returned among scientific research and started gaining attention among empirical studies (Moons and Bergeijk, 2017). Thus, in the last two decades, authors of empirical studies have been focusing on the contribution of the diplomatic service and have emphasized the relevance of diplomatic relations in boosting trade.

Recent literature tends to focus in particular on positive elements, such as the current network of representations, agencies, official visits and not on the effects caused by the closure or suspension of their activity. The results are varied and distinct, depending on the states under examination, the nature of the activities specific to the economic diplomacy under analysis, and the time frame.

Diplomatic representations are listed in the scientific literature as tools of economic diplomacy, and in recent years there has been an increasing interest regarding their role in boosting foreign trade, generally identifying positive correlations between these entities and trade. Currently, in order to identify the

causal link between diplomatic missions and foreign trade, the studies focus mainly on the role of embassies, consulates, external offices / export promotion agencies, as well as official visits, trade missions or members of the delegations.

Bergeijk has identified 3 types of methodologies used for the quantitative study of economic diplomacy: the gravitational model – used for analyzing the effects at a macroeconomic level, case studies on certain companies (microeconomic level) and meta-analysis of scientific articles. Despite the small number of empirical studies on the impact of economic diplomacy on macroeconomic performance, the scientific literature includes authors such as Andrew Rose, Selwyn Moons and Peter A. G. van Bergeijk.

Most quantitative research analyzing economic diplomacy and its effects on foreign trade apply the gravity model, this often being used in quantifying the impact of commercial and/or economic diplomacy on international trade. Inspired by Newton's law of gravitation, the classic gravity model is based on the theory of J. Tingerben that trade between two countries is directly proportional to the economic dimension (population, gross domestic products/ GDP) and inversely proportional to the distance between them. Tingerben also considered political factors, like the colonial ties, and he concluded that political factors are a relevant element in international trade.

Thus, the classic gravity model used in the international trade analysis can be extended with additional variables of cultural (using the same language), political (colonial relationships between countries) or geographical nature (common border). In addition to this, economic diplomacy is viewed as a relevant variable of the gravity model, due to its importance in reducing barriers and facilitating international trade and foreign direct investments. At the same time, although in recent years the impact that distance between countries holds on trade has diminished (Ghemawat, 2001), distance remains a relevant factor in international trade.

Andrew Rose has initiated and stimulated research on economic diplomacy using the conventional bilateral gravity model of trade in order to analyze the impact of the foreign service on exports. Rose (2005) tries to find an answer to the question regarding the presence of foreign representations being systematically linked to a country's level of exports, using the number of embassies, consulates, and official foreign missions that the exporter has in the importer country as a variable of economic diplomacy. The author estimates the effects that foreign services have on exports, also allowing other determinants of trade, using other variables of the foreign trade, such as distance between countries, population, gross domestic product per capita, and whether the countries share a land border. In his paper, the coefficients were estimated through five different approaches: ordinary least squares (OLS), adding exporter fixed effects, then importer fixed effects, and then exporter and importer fixed effects, likewise explaining reverse causation between the exports and the diplomatic representation, using a series of instrumental variables. The instrumental variables used for the potential reverse causality were the proven oil reserves, the number of Zagat's guides, the number of Conde Nast destinations, the number of Lonely Planet guides and the number of Economist city guides. On this

matter, the conclusion was that accounting for reverse causality doesn't change the results of his research.

The final conclusions of Rose's research stated that the presence of a foreign diplomatic mission is positively correlated with exports, and that opening a new consulate can lead to an increase by 6-10% in foreign trade. The results are statistically significant, plausible from an economic point of view, varying depending on the exporter and appear to be nonlinear – the first foreign mission, usually the embassy, having a greater impact than the subsequent ones, like an additional consulate, for example. Rose's study covers 22 countries, 12 of which are European.

Following Rose's study, different variations of the conventional gravity model of trade have been used to quantify the impact of economic diplomacy. These studies analyze either groups of states, similar to the model Rose used, or countries individually, in one single research. With regard to economic diplomacy indicators, studies have focused predominantly on the role of embassies, consulates, foreign offices or export promotion agencies, along with the official and state visits, commercial missions or visits by members of the representative offices, in an attempt to identify a causal link between diplomatic missions and foreign trade.

In addition to the number of embassies and consulates (as per Rose's model), empirical studies on economic diplomacy have identified variables such as export promotion agencies. In order to stimulate trade, export promotion agencies have been set up in several countries, with the objective of providing support for facilitating exports, providing information on the represented state or trade regulations of the host state.

According to Lederman *et al.*, export promotion agencies have an important role in providing exporters knowledge about the products demanded in different export markets and in helping the potential exporter in finding the perfect markets for their goods (Lederman *et al.*, 2006).

In most empirical studies that analyze the impact of economic representations on exports, the issue of reverse causality, or endogeneity, is also addressed. The cause of this matter lies in the fact that taking the decision to open a foreign diplomatic representation might be related to the economic relationship between the two countries and to the existing volume of exports. In order to address this matter, the authors measured the geo-political importance of a country or the desirability of living in the states that are being investigated.

Research studies focusing on the impact of regional agencies of a particular country emphasize that they contribute to the increase of exports. Gil *et al.* (2007), using the gravity model, study the effects of regional promotion agencies on exports (in Euros), using data covering exports from 17 Spanish regions to 188 commercial partners between 1995-2003. The Spanish regional governments have an extensive network of offices around the world, in order to provide support for companies that intend to trade and invest in foreign markets. As an indicator of the economic diplomacy, the authors use the number of Spanish embassies and consulates along with the number of export promotion agencies of different Spanish regions

(Andalusia, Aragon, Basque Country, Catalonia, Murcia, Valencia) in partner states, in order to evaluate the influence of diplomatic missions in trade with 188 commercial partners. The authors also use other variables specific to foreign trade, such as gross domestic product/ GDP, the distance between the Spanish region and the commercial partner, EU membership or European Free Trade Agreement, the existence of a common border, if the region or commercial partner is island-based or has a sea front. The conclusions state that regional agencies contribute to an increase in exports (even after considering potential issues regarding endogeneity) and that the impact is greater than the one that embassies and consulates have on exports. The authors also conduct a disaggregated analysis, revealing that the effect is not uniformly distributed across the Spanish regions that were analyzed in their research study.

A similar study on Portugal states that the impact of commercial promotion offices is superior to the one by embassies and consulates and that there is a positive connection between the presence of foreign offices and exports (Fernandes and Forte, 2022). On the other hand, the study of Pacheco and Matos regarding Portugal's exports emphasizes that economic diplomacy has an impact in countries with low and medium incomes, that usually present formal and informal barriers to exports.

Thus, opening a diplomatic mission in developing countries can have a more beneficial influence compared to developed countries. This opinion is held by Yakop and van Bergeijk (2009) and, according to them, when analyzing OECD member states, diplomatic representations are not a relevant factor in stimulating foreign trade.

In order to analyze the role of permanent foreign diplomatic representations in post-transition trade patterns, Afman and Maurel (2007) conducted a study regarding the effect of diplomatic representations for the states located in Central and Eastern Europe. The results stated that the foreign missions, such as embassies and consulates, contribute to enhancing the trade volume, and opening a new embassy in an emerging market in Eastern Europe is equivalent to an ad valorem tariff reduction of 2-12%. They perform a panel data analysis concerning the recently opened diplomatic representations in Eastern Europe since the fall of the USSR.

There are also studies focusing on the effects that bilateral diplomatic activities, such as state or official visits<sup>3</sup> have on the foreign trade. Nitsch (2005) is one of the authors that studies the impact of state and official visits on international trade, using data on diplomatic activities of the state leaders of France, Germany and the USA, during the 1948-2003 period. The findings of his study indicate that visits are associated with higher exports - between 8 and 10%. Moreover, the author states

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<sup>3</sup> According to Nitsch V., the conceptual differences between state and official visits are insignificant, especially because they treat the formal, protocol spectrum, but the concept has distinct meanings, including at the state level. While in France the concept of state visits became known with the presidency of Francois Mitterrand, formerly known as official visits, in Germany only visits by the president are state visits (although sometimes in the press, even the chancellor's visits are listed as being state visits, these being in fact official visits).

that visits conducted by the German chancellors, Helmut Kohl and Gerhard Schröder were accompanied by higher exports, and also the impact of visits may differ amongst the heads of state.

With regard to studies that only use the number of employees in diplomatic missions as an indicator of economic diplomacy, results confirm that a higher number of diplomats has a positive influence on exports, but the effects are not always statistically significant. For example, in their article, Raneta and Kunychka (2015), analyzed the volume of exports between Ukraine and 198 partner states in the 2007-2013 period, identifying a positive relationship between the number of diplomats and Ukrainian exports. The Ukrainian authors acknowledged that an increase of 10% of the diplomatic staff leads to a 4.2-7.4% increase of exports, and that the impact of embassies in stimulating exports is superior to the one of general or honorary consulates.

On the other hand, Peternel and Gress aimed to reveal the effectiveness of Croatian economic diplomacy, analyzing Croatian exports to 81 states, during the 2012-2016 period. Also using the gravity model of international trade, their study confirms the existence of a positive relation between Croatian exports, determinants of foreign trade (GDP and the distance between countries) and the staff employed in the diplomatic representation. Although the results indicate that there is a positive relationship between the number of economic diplomats and exports, the sensitivity analysis revealed that the number of diplomats in combination with other variables such as GDP and distance, is not statistically significant.

Another study on Croatian economic diplomacy, in which the empirical VARFIMA model was applied, based on fractionally integrated data, indicates a positive effect of economic diplomacy on long-term macroeconomic performance. In order to observe the impact of Croatian economic diplomacy on the most important macroeconomic indicators, Skare *et al.* applied the maximum likelihood estimation method. In this case, the macroeconomic indicators analyzed were industrial production, exports, foreign exchange, inflation, unemployment and labor costs. The Economic Diplomacy Index (proxy for the level of economic diplomacy) was designed as an average index of the following diplomatic activities: investments, lists of implemented laws, ordinances, and other regulations on Croatian economic diplomacy from 1995 to 2018 (Skare *et al.*, 2020).

A small number of studies assess the role of economic diplomacy from the perspectives of private companies (Visser, 2017). According to Assche and Warin, the existence of economic diplomacy is justified by the difficulties that companies encounter in collecting information regarding market conditions and business opportunities in foreign markets, rivalry and competition causing these companies to hesitate in sharing known information about foreign markets with their domestic competitors (Assche and Warin, 2019).

A study at the microeconomic level that analyzes data of international trade transactions of the Dutch firms during the 2002-2008 period, to determine the impact of the presence of foreign diplomatic representation in 50 destination states, reveals that support offices and foreign trade missions have an impact on not only



stimulating trade but also on new exporters entering the market. The impact is greater especially when destination countries are middle income countries (Creusen and Lejour, 2011). Another study concerning the activity of Dutch embassies and consulates, by Ruel and Zuidema (2012), underlined that the most effective are the diplomatic representations that value having a well-organized economic diplomacy.

Moons and van Bergeijk (2017) conducted a meta-analysis of quantitative research on the macroeconomic impact of economic diplomacy on international trade flows, namely foreign trade and foreign direct investment. The studies investigate the impact of one or more instruments specific to economic diplomacy, using control variables such as distance between trading partners, market size, common borders, common language or preferential economic agreements. The two authors point out that, on average, studies analyzing the activity of embassies and consulates yield more significant results than the ones concerning official visits, trade missions, export promotion agencies or other elements of the diplomatic relationship. However, the efficiency of embassies, consulates and export promotion agencies also depends on the level of development of trading partners.

The findings of the empirical scientific literature on the impact of foreign missions are favorable in relation to economic diplomacy (Visser, 2017). Also, it can be seen that the econometric results targeting embassies are more significant than those concerning consulates, while honorary consulates<sup>2</sup> usually do not contribute to the intensification of foreign trade (Veenstra *et al.*, 2010).

## Conclusions

The globalization process has produced permanent changes in the field of international economic relations, causing an increase of the role economic diplomacy holds in international economic policy and inter-state relations.

In the context of the new challenges, such as the COVID-19 pandemic and the current situation between the Russian Federation and Ukraine, economic diplomacy is faced with the need to adapt rapidly to the new nature of international economic relations, as it also plays a relevant role in mitigating the impact of such challenges.

The implications of this paper suggest that economic diplomacy is an important mechanism for the European countries, and although there is a difference in both the way economic diplomacy is implemented and in the objectives that each country seeks to achieve, the main purposes of economic diplomacy across European countries are related to trade, governments using means specific to economic diplomacy in order to increase trade. Therefore, in the recent years, in the empirical scientific literature, the interest regarding the role of diplomatic representations in increasing trade also has amplified. In order to identify the impact that diplomatic missions have on foreign trade, the studies on economic diplomacy focus mainly on the role of embassies, consulates, external offices / export promotion agencies, as well as official visits, trade missions or members of the delegations. Regarding the

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<sup>2</sup> In Rose's study, he also explicitly mentions the exclusion of honorary consulates.

quantitative research designs on the topic of economic diplomacy, these are mostly based on the gravity model of international trade. The study conducted by Andrew Rose has had a significant impact and has encouraged further analyses on the effects of diplomatic missions on foreign trade, thus providing an econometric model often applied in future studies. At the same time, Rose raised a relevant issue, which is kept in focus in empirical studies, represented by reverse causality, or the problem of endogeneity and the appropriate variables to obtaining correct results.

To conclude, the findings of the study reveal that through activities carried out by diplomatic representations abroad, such as embassies, consulates and export promotion agencies, economic diplomacy has a positive impact on foreign trade, but that impact is influenced by the level of development of each country and also heavily relies on the level of the diplomatic representation.

The limitations of this research are as a result of the small number of empirical articles analyzed and the impossibility of covering and extending the analysis to several or all European countries, which is mainly due to gaps in the scientific literature on economic diplomacy.

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## BUILD BETTER - ENFORCE SYSTEMS USING POLICIES' EVALUATION

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### Abstract

*Within the transformations of systems, government procurement could be used as a lever when addressing the challenge of fair access to goods and services in times of crisis as COVID-19. To find adequate solutions and raise the capacity for a quick response in public administration, the European methodological framework stipulates that evaluation must play an important role. The hypothesis is that developing a system of public policy evaluation should be a priority. The main research question is: how does policy evaluation contribute to better planning, results, and future development? To respond to that I investigated using mixed methods like interviews held under the Chatham House rule, questionnaires with closed and open answers, literature and documents review, also open databases of OECD, EU DG Growth, and others. I concluded with a proposal for a design of an evaluation unit, built at a theoretical level, in a contracting authority.*

*Keywords:* crisis, equity, policy evaluation, public procurement, systems.

### Introduction

Within the transformations of systems (Renger *et al.*, 2017; Patton, 2021), government procurement (Gates *et al.*, 2021) could be used as a lever when addressing the challenge of fair access to goods and services for all citizens (European Commission, 2022) in times of crisis, in environments that are still dependent on fossil fuels and non-renewable resources, as the actual context determined by the war in Ukraine shows. Meanwhile, human health, social cohesion (Beyer and Scott, 1984), the discrepancies between North and South (Reynolds and Holwell, 2010), urban and rural livelihoods, or digitalized and traditional societies grow.

The need for adaptive management (Schmidt *et al.*, 2017) was underlined by the pandemic context which has raised new emerging barriers in the interaction between evaluators. Some authors consider that „*systems thinking provides a*

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*theoretical rationale for defining the system boundaries, components, and relationships” and that „systems evaluation theory (SET) is used in evaluating modern-day systems. SET consists of three steps purposively sequenced with each being a prerequisite for the success of the next step” and of the public managers. To be able to adapt to these transformations public policymakers must respond to current challenges and perpetuate the solutions that can be adapted to future contexts.*

For a better understanding, to find adequate solutions, and raise the capacity for a quick response in public administration, the European legislative and methodological frameworks stipulate that evaluation must play an important role. At the decision-making level, in the European Union, evaluation is used to establish if principles like transparency, accountability, responsiveness, and learning are respected in the public intervention cycle, as an important tool for improvement.

After my previous professional experience in a central government agency (2017-2018), I found out that this is also a necessity for the Romanian Public Administration to decipher the organizations and their system’s tangled network, or the ‘covered by tones of papers’ idea of accountability thou the lack of knowledge, and use of institutional memory could be observed. Later on, while doing research for my dissertation, I discovered that the public procurement evaluation was still considered a niche, and the systemic point of view was poorly represented. That is how this study was launched as a part of the doctoral thesis.

The hypothesis stipulates that developing a system of public policy evaluation to be able to do systemic evaluation is a priority, and the Public Procurement System, analysed as a spinal axis of the public administration is the best point to start with. Program or project evaluation is not sufficient to explain complexity.

The main research question is: *‘how does policy evaluation contribute to better planning, results, and future development?’* from which derives the second and the third research questions: *‘do we have the capacity to do systemic evaluations?’* and *‘how does this capacity can be improved?’* where the complex environment of public procurement, the constant technological changes, the crisis caused by the Covid 19 pandemic, and climate change are the main themes.

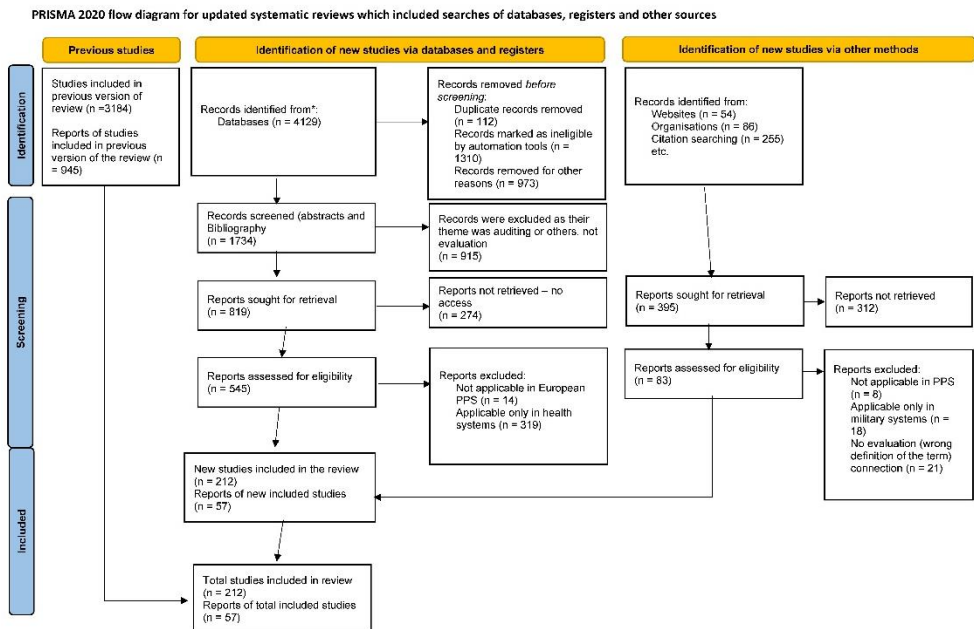
## **1. Literature review**

For the systematic review of the literature, the key terms used were ‘transformative’, ‘policy evaluation’, ‘evaluation use’, ‘evaluation systems’, and ‘public procurement’, in research that was conducted at the beginning of the year 2021 and actualized in May 2022, in English and Romanian languages.

In the first stage, the concepts were analysed in relation to public administrations and public procurement, in academic databases like Google, Scopus,

JSTOR (the new beta tool - Constellate)<sup>8</sup>, Clarivate-Web of Science, Taylor & Francis, SAGE, Elsevier, International Bibliography of the Social Sciences, and in the specialized databases of the peer-reviewed publications of the American and the European Evaluation professional associations (AEA and EES).

**Figure 1. The PRISMA Diagram for the literature review**



Source: Author's representation of the selection following the given diagram model

Also, a new search was conducted after reading the lists of references of the publications found in the first step, and the terms in Spanish were added. A chronological selection from the newest to the oldest published articles resulted in a large number of academic articles and books (more than 4.000) that were published between 1970 and 2021, which were introduced into the personal Mendeley library.

The second phase (in 2022) consisted in applying the PRISMA<sup>9</sup> selection rules for the literature review, according to criteria and a total of 212 academic articles and books and 57 reports were selected for further analysis.

In the third phase new framing criteria: 'generations of evaluation' (Cerckez, 2012), and authors who could represent most of these generations, were introduced.

<sup>8</sup> JSTOR. (2022). Constellate Tool. Dataset ID: 09186405-2845-0fb6-f86f-e75d220e16f5. <https://constellate.org/builder/?unigrams=behavioral%2C+evaluation%2C+trust%2C+>

<sup>9</sup> PRISMA Diagram for the systematic literature review, retrieved from <http://www.prisma-statement.org/>.

After analysing the number of citations of the papers, it was obvious that each generation of evaluation has a ‘titan’ whose work inspired the other researchers in the field at some point in time. Others have influenced the development of the evaluation field since its inception and continue to be active in the present, adapting themselves and their work to new conditions and technologies and transforming the evaluation field following the idea that „*today’s evaluators cannot live in the past, of course; we live in the moment. But we must not forget our past. (...) The gift is knowing that the present will soon pass and the way we embrace it has the power to change everything*” (Patton, 2021).

Among them, an outstanding representative of the new generations of evaluation researchers, and one of the founding fathers of the evaluation theories at the same time, as framed by Cerkez in the previously mentioned book, is Michael Quinn Patton, the author of some basic essential works in the field of evaluation: books such as *Blue Marble Evaluation* (2020), a framework for developing, adapting, and evaluating major systems change initiatives while involving complex networks of stakeholders, *Utilization-Focused Evaluation*, or *Developmental Evaluation: Applying complexity concepts to enhance innovation and use* and other important studies. He identifies five specific complex situations where an evaluator can use the developmental evaluation:

1. during the early development of an innovation that will have complex applications (such as SICAP /SEAP, the electronic systems of the Public Procurement System in Romania, interconnected on the European System) or when a substantial change of systems and strategies takes place,
2. for sudden changes and crises,
3. in a complex dynamic political environment,
4. when initiatives that have been effective in a single context, need to be implemented in a new environment and in a new context,
5. as continuous support to adapt initiatives in a technologically changing environment.

But, in any of these situations, the evaluators must have the possibility to adapt the designs, have immediate access to data, and collect new data that can be analysed in a short time. Contracting external evaluators is a process that takes time, and time is the key element when the crisis emerges and enters the vicious cycle of public procurement. This is an argument to build internal specialized units.

In his article *Evaluation Use Theory, Practice, and Future Research: Reflections on the Alkin and King AJE Series* (Patton, 2020), our attention is oriented to the other two parents of evaluation theories, across the first to the sixth evaluation generations: Alkin and King and the importance of using criteria in the evaluation actions.

Of course, as a starting point, many other important researchers, theorists, and practitioners are using Patton’s research to develop designs and implement his guiding studies. Hallie Preskill and Shanelle Boyle used Patton’s principles in their



work: *A Multidisciplinary Model of Evaluation Capacity Building*, an important framework that was used in this study for the mechanism under construction. Later, in 2014, Labin published her article *Developing Common Measures in Evaluation Capacity Building (ECB): An Iterative Science and Practice Process about ECB's important role in improving program outcomes*. In the study, the author „identifies a number of existing ECB measurement tools and maps (...) and clarifies consensus as well as facilitates selection of instruments and indicators for researchers and practitioners (...). The findings suggest that the organizational outcomes of ECB include doing and using evaluations, planning future evaluations, and evaluating as part of staff jobs” (Labin, 2014), a necessary base for this study and a strong foundation for a transformative evaluation design in public administration, having the features of the sixth generation of evaluation.

Therefore, as the reviewed literature shows, evaluation is an important tool for evidence-based decision-making and program management.

Researchers are developing evaluation systems adapted to public administrations, where the learning function is used to enhance organization and program performance by using the ‘learning agenda’ as an internal document that identifies an agency’s priority research questions, developed by agency evaluators alone or with the help of external research partners like academia.

Identifying questions like these helps the component of a system to focus its evidence-building resources on the most important challenges. Sometimes learning agendas are a list of research questions, while others proceed one question at a time. That is why learning agendas are useful tools to strengthen a culture of evidence-based decision-making within public central and county agencies and policy evaluation contributes to better planning, results, and future development.

Is it sufficient? Do we understand the causality and can be merit attributed to policies and their implementors? „The evaluative knowledge is more likely to be used if evaluations address relevant questions, rely on robust analytical design, produce evidence in a timely manner and effectively communicate it to the relevant stakeholders and beneficiaries” (Martinaitis *et al.*, 2019). There are only a few studies published since 2002 which analyse in-depth the inter-systemic and sub-systems relations and none of it considers the complexity of the public procurement systems and the effects of the decisions made at its level on other systems, including socioeconomic and environment ones. This study fills the mentioned gap.

## **Methods**

The mentioned authors also cover the possible steps of an analysis and the need for the use of criteria against which evaluation is being done, to contribute to increasing the capacity and the speed of response. I apply the model to study the case of the Romanian Public Procurement System, as it fit the description of this research when evaluated as a spinal of the public administration complex system.

So, the study was done against criteria like transparency, resilience, responsiveness, receptivity, added value, sustainability (UN SDGs), and efficacy. To analyse the institutional and organizational structures, and the instruments that the public administration needs to be efficient, I used mixed methods, mainly qualitative ones, as the quoted authors recommend.

A plus to mixed methods (Creswell and Creswell, 2016) is the use of the Chatham House Rule<sup>10</sup>, a British-specific consolidated tool, accepted by scholars as an instrument for Grounded Theory and not only, but not often utilized by the evaluators, though it proves to be very useful when qualitative data cannot be obtained in standard interviews because of the bureaucrats' and political management' fear of repercussions in the public organization, or generated by the political party they root in.

Active observation and earlier activity in a site, a central contracting authority, part of the system, semi-structured interviews, and questionnaires with closed and/or open answer questions, on a sample of 60 % of the central ministerial contracting authorities and 30 % of county contracting authorities, as well as the Chatham House method, were applied at the management level, to research the legal, and the political context, the evaluand, in order to build the logical model of problems'- outcomes' trees (van den Berg *et al.*, 2019). The data were analysed against the criteria for the transformational evaluation design.

## **2. The design of the transformation evaluation**

The analysis was conducted from a systemic-view point, at the level of systemic organizational structures, system processes, and the institutional environment in which the goals are developed. The type of evaluation is „ongoing”, and the evaluative approach is the ‘intervention theory’ to evolve in a ‘transformative system theory’ (Patton, 2020).

The role of the evaluator is emphasized in the transformational system, underlying the fact that it is not the measurement of results and impact that are the main goals, but robust records on the evaluand („*the program or the system that is being evaluated*” according to the definition given by Wheeler in „Teacher Glossary”, 1992) in the actual context, according to the five phases of public procurement as described by The World Bank and the four Pillars of the Organization for Economic Cooperation & Development (OECD, 2016).

The main scope is the development of the Public Procurement System (PPS) evaluation capacity, following a topical analysis. 2016 OECD's Report ‘*Evaluation Systems in Development Cooperation: 2016 Review*’ describes „*the role and management of evaluation in development agencies, ministries, and multilateral*

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<sup>10</sup> Chatham House. (2021), Chatham House Rule. London. Retrieved from <https://www.chathamhouse.org/about-us/chatham-house-rule>.

*banks. It provides information about the specific institutional settings, resources, policies, and practices of DAC Evaluation Network members, and includes specific profiles on each member's evaluation system” (OECD, 2016, p. 24).*

## **2.1 The Evaluand - Current Architecture of the Public Procurement System in Romania**

From a systemic view, as it was designed in the Strategy for Public Procurement 2015-2020, the National Public Procurement System (PPS) in Romania's organizational components are:

1. The Inter-Ministerial Committee & The General Secretariat of the Government (SGG), to which ANAP is subordinated.
2. The National Agency for Public Procurement (ANAP), „a specialized body of the central public administration, with legal personality, subordinated to the General Secretariat of the Government” according to the official site and has the role of regulating, coordinating, and monitoring the system<sup>11</sup>.
3. The Contracting Authorities at the central, county, and local levels. They plan, initiate, implement and analyze the procurement contracts, defined by 98/2016 Law, art. 4 as: „the central or local public authorities and institutions, as well as the structures in their composition that have delegated the capacity of authorizing officer and that have established competences in the field of public procurement”
4. The Authority for the Digitization of Romania (ADR), manages and operates the Electronic System of Public Procurement (SEAP/SICAP).
5. The National Council for Solving Complaints (CNSC) – an „*independent, non-judicial entity with an administrative-jurisdictional activity of solving in the first instance of appeals against public procurement procedures*”. The role of the review and remedies sub-system is to ensure the practical application of public procurement law, and that breaches of the law (intentional or unintentional) are corrected. A well-functioning sub-system for reviewing public procurement and corrective measures is in the interest of all stakeholders: economic operators and contracting authorities/entities, as well as the general public.
6. The Courts of Appeal, have „alternative jurisdiction to settle disputes concerning public procurement procedures”.
7. The Romanian Court of Accounts (CCR) verifies the way of awarding public procurement contracts after signing.

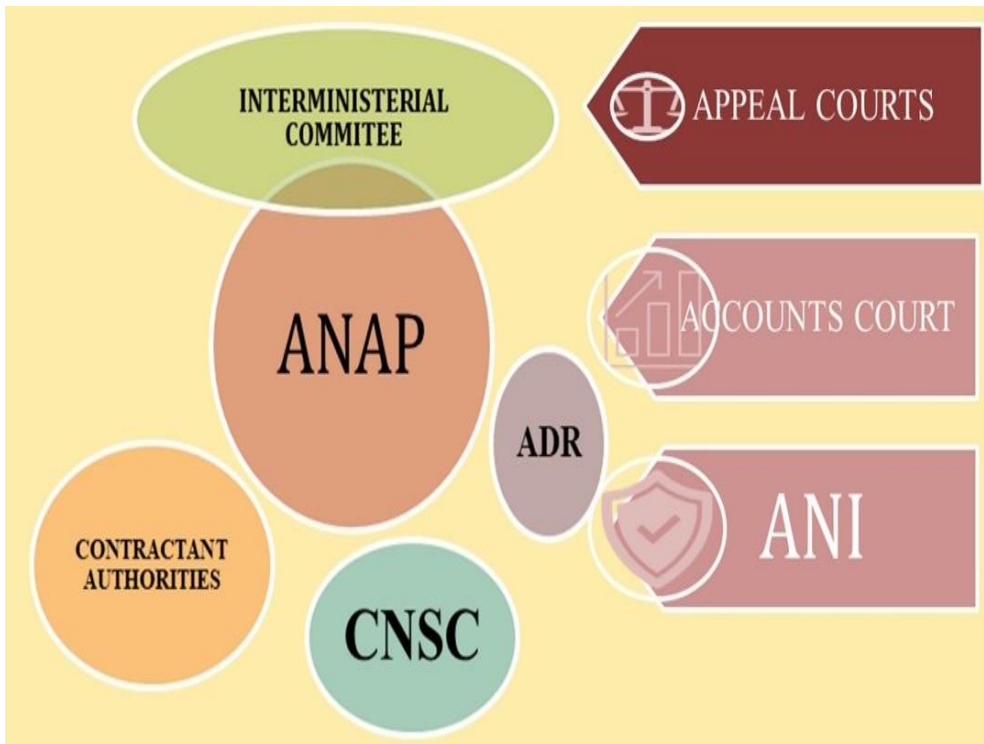
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<sup>11</sup> ANAP. Agenția Națională a Achizițiilor Publice (2021). Metodologia de evaluare a impactului în domeniului achizițiilor publice a unui proiect de act normative, (retrieved from <http://anap.gov.ro/web/wp-content/uploads/2015/12/Metodologie-de-evaluare-a-impactului-pentru-site-004.pdf>).

8. The National Integrity Agency (ANI) verifies conflicts of interest in public procurement and manages the PREVENT system (integrated IT system to prevent and identify potential conflicts of interest).

The national PPS is a part of the European Union Procurement System through the electronic component, at the operational level, an interconnected structure of the Global Procurement System. It is also integrated into the European legal procurement context.

**Figure 2. The Romanian PPS**



*Source:* own representation of the PPS as described by the PP Strategy 2015 – 2020

Who evaluates this system? What are the system's limits? Is it well defined in the Strategy? Aren't the appeal courts parts of the Justice System in Romania? To be able to respond to these questions I chose the in-depth study of its nucleus.

## 2.2. The legal and the political context and the actual problems (why section)

With the increase in globalization, public procurement systems (PPS) have undergone substantial changes. The World Bank updated the methodology for evaluating them in 2014 and published the new key steps in public procurement, at a time when public procurement was becoming the „*main instrument for unlocking economic growth at the European level*”.

According to Article 1 of Directive 2014/24/EU of the European Parliament and of the Council of 26<sup>th</sup> of February 2014 *the award of public contracts by or on behalf of the authorities of the Member States must respect the principles of the Treaty on the Functioning of the European Union (TFEU), namely the free movement of goods, freedom of establishment and freedom to provide services, as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality, and transparency* (European Parliament, 2014).

Directives 23, 24, and 25/2014 were transposed into the national legislation applicable in the field of public procurement in 2016, through Laws 98, 99, and 100, in accordance with the National Strategy in Public Procurement (SNAP). The Strategy represented a „*crucial stage in order to reform the Romanian public procurement system*” as it was establishing „*a common vision, at a key moment*”, proposing „*actions that define the Government's policy on reforming the national PP system in 2015-2020*” (ANAP, 2015).

After the approval of the Strategy and the issuance of laws 98, 99, 100, and 101/2016, the primary legislation has undergone no less than 20 changes until the date of the present evaluation process, raising questions about the stability and predictability of the legal framework which also contributes to the decrease of the administrative capacity, performance and even good governance of the system as a whole. For the beneficiaries to be able to follow these changes, the Legislative Guide for public procurement was issued.

The Remedies Directives are addressed to the Member States to develop new robust and effective systems of redress, which are based on the general principles, the most important step being the establishment of the review body.

To the legislative changes were added other types of reforms, such as the incremental change at the hierarchical and subordination level of the central regulatory organization of the Romanian PPS, when in 2019 ANAP moved from being subordinated to the Ministry of Finance, to the subordination of the General Secretariat of the Government.

Still, no specific laws or initiatives that regulate the evaluation of public interventions have been adopted and developed (Toderaş and Iacob, 2020). The capacity to evaluate systems or to execute intermediary or ex-post evaluation does not exist though the Romanian evaluation field has known important developments in the past two decades. Toderaş and Iacob (2020, p. 456) described this evolution in a

relevant analysis published in the 17th chapter of ‘The Institutionalization of Evaluation in Europe’.

They wrote that the use of evaluation is a recently introduced practice as a result of the reforms undertaken within the central public administration in the early 2000s” and when „rigid and centralized planning of public intervention prevailed. Therefore, although the term evaluation was used, it was rather understood as control, verification, and reporting. During the first years of democratization of the Romanian society, the vision related to the implementation of public interventions gradually began to change towards a pluralistic, deliberative and participative approach.

In academia, study programs at the master’s and doctoral level, and voluntary organizations for professional evaluation (VOPEs) like the Association for Development of Evaluation in Romania (ADER) participate and advocate for the implementation and the use of evaluation.

Thus, within the Department of International Relations and European Studies of the School of Political Studies and Administrative Sciences (SNSPA), can be attended the courses of the master program „Evaluation of European Public Policies and Programs (EPPPE), and at Babeş-Bolyai University (UBB), Faculty of History and Philosophy has a „Master’s degree program in Evaluation of European public policies and programs”. Also, one of the study domains of the Doctoral School of SNSPA, coordinated by prof. dr. Iordan Bărbulescu is the „European Policies Evaluation”, within the political sciences field.

There are many Romanian evaluation specialists who have completed these courses and who cannot „de facto” practice the profession for which they are very well trained. One of the reasons, is the one related to professionalization and the inclusion of the profession „public policy evaluator” in the International Standard of Occupations - ISCO-08, as shown by the research so far. This is not only a national problem as the name of the standard shows. The International Evaluation associations like AEA or EES worked on this aspect in the past five years. Still, the evaluators work as independent consultants or public servants, they do programs or projects evaluation, but there is no system evaluation planned or executed.

Even more, they have to present their consultancy offers on criteria imposed by other public servants who do not know the evaluation rules in public procurement auctions. Nine of the twelve interviewed specialists mentioned that the requested criteria fit the third generation of evaluation characteristics.

Since March 2020 the states had to respond to unplanned demands and needs and allow certain procedures to be modified. One example is remote work that involved skills in digitalization, available technology, and access the data from other devices. ANAP has implemented these measures, and, as one former Agency

President said in an interview, „it was not a difficult step, and our personnel did not encounter any difficulties to adapt to the new rules”.

The 2021 Government at Glance Database of OECD shows that Romania, an invited country in this organization, will receive large amounts of EU funds in the following period from:

1. Cohesion Policy which stands for the European Social Fund, European Regional Development Fund, Cohesion Fund, and support for the European Territorial Cooperation. Total allocation over the period 2021-2027 at current prices is expressed as a percentage of 2020 GDP and RF Grants refer to the maximum grant allocations from the Recovery and Resilience Facilities over the period 2021-2026, which is expressed as a percentage of 2020 GDP.
2. the cumulative execution of the EU funds is expressed as a percentage of total allocations.

**Table 1. European funds allocated to EU countries**

Country	Cohesion policy (current prices)	RRF Grants (current prices)
<b>OECD EU</b>	6.265070849	3.406380371
<b>CZE</b>	10.18168618	3.321996777
<b>POL</b>	14.35164144	4.571317407
<b>ROU</b>	13.88743132	6.507227349
<b>SVK</b>	14.03741261	6.881084613
<b>HUN</b>	16.56968199	5.296178209
<b>LVA</b>	15 7223678	6 818025933

Source: OECD Database 2022 – Government at glance. Public Procurement. April 2022

As the data shows, an important percent of these sums allocated to Romania will be spent following the public procurement procedures, a plus reason to rethink „the niche” category of PP systems<sup>12</sup>.

By their definition *the term public policies refer to all the activities (public programs, projects, public interventions, etc.) carried out by the central specialized public administration in order to solve the identified public policy*

<sup>12</sup> OECD Economic Surveys: Romania 2022 - © OECD 2022. Executive summary - Figure 2, 5. Romania will receive large amounts of EU funds. Version 1 - Last updated: 28-Jan-2022. <https://stat.link/v1iqd0>, <https://stat.link/45n28p>

*problems and to ensure the necessary developments in a certain field*<sup>13</sup>, and more than ‘14 % of GDP is spent in the public procurement process by which governments purchase goods, services, and works from the private sector — which „amounted to \$11 trillion out of global GDP of nearly \$90 trillion in 2018 (World Bank – Bosio and Djankov, 2020).

To be able to evaluate the programs, as stipulated by law, the organizations must contract external evaluators in public procurement auctions, resulting in the vicious circle where the two systems collide at present, against each other, or better said where the missing internal evaluation system shows its future possible utility. So, the professionalization of the evaluator’s job is an urgent and necessary step further. The need was underlined by evaluators, politicians, bureaucrats, and private company representatives alike, in their open responses to the questionnaire.

Further analysis showed yet another causality link, negatively affecting the environment: the lock-in effect presented in „Study on the effect of captivity (lock-in) in sensitive sectors in the field of public procurement, IT and medical equipment/devices”, which was published on the website of the Competition Council in 2020, signalling important problems about inefficient spending and not only. The lock-in referred to serious negative outcomes of public procurement contracts in the mentioned fields, but the impact on the environment when the lock-in effect appears was also ignored. It mentioned thou that some problems could have been prevented in a systemic evaluation, in all procurement phases.

Among them is planning the procurement of medical disposals which will be stored after the first malfunction, because the contract did not stipulate sustainability criteria or because the seller did not respect the agreement. After the needed time according to the accounting laws, the dispositive would go into a common landfill or just fill the storage. Meanwhile, the patients did not beneficiate from the necessary treatment because the equipment „was there” and they could not buy new ones. Such results are not noted in audits for accountability.

This is just a small part of the problem that could be solved after transforming the evaluation. Imagine that there are thousands of IT equipment pieces like a printer, which are replaced because the cartridge is emptied, that will be treated like garbage as soon as that happens. Still, the lock-in strategy is one of the most used marketing strategies by private companies, and stakeholders in the PPS, are trapped, from the refilling tubes of pens to the chargers of laptops or other smart devices or to other types of equipment and necessary devices in their field of activity.

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<sup>13</sup> Secretariatul General al Guvernului. (2009). *Ghidul de monitorizare și evaluare a politicilor publice* (retrieved from <http://sgg.gov.ro/docs/File/UPP/doc/manual-monitorizare-si-evaluare-politici-publice.pdf>).

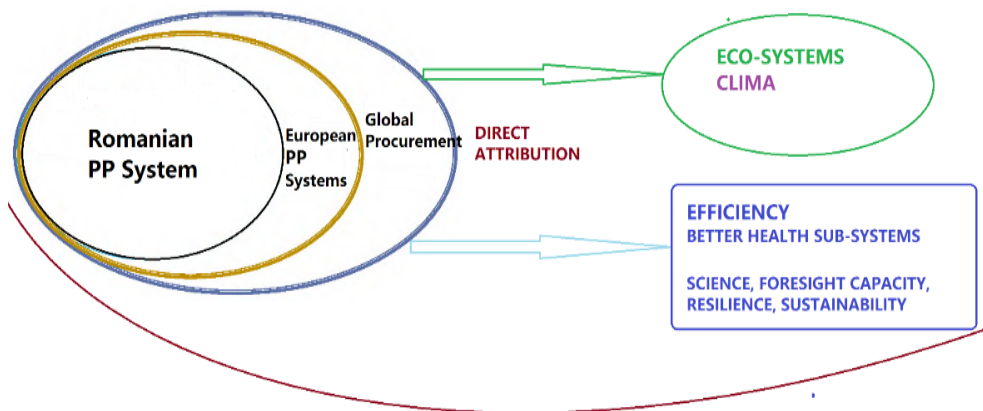


### 2.3. Beneficiaries

The system beneficiaries, a part that was not described in the PP Strategy, include the cognitive sub-mechanisms that are also stakeholders of the evaluation who, as previously demonstrated, do not accept participating in pseudo-evaluations to increase the control means, which were just added to those already there like CAFs, internal audits, ministerial audits, Court of Accounts Audit, and other. Aioanei (2016), as mentioned by Toderas and Iacob (2020, p. 452), underlined the fact that among the „factors that contribute to the relatively low use of the evaluation findings are the quality of the evaluation studies and the interest of the stakeholders regarding the evaluative process”.

At individual levels, they are small parts going through different phases of the process. „Phase transitions and emergence convey a sense that qualitative change can take place in constructs that have quantitative identities” (Morell, 2021) as PPS is supposed to have.

**Figure 3. Users of evaluation of PPS**



Source: Author's representation of the users of evaluation of PPS

In 2021 - 2022, the policy proposal for the interconnectivity of the Public Administration in all its internal components and beneficiaries in the governmental cloud started heated debates, as in its Substantiation Note was stipulated that it will have ‘no expected impact on social, and environment systems’, not even a positive one, according to this document with no ex-ante evaluation executed by the experts in the field. It is not hard to imagine what a new crisis could determine in this special official version of the individual, not connected cloudy system.

But is it always about accountability? What about institutional knowledge when unplanned changes occur, for example, the change at the political level – a new Government or a new governing party?

From 2017 till the present, Romania has had seven changed governments, each one bringing a new Governance Program, so continuity and coherence principles were absent. It caused changes in the first and second management layers in the ministries and agencies. A new government program also determines the modification of the Annual Public Procurement Plan, as it is the fundament of all procurement operations, and the procurement processes could be affected also. Accessing and re-analysing the artefacts: physical (papers, large numbers of dossiers), no digital archives were available in some organizations (quantitative data to be collected in future studies), but mountains of papers on desks, corridors, etc. that can be observed, are the second effect of such change.

The three politicians (one former minister, and two former state secretaries) interviewed under the Chatham House rule, accepted that an independent evaluation department would have been helpful when they took the lead of the organization, not only after they leave their offices for accountability purposes, but that is also the unliked part.

The obstructed connections describing the system and the necessity of information and use of knowledge, involving the scientists in the internal activity of the public administration are other important problems.

## **2.4. Solutions – The proposal (the how section) – What is needed? How to do it?**

*„Setting up systems to encourage the use of development evidence, in turn, requires looking at a different type of evidence – research on how people learn”,* said Charlotte Watts, director for research and evidence in the Foreign, Commonwealth & Development Office in ‘Evidence-informed development – starting with the man in the mirror | Take II’ in April 2022 webinar. To be able to look from a different perspective to increase the use of the findings and to have better public policies we do need more than an audit.

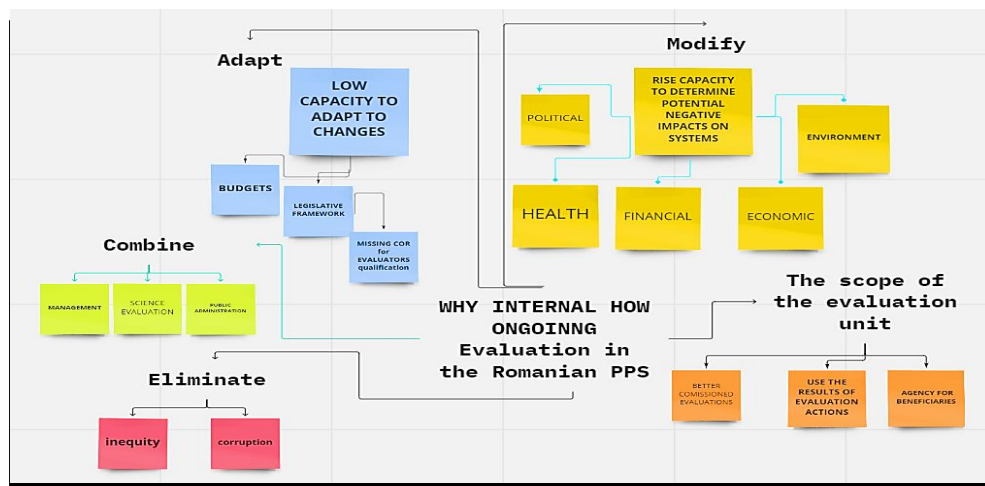
The Problems/the Objectives Trees must be continuously actualized the main needs/objectives/processes levels so several (1 to `n`) of unforeseen needs/objectives/processes will be reflected in time sequences in future studies and avoid the lock-in of the project, an obstacle in transformative evaluations.

The proposed Evaluation Unit was inspired by the structural form of the Kalman (1960) filter in statistics, a general tool to combine the information in the presence of uncertainty, analysing the legislative, political, economic, and social context. The structure was considered a needed step further to connect the public administration-the scientists- and the management of public organizations.

An independent internal evaluation unit equals, as demonstrated in the previous chapter, having the capacity to assess the organization’s PP activity in the

framework of system processes in a design that investigates how the actual results could change future endeavours, including the green procurement targets. This unit was designed to function as a double filter with high analysis ability in ongoing processes, following the Gutman (Marshall and Borthwick, 1974) scale adapted by Alkin and King (2017, p. 438) and reviewed by Patton (2020).

**Figure 4. Solutions to problems in policies evaluation**



*Source:* Author's representation of the problem-solutions trees resulted after consulting the specialists on a collaborative platform: miro.com

It follows the Evaluation Capacity Building Model (Preskill and Boyle, 2008):

1. the first phase: building the architecture of the internal evaluation pilot unit in The General Secretariat of the Romanian Government, considering its capacity to determine incremental changes
2. the second phase: ways and reasons to strengthen the evaluation capacity and better integration in EU systems.

The developed evaluation capacity has the mission for the entire Romanian PPS to help touch the milestone where the different levels and organizations support each other to adapt and have the capacity to respond to incremental and/or unexpected change, as a resilient a responsive mechanism of a system. The possible outcomes are:

1. At individual-level – developed skills and competences

1.1 Institutional factors in the SGG-PPS architecture: regulations, laws, resources, norms, and procedures, for highlighting the context and processes at the organizational level.

1.2 continuous monitoring of the capacity indicators for a sustainable in-time assessment of the system.

1.3 planning the implementation strategy.

1.4 engaging in the construction of the EC strategy of persons within the government who have experience and skills in evaluation, through adequate recruitment, qualification, and professional development process, as well as allocating the necessary resources for the training and qualification process.

2. At the organizational level - the framework and the managerial structures:

2.1 The results of the evaluation will be integrated into the decision-making process: policy alternatives, the best ways of implementing and achieving results, and identifying lessons on strategies that have proven their effectiveness.

2.2 managers understand that evaluation is an important resource that will help them increase their performance and improve the way they manage their results.

2.3 verification procedures have been established aimed at ensuring thoroughness in taking over and implementing the evaluation recommendations, in the process of exploiting the knowledge and integrating them into the decision-making process.

2.4 procedures have been established for collecting the results of the evaluation and the lessons learned from the evaluation so that managers and politicians have at their disposal the necessary organizational memory and artefacts.

3. At the systemic network level (inter-organizational) - the link between PPS organizations - private organizations through networks, procedures, and partnerships

3.1 better coordination through the system evaluation network - meant to ensure sufficient consistency in the way in which external works/services/products and evaluations are commissioned, contracted, managed, and executed within SAP and in general, in the public sector.

3.2 evaluations take place as an integral part of the legislation, procurement policies, or regulatory activities.

3.3 An assessment culture has been developed at the SAP level that is based on high professional standards, autonomy, learning from accumulated experience, and socio-economic policies based on evidence obtained from scientific research.

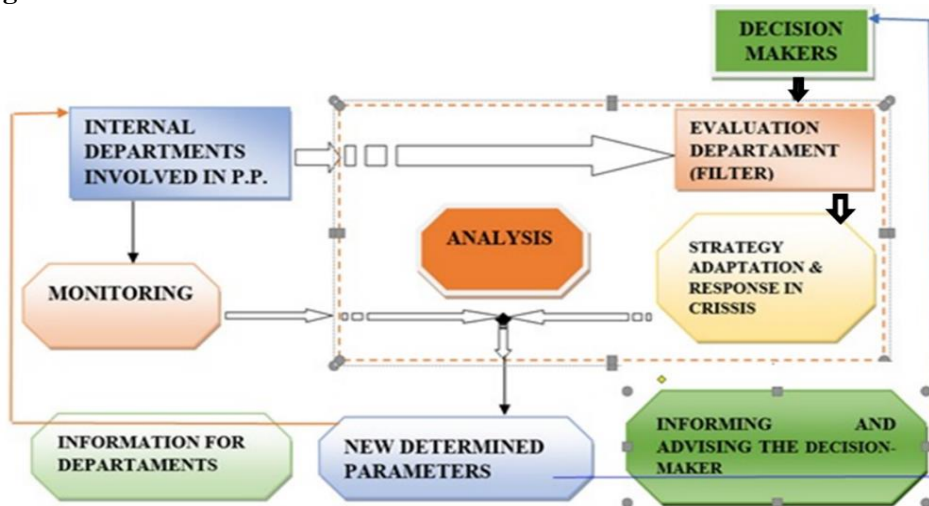
4. At the societal level - evaluative thinking is well-framed in civil society and the public sector.

4.1 An open and systematic dialogue takes place between politicians and evaluation specialists, to allow the identification and analysis of public policy priorities and their evaluation.

After the analysis of the organizational charts of the components of the Romanian PPS, and the legal context, taking into account the ability to determine in the network of the regulatory agency isomorphism (researched in a previous, unpublished study for ANAP), it resulted that it may be recommended to build a pilot unit in SGG, following the model of the Central Evaluation Unit of the Romanian Ministry of Investments and European Projects.

Subsequently, all the other organizations of PPS will develop similar units interconnected as a network. The network can be supervised by evaluation experts of The European Commission and/or, as an invited member of OECD, by their facilitators.

**Figure 5. The Evaluation Unit**



Source: Author's representation after the Kalman filter in statistics

For a transformational evaluation mechanism to be able to respond to the needs of systems, stakeholders, shareholders, and the segment of society the procurement projects address, or beneficiaries, in general, and their diverse concerns related to investment, planning, and the design and management, criteria are must-have conditions. In the end, these studies should identify where the intervention is expected to transform inputs, activities, and products into results, integrated into systems, to create a shared vision for understanding the long-term objectives and how to achieve the transformation by creating a learning experience because according to the OECD definition, „*capacity building is the process by which individuals, groups, organizations, institutions, and societies increase their ability to perform functions, solve problems and touch the objectives, and to understand and address their development in a broader and sustainably context.*”

For this purpose, an assessment of the evaluation capacity of the General Secretariat of the Government was executed at the end of 2021 and the beginning of 2022, (SGG.E sample) when three semi-structured interviews were held under the Chatham House Rule. The experts agreed that the ground could not be evaluated as favorable when we talk about policy evaluation, but there are many measures taken for improvement and transformation. Still, instead of ex-ante evaluations, for example, some laws have only the ‘substantiation note’ as a fundament.

The paragraphs about monitoring and evaluation are there as requested by procedures not with the purpose to actually contribute to better policies' said one of the interviewed persons. (SGG interviewed person 1, 2021)

'Requested by procedures' means contracting external evaluation, through public procurement procedures, which *„often encounter significant delays, implicitly the start of evaluation exercises. The quality of evaluation reports is variable, both in terms of methodological robustness and the reliability of the achieved results.”* (Toderas and Iacob, 2020) This image of the attitudes against the evaluation describes why the actions are rather understood as control, verification, and reporting.

If we talk about policies implemented from national funds, I imagine how hard would be to initiate and commission an evaluation activity. I do have hope, though. Maybe the measures stipulated in the National Plan for Recovery and Resilience will have more success. An internal evaluation unit might be a solution that contributes to cutting the delays in the process of evaluation of procurement operations, as long as we don't talk about another tool of control and tonnes of papers for reports, answered another. (Minister interviewed person 2, 2021)

The missing point in following the procedural steps only 'as requested' becomes obvious and appears in policies that will have a big impact on the systems. For example, the public debate regarding the Romanian governmental cloud (The General Secretariat of the Government) vehiculated the principles of *„scalability, resilience, high performance, strength and security, cost-efficiency”* in the 'substantiation note' as expected outcomes and impact in systems and on other policies. The document was published on the official websites of The General Secretariat of the Government and the National Agency for Digitalization of Romania in 2020. As any evaluator knows, those principles are criteria against which the policy is evaluated. One would imagine that in the digital era, the interconnection of the digital and environmental systems was agreed upon by all shareholders, stakeholders, and beneficiaries. Well, the investigation proved that this is not a universal truth.

A policy proposal for the interconnectivity of the Public Administration in all its internal components and beneficiaries will have 'no expected impact on social, and environment systems' in this artifact. Not even a positive one, if we see this document this is still debated after two years, having other motivations than the missing ex-ante evaluation executed by the experts of this field. It is not hard to imagine what new crisis could determine in this special official version of the individual, not connected cloudy system.

**Figure 6. Ex-ante missing evaluations an example in a system component**

2 <sup>2</sup> . Impact asupra întreprinderilor mici și mijlocii	Nu este cazul					
3. Impactul social	Nu este cazul					
4. Impactul asupra mediului	Nu este cazul					
5. Alte informații	Nu este cazul					
<b>Secțiunea 4</b>						
<b>Impactul financiar asupra bugetului general consolidat, atât pe termen scurt, pentru anul curent, cât și pe termen lung (5 ani)</b>						
- mii lei -						
Indicatori	Anul curent	Următorii ani				Media pe 5 ani
1	2	3	4	5	6	7
	2020	2021	2022	2023	2024	

Source: Author's representation Screenshot of the 2020 Governmental Cloud Policy Proposal public on SGG and ADR sites

To test the hypothesis, the data was collected using a questionnaire (12 experts, 2022) with closed and open answers at the 'EE – Experts in Evaluation Romania' Nine of the volunteers pointed in the same direction, in the triangulation process, but this result cannot be extrapolated. The questionnaire is still open for responses as only 50% of the experts responded at the moment and its results will be integrated into future studies. The results show that 75% of them agree when the utility of this structure was questioned, and less than 30% see it as possible in the next two years, disregarding even the chances offered by the National Resilience Plan.

**Table 2. Relevant primary data collected using the questionnaire**

Question	Response	%
Do you think that the evaluation of public policies contributes to the positive transformation of society and the environment in which it carries out its daily activities?	Yes	100
Is the lack of a legislative framework a problem for the professionalization of the public policies evaluator profession in Romania?	Yes	100
Five issues causing the sub-development of public policy evaluation in Romania:	evalophobia, self-sufficiency, lack of interest, politicization, mimicry	the open answer, qualitative method,

		string variables
5 solutions to solve these problems would be:	the reform, professionalization, diversification, dissemination	the open answer, qualitative method, string variables
In the context of Romania's invitation to the OECD and according to the measures included in the National Plan for Recovery and Resilience, the evaluation must ...	intensified, diversified, be utilized	the open answer, qualitative method, string variables
Please describe in five short sentences the current state of development of public policy evaluation in Romania	<p>The practice of conducting public policies is precarious the failure to use evaluation. stuck in the early stage of the development of the culture of evaluation the evaluation has developed around interventions financed by European funds, practically not used at its true value - but to tick off the fulfillment of the requirements of EU regulations. culture of evaluation based on mimicry, the innovation and diversification initiative is volatile. The evaluation generates a fear of highlighting failures and that is why policymakers and those at the administrative level avoid resorting to this tool.</p>	The open answer, qualitative method, string variables
Please describe in five short sentences how you see the development of the public policy evaluation in Romania in the next 3 years	<p>not optimistic about improving parallel structures are created (see at the level of the PM Chancellery) and new organizational systems are being tested, but they only abuse the concept without producing anything specific. The reforms provided for in component 14 of the NRRP (The European Commission, 2022) would have the potential to boost the use of the evaluation, but first of all the public</p>	The open answer, qualitative method, string variables



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policy structures within ministries, agencies, and public authorities (those UPPs) should be revitalized. Disinterest and mimicry of reforms The European Commission will probably use its transformative power to demand much more in this direction, conditioning the Romanian authorities to evaluate much more (see country reports within the European Semester).

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*Source:* Primary data collected using the questionnaire

From the political decision-making level interviews and questionnaire, two sets of string variables were analysed without using Artificial Intelligence or other types of programs. The results were used in the triangulation of the qualitative data collected using the literature review and the quantitative data collected using the questionnaire.

## **Conclusions and limitations**

As demonstrated, the Public Procurement System stands as a common axis to all fields of Public Administration organizations at the central and county level. Developing an internal evaluation system in PPS is considered by the experts and researchers an important step in the institutional transformation that Romania needs and that was stipulated and approved in the Romanian National Recovery and Resilience Plan.

It must not be 'adapted' to imitate some of the pseudo-evaluations (Caputo, 2017) we meta-evaluate at present, but according to the need for evaluation and the use of its results by different key actors to support the principles of accountability, transparency, and knowledge use that can increase resilience.

Most of the decision-makers responsible for developing the evaluation capacity are aware that inside the developed system numerous elements will interact and that they must support each other to help increase the administrative capacity in general, and of Public Procurement System in particular, all members within departments or interdepartmental units, norms, procedures and protocols, personnel or human resources policies, and information technology systems.

The subject of disagreement is the independence of the unit in relation to the politically appointed managers and the fear of responsibilities and increased tools of control and power that cannot be manipulated using the usual pressures.

In each organization of the Public Procurement system, the internal evaluation unit and the external facilitators as partners could use evaluation as a double bridge between political decision-makers and public servants corpus on one side, and

between these public servants and the external beneficiaries, on the other side by developing a useful research agenda that could inform those stakeholders.

Projects might use low-cost, rapid experimentation to test operational improvements, data analysis transformed into real-time information to provide relatively quick insights from existing data, program evaluations to learn what works, also reviews of evidence from prior studies to draw on what's already known and can be adapted in future contexts.

More, the delimitation between the attribution and the contribution of the programs that might affect the same sample of beneficiaries while implemented from different funds at the same time would be a plus to increase the speed of completing them as they depend on what data and internal and external resources that are available to carry out the research.

These results cannot be extrapolated as the questionnaire is still open for responses.

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# INSIGHTS FROM ROMANIA ON DISTANCE LEARNING VIA DIGITAL TOOLS AND PLATFORMS DURING ISOLATION PERIOD

Marilena DONCEAN\*, Alina SUSLENCO\*\*

## Abstract

*The aim of the study was to analyse the good practices of various educational actors, and based on these, to propose ways to improve the education system, both in times of crisis and in general. The present study also drew on formal data, provided by relevant bodies in the field of education, as well as on the opinions of civil society representatives. The basic pillars of the current research were educational policy documents in force and the experience gained at national and international level in the field of education, in general, and in the evaluating the quality of education, in particular. As the present study was conducted during the pandemic caused by the spread of Covid-19, its main emphasis is on the organisation of remote / online education, allowing to discern certain features compared to traditional, classroom-based education. The approach ranges from the conceptual to the methodological dimensions to explore the experimental field, which includes: information, comparative analyses, inductive and deductive testing of the ideas and interpretations supported by real situations. This study of great topicality and originality can be considered a concrete support for researchers, academics and managers in what is an interesting field of economy.*

**Keywords:** digital tools, pandemic, virtual education, period, learning

## Introduction

The crisis situation of spring 2020, triggered by COVID-19 pandemic, has disclosed dormant issues at society level, issues that will definitely contribute to changing people's mindset. Under the circumstances, there is a strong urge to radically change the educational system which drives teachers to become more aware, better trained and also more flexible for tomorrow's challenges. It has been

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shown that the traditional education system should be radically changed because it is too rigid (students learn by force, for fear of teachers) and focused on the cognitive side and less on the affective and psychomotor ones.

Furthermore, this change should include a greater commitment of both parents and community members to the education of the younger generation, as active partners of the professional educators. Even students should be trained how to teach and thus become trustworthy partners of their teachers, because they will be more open to learning and will efficiently employ their various skills and intelligence to further improve themselves and become significant contributors to the development of society.

This study also relies on the official data provided by the competent authorities in the educational field and opinions expressed by the representatives of the civil society as well (Iasi County School Inspectorate, Association Of The Euroregion Siret-Prut-Dnistro, Non-Governmental Organizations, etc.)

The applicable educational policies, along with the experience gained in the education field at national/ international level and through assessing the quality of education, have served as pillars of the present research endeavour. To assess the quality of the educational act as objectively as possible, the analysis included all actors engaged, namely teachers, school managers, education specialists, members of the larger education community such as parents and students, and indirect participants as well, such as representatives of the civil society. To maximize the efficiency of this scientific investigation, special emphasis has been placed on the public perception of the education quality and, accordingly, online questionnaires and interviews were conducted, addressing direct and indirect beneficiaries of the educational system as well as data collection instruments for assessing the education quality.

As part of our research, a survey was carried out based on a questionnaire that was completed by 60 students, from several high school classes, from a school in the municipality of Iași, a city located in the North-East Region of Romania. The respondents were between 12 and 13 years old; 40% of them were male and 60% female. They were sent e-mails or online messages in study groups. The period in which the questionnaire was applied was between April 1 and June 1, 2021. Out of the 60 questionnaires, 57 were valid. The questionnaire included 8 questions, formulated concisely, clearly and objectively. The data obtained are confidential and will be used only for scientific purposes.

The concept of research includes the policies and approaches employed by governance to provide for the educational community and society on the whole, in terms of effective participation instruments for assessing the education quality, with a focus on distance and online learning, through digital tools. The digital transformation reshapes the professional way in many ways. Just to name a few, communication and collaboration have become faster, lighter and more available across the globe, the expansion of the online world has forged its way to new models of professions and businesses, while the physical work and daily tasks are progressively taken over by robots and automated systems. These changes affect the

future labour market in terms of labour organization, employer-employee relationships, qualification requirements, and also influence what today's education should achieve (Crudu and Cara, 2016).

ICT Technology (information and communications technology) and digital technologies are part of the daily life of most employees nowadays. Most jobs use PCs with broadband internet. Portable digital devices are largely popular, allowing employees to organize their work in a more flexible way, in terms of time and space. The appropriate agreements between employers and employees can benefit from the work-life balance and feeling of autonomy and independence as well (Bîrzea, 1995).

Romania has made big steps, with great results so far, towards introducing *information and communications technology* in the educational system. Between 2001 and 2009, the Computerized Educational System program (Romanian acronym is SEI) provided computerized labs, educational software, and training for teachers across the country. After Romania became a member of the European Union in 2007, many EU-funded projects were implemented, delivering both technological equipment in the classrooms and training programs for teachers. All these programs, complemented by other initiatives, have helped Romania build a very solid “foundation” for constructing the digitalization edifice (Noveanu and Potolea, 2008).

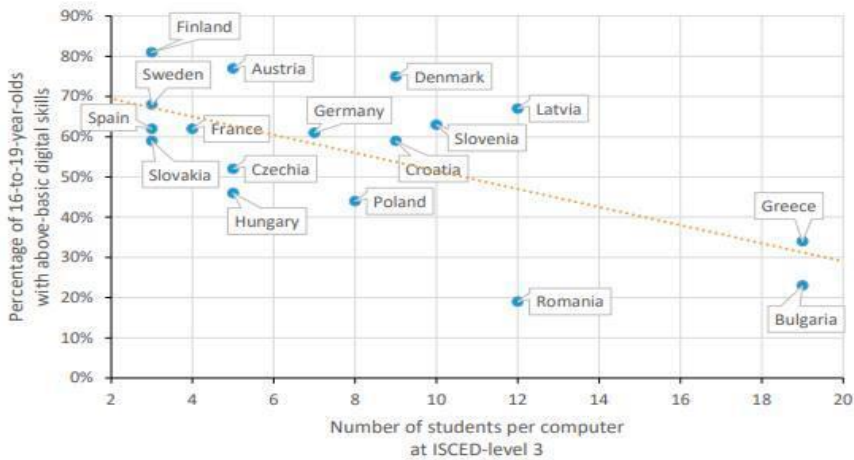
## **1. Online instruments and platforms**

The children of the digital era are familiar with computers, tablets, mobiles, and smartphones, and interact via games and virtual stories from an early age. However, as they grow and enrol in the educational system, they are facing the gap between reality and what they learn in school. This way, by adopting the new technologies, the school comes closer to the children's needs. And here we are speaking about digital tools which can provide real support for the learning and teaching process alike. They are already at hand and provided they are used appropriately; digital tools can enhance the educational act. However, it is highly important that teachers could effectively use these digital tools and creatively manage interactive lessons. And continuous learning is instrumental to this process.

The lesser the number of students with access to a computer, the lower is the percentage of those with above-basic digital skills. In this regard, Bulgaria, Greece, and Romania occupy the lowest positions in Europa (Blake and Mouton, 1982).

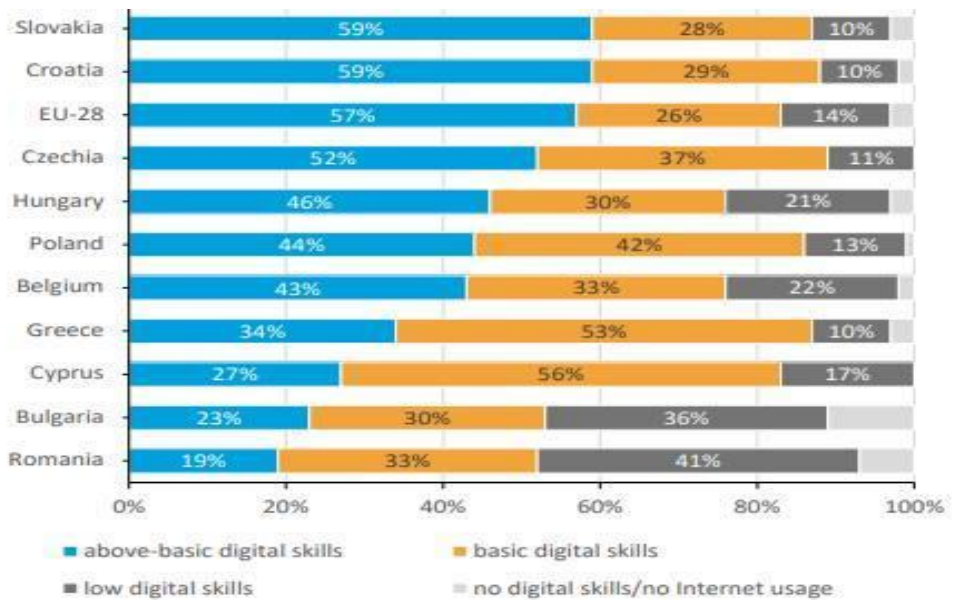
A negative feature is the fact that Romania occupies the last position in Europe in what concerns the 16-19 aged student category with above-basic digital skills. Accordingly, merely 19% of the Romania students in the above-mentioned age category have above-basic digital skills (at the opposite level, over 80% of the students from Finland and Luxembourg have above-basic digital skills). The percentage ranges between 70 and 80% in other European countries, between 60 and 70% in 9 European countries, while the Eu average is 57%.

**Figure 1. Number of high-school students with basic digital skills**



Source: Ionescu, 2020

**Figure 2. Number of high-school students with above-basic digital skills**



Source: Ionescu, 2020

Digitalization provides many new opportunities, but also generates a series of significant social challenges. Digital technologies can increase both creativity and flexibility, and improve the overall efficiency and learning results. Nevertheless, phenomena such as disinformation present a danger to democratic and open societies, and consequently further isolate vulnerable groups. Technology integration for educational purposes has fallen behind in all EU member states. There are still disparities in what concerns the supply of infrastructure and digital gear, as well as expertise available in the fields concerned. It is instrumental for citizens to be appropriately prepared to future-proof an interconnected and globalized world, through investments in necessary skills and abilities to prosper and take an active part in the digital era society (Joița, 2000).

Digital technology is a key feature of our collective effort to fight the virus and support the novel ways of working and living over this exceptional period. The European Commission has worked constantly for coordinating, completing, and creating measures addressing all aspects of the coronavirus pandemic, and here digital tools, mass media, and telecommunications have played a crucial role. Digital technologies have never proved more important than at this moment. Ensuring Europe's infrastructure, connectivity, and the necessary regulations in place to address the challenges posed by the pandemic and keep people active, motivated, and safe via online solutions was our mission. With the COVID-19 pandemic sweeping across the world, and the safety measures being taken at a national level, there were registered major disruptions of the education and training system in terms of mobility for students, teachers, and educators all over the European Union. Fortunately, there is a diverse array of online and offline instruments that can be used (Andrei and Abăcioaie, 2020):

- connecting educators and students when they are physically in different places
- accessing information and digital platforms from home or educational institution that are not commonly available
- supporting the continuing professional development of teachers in a flexible way.

Online events, such as conferences, facilitate the transfer of information in real-time and provide synchronous learning for students. Here are some of the most popular applications: Zoom, Microsoft Teams, GoogleMeet, Webex, Twinspace.

To ensure the continuity of education and training activities, there are also available online teaching materials and platforms. Just to name a few:

- School Education Gateway - this online catalog, available in 23 European languages, comprises teaching materials and continuing education courses for teachers and other interested parties from the education system across Europe.
- eTwinning - this collaborative platform, available in 30 languages, allows teachers to exchange resources, info, communicate, take professional training courses, and build projects together.



- Salto-Youth - online catalog providing online training instruments that promote and support activities addressing the youth.
- Virtual Walls - apps for online meetings that facilitate collaboration by providing virtual space for sharing bodies of texts, images, videos, and websites. Among the most used are Padlet and Lino.
- Digital Editors - online platforms hosting publications such as journals, teaching aids, and materials, books, etc. To name just a few: Issuu, Calameo, and Smore.
- Learningapps - platform providing models of applications and the possibility for creating content.
- Erasmus+ Virtual Exchange - explores the innovative opportunities of virtual exchanges for the young people aged 18-30 residing in Europe and the SouthernMediterranean.
- Eu Code Week - local initiative supported by the European Commission. It aims to boost digital skills such as programming, and computational thinking by embracing an engaging and funny way.
- Digital tools in secondary and high schools, educational games - instruments facilitating the synchronous work during online conferences. Worldwall and Learningapps are among the recommended instruments.

To support the development of a digital education ecosystem, it is necessary to have the appropriate infrastructure, connectivity means, and digital gear for effective planning and development of the digital skills, including updated organizational skills for digitally competent teachers, high-quality teaching staff, and easy-to-use instruments as well as safe platforms in terms of GDPR policies and other ethical issues

## **2. Results and discussion**

### **2.1. Improving distance learning via digital tools in a secondary school from Iași city**

*The teaching activity through information technologies* is defined by the Order no. 5545/ September 10, 2020, for establishing the customized methodology as “an organizational form of the teaching process that replaces the classical teaching-learning-assessing classes, requiring the physical presence of the students in the classroom, with online teaching and individual-study activities. The activity is managed by teachers, with the support of internet and information technologies, to ensure the continuity of the teaching process”<sup>14</sup>. The virtual education environment comprises all digital and communication means that can provide the effective functioning of an educational process through specific activities. There is a wide range of means, yet the following stand out:

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<sup>14</sup> Ordin Nr. 5545(2020) pentru aprobarea Metodologiei-cadru privind desfășurarea activităților didactice prin intermediul tehnologiei și al internetului, precum și pentru prelucrarea datelor cu caracter personal.

- digital educational platforms or platforms designed to create and share open-source educational materials
- apps built to communicate via information technologies and available for a diverse array of devices, such as PCs, laptops, tablets, smartphones, that can be used for holding video conferences, online meetings, and classes
- digital information resources (lessons, tests, tutorials, etc.) are available on digital education platforms and other resources such as bodies of text, images, models, and others supporting the educational process.

Regarding the ways of ensuring the security of the virtual educational environment, they are in agreement with the EU legislation on cybersecurity and GDPR. The schools are required to follow a few steps prior to conducting online classes. Thus, it will be assessed the capacity of carrying out online teaching activities based on information technologies, to estimate the need for information resources and qualified human resources. Following this stage, solutions are to be identified in close partnership with public authorities and institutions, NGOs, and economic actors, to provide all the necessary resources for conducting teaching activities in schools. The educational establishment provides training resources for teachers, namely support courses such as specific apps and platforms used for holding online classes, video seminars, and tutorials (Suslenco and Doncean, 2021). At the same time, statistical data on students' access to technological means (internet and phone services, public broadcasting, platforms, and necessary resources for conducting the support activities of the online learning process) will be collected to effectively implement the identified solutions.

By analyzing the organization of distance learning and digital tools of e-learning, it has been proved that the traditional education system should be radically altered, if not totally reset, as it is commonly rigid (when teachers impose learning on their students in an authoritarian way), and mostly focused on the cognitive domain and less on the affective and psychomotor aspects (Covey, 2018). Basically, the value and attitude formation are not properly valued, and this concept lies at the core of the new European educational paradigm.

In the near future, the key objective of education relies heavily on the features of personalized or individual learning, planned within the educational establishment and also inside the community or family (Suslenco, 2021).

To achieve effective personalized learning, it is necessary to make the best use of a student's possibilities, living and learning conditions, community resources, and mass media means, and employ distance e-learning technologies as well, since they present an opportunity under special or unpredictable circumstances (Keller, 2014). As regards personalized learning, students do not focus on the content alone (its role does not cover a significant amount), but rather on the analysis of learning strategies and modalities, and on the relationships created between participants. Under the circumstances, the role played and place occupied by the analysis of the learning process will be of the utmost importance for securing the quality of the education

system. Most discussions and reflections of the educational actors will be organized around the following questions:

- What have we learned?
- What products have we created?
- How have we felt?
- What has gone well?
- What has not been clear?
- How can we overcome certain difficult issues?
- Which methods have we used in the teaching-learning process?
- Who have we best interacted with when completing tasks?
- Which sources have been used?
- How do you value your own activity?
- To what extent are we open to helping people with special needs?

The content of the Romanian tasks consisted of reading short texts, and transcribing or copying a piece of text. The Math tasks involved solving exercises and problems in a moderate number. From what teachers stated, they upload materials on one of the platforms selected and known by students on a daily basis (mainly audio or video files, working sheets), and the main aim was to complete the tasks with the help of the recorded indications. At the beginning of the school day, students and parents alike were suggested a schedule to agree upon, providing the links for each subject or work requirement. Each child was given certain working hours and assisted by his/ her parents, was invited to send the completed task to the teachers. Commonly, teachers would check and correct the papers received and send back individual feedback. Some teachers would communicate online with all their students every school day, at different intervals depending on the age of the class. Teachers have mentioned that, among the learning abilities, learning how to write correctly takes the longest. Accordingly, extra writing homework (usually done in an informal context) has proved one of the most useful activities at the primary and secondary levels.

## **2.2. Quantitative research survey**

In order to develop this research, we employed the following methods: induction, deduction, abduction, analysis, synthesis, quantitative research, scientific abstraction. Within this context, a quantitative research was performed using investigation, the research tool being the survey. A survey run in a school from Iași City, counting 60 students from different grades in secondary school, has obtained the following results:

*Preferences revealed by students for performing distance learning activities in tandem with their teachers:*

- phone (light blue) – 49%

- Skype (Brown) – 20%
- online apps such as Classroom, Zoom (yellow, gray) – 45%
- Viber, Messenger (blue, green) – 28%
- others – 4%.

*Regarding the activities implied by distance learning requiring students' involvement, they are as follows:*

- individual tasks – 76%
- tests – 70%
- online classes – 40%
- guided reading lessons – 24%
- educational projects – 20%
- conducted discussions – 18%
- small debates – 10%
- e-portfolios – 10%
- others – 40%.

*The answers given by students to whether the online interaction with teachers was necessary during the isolation period:*

- Yes – 86.5%
- No – 9%
- Not necessary – 4.5%.

*In regards to what extent students think they understood the tasks assigned for individual work, their answers are as follows:*

- very much – 22.7%
- much – 38.8%
- moderately – 27.9%
- little – 7.1%
- not at all – 3.5%.

*Students worked for completing the school tasks during the day*

- from one hour – 7%
- for 2 hours – 28%
- for 3 hours – 19%
- for over 4 hours – 17%.

Most students mentioned that the number of assignments was excessive, and they could not complete them.

*In regard to organizing the distance learning process*

- most students declared they were satisfied with the work of their teachers – 56%
- students who expressed their gratitude – 45%

However, concrete suggestions for improving distance learning were also registered, such as assigning less homework, having more interactive lessons, better-explained tasks and homework, a more stable schedule, selection of a single platform dedicated to online learning, better-trained teachers to manage online teaching and use of platforms, more objectivity in assessing students' answers.

*Concerning the organizational level of distance learning, the students graded it as:*

- very good – 22%
- good – 55%
- poor – 20%
- very poor – 3%.

*Students' opinions about how their parents understood and got involved in the learning distance activities. The answers that stood out are the following:*

- very good – 15%
- good – 45%
- moderate – 33%
- no particular opinion – 7%.

So, from the student's perspective, their parents were largely satisfied with the way distance learning was organized. This is also explained by the fact that, as many students declared, many parents got involved occasionally, while others did not get involved at all.

*Students' opinions about their parents' attitude toward distance learning:*

- 30% accept that their children are busy doing something useful
- 25% get involved regularly and provide the necessary support to their children
- 20% do homework with their children
- 15% do not see the use of learning during the isolation period, considered a school break
- 10% are not interested.

*Students mentioned that after the first 2 weeks of distance learning, the organization of the education process made progress, such as:*

- a) the number of students engaged in online learning increased
- b) more teachers started using the dedicated online platforms
- c) homework decreased in number, and, in some cases, they were cancelled
- d) a stable schedule was made
- e) the time spent in front of the digital devices was reduced, and the focus was on solving creative tasks, using handbooks and other learning materials

The qualitative analysis of the questionnaire has aimed at identifying the issues faced by the educational actors and clarifying the positive features registered during the distance online learning period.

## **Conclusions and recommendations**

Under the circumstances generated by the epidemic crisis worldwide, all social categories have tried to implement the safety and prevention measures imposed by the central authorities. The education system was one of the most affected systems. As the teachers' activity was commonly held in the classroom, and the teaching activity was conducted face-to-face, there was direct teacher-student communication. Accordingly, due to the exceptional circumstances, a novel

approach was required, and the physical lessons were replaced by online classes supported by digital platforms. This proved a real challenge for educators and students, and their parents as well. The digital skills of teachers are both a pressing need and job requirement in the current education system. In this sense, user guides for different learning apps were made in Iași county since the early days of online teaching, to support online teaching and learning and assist both teachers and students. There is a real interest in distance learning, proved by the great number of students who completed the questionnaire since this is a rather novel and less familiar way of teaching for the educational actors. Students have shown a real interest in achieving academic success and willingness to modernize and improve distance learning, and also have come up with suggestions for reforming the overall education system. In the case of some students, the remote interaction has come as a matter of course, since they used it previously for online communication, shopping, or when using other digital tools.

In the end, we would like to offer a few recommendations to improve distance learning activities and better manage the process in terms of methods and emotional impact:

- the methodology for organizing distance learning should comprise more tangible information about the tasks and responsibilities of teachers and students under crisis situations, such as regulating the time spent in front of digital devices and TV, how to combine synchronous and asynchronous lessons, how to make tutorials and other video educational programs for various learning and inclusive circumstances, how to schedule activities, etc.
- the isolation period can cause depression, stress, and give rise to tensions among students and teachers alike, that is why communication activities are more than welcome. They should focus on various life subjects, listening to the problems faced by children, not necessarily complaints about school hours as much as issues related to general life aspects
- There is already a wide range of digital tools and dedicated platforms for online learning and teaching, and, accordingly, it is essential to start with more familiar, friendly activities that are accessible to both students and teachers
- calling attention to economically disadvantaged children who do not have equal learning conditions, and, accordingly, paying them more attention and providing them more support from both teachers and schoolmates.

To conclude, the intercultural dimension of a quality educational process plays a major part in modern society, through its unique capacity to enrich our general system of values and its ability to effectively share these values with all around us. This phenomenon will have a logically necessary consequence, namely, it will boost the forthcoming development of relationships based on tolerance, mutual understanding, and flexibility among the citizens of this world.

In conclusion, the intercultural dimension of a quality educational process plays a particularly important role in modern society, through its ability to creatively

enrich the general system of values, but also through the ability to share these values with everyone around. This phenomenon will have a logical and necessary consequence: the development of relations based on tolerance, understanding and flexibility among the citizens of today's world.

The results of this study show that Romanian students have confidence in their ability to develop within the online learning system. However, their optimism may be the result of an erroneous self-assessment.

This study complements the literature in the field through the perceptions of a group of Romanian students regarding the implementation of online education during the COVID-19 pandemic.

The coronavirus pandemic has brought many changes, pushing us to find new ways of working, interacting, and living on the whole. It raised questions about how our society is organized and about where we wish and should invest in the future. It tested our strengths and highlighted our weaknesses. We had to cope with new challenges, and finding a cure was of the utmost importance.

The results represent a starting point in devising a future strategy in education at the national and institutional level because there may be a hybrid system in the future and the return to the traditional education system may not happen.

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# CHINA'S APPROACH TO THE CONFLICT IN UKRAINE

Carola FREY\*

## Abstract

*Ukraine is the terrain for a new geopolitical game and China's position is ambiguous. The article aims to analyse how Beijing places itself in the Ukrainian crisis, considering the BRI, the relations with the European Union and the new Global Security Initiative announced in April. The analysis is based on scientific literature, recent articles and publication, and official documents, both in English and Chinese. The main findings show that China is engaged in a balancing act between Russia and the West, in an apparent neutral stance, that seeks to maximise Chinese gains on the long run.*

*Keywords:* Ukrainian crisis, Global Security Initiative, China's foreign policy, new world order, GSI

## Introduction

The ongoing violent conflict in Ukraine has put new strains on the already tense international geopolitical realities and interactions. It affected not only the economic recovery plans of states and their defence spendings, but it also changed the European regional security landscape and the international balance of power. It brought to light once more the discrepancies between East and West, in a new struggle of narratives, of conflicting perspectives, of unfulfilled responsibilities and tough decisions. It rippled across continents, creating instability and illustrated how states are even more interconnected in their search for geopolitical advantages and pursuit of economic interests. Ukraine became thus the terrain for a new geopolitical game that involved the ambitions of several regional and international actors, including – in a direct or indirect manner – those of China.

Provided that things are constantly changing, the article aims to analyse how China positions itself in the violent dispute between Russia and Ukraine, considering its viewpoint on foreign intervention, its foreign policy options and the “no limit” partnership with Russia, announced at the beginning of February 2022. An important element to mention is the fact that all events discussed are still in progress. The pandemic has accelerated international trends and the level of actors' interactions

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unfold at a faster rate than before. For example, the Global Security Initiative (GSI) causes new reactions from day to day, mainly because more information becomes available and is released to the public. Thus, the constant unfolding of events becomes both a limitation and a subject of constant research.

The main research question is *how China acts and reacts (or better said adapts and plans) to the new stimulus triggered by the conflict in Ukraine?*.

Violence between Russia and Ukraine broke out a few months ago and China, up until April 2022, didn't manifest an engaged rhetoric. The month of May saw a response from Beijing, leaning not exactly towards the West, but not towards the Russian-like narrative either. This stance was more set towards the middle ground, based on a cost-benefit approach (Beijing has more to gain, from an economic point of view, from the West, than from Russia). China is thus engaged in a balancing act, focused on promoting its own interest, especially since the international sanctions imposed by the West to Russia made Beijing pay attention and follow the situation as a "study case" scenario.

One of the research goals is to analyse how the conflict in Ukraine affected the Belt and Road Initiative (BRI) and the relation between China and the EU. The BRI is more than a global development strategy, as it has an important foreign policy undertone. By pinpointing Ukraine's place in the general BRI framework, we can deduce if there might be any direct interest that could motivate any future sustained reaction from China. The EU-China relations points to the evolution of relation at the international level, and China's perceived role in the general dynamic. In addition, this research goal gives us an indication of whether there is any geoeconomic incentive that would motivate China to make a direct contribution to the conflict and see the leverage the EU could have to determine China to act.

Another goal is orientated towards presenting the new Global Security Initiative (GSI) proposed by the Chinese president Xi Jinping at the Opening Ceremony of the Boao Forum for Asia Annual Conference 2022 (April). The initiative is shaped after the violent conflict broke out in Ukraine, and it represents the Chinese alternative to the western approach. The ongoing developments of geopolitical processes show China's involvement in global politics, an element of novelty for the "empire under the sun", to which the barbarians usually come. However, even if the GSI seems to be the response given by China, that contains a roadmap of action, at this stage it is only a theoretical proposal, put forward in an unclear manner, that only gives us clues regarding Chinese intentions. By examining the GSI we can figure out if China has just dodged a direct response, through an elusive initiative, or if it reacted to the stimulus of Ukraine.

The BRI is a well-established Chinese initiative with an ample mechanism behind it, a sustained implementation effort and a complex vision. The GSI, on the other hand, is the freshest product in the Chinese repertoire. By addressing both initiatives in the Ukraine context, we can assess if China has serious intentions (in short if its interests are affected enough to get involved) or if it will just navigate in

an apparent neutral stance long enough to keep itself away from the conflict, the dissatisfaction of the West and unwanted Russian requests. Furthermore, the interaction between China and the EU reveals a part of the calculations made by Beijing, while the BRI and the GSI, as means for direct action, could reveal if China decided to adapt/react or if it is just waiting for the waters to settle as it follows its own course.

The methodology used to conduct this research is qualitative, with an analysis of the scientific literature appropriate to the topic and based on the study of some key author's books (for example it will draw on several elements from "Destined for War" Graham Allison), of recent articles and relevant scientific publications. Moreover, information found in Chinese publications is used. Official documents, reports and state initiatives are the reference point in terms on information provided. Articles from independent research institutions dealing with this subject are employed since in some cases the materials in English, German or French offer other information compared to those in Chinese. Research papers and researchers educated opinions from Chinese institutions are studied, such as China Institute of International Studies (CIIS), Chinese Academy of Social Sciences (CASS), Centre for China and Globalization, just to name a few. This approach has the purpose of establishing a wide understanding of the situation, by investigating recent Chinese declarations and statements, that describe the context and the interactions of specific variables.

However, literature on the GSI or the implications of the conflict of Ukraine for BRI is limited. Some treat the subject marginally, while others focus on the period between 2013-2021. The same is the case for journal articles (the GSI came out nearly two months ago, and the UE-China Summit was roughly a month ago). However, online analysis, publications and reports could be found in abundance. Western social media (Twitter, Facebook) did not postponed to show their positions regarding the most recent developments. The same can be said about the Chinese counterparts (WeChat media and Weibo). In addition, the present paper uses information presented at conferences and online events such as MERICS China's Return of Uncertainty – A Perfect Storm? and the debate on the security situation in Eastern Europe (with special speaker mister Vladimir Socor).

The methods used in the elaboration of the paper are documentation and context analysis. Classical research techniques will be used - induction and deduction, but also the interdisciplinary method. Moreover, research techniques belonging to the field of communication are used, namely content analysis of some documents, as well as the analysis of speeches, to determine displayed positions of China or the EU.

The first part of the article will investigate China – Ukraine interactions. It will briefly present the recent evolution of bilateral relations, corelated to Ukraine's degree of involvement in the BRI. In doing so, it will be possible to ascertain if China has any major interest in the country, or if its interactions can be postponed and

resumed in a more convenient environment. The second part will follow the China – EU dynamic, since perspective of the EU provided China with an insight of possible politic and economic consequences (hints that transpired during the EU-China 23<sup>rd</sup> Summit). These two parts relate to the first research goal as we try to pinpoint the motives that might determine Beijing to act in the current dynamic, as well as possible outside stimuli that may call for a specific reaction.

The third part will focus on the GSI and aims to present recent information on the topic as it transpires from the Chinese documents and public statements. It represents an early analysis, as we aim to identify key concepts of the Chinese approach to the Ukrainian issue. To complete the image, we will draw on how the initiative was perceived in recent articles of some popular publication that tackle Chinese affairs on the international scene. The objective is to explore how the GSI can be the Chinese response to the situation, and what it conveys about its position. The conclusion section will make an x-ray of the geopolitical situation for China, underlines the main findings of the three parts and offer an answer to the research question based on the provided information.

## **1. Just a small delay in China's economic outlook**

The economic strategy that Beijing had in mind for Eastern and Central Europe, is, to a certain degree, affected by recent events in Ukraine. Plans envisioned in Ukraine, through the BRI, suffered a setback but are likely to be resumed once the conflict ends.

Ukraine joined the BRI in 2017 and aspired to play a key role in the Eastern European part of the Initiative (maybe even become an alternative to the Russia-Belarus corridor). Since then (and even before, starting with 2013 at least) the two actors signed several agreements on agriculture, culture, energy, education, healthcare, etc. The phone call Volodymyr Zelensky had with Xi Jinping on 13 July 2021 summarizes the state of affairs at the middle of last year<sup>1</sup>. This conversation, being the first between the representatives, happened after the signing of “an intergovernmental agreement (on June 30, 2021), on strengthening cooperation in the construction of infrastructure, including railways, airports, ports and other facilities”<sup>2</sup>. According to the read outs, the leaders focused on future infrastructure projects and connectivity plans, and from the transcript provided by the Ukrainian president this was just a part of the “Big Construction plan”: “the participation of

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<sup>1</sup> President of Ukraine Official Website, *Current events (2021), Volodymyr Zelenskyy's first phone conversation with President of China Xi Jinping took place*, 13 July, retrieved from [https://www.president.gov.ua/en/news/vidbulasya-persha-telefonna-rozmovova-volodimira-zelenskogo-z-69509](https://www.president.gov.ua/en/news/vidbulasya-persha-telefonna-rozмова-volodimira-zelenskogo-z-69509)).

<sup>2</sup> Xinhua (2022), *Interview: China, Ukraine have broad prospects for BRI cooperation, says Ukrainian economist*, 07 January (retrieved from <https://english.news.cn/europe/20220107/199a78fc8f414760b22610a597c80762/c.html>).

Chinese investors in the implementation of several projects on the development of seaport infrastructure, construction and modernization of roads, development of railways, urban infrastructure, and municipal services” (Zelensky). However, as usual, China’s tone was more reserved and calculated. Like in many cases, its approach was apolitical (Goulard, 2021), based on trade, economic cooperation and (of course) infrastructure – tactic that didn’t alert Russia (even if China came to be the largest trading partner of Ukraine), and presented a model of international interaction that the international community (and European community) was already accustomed to.

In 2019 China was Ukraine’s “biggest single trading partner” (Reuters, 2022) and in 2020-2021 it became the largest importer of consumer goods (Reuters, 2022), representing 10.9% of GDP (in 2020) and 15.1% of the total foreign trade turnover of Ukraine<sup>3</sup>.

Important companies that operate are COFCO Corp (CNCOF.UL), China Pacific Construction Group, China Harbor Engineering Co (CHEC) and Huawei Technologies (HWT.UL), with a total of \$150 million in direct investment by the end of 2019 (Reuters, 2022).

Reasons why Ukraine is of interest from a geoeconomics point of view to China are drawn also in an article published by the Diplomat in 2016. In the aforementioned contribution, the author argues that Ukraine is strategically located along the route to Europe and could become a transit hub. The article pointed out that Ukraine had the advantage to be in the geographic proximity of Europe with potential for investment considering the trade agreements it has with the EU (the Deep and Comprehensive Free Trade Agreement between the EU and Ukraine) and a relative gain in the geoeconomics architecture of Eastern European states (Mykal, 2016).

In the technology sector, Ukraine approached China the same way European states have – it set specific boundaries and not allowed Beijing to access specific parts of its critical infrastructure, including implementation of 5G networks by Chinese companies.

There are success projects developed in partnership with China, such as COFCO grain terminal, China Pacific Construction Group metro line, the China Longyuan Power Group Corporation large wind farm in Yuzhne, and projects that failed to deliver like the takeover of a local producer by an aerospace company Skyrizon and Power Construction Corp’s powerplant in Donetsk. Furthermore, the Russian-Ukrainian conflict made it challenging for the Chinese government to draw on previous trade and infrastructure exchanges (Hutson, 2022).

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<sup>3</sup> Three questions to Yurii Poita, The China-Ukraine Partnership: Surviving a Deteriorating Strategic Environment, February 2022 (retrieved from [www.institutmontaigne.org/en/analysis/china-ukraine-partnership-surviving-deteriorating-strategic-environment](http://www.institutmontaigne.org/en/analysis/china-ukraine-partnership-surviving-deteriorating-strategic-environment)).

From the above summary, we can estimate that relations between China and Ukraine followed a specific Chinese recipe, usually applied to European states. The distinctions that can be made are that China had to keep an eye on Russian sensibilities and not appear to establish a specific influence zone. Moreover, the projects under BRI (or bilateral to the same extent) do not have an element of novelty and are not of a significant scale (such as the infrastructure and digital projects in Africa). In addition, the absence of immediate geographical proximity of the region, and the relative level of economic interest make China unwilling to compete or have a direct involvement. The calculation appears quite simple: there is no high enough stake.

## **2. The outcome of the EU-China Summit**

The EU-China Summit, held on the 1<sup>st</sup> of April 2022, tackled the Ukrainian issue as one of its topics. Depending on the source read, the event is presented in different way. The European Union official reports emphasize China's attitude towards the crisis and how Beijing did not live up to European expectations (European Council, 2022), while the Chinese state outlets stress on the other aspects discussed, such as COVID response, trade, climate change and digital economy (MFA China, 2022). The 23<sup>rd</sup> Summit was a diplomatic game with back-and-forth messages. Brussel didn't manage to lure in Beijing (so far) or appease the anti-NATO narrative (Zhu, 2022). The Communist Party journal Qiushi mentions – short and dry – that the European Officials “shared their views and propositions on the Ukraine crisis” (Qiushi, 2022). President Xi's intentions are present in the article. China “supports the EU's efforts toward a political settlement of the Ukraine issue” and is taking action for peace talks and encourages negotiations between Russia and Ukraine (as the best way to achieve a viable solution).

As an addition, Foreign Minister Wang Yi's words are reminded to the public in an article on Xinhua: “China does not seek geopolitical interests, nor will it watch the event from a safe distance while sitting idle, or add fuel to the fire”<sup>4</sup>. Most governmental readouts of the Chinese high officials reiterate this aspect, in an attempt to uphold a posture of neutrality. The statement can be interpreted either as a typical Asian construct, intentionally ambiguous, reminding us of Sun Tzu's teachings (Sun, 2010, p.3) or as a statement that covers absolutely all possible possibilities and leaves room for any future line of action, depending on actors' dynamics. It is clear that China will try to maximize the results in its favour and through this type of language will fight accusations regarding the morality of the statements. Especially because in the after math of the conflict the moral aspect of the parties' actions will have an increased value.

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<sup>4</sup> Xinhua (2022), *China sincerely wants peace in Ukraine: FM*, 05 April 2022 (retrieved from <http://english.news.cn/20220405/30d94c6a19c4492f9e202849c0bfff9fd/c.html>).

Disagreements in the EU-China relationship will continue to arise because they identify different root causes of the conflict and discussions focus on them. The Ukrainian issue unveiled an important tension and this affects the cooperation between the two, being more and more complicated to determine which instance to use: partner, competitor or rival. “Business as usual” is difficult to maintain, since China, it is obvious, that will not accept any other manner of action than its own, or that it will not serve its national interest. However, a clear positioning can determine a precise way of action, beyond certain international platitudes. Graham Allison in “Destined for War” made the point that “the more the US government understands China’s aims, the better prepared it will be to resolve differences” (Allison, 2017, p. 265). This can also be successfully applied to the EU’s case. Thus, if concrete action is to be taken, the parties will have to start from the ideas that bring them closer and not from those that separate them. On the long term, pressure and a strategy to engage China in the Ukrainian issue in Western terms could corner Beijing and have the opposite effect. The humanitarian aid effort and the promotion of dialogue (DW, 2022) are issues that China would probably be willing to engage with the EU without “sacrificing” the relationship with Russia (Haenle and Corre, 2022). Any Chinese foreign policy action is made in line with its national security paradigm.

However, the European Union has not received a definitive answer from China on the issue at hand. If the first round ended with a positioning of the actors, the match can evolve in different ways. China can choose to be pro-Ukraine and pro-Russia at the same time, using its own logic. For example, Oleksiy Arestovych (Ukrainian presidential advisor) on 11 May made a point on Twitter that “China has made its choice in favour of Ukraine”. China is going to find a way to back Ukraine if this will turn out beneficial on the long term. We must not overlook the fact that Beijing is in a delicate position both economical and internal (pandemics/COVID need of the US and EU market), and it does not want to add to the equation a new set of complications (sanctions or jeopardizing the economic growth). It is also uncommon for China to intervene and get directly involved. It is more characteristic to the Chinese to act in the rebuilding of Ukraine (labour, materials sold). Export of “foreign aid” as an infrastructure to increase political ties is a much-preferred method.

In an article that was available only for a few hours on China’s Phoenix News, Gao Yusheng (former Chinese ambassador to Ukraine) made points on the effects that the Ukrainian violent conflict might have on the international order and presents possible outcomes, Russia not being one of the winners in any of them. Even if the Chinese media most times uses the Russian narrative and according to analysts it echoes Russian propaganda, Ukrainian Foreign Minister Dmytro Kuleba made an

important contribution in Xinhua News Agency<sup>5</sup>. The coverage on the conflict presented by Xinhua (in Chinese) changed in the last part of April and beginning of May. Even if it was never the case for a “pro-Russian” or “pro-Ukrainian” approach, the narrative is shifting away from Russia considering disadvantages it may bring, towards on reporting on the conflict from a Western-background threat perspective (for example on CGTN).

### **3. The Global Security Initiative – China’s general roadmap applied in Ukraine?**

The Boao Forum (21 April 2022) marked a significant moment: China’s answer to Ukraine – the Global Security Initiative. It is not what the international community wanted or expected. The Boao Forum is modelled after the World Economic Forum, and is organized in line with Chinese expectations (the Secretariat is located in Beijing), with the main purpose of debating the views of significant guests on the most pressing issues of regional dynamics and international issues. The Chinese president Xi Jinping uses this platform to present official messages. From 2013, it is the first time that he delivers a keynote speech in two consecutive years (2021 and 2022).

“Rising to Challenges and Building a Bright Future Through Cooperation” does not include a direct reference to Ukraine (as several international publications pointed out), but the general description and the moment are directly related. By citing a “Chinese philosopher”, president Xi notes that – “stability brings a country prosperity, while instability leads a country to poverty”<sup>6</sup>, a subtle reminder of the Chinese opposition to the unilateral sanctions. The Global Security Initiative (GSI) includes in a broad way Beijing’s stance regarding the violent conflict in Ukrainian (reiterated countless times by Chinese officials and media outlets) - “stay committed to respecting the sovereignty and territorial integrity of all countries, uphold non-interference in internal affairs, and respect the independent choices of development paths and social systems made by people in different countries”<sup>7</sup> and underlines the proposed solution “stay committed to peacefully resolving differences and disputes between countries through dialogue and consultation, support all efforts conducive to the peaceful settlement of crises”<sup>8</sup>.

<sup>5</sup> Xinhua (2022), *Ukrainian Foreign Minister Dmitry Kuleba gives an exclusive interview to Xinhua News Agency*, 30 April 2022, (retrieved from [http://www.news.cn/world/2022-04/30/c\\_1128610853.htm](http://www.news.cn/world/2022-04/30/c_1128610853.htm)).

<sup>6</sup> Xinhua (2022), *Full Text: President Xi Jinping's keynote speech at the opening ceremony of Boao Forum (BFA) annual conference 2022*, 21 April 2022, (retrieved from [http://english.www.gov.cn/news/topnews/202204/21/content\\_WS62616c3bc6d02e5335329c22.html](http://english.www.gov.cn/news/topnews/202204/21/content_WS62616c3bc6d02e5335329c22.html)).

<sup>7</sup> *Idem.*

<sup>8</sup> *Idem.*



The GSI is based on the concept of “indivisible security” and continues the path set out by the Global Development Initiative, promoting an alternative vision to the American liberal international order. The Sino centric proposal follows the course of action from 2014 and is reluctant in explicitly taking the Russian side. One may argue that the friendship with “no limits” concluded between Russia and China on the occasion of the Winter Olympic Games in February this year, could be a definite way to show support. So far, the diplomatic language and the messages available in state-controlled media are not articulated in this direction (even if they use the Russian narrative and not the Western one). At first sight, a neutral, independent position transpires, accentuated by Li Keqiang declaration made during the EU-China Summit that China “opposes division of blocs and taking sides” (DW, 2022). Furthermore, the keynote speech of Vice Foreign Minister Le Yucheng at “Seeking Peace and Promoting Development: An Online Dialogue of Global Think Tanks of 20 Countries”, from the 6th of May, offers clarifications on the partnership with Russia in regard to Ukraine:

Some people have twisted the words of the recent China-Russia joint statement and misinterpreted “friendship has no limits and cooperation has no forbidden areas” to mean that China had “prior knowledge” of Russia’s special military operation in Ukraine and even “endorsed” it. They have therefore concluded that China must be held accountable for the conflict. This is absurd. (MFA China, 2022)

Yet lessons learned, described in H. Kissinger (2011) “On China” and in G. Allison (2017) “Destined for War”, remind us that China even if it established closer ties with a country, it presented a different image in the public domain.

The GSI is completed by Foreign Minister Wang Yi in his article “Implement global security initiatives to safeguard world peace and tranquillity”. Relevant information is also found in the regular press conference given by Foreign Ministry Spokesperson Wang Wenbin on the 21st of April 2022.

Wang Yi’s article points out from the beginning that the GSI is a “major initiative” that “clearly answers the era’s issue of what kind of security concept the world needs and how countries can achieve common security”. By the way he structured the argument, the initiative is an ambitious long-term project, that offers “Chinese solutions to international security challenges”. The six principles are described using abstract concepts and key words like “multilateralism”, “win-win”, “the UN Charter”. The “peaceful development” approach of Beijing’s foreign policy and international emergence is reiterated. In this manner the GSI is depicted as a nonthreatening, believable initiative and not as an attempt at gaining advantages (Rajagopalan, 2022). However, he mentions the Ukraine issue twice, but it encompasses the same reformulated idea: “China, based on the right and wrong, abides by objectivity and fairness, actively promotes peace and talks, and has been

highly recognized by the international community, especially the vast number of developing countries” (Wang, 2022).

The Foreign Ministry Spokesperson continues Xi Jinping’s speech idea and adds the following accent: „regional security hotspots keep flaring up and the European security issue receives worldwide attention”. He points out that regional conflicts are the driving forces of the announcement “it is in this context that President Xi Jinping proposed the Global Security Initiative”. The Ukrainian conflict is included automatically as the trigger which materialized the programme (awaited moment, or window of opportunity). Thus, solutions are proposed: a peaceful resolution of the conflict and dialog, through China’s filter. Wang Wenbin reinforces all the issues mentioned by Xi, emphasizing the multilateral nature of the GSI and the fact that any state can join “it is open to the world and welcomes the participation of all countries”. An important point that must not be overlooked is the fact that the Initiative is categorized as a “public good offered by China”.

During the brief the YTN correspondent (Korean news outlet) raised two questions on the Ukraine issue and the answers were evasive (“On your second question, you may refer to the readout that we released earlier”). The opposition to unilateral sanctions was reiterated and China’s position towards the USA was stated in a “wolf warrior” diplomatic style: “we urge the US to avoid undermining China’s legitimate rights and interests in any form when handling the Ukraine issue and relations with Russia”.

In the same note came the reply to the question addressed by Reuters representative (“I was wondering could you be a bit more specific and share some more details about how exactly going forward China will implement this new initiative?”). The spokesperson answer lacked precision, the concrete melting in abstract (Orwell, 1964) “we are ready to have in-depth exchanges with all parties on implementing the Initiative”.

The GSI applied to the Ukraine issue is found in Vice Foreign Minister Le Yucheng lecture mentioned above. In short, the speech summarizes China as a responsible major player that acts in the spirit of the UN Charter and it is not willing to “follow in others’ footsteps or jump on bandwagons or act on hearsay”. In Ukraine, Beijing stood for “fairness and justice, and made active efforts to encourage peace talks and provide humanitarian aid. China has no axe to grind or any geopolitical agenda on this issue”.

In the context of the GSI, the same narrative is being reproduced as the one displayed in the past months in the case of Ukraine: “stay committed to international law”, “adopt the principle of indivisible security and reject the attempt to pursue one’s own security at the expense of others”, condemn unilateral sanctions and promote dialogue and negotiation. Wang Yi’s press brief “China’s Five-Pronged Perseverance on Ukraine Issue” from the 1st of April was formulated in a similar tone (MFA China, 2022).

On the subject of the GSI an article published in the Economist entitled “China unveils its vision of a global security order” interprets the initiative as an encrypted message, a subtle threat to the Western world order<sup>9</sup>. It argues that the Russia – Ukraine conflict showed that “China and the West have clashing notions of how to preserve world peace”. An analysis published in Nikkei Asia “Xi floats 'global security initiative' with eye on Pacific - With Belt and Road infrastructure plan stalled over Ukraine, president looks east” further suggests that “Xi’s proposal is being closely vetted in Ukraine. Xi’s close relationship with Russian President Vladimir Putin has not gone down well in Kyiv, but officials there understand Beijing has a certain influence over Russia and thus the outcome of a potential cease-fire” (Nakazawa, 2022). Elaborating on the subject, “China’s Xi Proposes Global Security Initiative” featured in the Diplomat argues that the GSI “will start to play a prominent role in Chinese public diplomacy and foreign policy posture, so it is worth taking seriously” (Rajagopalan, 2022).

## Conclusions

The conflict in Ukraine is still ongoing and so are the actions of key states. Thus, it is soon for conclusions, and only assumptions can be made, based on known facts and uncertain developments.

In the current power architecture, the four major actors, China, Russia, the EU, and the United States, are forcibly interconnected by the state of affairs: ongoing violent conflict, humanitarian crisis and controversial post-geopolitical international situation (and not to mention important geopolitical uncertainties). If only one power were capable, and acted only in its favour, there would be a major imbalance in which it is obvious that the three remaining will be left to draw strategies to balance it. China is currently orientated more towards Russia, although it does not agree with this option, because it does not want to sever relations with the other two actors (even if just to avoid the above scenario, in which China would not be the winning force and suffer not only economic losses), especially Europe.

The turbulences of the conflict influence the expansion of the BRI in Ukraine in terms only of a setback. The direct implication of China to safeguard any economic interest is unlikely, seeing that no major projects were developed, and the existing ones will have to be reconsidered depending on the outcome of the conflict. Not only the BRI has other options, but the economic difficulties that might emerge will be mitigated. The involvement in Ukraine (either on the side of Russia or the West), justified through the BRI, cannot be sustained and such an expeditionary endeavour is impossible to be presented on the domestic level, since the Party

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<sup>9</sup> The Economist (2022), *China unveils its vision of a global security order*, 05 May 2022 (retrieved from <https://www.economist.com/china/2022/05/05/china-unveils-its-vision-of-a-global-security-order>).

National Congress is set for autumn. Plus, such a decisive action is not a characteristic of the Chinese style.

The EU – China relation draws some red lines and cautions China to be distant since the Chinese realpolitik determines a careful calculation of benefits and places national interest first.

The GSI is still in its infancy, and it is unclear what path it will take and if it becomes another Chinese flagship project, that will aim to restore China's central role at the global level – more specifically a peaceful and nonthreatening power. It could present an opportunity for the enhancement of the Chinese strategic influence in target countries, especially in the case of Ukraine, due to the fact that is formulated in a way that can be adapted to the period of the conflict as well as to the post-conflict phase. Like all Chinese initiatives, they complement each other and are conceived so that the final beneficiary is Beijing.

The Chinese vision is expressed on two levels. On the diplomatic level, through the conjuncture that Ukraine created, Beijing prepared the ground for the launch of the GSI. Ukraine represents a fruitful testing ground to investigate how the GSI can be applied and what feedback it receives. On the geostrategic level, China used the context to adapt and create an opportunity with prospects for the future. Just as the Belt and Road Initiative, the GSI has the chance to grow and create advantages, building on the existing convenient structure of the current world order.

The GSI will continue to come up in the Chinese narrative. The Shangri-La Dialogue in Singapore, held at the beginning of June, was another opportunity to remind the international community of the values promoted by China and the objectives of the GSI. In the speech delivered by Chinese State Councilor and Defense Minister Wei Fenghe (“China’s vision for regional order”) Chinese vision, as well as Beijing’s priorities and international aspiration, were reminded to the audience<sup>10</sup>. However, the message delivered sounded more like “China promotes peace, equity and justice as long as no one pokes or bothers the dragon”.

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# FEATURES OF THE INTRODUCTION OF INFORMATION AND COMMUNICATION TECHNOLOGIES IN ADMINISTRATIVE PROCEEDINGS OF UKRAINE

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## Abstract

*The main purpose of study is a general description of the features of the ICT usage in administrative proceedings and the impact of this process on the efficiency of judicial activity. The work relies on a comparative study of international and national legislation on the possibility and methods of the implementation of ICT in the judiciary. Both theoretical and practical aspects of the process of implementation of ICT in the administration of justice in administrative matters have been investigated. The authors have found that the use of ICT in the judiciary has become an important and necessary element of effective functioning of the judiciary as a whole. The potential risks of the use of ICT in administrative proceedings have been outlined: restriction of access to justice for vulnerable groups, observance of confidentiality of digital information, restriction of procedural rights of participants in the judiciary, imperfection of legislative regulation, etc.*

**Keywords:** information and communication technologies, digitalization, administrative proceedings, public administration, accessibility of justice, efficiency of justice, e-justice

## Introduction

During the pandemic, people became convinced of the advantages and possibilities of using information and telecommunication technologies. Their development and increasing scope are identified as a priority in almost all countries of the world. Modern comprehensive digitalization leads to the intensification and expansion of the process of using information and communication technologies (ICT) in all spheres of socio-political life of the state, including administrative proceedings. These considerations indicate the relevance of the research topic. That is why the issue of

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theoretical justification of the need, opportunities and methods of implementation and application of ICT in the judiciary is the subject of many scientific studies. The use of information technology is explored in the light of reducing delay, improving access to justice and reducing corruption (Reiling, 2009). The attention of scientists to this topic is due to its novelty, constant updating and improvement of knowledge in the field of ICT and expanding opportunities for their use. The main purpose of this study is a general description of the features of the ICT usage in administrative proceedings, to study the impact of this process on the efficiency of judicial activity and to outline the prospects for improving administrative proceedings.

## 1. The ICT usage – a requirement of *nowadays*

Digital transformation, as a guarantee of stability and sustainable economic growth, has been identified as a priority area of political association and economic integration of Ukraine with the European Union (Joint Statement following the 22<sup>nd</sup> EU-Ukraine Summit)<sup>25</sup>. In this context, an important role is given to the discussion of Appendix XVII-3 to the Association Agreement in terms of rules applicable to telecommunications services. Their implementation will lead to the introduction at the state level of the latest European standards in the field of electronic communications with the further integration of our country into the EU Digital Single Market.

The ICT usage in all spheres of life became especially relevant for Ukraine after the statement made by President Volodymyr Zelensky during the Diia Summit. He announced the beginning of the “paperless” regime in Ukraine - the rejection of paper documents in government agencies<sup>26</sup>.

The need and practical expediency of the introduction of modern technologies in judiciary is justified by the Consultative Council of European Judges (CCJE) in the report “Justice and Information Technology” (CCJE, 2011). This conclusions at the European level regulates the modern ICT usage in the consideration and resolving of court cases. The main attention is paid to the possibilities and expediency of the ICT usage in judicial proceedings by the participating states.

Interest in the introduction and the expansion of the ICT usage in the judiciary is also reflected in the activities of the European Parliament, which on 18 December 2008 adopted a special resolution on the implementation and functioning of e-Justice (European Parliament, 2008). The document states, among other things, that the Commission is asked to give the necessary attention to developing e-learning tools for the judiciary in the context of e-Justice. Aware of the urgent need to adapt the

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<sup>25</sup> Joint statement following the 22<sup>nd</sup> EU-Ukraine Summit, 6 October 2020 (retrieved from <https://www.consilium.europa.eu/en/press/press-releases/2020/10/06/joint-statement-following-the-22nd-eu-ukraine-summit-6-octobre-2020/>).

<sup>26</sup> Zelensky: Ukraine will start moving towards «paperless» workflow regime from 2021 (retrieved from <https://en.interfax.com.ua/news/general/692972.html>).



judiciary to current conditions and the prospects for the digitalisation of judicial processes, a resolution was also adopted on an action plan for the implementation of e-Justice (European Parliament, 2013). The European Parliament calls for the wider use of electronic applications, the electronic submission of documents, the use of video-conferencing and the interconnection of judicial and administrative registers to be increased in order to further reduce the cost of judicial and quasi-judicial proceedings.

Despite the fact that the European strategy on the implementation of e-Justice has a recommendatory nature, governments are actively taking steps to implement these standards into domestic law and develop ways to use e-justice and ICT in the judiciary.

## **2. Basis of the ICT usage in the judicial system of Ukraine**

The introduction of ICT in the activities of the judiciary is a consequence and an integral part of the active European integration process of Ukraine. This is not a tribute to modern trends, but a way to achieve transparency in the courts, to ensure access to justice and to fight against corruption in the judiciary system.

The basic principles of the using of information systems and digital justice (cyber justice) are enshrined in the opinions and conclusions of the Consultative Council of European Judges, resolutions of the Parliamentary Assembly of the Council of Europe, documents of the Committee of Ministers, European Commission and others relevant documents. They laid the foundations for the formation and development of European policy in this area.

Based on the analysis of the practice of European countries in the field of introduction of the ICT in the judiciary, the European Commission for the Efficiency of Justice (CEPEJ) has adopted the Guiding Principles of Cyber Justice. In essence, these are basic principles, addressed to the national legislator. They are aimed at providing the effective use of the ICT to improve the functioning of national judicial systems. It is emphasized that modernisation of the justice system should begin with setting clear goals (improving the quality of justice), and technology should be seen as a means rather than an end (Guidelines, CEPEJ, 2016). Moreover, the implementation of cyber justice and its tools should be court-driven, not technology-driven. Technology developers should seek to better understand justice and work with judges and court staff. ICT should promote judicial values (impartiality, independence, legal certainty, accessibility), do not violate guarantees and procedural rights, such as the right to a fair trial (Toolkit, CEPEJ, 2019).

## 2.1. Unified Judiciary Information Telecommunication System.

Ukraine is currently at the phase of active implementation of innovative ICT in the administration of justice in general, and administrative proceedings in particular. According to the Decree of the President of Ukraine “On the Concept of Improving the Judiciary for the Establishment of a Fair Court in Ukraine in Accordance with European Standards” (Decree of the President of Ukraine, 2006). The State Judicial Administration has developed and approved the Concept of creating a Unified Judiciary Information Telecommunication System (UJITS)<sup>27</sup>. The main purpose of its creation and operation is information and technological support of the judiciary on the principles of balancing between the need of citizens, society and the state in the free exchange of information and the necessary restrictions on its dissemination. The introduction of UJITS is designed to ensure the transition of Ukraine to the electronic justice system and the gradual replacement of the traditional (paper) justice system, which will meet European norms and standards and lead the state to a new level of administration of justice (Bernaziuk, 2019, p. 329).

The UJITS is a set of legal, organizational and administrative measures, software, hardware and telecommunications that provide collection, processing, accumulation, analysis and storage of information, the interaction of individual subsystems unified and interconnected through relevant standards and protocols, software interfaces, data standards, document, network standards, archiving and related infrastructure management processes (Concept of the sectoral program of informatization of courts of general jurisdiction).

In continuation of the chosen direction on the introduction of ICT in the judiciary, the Program of informatization of courts and the project of building the Unified Judiciary Information and Telecommunication System (UJITS) for 2022-2024 were also adopted (SJAU, 2021). The implementation of this Program will help improve the organizational support and increase the level of informatization of courts, bodies and institutions of the justice system, create preconditions for the functioning and further development of the UJITS, legal entities, as well as optimization of budget expenditures. The main purpose of these innovations is to improve access to justice. This can be achieved through creating conditions for intensifying the introduction of ICT in the courts, bodies and institutions of the justice system, ensuring automation of their work, development of e-justice etc. Implementation of these changes should taking into account international standards in the field of information technology.

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<sup>27</sup> SJAU, STATE JUDICIAL ADMINISTRATION OF UKRAINE, CONCEPT of the Program of informatization of local and appellate courts and the project of building the Unified Judiciary Information and Telecommunication System (ESITS) for 2022-2024, Ukraine (retrieved from <https://zakon.rada.gov.ua/rada/show/n0001750-22#Text>).

To implement these innovations, a special law was adopted. Amendments have been made to the Civil Procedure Code of Ukraine, Commercial Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine<sup>28</sup> and other legislative acts. The law provide a wide range of possibilities for justice with the use of ICT (electronic court, e-court), the performance of all procedural actions through electronic means of communication with appropriate identification and security mechanisms. The participants in the case are provided with the opportunity to participate in the court session by videoconference, without leaving their housing or workplace, and for witnesses, experts - in the premises of another court. Case materials will usually be stored electronically, which will facilitate access to them, eliminate time, financial and organizational costs associated with transferring case materials from one court to another, simplify the analysis and generalization of case law, and so on. At the same time, it should be noted that the right of the parties to the case to apply to the court in paper form will remain with them even after the introduction of the Eelectronic court.

To perform these tasks, the rules of domestic procedural law provide he possibility of exchanging procedural documents between participants in the proceedings in paperless, electronic form (electronic documents, e-documents). In particular, the Code of Administrative Procedure of Ukraine states that the UJITS operates in the courts. Claims and other statements, complaints and other statutory procedural documents submitted to the court and which may be the subject of court proceedings, in the order of their receipt are subject to mandatory registration in UJITS on the day of receipt of documents (Code of Administrative Procedure of Ukraine).

The practical expediency of the implementation and use of the UJITS provides the exchange of procedural documents in electronic form between courts, between the court and the parties to the proceedings, as well as recording the trial and participation of litigants in court by videoconference. The ability to send and receive information in electronic form involves the operation of such concepts as an electronic document. However, the legislator states that an electronic document should be understood as a document in which information is recorded in the form of electronic data, including mandatory details of the document (Law of Ukraine about electronic documents and electronic document management).

In order to put into practice the process of implementing the UJITS in the activities of the judiciary, the order of the State Judicial Administration of Ukraine (SJA of Ukraine) approved the Concept of the UJITS. The special audit, which included an audit of information infrastructure, application software systems and software and hardware used in courts and other judicial bodies, showed that the

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<sup>28</sup> Code of Administrative Procedure of Ukraine (retrieved from <https://www.global-regulation.com/translation/ukraine/570127/the-code-of-administrative-procedure-of-ukraine.html>).

national judicial system was not yet ready for the implementation and use of the UJITS. A special order of the SJA of Ukraine postponed the start date of this system. Was developed and approved a new action plan to ensure the establishment and implementation of the UJITS. It should be noted that the postponement of the process of implementation of the UJITS is primarily due to the lack of budget allocations. Therefore, these measures for the development of the implementation measures and the necessary software of the UJITS are set taking into account the availability of the necessary sources of funding. At the moment, active steps are being taken to develop an action plan aimed at ensuring the establishment and functioning of the UJITS. It is expected that the creation, testing and implementation of this system will be completed in 2023.

## **2.2. Project “Electronic Court”**

The project “Electronic Court” is being implemented as part of the creation and improvement of UJITS. Thus, the order of the SJA of Ukraine of January 27, 2012 “On the establishment of an interagency working group to develop a pilot project “Electronic Court””, formed this group. Task groups are to analyze the functional and technological capabilities of information infrastructure of courts of general jurisdiction.

According to the goal of the E-Court project, its main tasks are to improve the working conditions of court staff, as well as to ensure fast and, most importantly, convenient access of citizens to justice. The priority tasks of the project are to ensure open access of participants in the process to information by creating modern Internet resources and installing information kiosks in court, a gradual transition to electronic exchange of procedural documents between the court and participants using electronic digital signature, electronic exchange of information with databases of other state bodies and institutions, to ensure full computerization of court proceedings, the formation of a single electronic archive of court documents etc.

The concept of the sectoral program of informatization of courts of general jurisdiction and other institutions of the judiciary states that one of the main points of this program is to reduce court time and increase access to justice through integrated use of new ICT (video conferencing, Internet technology, electronic record keeping, technology of processing and storage of electronic data) (Concept of the sectoral program of informatization of courts of general jurisdiction).

According to the order of the SJA of Ukraine of May 31, 2013 “On the implementation of the project on the exchange of electronic documents between the court and participants in the trial” as amended by the order of the State Judicial Administration of Ukraine of June 14, 2013 courts of general jurisdiction should have a procedure for the exchange of electronic documents between the court and the participants in the trial in terms of sending the court to such participants procedural documents in electronic form, in parallel with their paper counterpart. In

general, the E-Court project has received positive reviews from legal practitioners. Based on the order of the SJA of Ukraine in all local and appellate general courts a project was introduced to send courts to participants in court proceedings (criminal proceedings) the texts of court summons in the form of SMS messages (Order of the SJA of Ukraine, 2013). The introduction of these innovations in the activities of the judiciary is especially relevant in the context of mass informatization not only of Ukrainian society but also of the world community. However, the practical implementation of the E-Court project, being at the initial stage, encounters the problem of insufficient legal regulation of its implementation in sectoral processes. The current procedural legislation does not contain a sufficient number of norms that would ensure the full implementation of this project.

From the very beginning, the e-Court project was designed to test the possibility of widespread use of ICT in litigation and the exchange of electronic documents between courts and litigants. The order of the SJA of Ukraine provided for the introduction of a test mode of operation of the e-Court. For this purpose, a network of pilot local and appellate courts was identified where a test use of these innovations was launched. Participants in the process were given the opportunity to submit procedural documents in electronic form using the Electronic Court service. To do this, they must pre-register the official e-mail address on the portal <https://cabinet.court.gov.ua>. Identification and verification of registered data is required by the user's use of his / her electronic signature. The obvious advantage of using the E-Court service and submitting procedural documents in electronic format is to increase the person's awareness of the progress of his / her appeals. The person has the opportunity to monitor the movement and status of the consideration of his application (document) by the court, as all information about this is automatically sent to the User's Electronic Cabinet. The calendar of events in this court case is also displayed here.

Analysis of legal acts dedicated to the regulation of the implementation process of the project „Electronic Court” allows us to conclude that its implementation was planned in two stages: 1) sending procedural court documents to litigants by electronic means and sending court summons in the form of SMS messages; 2) making appropriate changes in procedural legislation; material and technical support of the project, full-fledged exchange of electronic documents between the court and the participants in the process; the ability to send electronic requests for information and receive electronic responses to them; use of electronic payments to pay court costs; online acquaintance with the case materials and electronic record of the court hearing, etc.

It is envisaged that the use of the E-court service will provide litigants with access to information on all incoming documents in a case, including electronic documents, information on documents received by the court from other participants in this case, automated distribution protocol, web links to procedural documents in the case that have been created by the court, etc. The introduction of the E-Court is

certainly a positive step towards the improvement of the functioning of the judiciary as a whole.

Unfortunately, the practice of test use of the E-Court service indicates the presence of shortcomings and imperfections in the software. Often there are failures in the service operation, registered users experience problems with access to the application, delays in downloading the necessary documents, temporary, periodic restrictions on access to information of the E-cabinet, etc. Although the abovementioned negative aspects cause inconvenience to users of the service, they are predictable and acceptable in the mode of its test use and should be considered in terms of the need to identify, refine and improve the software.

In the administrative proceedings of Ukraine, the introduction of these innovations is also due to the process of active implementation of the rules and standards of European justice to ensure the right to a fair trial. It is a guarantee of improving access to justice, facilitating the process of interaction and communication between participants in the trial and obtaining information on the progress of the case in court. Given this, the use of ICT in the judiciary is part of the effective functioning of the administrative court system as a whole. The planned abandonment of the paper version of documentation is welcomed not only for reasons of optimization and simplification of the process of document exchange, preservation and record keeping, but also in view of environmental safety issues.

Speaking about the digitalization of judicial procedure and the active introduction and use of ICT in the activities of the judiciary, it should be noted that this is the key to optimizing the judiciary and improving the efficiency of justice in general. They are a means of improving the judicial process, facilitating access to justice and strengthening the guarantees provided by the European Convention on Human Rights: fair trial, access to justice, impartiality and independence of judges, reasonable length of proceedings, transparency and openness of the trial, etc.

Despite all the positive aspects, the process of automation of judicial procedure also contains potential risks, especially in terms of the threat of fundamental human rights violation. The implementation of this process should not be reduced to the development of purely technical aspects without taking into account the key function of justice - the protection of individual rights. The main guideline should be to ensure and optimize the possibility of unhindered access to fast, efficient and affordable dispute resolution. Developers of electronic document management algorithms and programs should minimize possible risks to the proper administration of justice in general and any restrictions on the procedural rights of litigants. Identifying, discussing and preventing such potential risks is a guarantee of proper protection of the parties rights, improving the administration of justice and raising awareness of the parties in a case.

When moving to electronic document management between litigants, it should be borne in mind that not all people have the opportunity to use ICT. The use of such innovations should not reduce procedural guarantees for those who do not

have access to new technologies. This problem is especially urgent for vulnerable groups of population. In view of this, traditional means of access to information and documents should not be ruled out, and the state is obliged to ensure that parties who do not have access to such means receive specific assistance in this area.

### **2.3. Digitization of the process of exchanging information between the court and litigants**

The procedure for sending procedural documents by e-mail to the participants of the trial provides for the possibility of each of them to receive procedural documents in an electronic form in parallel with the documents in a paper form. To receive procedural documents in an electronic form, it is necessary to register the e-court mailbox on the official web portal of the judiciary of Ukraine at mail.gov.ua. Registration is done by filling out the appropriate registration form, which indicates the following information: 1) name for legal entities or surname, name, patronymic for individuals and individual entrepreneurs; 2) for legal entities the identification code of the legal entity, for individuals and individual entrepreneurs - the identification number of the taxpayer (in the absence of identification number - series and passport number of the citizen); 3) address of location or place of residence; 4) personal e-mail address, telephone (fax) numbers; 5) information about the person who entered the data (name, position, telephone number); 6) date and time of filling, which are affixed automatically; 7) consent of the subject of personal data to the processing of personal data (for individuals) (Rules of Users Registration).

Administrative procedural legislation provides for the possibility of summoning (notifying) participants in the process by sending the text of the agenda by e-mail, facsimile (fax, telefax) (Code of Administrative Procedure of Ukraine, art 129). Thus, at the written request of a party to the trial who does not have an official e-mail address, the text of the summons is sent to him by e-mail, facsimile, text message using mobile communication to the appropriate e-mail address, to the fax or telefax specified in the relevant written statement. The party to the trial must immediately confirm to the court by e-mail (fax, telephone) that the text of the summons has been received. The text of such confirmation is printed out, and the telephone confirmation is recorded by the relevant employee of the court staff, is added to the case by the secretary of the court session and is considered a proper notification of the party about the date, time and place of the trial. In this case, the summons is considered handed to the participant in the trial from the moment the court receives confirmation of receipt of the text of the summons. If within the day following the day of sending the text of the summons, no confirmation is received from the participant of the trial, the clerk of the court shall draw up a certificate attached to the case and confirm the proper notice of the participant of the trial about the date, time and place of trial. In this case, the summons is considered handed from the moment the secretary of the court session draws up the relevant certificate.

According to the Code of Administrative Procedure of Ukraine, upon the written application of a participant in the trial, the text of the summons may be sent to person by the court in the form of an SMS message using mobile communication. SMS is a more effective way to inform about a court case, as it takes more time to send and receive a regular summons due to the schedule and mode of operation of the postal service. At the same time, a summons to the court can be sent by SMS to the court participant in the trial only after the submission to the court of the statement of intent to receive the summons in electronic form via SMS. Such an application can be downloaded from the website of the judiciary and filled out or written directly to the court. If, after writing such a statement, the mobile phone number has changed or there are a number of other circumstances that prevent or may prevent future receipt of the summons via SMS, the party must apply to the court as soon as possible to change the phone number or even the procedure summons in another way convenient to him. The court summons is attached to the electronic accounting and statistical card of the case as a document in the case, and then automatically delivered in the form of SMS-messages to a mobile phone number. The result of delivery of the SMS-message to the participant's mobile phone number (date and time of delivery or reason for non-delivery) is automatically placed in the relevant electronic register of the automated document management system. The responsible employee of the court prints out such a notice and attaches it to the case file.

The exchange of information between the court and the participants in the process in an electronic format significantly speeds up the process of acquainting persons with the procedural documents in a case. Electronic document management, in addition to ensuring the timely receipt of summonses and notices by participants in the process, also helps reduce court costs, including significant savings on postal correspondence.

It should be noted that the use of electronic means of communication is provided not only for courts of general jurisdiction, but also in the enforcement proceedings and the process of the European Court of Human Rights decisions implementation. In particular, in the process of cooperation between the State Enforcement Service of Ukraine and the Office of the Commissioner for Human Rights to collect the necessary documents and information during the consideration of applications with complaints against court decisions, they exchange inquiries and information sent by mail and electronic means (Order of interaction of the State Enforcement Service of Ukraine 2013). The efficiency of information exchange with the help of the latest technologies leads to the conclusion that one of the e-litigation project development directions is the possibility and expediency of its introduction in all spheres of judicial activity, including administrative litigation.

In the context of ensuring timely receipt of electronic information, the provisions of the “Rules of Users Registration and Work in the System of Electronic Documents Exchange between the Court and Litigants” - paragraph 14, are controversial, according to which the administrator is not responsible for person’s



refusal to receive correspondence, for technical failures of E-Court service or for failure in the provision of services by the E-Court, storage of correspondence, files or other data in the electronic service E-Court, delivery of mail, saving the address of the person, as well as for causing any damage to the person when providing or failing to provide services of the E-Court (Rules of Users Registration).

#### **2.4. Videoconferencing as a part of e-justice**

Another aspect of the introduction of ICT in administrative proceedings is the possibility of participating in the process by videoconference. A court session with use of video conferencing provides a mode of remote presence of the participants in the process and is a qualitatively different form of judicial proceedings, which will lead to a departure from the traditional, historical form (Yasynok, 2004, p. 196).

The parties to the case have the right to participate in the hearing by videoconference outside the court, provided that the court has the appropriate technical capability, which the court notes in the decision to open proceedings, except when the appearance of the party in court is required. For this the person shall submit an application for participation in the court hearing by videoconference outside the court premises not later than five days before the court hearing. A copy of the application shall be sent to the other parties to the case within the same time limit. The parties to the case participate in the court hearing by videoconference outside the courtroom using their own technical means and electronic signature in accordance with the Regulations of the UJITS (Code of Administrative Procedure of Ukraine, art. 195).

During the quarantine established by the Cabinet of Ministers of Ukraine to prevent the spread of coronavirus disease (COVID-19), the parties may participate in the hearing by videoconference outside the courtroom using their own technical means. Confirmation of the person involved in the case is carried out using an electronic signature, and if the person does not have such a signature, in the manner prescribed by the Law of Ukraine “On the Unified State Demographic Register and documents proving citizenship of Ukraine, identity or special status” or the State Judicial Administration Of Ukraine. It is important that, the risks of technical impossibility to participate in the videoconference outside the court premises, interruption of communication, etc. are borne by the party to the case, who submitted the relevant application. The court may decide on the participation of a party to the case in a court session by videoconference in the courtroom designated by the court. The technical means and technologies used by the court and the litigants must ensure the proper quality of the image and sound, as well as information security. Participants in the trial should be able to hear and see the progress of the trial, ask questions and receive answers, exercise other procedural rights and responsibilities. The videoconference in which the parties to the case take part shall be recorded by

the court hearing the case by means of technical means of video and audio recording. Video and audio recording of the videoconference is stored in the case file.

The latest innovation in this area is that now Ukrainians can attend the court hearing online and sign the necessary documents on their smartphones via the application Diia – the largest-scale digital project. Many Ukrainians were forced to leave during the war. Now everyone who has left Ukraine or are in the temporarily occupied territories can take part in the Electronic Court by use of “Diia.Pidpys (signature)”. “Diia.Pidpys» is a secure digital signature on smartphone. You can sign any PDF document. The signature requires a valid biometric passport or Ukrainian identity card in Diia.

The security of personal data and the confidentiality of information are no less important than the provision of adequate judicial protection, especially in our time, when cybercrime is very common, affecting not only ordinary citizens but also public authorities and commercial organizations. That is why we believe that it is extremely necessary to legally regulate information security issues, determine the range of persons who must ensure its confidentiality, preserve and transfer the addressee, as well as establish responsibility for violations in this area. As rightly noted, for the transformation of society into a modern information society is important not only the amount of information or the intensity of information circulation and information exchange, but also its quality indicators. The information society is unlikely to be able to emerge without the formation of methods and dissemination of the culture of information processing (Kolisnyk, 2012, p.18-19).

The use of ICT in the judiciary raises many questions about the integrity and security of the digital database resulting from the implementation of digital justice. Recognizing the risk and danger of cyber attacks, the Government of Ukraine has approved two resolutions that strengthen cybersecurity and cyber defense at the national level. Objects of critical information infrastructure are subject to special cyber protection at the state level. According to Mikhail Fedorov, Minister of Digital Transformation, these resolutions introduce a mechanism and criteria for assigning objects to this group, provide for the creation of the State Register of such critical infrastructure, ensuring its proper functioning of the State Special Service (The government is stepping up cybersecurity in the country).

Speaking about the directions and prospects of improving the legal regulation of electronic litigation, it is necessary to point out that the legal array that regulates information relations currently consists of a large number of regulations of different legal force. The current practice of “independent” creation of regulations leads to a large number of duplicate rules, which, unfortunately, sometimes contradict each other. And this is the reason for the redundancy of information legislation, its inconsistencies and inconsistencies. In the conditions of “anarchic” way of formation of information law, when normative - legal acts are created at the height of the day, intuitively, gaps in information legislation are formed, which is an essential brake for the development of civilized information relations in society (Baranov, 2012,

p.13). The solution to this problem is seen in the codification of information legislation and the creation of the special Code, which should include legal norms that are common to public relations in various segments of the information sphere and which in existing practice are repeated in one form or another in various special laws.

The problem of development and implementation of information technology is not only the lack of proper regulation. It has a deeper foundation and touches the foundations of human existence. Thus, O. Danilyan raised the issue of moral dilemmas of the information society. In this context, he notes that the impoverishment of spiritual life against the background of the huge growth of information talked about and written about in the media, says that the information society is not a problem-free and positive reality, as his apologists say, but reveals a new level moral hopelessness and contradictions, which were not known in previous eras (Danylian, 2012, p. 21-22). The solution of the outlined problems is impossible only through purely technical activities - the improvement of information legislation. There is a need for innovative approaches, both to legislative activity in this area, and to the scientific and theoretical understanding of these problematic aspects and the development of the most effective ways to solve them. In view of this, in the modern scientific literature there are trends in laying the foundations of the philosophy of information law. In particular, the research devoted to this problems defines the philosophy of information law as an intersectoral philosophical science that studies the information essence (information construction) of law as a complex social system, based together with traditional methods and techniques on the methodological tools of natural sciences (Dzoban, 2012, p. 29).

## **Discussions section**

The experience of implementing the E-Court pilot project has revealed contradictory aspects that should not be underestimated and that need to be refined, improved or abandoned. Among them are: inconsistencies and imperfections of the legal regulation of the electronic justice system; distrust of the participants in the process to the electronic exchange of procedural documents and the continuation of their duplication in the paper version; lack of proper regulation of issues of ensuring the security of information contained in the system “Electronic Court” and liability for violations in this area.

The minimization of these negative consequences is possible by taking into account the software development of electronic document management in the judiciary, and not only the purely technical aspects. First of all, we should proceed from the priority tasks and functions of justice, as well as the need to ensure the priority of protection of individual rights. The possible ways of troubleshooting of electronic functioning of the court is the improvement of legal regulation of its use through the development of public policy in this area.

## Conclusions

The introduction of innovative ICT in administrative justice is due to the natural development of modern technologies and their spread to all spheres of human activity. Their gradual introduction and comprehensive application is the key to improving access to administrative court and improving the quality of justice in this area.

The use of ICT in administrative proceedings helps to optimize such important aspects as ensuring the right to a trial, meeting procedural deadlines, reducing court costs, transparency and openness of court etc.

Over time and with due attention from the state, this innovation will prove its effectiveness. Solving existing and preventing future problems of electronic justice is possible by developing public policy in the field of legal regulation of this area of relations. This should be understood as improving legislation; technical and information support of courts; development of measures and systems to ensure information protection; legal regulation of liability of persons for violations in this area; taking measures to prevent cybercrime in this area; conducting training seminars among court staff and other users of the system; systematic monitoring of system efficiency and its constant modernization. One of the means to achieve this is the implementation of international and European standards and achievements in this field.

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## GEORGIA-ROMANIA ECONOMIC COOPERATION AND THE NEW REGIONAL CHALLENGES

Lela JAMAGIDZE\*

### Abstract

*The goal of the present paper is to analyze key issues in the economic relationship between Georgia and Romania. The analysis covers the dynamics of bilateral flows of goods, services and capital. It highlights the opportunities as well as the shared challenges that exist in the areas of trade and investment, transport and energy cooperation. Geographical proximity as well as a number of similarities in the economic structures and development levels of the two countries help them develop bilateral economic connections. Statistical analysis of the data on economic and institutional cooperation are used in order to show how Georgia and Romania are represented in the economic initiatives of mutual interest and how the two countries contribute to each other's positioning in the global and regional markets. Considering the current economic and security threats in the region, the study suggests that bilateral, country-to-country dimension of economic integration should be strengthened between the two countries in order to translate regional integration benefits into the real economic gains.*

*Keywords:* Georgia, Romania, trade, economic cooperation, regional integration

### Introduction

In 1992 Georgia and Romania established bilateral diplomatic relations. Throughout these decades the political relations, trade and economic cooperation between the two countries have been dynamically developing. However more detailed analysis of the bilateral economic transactions and flows shows that full potential is under-realized due to various external and internal impediments. Historically those two nations have had friendly and dynamic ties based on their geographical proximity (situated on the West and East sides of the Black Sea) and their cultural and religious similarity. After the collapse of the Eastern Bloc Romania has been successful in its strategy to return to Europe. It joined the EU in 2007.

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Georgia considers accession the top foreign policy priority and is striving at it through the implementation of intensive economic and political reforms.

After Romania joined the EU in 2007, Georgia became a priority state for development assistance under the EU principles. Romania financed development projects in Georgia worth about 2 million Euros in the areas of common interest such as economic development and social justice, human rights, education and civil society (Georgescu *et al.*, 2012). Now Georgia holds the Association Agreement with the EU and is a partner within the Eastern Partnership under the European Neighborhood Policy. Last year Georgia, Ukraine and Moldova established “Associated Trio” in order to develop closer ties with the EU. At all stages Romania has been actively supporting the integration efforts of Georgia and has been willing to share its experience with the European and Euro-Atlantic path. Strengthening of the bilateral ties and the support is especially important against the background of the ongoing War between Russia and Ukraine. Russia’s invasion on Ukraine has significantly altered the political, strategic and economic framework conditions for European regional cooperation and for its neighborhood as well and hence the need to improve the achieved level of economic integration both at the bilateral and the regional levels have become even more evident.

In 2021 Romania was the fifth largest trade partner of Georgia among the EU countries by total trade turnover and for the last decade it has been among the top ten export markets within the EU, evidently as geographically the closest EU Member State. A significant stimulus for the bilateral trade and economic relations has been completion of the EU-Georgia Association Agreement that entered into force in July 2016. It aims at political association and economic integration between the EU and Georgia. The agreement introduces a preferential trade regime – the Deep and Comprehensive Free Trade Area (DCFTA), provisionally applied since September 2014 that removes all import duties on goods and provides for broad mutual access to trade in services. However, analysis of the recent data shows that the share of the EU in Georgia’s total trade has been stable rather than increasing, while its total trade with Romania has decreased. Therefore, the underlying causes and impediments need to be studied and policy recommendations be developed in order to ensure that Georgia’s strategic aspirations towards the EU have solid economic foundations. Approximation with the EU is impossible without the expansion of the bilateral economic linkages with individual EU countries. Therefore the analysis of the achieved level of development of economic integration with the EU member states and especially with the relatively new member countries is paramount to identify potential areas of profitable cooperation. From Georgia’s perspective Romania can be a certain channel to reach the markets of more developed members of the EU. In this regard, the present study can lead to appropriate recommendations for the government and the firms to get tangible positive gains of deeper economic integration.

## **2. Method and data**

The present study is based on the scholarly literature on the bilateral and regional economic integration and statistical data analysis. The statistical data come from online databases with specific economic and trade related information, such as the World Bank (2022), the UNCTAD (2022), the statistics offices of Georgia and Romania and the EU official statistics databases. We will focus on the 2011-2021 timeframe to cover the last decade of economic cooperation between the two countries. Statistical analysis of the data on economic and institutional convergence, and those on goods, service and financial flows are used in order to show how Georgia and Romania are represented in various regional markets and economic initiatives of mutual interest and how the two countries can contribute to fostering each other's potential in the regional integration context.

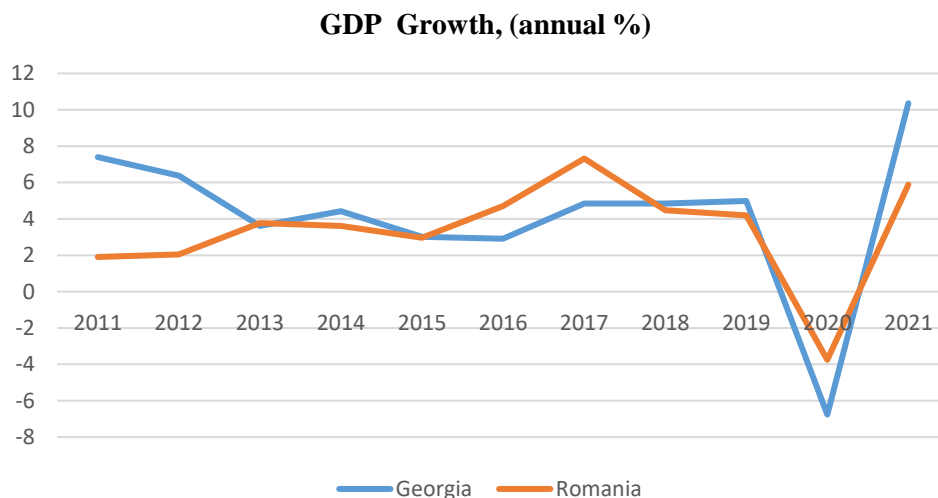
In order to achieve the research goals the following tasks are set: to present the general economic background indicators of both countries; to evaluate the dynamics of bilateral exports, imports, trade balance and product structure of trade; to outline the main trends in the bilateral foreign direct investment flows; to present the recent developments in bilateral cooperation in energy and transport sectors; to evaluate current regional economic challenges and draw policy recommendations on the future prospects of Georgian-Romanian economic ties within the European integration framework.

Regarding the trade we conducted an observation on the imports and exports patterns to get an idea on the composition, complexity and diversity of bilateral trade flows. Cooperation in energy and transport sectors is of strategic importance for both countries and their performance is analyzed based on Logistics Performance Index and the main energy cooperation projects of mutual interest are discussed.

### **1. The analysis of bilateral trade relations**

Macroeconomic conditions of the two countries have had success in a number of directions manifested by a stable economic growth over the period of 2011-2021, which accounted average 4 percent annually in Georgia. Romania's economic growth was also on an upward trend, rising from 1.9% in 2011 to 5.9 in 2019, and it has manifested one of the best economic performance among the countries of the EU. Its GDP per capita has reached 63% of the OECD average in 2019 (OECD, 2022).



**Figure 1. Economic Growth, Georgia and Romania Compared, 2011-2021**

*Source:* Author's representation based on World Development Indicators, Popular Indicators.

The benefits of growth has been translated into the improved welfare indicators in the two countries. According to the World Bank estimations the poverty rate measured by the international upper-middle-income line (US\$5.50 per capita per day, 2011 purchasing power parity) declined from 59 percent in 2011 to 42 percent in 2021 (World Bank, 2022) in Georgia, while Romania was classified as high income country for the first time in 2019. According to the OECD Economic Survey, the EU membership was pivotal in improving Romania's trade performance.

Romania's exports grew strongly over the past decades and accounted for 40% of GDP in 2019 (it was around 25% in early 2000's). Around 85% of exports are directed to EU countries, Germany, Italy and France being the main destinations. Although Romania managed to successfully diversify its export basket from labor-intensive, low-technology sectors (textile industry, raw material) toward medium-technology products and more advanced sectors (automotive, machinery, and electronic equipment, and information and communication services), it still lags behind most OECD countries in terms of access to high-quality education, healthcare, housing and transport infrastructure. Georgia faces a number of weaknesses in terms of export performance, including low economic diversification, weak manufacturing activity (9% of GDP in 2020) and low productivity in agriculture (7% of GDP, 20% of the workforce in 2020).

Romania is more domestic market oriented than Georgia, what can be partly explained by the larger size of its economy. Georgia's trade openness and

dependence on income from tourism makes its economy vulnerable to external and global shocks. It became especially evident during the pandemic.

The Figure 1 below represents the dynamics of the main indicators of bilateral trade. It illustrates that trade volumes boosted in 2013-2014, followed by a relative fall in the following years. The total trade turnover between Georgia and Romania peaked in 2019. The exports from Georgia to Romania increased by over 200%, followed by a fall of nearly 90% in 2020. This can be partly explained by a diversion of Georgia's trade flows. After the implementation of Georgia-China FTA, China turned into the top export partner of Georgia with 113% increase in 2020. Another explanation is that as a result of the pandemic, there was a reduction in total trade. In 2020 Georgia's foreign trade turnover decreased by 14.8% compared to the same period last year, amounting to USD 11347.7 million. Exports decreased by 12% year-on-year to USD 3342.1 million, while imports were down by 15.9%. In 2020 exports and imports decreased with almost all important trade partners, including the EU.

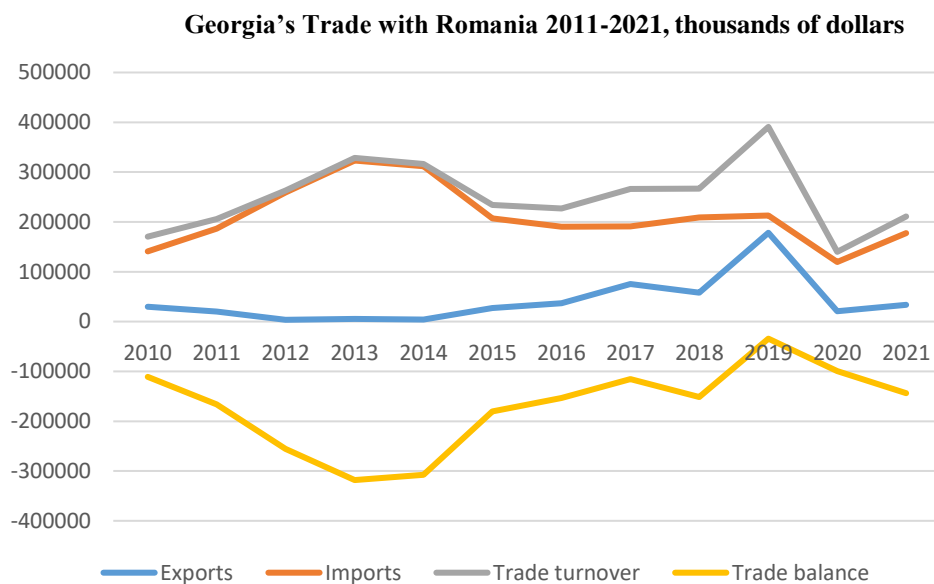
Georgia-EU foreign trade turnover of 2020 decreased by 18% compared to the same period last year, amounting to USD 2638 million. Exports to the EU decreased by 12% to 717 USD million, constituting 21% of Georgia's total export, while in 2019 it took 22%. Imports were down by 20%, reaching USD 1921 million and taking 24% of Georgia's total import, while it constituted 25% in 2019. Since 2021 there has been a recovery of commercial exchange between Romania and Georgia, reaching \$230 million what is an increase of 105.5 percent compared to 2020. Meanwhile, exports increased by 87 percent, and imports - by 219.4 percent. Import exceeds exports and therefore Georgia's trade balance with Romania has been constantly negative for the last decade.

The analysis of bilateral export and import shows that Romania has represented an outstanding trade partner of Georgia among the EU countries for years. Until 2017 among the EU countries Romania used to be the biggest market for Georgian exports after Bulgaria. Territorial proximity as well as sharing of the Black Sea coast by the two countries makes transportation of many types of cargoes effective by ships. In 2017 Romania was among top ten export partners of Georgia, however the situation has changed and now it does not appear among the top ten export destinations.

Currently export to Romania accounts 0.79% of Georgia's total export. Its share in imports is greater and it accounts 1.75%. The export share does not show a stable path as it has been fluctuating over the last decade, reaching the highest value in 2019 (4.69%). Romania's share in Georgia's imports and in total trade turnover has been relatively stable, showing a decrease in 2020-2021 largely due to contractions of the economy and trade fall during the pandemic. From the regional perspective the positions of Romania as Georgia's partner by total trade remain stable within the EU, as well as within BSEC during the last decade. The Share of

Romania in total trade turnover with EU and with BSEC countries reached its maximum in 2019 and accounted for 12.56% and 5.88%, respectively.

**Figure 2. Georgia's Trade with Romania 2011-2021, thousands of dollars**



Source: Author's representation based on the data of Georgia's Statistics Office

**Figure 3. Share of Romania in Georgia's trade relative to the selected world and regional trade indicators, by world and regions %**

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Export to the world	0.90	0.15	0.17	0.15	1.22	1.73	2.74	1.71	4.69	0.61	0.79
Import to the world	2.63	3.22	4.03	3.63	2.84	2.59	2.37	2.23	2.23	1.48	1.76
Turnover to the world	2.22	2.52	3.002	2.76	2.46	2.40	2.46	2.09	2.93	1.23	1.47
Turnover to the EU	8.67	9.92	11.92	10.99	8.95	8.61	9.62	8.43	12.56	5.49	6.96
Turnover to BSEC countries	4.34	5.02	5.65	5.24	5.01	4.98	4.92	4.22	5.88	2.44	2.962

Source: Author's calculations based on Georgia's Statistics Office Data

In 2021 Georgia exported 82 products by HS 4-digit categories to Romania. The non-diversified export patterns are evident from the analysis of trade data since 2011. Fertilizers and ores and slash have been the leading product categories since 2011. Vegetables, fruits, spirits and beverages and pharmaceuticals also fall into the export categories. There is some improvement in the industrial patterns of exports, as the amount of some manufactured goods, textiles and machinery has increased in the exports in recent years.

**Figure 4. Georgia's export to Romania by top product categories 2020-2021, Thousands of dollars**

HS Code	Category	2020	2021
31	Fertilizers	10948.55	30373.32
26	Ores, slag and ash	8199.07	
07	Edible vegetables and certain roots and tubers	458.53	122.15
96	Miscellaneous manufactured articles	281.64	531.24
40	Rubber and articles thereof	186.57	165.30
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	133.24	883.31
72	Iron and steel	78.10	
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	66.96	214.64
44	Wood and articles of wood; wood charcoal	30.36	27.73
24	Tobacco and manufactured tobacco substitutes	–	549.00
72	Iron and steel	78.10	350.01
95	Toys, games and sports requisites	15.70	106.93

Source: Foreign Trade Portal of Georgia's Statistics Office <http://www.geostat.ge/>

The range of import product categories is much wider. In 2021 Georgia imported 220 products by HS 4 digit categories. However the patterns of imports also lack diversity. Mineral fuels, food industry residues and waste, rubber and tobacco accounted for the bulk of imports in 2020-2021. Relatively complex imported industrial product categories are pharmaceuticals, textiles and machinery.

**Figure 5. Georgia's import from Romania by top product categories, 2020-2021**

HS Code	Category	2020	HS Code	Category	2021
27	Mineral fuels, mineral oils	92673.51	27	Mineral fuels, mineral oils	144656.11
23	Residues and waste from the food industries;	7882.03	23	Residues and waste from the food industries;	6166.45
40	Rubber and articles thereof	3984.16	24	Tobacco and manufactured tobacco substitutes	5613.15
30	Pharmaceutical products	2356.16	87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	3183.85
24	Tobacco and manufactured tobacco substitutes	1981.54	40	Rubber and articles thereof	2527.43
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof	1932.90	44	Wood and articles of wood; wood charcoal	2367.79
44	Wood and articles of wood; wood charcoal	1546.18	84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof	2184.26
39	Plastics and articles thereof	870.24	72	Iron and steel	1979.79
85	Electrical machinery and equipment and parts thereof	718.87	30	Pharmaceutical products	1706.96
61	Articles of apparel and clothing accessories, knitted or crocheted	673.77	39	Plastics and articles thereof	815.62

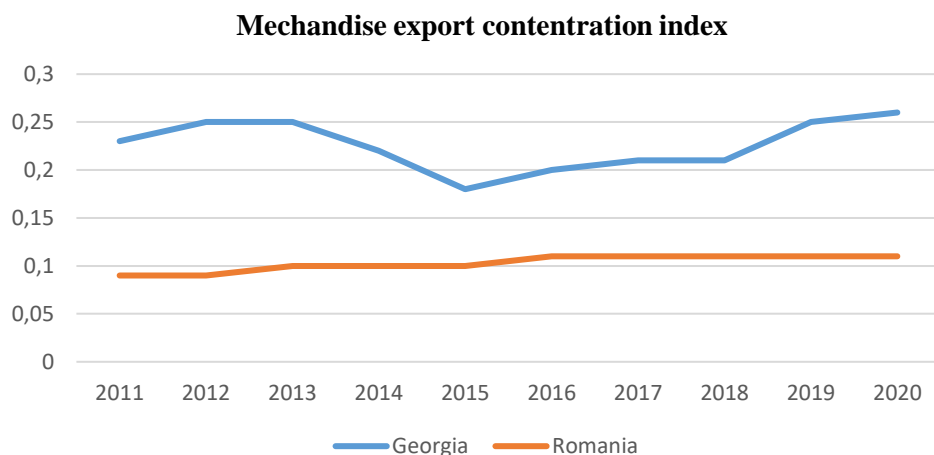
Source: Statistics Office of Georgia, Foreign Trade Portal

The comparison of the two countries shows that Georgia and Romania used to have approximately the same degree of economic complexity in the 1990s. Since the 2000s a diverging trend is evident, as Georgia's economic complexity index and ranking was constantly falling up to 2010. Slight improvements are taking place now. Starting from the 2000s Romania has taken important steps towards producing more diversified and sophisticated products designed for exports. The share of medium and high-tech manufactured exports has doubled during the last decade and now it considerably outperforms Georgia. According to the World Bank Economic Complexity Index (2019) Georgia ranks as the 63<sup>rd</sup> most complex country, while Romania is the 22<sup>d</sup> in the world.

Comparing the product concentration and the diversification indices of the two countries shows that Romania's exports and imports are less concentrated, while the

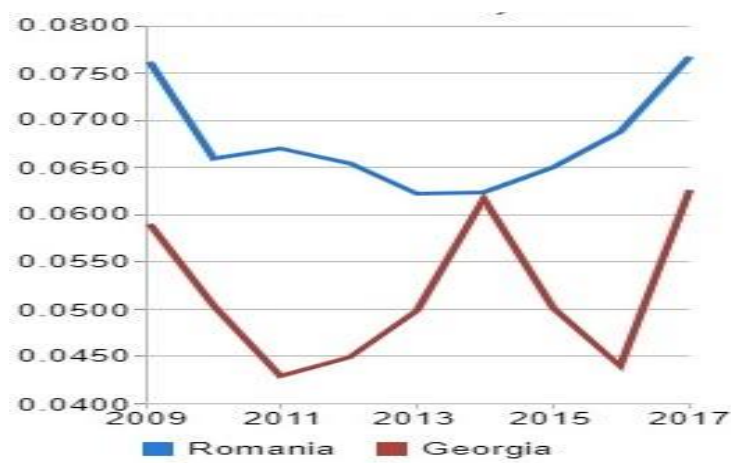
dynamics of the index values show a stable trend. Georgia's product concentration index has increased since 2009. In addition to it, there are ups and downs, what is an indication to some random and non-trending trade flows caused by some unexpected changes in the exported or imported product categories.

**Figure 6. Georgia and Romania Product Concentration Indices, 2011-2020**



Source: Author's representation based on World Bank Data - Merchandise: Concentration and diversification indices of exports

**Figure 7. HH Market Concentration Index**



Source: Author's representation based on WITS - HH Market concentration index

Dispersion of trade values across their trade partners (measured by Hirschman-Herfindahl index) shows that both countries have improved their market concentration since 1990s. Higher index value for Romania can partly be explained by its relatively large-sized economy. Ups and down in Georgia's index values are mainly due to random, stochastic and non-recurring changes in the trade ties with its trade partners.

## 2. Bilateral Financial Ties: Investment Flows and Monetary Transfers

Bilateral financial ties are weaker compared to trade. Georgia does not represent a home of outgoing FDI given its negative trade balance and its own need to attract capital to modernize the economy. In 2011-2020 Romania's net FDI outflows was characterized by ups and downs, falling to the negative value of -207 448 373 million in 2012 and reaching its maximum in 2019 (1.92 billion US dollars). The two countries have created the necessary legal framework to promote bilateral investments. An Agreement on the Promotion and Reciprocal Protection of Investments was signed in January 1997. Georgia holds agreements for the avoidance of double taxation with 55 countries, including Romania. These treaties facilitate investment flows between Georgia and Romania, and hence the expansion of economic relations. Georgia has been very open to foreign investors and provides a very attractive business environment. According to the World Bank Ease of Doing Business ranking 2021 Georgia ranks 7<sup>th</sup> out of 190 analyzed countries around the world while Romania occupies the 55<sup>th</sup> position. In Georgia foreign investors are targeting mainly transport, energy, construction and real estate, as well as the financial sector. However, the share of Romanian capital is very small (almost negligible, close to zero) as a share of total FDI flows.

**Figure 8. FDI from Romania to Georgia, million US dollars**

<b>Year</b>	<b>Inflows</b>	<b>Share in total (per cent)</b>
<b>2016</b>	0.8	0.1
<b>2017</b>	0.7	0.0
<b>2018</b>	0.6	0.1
<b>2019</b>	0.3	0.0
<b>2020</b>	0.1	0.0
<b>2021</b>	0.2	0.0

*Source:* Author's representation based on data from [www.geostat.ge](http://www.geostat.ge)





According to the National Bank of Georgia (2022), remittance movement both incoming and outgoing are relatively small. By the inward and outward flows of remittances Romania is not among the top partners of Georgia neither at the world scale nor within the EU region. The largest amount out-flowed from Georgia to Romania was in 2014 (336.8 thousand US dollars) and the largest amount in-flowed from Romania was in 2015 (349.2 thousand US dollars).

### **3. Sectorial cooperation: transport and energy**

As stated by the National Security Concept of Georgia (National Bank of Georgia, 2022), the country is aware of its role in supplying the rest of the world with energy resources from the Caspian Sea and Central Asian regions via alternative routes. Georgia's Black Sea ports, the Baku-Supsa and Baku-Tbilisi-Ceyhan oil pipelines, and the Baku-Tbilisi-Erzurum gas pipeline are already active and strategically important projects. Besides them important elements of the Southern Corridor are Nabucco and the AGRI projects where both Georgia and Romania are included. They have the potential to contribute to Europe's energy security and offer opportunities for increased collaboration of the two countries in the energy and economic spheres.

Within the interconnector of liquefied natural gas Azerbaijan-Georgia-Romania-Hungary (AGRI) project, Romania and Georgia are partners. Both parties are equally interested in securing a transit role in regional energy projects, which have both economic and geostrategic value for the two states. However AGRI project is still facing a wide range of barriers and implementation difficulties. There is still unclearness on the estimation of project costs and technical details as well as the resource base. Azerbaijan has already signed a long-term agreement for supplying all forthcoming natural gas volumes produced within the second phase of the giant gas field Shah Deniz to the European countries via the Trans Anatolian Natural Gas Pipeline (TANAP), which would be connected with the Trans-Adriatic Gas Pipeline (TAP). Therefore, Azerbaijan officials should consider other sources of natural gas, which would be supplied over the Black Sea gas transportation corridor. Actually, the experts believe that the problem of natural gas shortage could be solved by joining of Turkmenistan to the AGRI project. The Turkmen gas could be transported across the Caspian Sea to the Sangachal terminal in Eastern Azerbaijan, where it should be gasified and transmitted across Azerbaijan and Georgia to the Black Sea terminals. However, it definitely would cause necessity to construct additional LNG terminals on the Caspian Sea shore, which could lead to the dramatic increase in the total cost of the project<sup>2</sup>.

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<sup>2</sup> Current Situation over the AGRI Project, *Eurasian Research Institute* (retrieved from <https://www.eurasian-research.org/publication/current-situation-over-the-agri-project-azerbaijan-georgia-romania-interconnector/>).

Energy cooperation between Georgia and Romania spreads to the electricity supply field as well. The Georgian transmission network operator - Georgian State Electrosystem (GSE) – has a robust ten-year network development plan for 2020-2030 (TYNDP 2020-2030) aimed at further improvement of electricity supply reliability in the country and improvement of regional connectivity of the Georgian power system. One of the projects, which is currently being evaluated for inclusion in TYNDP, is the electric and digital interconnection between Georgia and Romania (GE-RO Interconnection Project). This Interconnection Project, would create significant economic benefits for Southern Caucasus countries and Romania. In particular, the electric cable would allow to benefit from expanded export opportunities to Romania and broader South-Eastern Europe considering the hourly energy market prices and import electricity during winter time periods at competitive rates. This can reduce dependency on existing expensive imports and thermal generation<sup>3</sup>. Georgia has an opportunity to consolidate its position not only as an energy hub for both the transit of hydrocarbons from the Caucasus and Caspian Sea region, but also as a transmission nexus derived from its reasonably well-developed electrical grid and the competitive advantage in the generation of electricity from renewable sources.

As a member of the EU, NATO and the United Nations, Romania supports for the programs of these organizations in the region. The Romanian Ministry of Foreign Affairs manages development assistance through the Development Assistance Unit (UAsD). Georgia is among the three priority countries for aid together with the Republic of Moldova and Serbia. Romania, through its Agency for Foreign Development (The Romanian Agency for International Development Cooperation), is looking to provide assistance to the Republic of Georgia to improve its energy security. The intention is to assist the various Georgian energy sector stakeholders in their development, and to propose next steps for more detailed studies<sup>4</sup>.

In 2016 Azerbaijan Railways (ADY), Georgian Railways and Translogist Intertrans Unigrup have signed a Memorandum on the development of the Europe-Asia-Europe transport corridor through the Port of Constanta and the Port of Batumi<sup>5</sup>. In fact, this corridor refers to the Iran-Azerbaijan-Georgia-Romania railway axis through Tehran-Astara-Poti/Batumi Port, from where freight will be transported to the Port of Constanta. It can serve as an efficient transport connection between Asia and Europe. By the estimations, the railways have the important advantage of providing a much faster connection than maritime transport for the increased amounts of cargoes between Europe and China. Because the economic potential of both countries allows an increase in trade, the role of the port Constanta

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<sup>3</sup> GSE (retrieved from <https://www.gse.com.ge/projects/tenders/2021/Feasibility-Study-for-Construction-of-Georgia-Romania-Undersea-Power-and-Digital-Interconnection-Project>).

<sup>4</sup> Information retrieved from <https://ridgeline-industrial.ro/Abstract-Georgia-ENG.pdf>.

<sup>5</sup> Information retrieved from <https://www.railwaypro.com/wp/azerbaijan-georgia-and-romania-establish-new-freight-corridor/>.

to Batumi would also increase. In 2010 there was also negotiations between the governments of the two countries on the possibility of resuming bilateral scheduled ferry lines between Romania and Georgia.

Currently the most important transport projects of mutual interest are Belt and Road Initiative, Europe-Asia-Europe transport corridor and The Viking Container Train route. Georgia's future and that of the B&R initiative lie in closer integration with the Eastern European countries on the other side of the Black Sea. Participation in these international infrastructure undertakings could bring not only economic, but also security benefits.

Another significant project is the Viking Container Train involving Lithuania, Ukraine, Belarus, Bulgaria and Romania. It connects the Baltic Sea and the Black Sea by rail. It is considered one of the most impressive European projects in freight transportation, according to the Transport Commission of the European Union. In 2015, the Group joined the Viking Container Train project whereby Georgia will become the connecting knot between this project and the TRACECA. In May 2016, Azerbaijan Railways also joined the project, which will make the Viking Container Train project even more competitive. Negotiations are underway to attract customers to transport cargo via this corridor<sup>6</sup>.

**Figure 11. Development of Transport and Logistics in Georgia and Romania, 2010-2016**

Country	Year	LPI Rank	LPI Score	Customs	Infrastructure	International shipments	Logistics competence	Tracking & tracing	Timeliness
Romania	2010	59	2.84	2.36	2.25	3.24	2.68	2.90	3.45
	2012	54	3.00	2.65	2.51	2.99	2.83	3.10	3.82
	2014	40	3.26	2.83	2.77	3.32	3.20	3.39	4.00
	2016	60	2.99	3.00	2.88	3.06	2.82	2.95	3.22
	2018	48	3.12	2.58	2.91	3.18	3.07	3.26	3.68
Georgia	2010	93	2.61	2.37	2.17	2.73	2.57	2.67	3.08
	2012	77	2.77	2.90	2.85	2.68	2.78	2.59	2.86
	2014	116	2.51	2.21	2.42	2.32	2.44	2.59	3.09
	2016	130	2.35	2.26	2.17	2.35	2.08	2.44	2.80
	2018	119	2.44	2.42	2.38	2.38	2.26	2.26	2.95

Source: Author's representation based on International Logistics Performance Index data

<sup>6</sup>Information retrieved from Georgian Railway Annual Report 2020, pp. 48 [http://www.railway.ge/app/uploads/2021/04/annual\\_2020.pdf](http://www.railway.ge/app/uploads/2021/04/annual_2020.pdf)

According to the Logistics Performance Index (measured by the World Bank) both countries need a number of steps to improve their logistic competitiveness and fully realize the functions of connecting the Europe and Asia, however Georgia is much behind Romania. The main transport and logistics-related obstacles to the development of the transit function of Georgia involve low quality of the local transport and transit infrastructure and monopoly in ports and terminal services (Danelia, 2017).

#### **4. Economic cooperation in the context of new regional challenges**

Generally, the reasons behind the regionalization processes vary from one region to another and there is a lack of a unique model of integration (Caraman and Maha, 2019). If we put Georgia-Romania economic relations into a broad regional context we have to consider the influences of the specific circumstances in the Eastern neighborhood and the Black Sea region. Given the location of the Black Sea region and the EU Eastern neighborhood between East and West, the region has often experienced conflicting cultural and political influences. Currently, Romania on the Western side of the Sea is a member of the EU and NATO; while Georgia, on the Eastern side, aspires its membership in the EU and NATO, at the same time its relationship with the East is growing. Although Georgia terminated its membership in the CIS organization in 2009, it has maintained bilateral free trade agreements (FTAs) with eight CIS countries (including with Russia) and the trade ties have strengthened with China after Georgia-China Free Trade Agreement was concluded in 2017. Against the background there were some changes in the geographic patterns of Georgia's export and import. During 2014-2019 total trade flows between Georgia and the EU increased. Taken export and import flows separately, there was a decrease in the share of imports from EU in Georgia's total imports from 2019, while EU's share in total Georgian exports remained relatively stable (EU, 2020). Now dependent on both Russia and Ukraine for trade, Georgia's economy is significantly influenced by the war consequences.

Black Sea is mainly perceived as a space for trade, economic development and commodity transit. Since 2007 with Bulgaria's and Romania's accession to the EU the key focus of the EU's policy in the region has been the Black Sea Synergy initiative, as a regional cooperation platform. Countries that participate in the Black Sea Synergy (Armenia, Azerbaijan, Georgia, Moldova, and Ukraine) are also part of "Eastern Partnership" which is another initiative simultaneously established with "Black Sea Synergy" as a part of the wider policy "European Neighborhood Policy" (ENP). Later on DCFTA incorporated the previous progress achieved in policy harmonization and simultaneously set future directions for reform. Association Agreement has been implemented since 2014, as the main component within European Neighborhood Policy (ENP), but comprehensive reforms were prepared and implemented much earlier. Those reforms were specifically

related to tariffs, customs service, corruption, business licensing system and financial sector regulation. For all the priority areas Georgia developed action strategies and implemented significant legislative changes. Despite this Georgia's progress in the implementation of the Association Agenda was not smooth as desired. There were weaknesses in the enforcement of the reforms. Problems with the EU conditionality mechanism also deserve mentioning as ENP and later Association Agreement was offered not as a real tool for full membership, but as an alternative to it (Shimmelfennig, 2017).

Currently the key regional challenges have economic and security nature; they involve high uncertainty and low investments, the deterioration of growth prospects and rising inflation in the whole region, including the EU. Simultaneously an urgent issue is to find alternative sources and routes for energy supply and cope with the food supply shocks. In transport and energy sectors due to its interconnection with the transport and energy networks of the European Union, Georgia is recognized as a strategic country for the effective cooperation between the EU and the States in the Black Sea and Caspian regions. It has the potential to contribute to energy security and supply diversification needs of the EU and perform the strategic role as a transit country for oil and gas coming from the Caspian basin. Considering the above Georgia needs to develop regional economic cooperation and the related policy tools and instruments not only from multilateral, EU-wide perspective (where sharing of institutions, ideas and values take place), but also strengthen its bilateral, country-to-country dimension in order to translate regional integration benefits into the real economic gains.

## **Conclusions**

Georgia and Romania have opportunities to deepen economic cooperation in a number of directions, such as trade in goods, transport and energy services, and bilateral investments, etc. Despite its reduced share in Georgia's total trade, Romania is an important trade partner of Georgia by both export and import flows. The main export categories are traditional and simple products. Fertilizers and raw materials take considerable share in exports. Import from Romania is dominated by fuels and primary consumer goods. All other commodity groups are represented either in a smaller amount or are rather fragmentary. The conclusion drawn from the analysis of the bilateral export and import patterns is that the economic cooperation potential between Georgia and Romania is not fully realized. In our view the exporting potential needs to be further explored, in order to reveal the opportunities of participation in the global value chains.

The analysis of the bilateral FDI flows between Georgia and Romania shows that the scope of interest of the Romanian investors is limited, which does not significantly affect the economic performance of the country. The potential of bilateral investment activities is also under-realized.

In our view joint efforts of the government, private sector and the academia should be made to develop interpersonal communication networks and to increase mutual awareness between the two countries in order to promote trade and investment activities. These steps could involve: on the part of the government organization of the exhibitions, use of the information spaces and active engagement of the economic units of the Embassies in trade promotion, etc; on the part of the private sector - joint tour initiatives, on the part of the academic circles - joint research into the potential areas of bilateral cooperation, participation in exchange programs not only to share experience, but also to “discover” different areas in the cultures of the two countries and expand communication, what in its turn could lay grounds for new business undertakings. These steps could promote efficient policy decisions at the macro level, while at the micro level can help to improve the performance of the existing and the potential firms in the market and, hence, ensure deeper and stronger bilateral economic ties.

Considering the security threats and the current regional challenges Georgia needs further steps towards intensification of economic ties with the EU. These ties should comprise not only trade in goods, but also services and investments. Bilateral, country-to-country dimension should be strengthened in order to translate potential regional integration benefits into the real economic gains.

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## EUROPEAN UNION FOR PEACE DIALOGUE AND RECONCILIATION IN THE SOUTH CAUCASUS NEW REALITIES FOR “PEACE TALKS”

Mehman MAHARRAMOV\*

### Abstract

*20 years of Nagorno-Karabakh conflict has brought economic losses to the counterparts. The data from “International Policy Digest”, shows the economic loss of Armenia as 600-700 million \$ in export, international and regional projects including “One belt, One Road”, and transit capability. Today, the “peace treaty” brought the social, political, cultural, and economic restoration to the South Caucasus. Therefore, the paper serves a comprehensive analysis for the importance of economic trade in the case of Azerbaijan and Armenia as a key to sustain peace and security in the region. „One third of EU member states consider Azerbaijan a strategic partner,” insight by Charles Michel, president of the European Council, also assured the role of EU institutions as significant in fostering extensive regional cooperation. The paper aims to prove new realities in the ongoing “peace talks” and the impact on the economic reconciliation and development of the region.*

*Keywords:* South Caucasus, EU, Azerbaijan, Armenia, security

### Introduction

The Caucasus region is one of the most problematic and at the same time the most important geographies in the world due to its special geopolitical conditions, political, historical, military and sociological problems. Developments in the region affect countries significantly. All these variables in the Caucasus region shape the relations between the countries of the region and the policies towards regional problems and crises not according to the realities and necessities of the region, but according to the developments in the international system and the role and presence of extra-regional powers.

The Nagorno-Karabakh region is mostly mountainous and forested. After the cold war, the natural, geographical, economic and geopolitical situation of the

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Caucasus region and its productive and rich economic and cultural cooperation potential gave the region a strategic dimension. In the early days of 1992, the problem turned into a war and with the Armenian occupation of Karabakh and a large area around it, 20% of its territory was occupied by the Armenians, and nearly 1 million Azeri immigrants were formed in Azerbaijan (Yiğit and Gülbiten, 2018, p 2-6).

The remaining occupied territories were finally liberated by a war known as the „Second Karabakh War” or „44-Days War” that took place from September 27 to November 10, 2020. The Armenian-Azerbaijani conflict lasted for almost 30 years, and international mediators failed to achieve any real success in resolving the conflict. Restoring its territorial integrity, Azerbaijan has played a key role in launching a new era in the South Caucasus - an era of opportunity for peace and development (UNI, 2021, p. 6).

Despite the signing of a trilateral agreement on the cessation of hostilities after the 44-day war, armed incidents are still observed in the border areas of Azerbaijan and Armenia, which lead both to losses on both sides and to a negative impact on the security system of the entire region. Instead of withdrawing its armed forces from Karabakh, Armenia, on the contrary, strengthens the cohesion of its own troops, developing revanchist ideas, which is an additional effect on instability in these territories.

The Azerbaijani side repeatedly calls on Armenia to adhere to all points of the agreements, which, as a result, will not only contribute to the consolidation of peace and security in the entire Caucasus region, but will also contribute to the economic development of Armenia itself.

Although for two years the Armenian side has tried in every possible way to slow down this process, the intensive trilateral and bilateral meetings of the heads of state at various international platforms, as well as the latest statements by the leading circles of Armenia give hope for progress in the implementation of the points of the agreements.

The South Caucasus region, like other actors interested in the region, the European Union (EU), is interested in Azerbaijan's oil and natural gas. Azerbaijan is important for its role as a bridge in transporting the rich resources of the Caspian Basin to Europe. Therefore, the geopolitical struggle in the South Caucasus over energy resources and energy transportation routes has brought the region to the center of the global power struggle. In this context, the Nagorno-Karabakh issue is also a topic of local conflict for the global power struggle. The European Union for Peace Dialogue and Reconciliation in the South Caucasus has always existed and was looking for new ways to „peace talks” (Görgülü, 2012, p. 48-49).

## 1. Background

### The Nagorno Karabakh Conflict

The Southern Caucasus has always been an active geopolitical area. Most often, the focus of regional political unrest has switched to military operations.

Tsarist policies led Armenians to immigrate to this region in 1823. The Russians described the Armenians as the most loyal ethnicity and included them in the sphere of government. Thus, more Armenians settled in the region, and the population in this region changed in favor of the Armenians. The problem centered on Nagorno-Karabakh, which is a region with the majority of Armenians and located within the territory of Azerbaijan, reappeared towards the end of the 1980s. By mid-1989, the Armenian National Movement (AHM) and the Popular Front of Azerbaijan (PFA) were established, and the crisis took on a new dimension when the Armenian Parliament announced, on December 1, 1989, the annexation of Nagorno-Karabakh to Armenia. The year 1990 went down in history as the year of bloody clashes due to the events that took place after an Azeri was killed by the Dashnaks. Then, the short independence periods of Armenia and Azerbaijan between 1918 and 1920 were another period of conflict before the USSR. The Nagorno-Karabakh Autonomous Region, which is located in Azerbaijan and has a 95 percent ethnic Armenian population, was founded by the Soviet government in the 1920s. Fighting between the two nations was kept to a minimum while they were both governed by the Bolsheviks, but when the Soviet Union started to fall apart, so did its influence over Armenia and Azerbaijan.

Despite the region's official placement within Azerbaijan's borders, the Nagorno-Karabakh legislature issued a resolution in 1988 calling for the country to join Armenia. In 1991, the autonomous territory formally proclaimed its independence as the Soviet Union began to fall apart. A war erupted between Armenia and Azerbaijan over the region, leaving roughly thirty thousand casualties and hundreds of thousands of refugees. By 1993, Armenia had taken control of Nagorno-Karabakh and occupied 20% of Azerbaijan's territory. A cease-fire that was arranged by Russia in 1994 has been in effect ever since. Following the 1994 ceasefire, the Minsk Group, under the co-chairmanship of Russia, the USA, and France, was established in order to provide a peaceful solution to the problem.

One of the dissolutions of the USSR, Russia's desire to take advantage of the tensions in the Caucasus in order to preserve its influence in the region is one of the political reasons for the conflict. Today, the Nagorno-Karabakh problem continues to be a tool in Russia's involvement in Caucasus politics. Despite the fact that Nagorno-Karabakh has been a frozen conflict for more than ten years, hundreds of people have died as a result of artillery fire and small-scale clashes between Armenian and Azerbaijani forces. The most violent combat saw in early April 2016 claimed dozens of lives and left over three hundred more injured. The two sides declared that they had reached an agreement on a new cease-fire after four days of fighting. However,

a breakdown in talks was followed by repeated cease-fire violations, and tensions have remained high (CFR, 2022).

In addition, the fact that the Nagorno-Karabakh region is indispensable for both Azerbaijan and Armenia due to its strategic location is one of the political dilemmas at the point of both the beginning and the insolubility of the conflict (Aslanli, 2013).

## **2. Negotiation on issue**

The Nagorno-Karabakh conflict has become more of an international issue. On January 30, 1992, the Republic of Azerbaijan became a member of the Council for Security and Co-operation in Europe (CSCE) and signed its documents at the CSCE Summit in Helsinki on July 8–10 of the same year. After becoming a member of the CSCE, the Nagorno-Karabakh conflict became the focus of more attention from member states in accordance with the principles of this organization. The persistence of contradictions in the negotiations within the Minsk Group, especially Armenia's unconstructive position, as well as the lack of consensus among the major member states of the group, led to the delay of the peace process and the freezing of the conflict.

The dispute has not been resolved permanently despite the best efforts of the Minsk Group and other negotiation and mediation groups. In order to resolve the conflict, the Organization for Security and Cooperation in Europe (OSCE) established the Minsk Group, a mediation effort co-chaired by the United States, France, and Russia. The co-chairs hold one-on-one meetings in addition to planning summits for the two nations' leaders. The document adopted at the OSCE Summit in Lisbon on December 2-3, 1996, which formed the international legal basis for the settlement of the conflict, can be considered a great political achievement in the just settlement of the Armenian- Azerbaijani conflict. Following the OSCE Lisbon Summit, representatives of the United States and France, along with Russia, were appointed co-chairs of the Minsk Group. On November 9, 1998, the Co-Chairs made a third proposal that contradicted international law and was unacceptable to Azerbaijan. This proposal was based on the idea of a „common state” that does not exist in world practice. The principle of „common state” not only seriously hampered the settlement process but also deepened the contradictions between the positions of the parties on ways to resolve the conflict. As a result, there was a stalemate in the negotiation process, and no positive progress was made in resolving the conflict.

Under the auspices of the Minsk Group, the presidents of Armenia and Azerbaijan met in Geneva in October 2017 to launch a series of negotiations on a potential peace agreement. However, no results from the discussions have been made public. Although the group has been effective in negotiating cease-fires, the territorial disputes continue to be unresolvable.

### 3. Second Karabakh war

On September 27, 2020, after the Armenian Armed Forces subjected the Azerbaijani Army positions and settlements along the border to intense fire from large-caliber weapons, mortars, and artillery of different calibers, with a large-scale sabotage, the Armenian Army's combat effectiveness and the safety of the civilian population were prevented. In order to ensure this, the command echelon of the Azerbaijan Army decided to start a rapid counter-strike operation along the entire front line of the troops. As the conflicts continued, a state of emergency and general mobilization in Armenia, a state of emergency and curfew in Azerbaijan, and partial mobilization were declared on September. The conflict quickly flared up and turned into the Second Karabakh War. The recent war between Armenia and Azerbaijan over Nagorno-Karabakh, dubbed the „Patriotic War” by Azerbaijan, lasted for 6 weeks, from late September to November 2020.

In the following process, while Azerbaijan was liberating historical and critical cities such as Gabriel, Fuzuli, Ganja, and Zangilan and their villages from Armenian occupation, Armenia constantly targeted civilians and violated humanitarian ceasefires. For example, Azerbaijan and Armenia agreed to reach a ceasefire as of 12:00 on October 10, 2020, during the meetings held in Moscow, but Armenia broke the ceasefire within minutes. Five people died and 28 people were injured when Armenia attacked the city of Ganja with missiles on October 11, less than 24 hours after the ceasefire. 5 minutes after the humanitarian temporary ceasefire announced by the United States of America, which will come into effect at 08:00 local time on October 26, 2020, then violated it at 8:05. Again, after the liberation of the city of Fuzuli and a few villages from the occupation, Armenia, which became even more aggressive, launched a missile attack on the cities of Ganja and Mingachevir in Azerbaijan, and 13 civilians were killed, and more than 45 people were injured in the attack. On October 15, 2020, 3 people lost their lives and 3 people were injured in the attack carried out by Armenia against civilians who went to the cemetery for burial in Terter, Azerbaijan. On October 30, 2020, when Azerbaijan liberated 9 more villages from the occupation of Armenia, Armenia targeted civilians in the city of Barda with the Smerch missile system, but Azerbaijan destroyed this missile system. It is possible to give numerous examples of these attacks, which are crimes against humanity, in the 44-day period.

During the 44-day war, the Azerbaijani army made extensive use of Harop unmanned kamikazes, meanwhile, „Zerbe” drones and other UAVs produced in cooperation with Israel in Azerbaijan and Bayraktar TB2 unmanned aerial vehicles at that time. Only with Bayraktar TB2 UAVs, Azerbaijan destroyed Armenia's military equipment and equipment worth 1 billion dollars.

However, on November 7, 2020, with the successful offensive operations of the Azerbaijani army as of September 27, 4 city centers, 3 towns, more than 200 villages, and some important hills in Upper Karabakh were liberated from the

occupation of Armenia. One of the breaking points in the 44-day Second Karabakh War was the liberation of the city of Shusha from Armenian occupation on November 8. The liberation of Shusha from the occupation of Mingechevir, Xizi, Ganja, Terter, Berde, Acabedi, Beylagan, Horadiz, Fuzuli, and Gabriel was announced by President Aliyev with the words „Azan will be heard in Shusha after 28 years” and November 8 2020, was declared as „Victory Day” (Kramer, 2021).

On November 9, a Russian-brokered ceasefire declaration was signed, mandating the deployment of some 2,000 Russian peacekeepers to the region. Many countries in the world and the United Nations have called on both sides to stop military operations, reduce tensions, and resume negotiations immediately. Afghanistan, Ukraine, Turkey, and the Turkish Republic of Northern Cyprus have expressed their support for Azerbaijan.

As a result of the 44-day war, about 7000 people lost their lives on both sides. Armenia lost 10x S-300 missiles and their tactical-combat vehicles, 366 tanks, 352 cannons of various calibres, 22 unmanned aerial vehicles, 5 x Su-25 aircraft, and 50 Tor, Osa, Kub, and Krug anti-aircraft missile systems. At the same time, of particular significance was the destruction in combat operations of the following ballistic missiles: 97 Grad, 4 Smerch, 1 Tos thermobaric, 2 Hurricane, 1 Yars, and 1 Tochka-U, as well as the Elbrus missile complex. The value of military equipment destroyed or captured by the Azerbaijani army is estimated at a minimum of \$3.8 billion. During the Second Karabakh War, political and economic stability existed in Azerbaijan. People-power integration has shown itself at the highest level. After 30 years of uncertainty in Azerbaijan's Nagorno-Karabakh and surrounding territories under Armenia's occupation, the Second Karabakh war created new realities in the region after the victory of Azerbaijan, and today, the South Caucasus rebuilds itself.

#### **4. Analysis of economic losses in Armenia**

Geographically, Armenia is landlocked; it is bordered by Turkey in the west, Azerbaijan in the east, Iran in the south, and Georgia in the north. In short, Armenia, which can be defined as a „closed” country in terms of geography, has no access to the sea, and its connections to the sea and important commercial centers are not strong. Its geographical location deprives Armenia of access to European, American, and East Asian markets. The Armenian economy, whose borders have been closed by Azerbaijan and Turkey due to the occupation of Karabakh, can only reach the rest of the world via Iran and Georgia. Transportation over the 35-kilometer narrow Iranian border is frequently interrupted in winter due to the steep Zangezur mountains. Since the country does not have a self-sufficient potential in terms of natural resources, it also needs the natural resources and transportation networks of its neighbouring states.

During the Soviet period, a significant portion of the railways and highways connecting Armenia to other former USSR countries and Iran were built to pass

through other countries, particularly Azerbaijan. As a result, it had serious transportation problems with other countries for a long time after independence. These issues remain unresolved today for a variety of reasons, particularly the Karabakh issue.

As a result of the occupation policy he adopted in Karabakh and the significant effects of the 1988 earthquake, he faced great problems. has revealed. The Armenian-Azerbaijani war, which started with the occupation of Azerbaijani lands, Turkey's sensitivity to this issue, hostile smear campaigns against Turkey by Armenians, and its problems with Georgia, an Armenia that cannot find friends outside of Iran. The biggest reflection of this situation has emerged in the economy. The 60% decline in GDP between 1991 and 1993 brought the Armenian industry to the point of collapse as recently as the early 1990s. Experiencing hyperinflation in 1994 made unemployment and poverty widespread throughout Armenia. In 1994, hyperinflation reached a record level of 5273%.

Armenia succeeded in reducing inflation, stabilizing the currency, and privatizing most of the small and medium-sized enterprises within the framework of the economic liberalization program implemented between 1995 and 2006 under the sponsorship of the IMF. Equipped with new shopping malls, entertainment venues, hotels and restaurants, the capital of Armenia has experienced a remarkable economic revival in recent years. Areas such as construction, tourism, and jewellery processing have also been active in the country. However, the lack of development of heavy industry, dependency on two border gates, and easy money from the diaspora negatively affect growth. Despite the investments, the primary economic problems in the country are inequality in employment and income distribution. As a matter of fact, according to World Bank data, half of Armenia's population is below the officially determined poverty line in the country. One out of every four people in the country lives below the absolute poverty line set by the United Nations (Uğur, 2005).

Analysing the current positions, past meetings, negotiations, and statements, it becomes obvious that everyone needs peace, especially Armenia. For 30 years, the western and eastern borders of Armenia were blocked, which affected their economic development at a serious level. Due to the presence of the occupation factor, Armenia was deprived of cooperation with Azerbaijan and Turkey and, as a result, did not take part in regional projects, remaining, in fact, isolated from such strategically important oil and gas, transport, communication, and logistics projects as Baku-Tbilisi-Ceyhan, Baku-Tbilisi-Erzurum, TAP, TANAP, and other significant regional projects implemented under the leadership of Azerbaijan. The very fact that the aforementioned projects have nothing to do with the territory of Armenia means that the country is deprived of hundreds of millions of dollars of income every year.

According to the *Center for Analysis and Communication of Economic Reforms*, Armenia's military spending in 1995-2020 amounted to \$7.9 billion, and the costs of the puppet regime fell on the aggressor state, although direct investment in Armenia's own economy during this period amounted to about \$8 billion.

According to the latest figures from the *Stockholm International Peace Research Institute (SIPRI)*<sup>1</sup>, from 2009 to 2018, Armenia's military spending amounted to about \$4 billion. According to *SIPRI*, in 2018, 21% of Armenia's government spending went to the military, which is a tangible contribution for a country where about 26% of people live in poverty. Moreover, these expenses have become tragic for Armenia, and this factor has significantly hampered the economic development of the country all these years.

The Karabakh conflict left a negative economic mark in the history of Armenia. In 2020, Armenia's military spending amounted to 4.9 percent of its gross domestic product (GDP). In addition, the country's national share was significantly higher than the average global military spending of 2.4 percent of global GDP. Along with this, according to *SIPRI*, Armenia spent 634 million US dollars in 2020. Also, the cost of Armenian military equipment destroyed and looted by the Azerbaijani army during the Second Karabakh War, according to a minimum estimate, is at least \$3.8 billion. Moreover, at the end of last year, the country's external debt rose to \$8 billion, approaching 70 percent of GDP. In addition, at the end of 2021, the state debt of Armenia amounted to 9 billion 226 million US dollars, having increased over the year by 1 billion 257 million dollars, or 15.8%. As a result of the occupation policy of Armenia, the country suffered serious economic losses. However, along with the economic crisis, the war also raised political chaos in the country.

## **5. The path to a peace treaty. Current Status of Conflict | European Union for Peace Dialogue**

As for the *OSCE Minsk Group*, the United States, Russia and France have been jointly trying to reconcile Azerbaijan and Armenia over the past decades. The three powers became co-chairs of the OSCE Minsk Group, established to resolve the Karabakh conflict in 1992-1994, but their efforts were not crowned with success. At a press conference following a meeting with Armenian Foreign Minister Ararat Mirzoyan, the Russian Foreign Minister himself S. Lavrov confirmed the lack of interest of the OSCE Minsk Group in resolving this issue with the following sayings: further fate, because our American and French partners are in a Russophobic strike, in an effort to cancel everything and everything, and as for Russia, they have already cancelled the three co-chairs of the OSCE Minsk Group, declaring that they will not communicate with us in this format”.

Both in Karabakh and in other occupied territories of Azerbaijan, skirmishes continued for thirty years. In 2020, Azerbaijan finally resolved this issue, and the conflict moved to another phase, where the MG automatically lost its powers.

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<sup>1</sup> Stockholm international peace research institute (2021), Arms transfers to conflict zones: The case of Nagorno-Karabakh (retrieved from <https://www.sipri.org/commentary/topical-background/2021/arms-transfers-conflictzones-case-nagorno-karabakh>).

Azerbaijan openly ignores this group, and all attempts by Yerevan to restart negotiations on the status of Karabakh through it have failed.

Today, the signing of a peace treaty and the establishment of favourable conditions for the further development of the entire Caucasus region are among the interests of the *European Union*, the Russian Federation, Iran, Turkey, although the interest, as well as the role of Russia in this settlement, is greater than that of other countries. This is facilitated by Russia's interests regarding the South Caucasus region, the history of the conflict, as well as the very factor of the post-Soviet space.

The role of European Union is also about strengthening resilience and peace in the South Caucasus. The European Commission today contributes more than €10 million in humanitarian aid, including some very early recovery to help civilians affected by the recent conflict in and around Nagorno Karabakh. This brings EU assistance to people in need, since the start of the hostilities in September 2020, to over €17 million. Olivér Várhelyi, the Commissioner for Neighbourhood and Enlargement, highlighted one of his speeches that EU has provided all sorts of additional support to the people most affected from conflict. However, the support of EU was not limited with humanitarian aid, but also organization worked towards a more comprehensive conflict transformation and long-term socio-economic recovery and resilience in the South Caucasus in regard to his speech.

On April 6, 2022, a meeting was held in Brussels between President of Azerbaijan Ilham Aliyev, Prime Minister of Armenia Nikol Pashinyan and President of the *Council of the European Union* (EU) - Charles Michel, following which, Charles Michel announced an agreement to instruct the foreign ministers to work on the preparation future peace treaty.

It should be noted that before the *Brussels* meeting, on December 15, 2021, the EU President received the heads of state to discuss the situation in the South Caucasus region and further develop EU relations with both countries.

Following the Brussels meeting, *Armenian Prime Minister* Nikol Pashinyan delivered the following speech at a meeting of their National Assembly: “Today the international community tells us to lower the bar a little on the Karabakh issue, and that then we will have greater international consolidation.” Pashinyan also stated that the international community directly warns of the danger of being the only country in the world that does not recognize the territorial integrity of Turkey's ally Azerbaijan. Making this statement, the head of the government of Armenia, in fact, agrees to the signing of a peace treaty with Azerbaijan on the basis of the five principles previously proposed to Yerevan, probably understanding the lack of a loyal approach to the groundless demands and claims of their country.

Of course, the opposition does not agree with this course of circumstances and is trying in every possible way to impede the process of signing a peace treaty, which is to the detriment of Armenia itself. Chairman of the Republican Party of Armenia, Armen Ashotyan, speaking at a parliamentary session, expressed deep dissatisfaction with the Brussels statement, justifying this by the fact that



both the status of Karabakh and the role of the *OSCE Minsk Group* (MG) were not mentioned in the statement.

Reacting to the statement of the Armenian opposition, first of all, we should recall the points of the tripartite statement of *November 10, 2020*, signed by the President of the Republic of Azerbaijan Ilham Aliyev, the Prime Minister of the Republic of Armenia Nikol Pashinyan and the President of the Russian Federation Vladimir Putin on night. In this document, no status is mentioned, moreover, this issue is finally closed.

Taking this into account, Azerbaijan, Armenia, as well as the EU, under any circumstances consider it necessary to consult the details of the peace treaty and all related nuances with the Russian Federation, and that is why, despite the complicated relations between the West and the Russian Federation, S. Michel and V. Putin discussed by phone, questions concerning the peace treaty between Azerbaijan and Armenia, touching upon the subject of ensuring stability and security in Karabakh. The parties once again noted the importance of activating the process of delimitation of the Armenian-Azerbaijani border and negotiations on the development of a peace treaty between the two countries.

## **6. Draft peace treaty**

On behalf of the Ministry of Foreign Affairs of the Republic of Armenia, there was an appeal to the OSCE Minsk Group with a request to organize negotiations with Azerbaijan to conclude a peace treaty based on the *UN Charter* and other international acts. The 2020 Nagorno-Karabakh Armistice Agreement is a ceasefire agreement signed between Azerbaijan and Armenia on 10 November 2020, ending the 2020 Nagorno-Karabakh War. The agreement was signed by Azerbaijani President Ilham Aliyev, Armenian Prime Minister Nikol Pashinyan and Russian President Vladimir Putin on November 9, after Armenia announced its surrender, and it was announced that all conflicts in the Nagorno-Karabakh region were ended on November 10, 2020 at 00:00 Moscow time. Arayik Harutyunyan, president of the unrecognized Nagorno-Karabakh Republic, also agreed to an end to the fighting<sup>2</sup>.

President of Azerbaijan I. Aliyev, Prime Minister of Armenia N.V. Pashinyan and Russian President V.V. Putin's statement: 1) As of 00:00 Moscow time on 10 November 2020, all conflicts in the Karabakh conflict will be ended with a complete ceasefire. The Republic of Azerbaijan and the Republic of Armenia, hereinafter referred to as parties, will stand at their positions. 2) Aghdam district will be returned to the Republic of Azerbaijan until 20 November 2020. 3) Along the contactline in Nagorno-Karabakh and the Lachin Corridor, there will be 1,960 lightly armed military personnel, 90 armoured personnel carriers, 380 automotive units and a

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<sup>2</sup> RIA Novosti (2020) "Президент непризнанной НКР дал согласие закончить войну" (in Russian).

specially equipped Russian peacekeeping force. 4) The Russian peacekeeping unit will be deployed in parallel with the withdrawal of the Armenian Armed Forces. The duration of the Russian peacekeeping contingent is 5 years, with automatic renewal for subsequent 5-year periods, unless neither party agrees 6 months in advance. 5) In order to increase the effectiveness of control over the implementation of the agreements by the parties, a peacekeeping force will be deployed to control the ceasefire. IDPs and refugees will return to Nagorno-Karabakh and neighbouring areas under the control of the United Nations High Commissioner for Refugees. 6) The traffic of citizens, vehicles and goods of the Azerbaijan Republic is guaranteed in both directions along the Lachin Corridor.

The Republic of Azerbaijan, in turn, put forward a proposal based on 5 principles, adhering to the UN Charter and the principles of international law for the normalization of relations, which Armenia has already accepted: 1) mutual recognition of sovereignty, territorial integrity, inviolability of borders, mutual political independence; 2) mutual confirmation of the absence of territorial claims and a legal obligation not to make such claims in the future; 3) refraining from threats to each other, as well as other measures incompatible with the UN Charter; 4) delimitation and demarcation of the state border, establishment of diplomatic relations; and 5) unblocking communications, cooperation in a field of mutual interest.

In this case, it is not surprising that on March 28, the Security Council of Armenia proposed to Baku to start peace talks immediately. Earlier, Azerbaijan offered Armenia a five-point peace agreement. At the moment, the foreign ministries of both countries are forming working groups and will start certain negotiations in the near future. Already on *April 25*, the heads of the foreign ministries exchanged views on the implementation of the agreements, as a result of which the parties agreed on the structure of the commission on delimitation and border security (in Brussels, 2022). An agreement was reached to hold a meeting regarding the commission on delimitation and border security in the near future. Additionally, discussion on the solution of humanitarian issues, as well as the preparation of peace negotiations, were touched upon.

Although the details of the talks are not known, it is possible that before the meeting in Brussels, Moscow once again wanted to emphasize to the parties that it is the main guarantor of stability in the region. This step is important for Russia in order to maintain its influence in the region and prevent the influence of the European Union.

Considering the long way to peace in the South Caucasus, multiple failed negotiations in last decade, and result of Second Karabakh War, any refusal and disagreement to the current peace treaty can finalize with unexpected negative results for countries, especially for Armenia. The region now owns new realities which require be for the peace treaty and focus on development strategies. If Armenia refuses the only way out for it, and perhaps even the last chance, the Azerbaijani

side, in this case, will officially declare unrecognized the territorial integrity for Armenia.

## 7. Peace in the region

As a result of the November statement signed between Azerbaijan, Armenia and the Russian Federation in 2020, Baku and Yerevan have opened a new page in diplomatic negotiations and economic integration. At present, Azerbaijan is focused on the opening of transport links, economic integration and the signing of a peace agreement. However, in the post-conflict period, there are constant challenges to stability and security in relations between the two countries. International organizations and individual interested countries have expressed their support for the signing of a peace agreement between Azerbaijan and Armenia and the demarcation of borders only in words.

Armenia's avoidance of concluding a peace agreement under various pretexts means that it does not recognize the territorial integrity and borders of Azerbaijan. This means that Armenia refuses to live peacefully with Azerbaijan in good neighbourliness and peace. The new adventures of the defeated country may lead to its complete decline. If Armenia, with its economy in a state of disrepair and without an army, refuses the peace agreement, it will be the loser<sup>3</sup>.

The economic cooperation of states will consolidate peace in the region, because such cooperation requires constant security of the territories. In addition, world practice shows that the desire to enrich the military arsenal, as well as the prolonged state of war in the country, are the main negative factors for the economic development of the country. On the contrary, the conclusion of a peace treaty and the establishment of good-neighbourly relations can contribute to a significant reduction in the military spending of both countries.

Regarding the three countries that make up the OSCE Minsk Group's co-chairs—Paris, Moscow, and Washington—Brussels is more impartial. This is made abundantly obvious in the language of Charles Michel's speech on the outcomes of the second trilateral meeting with President Ilham Aliyev and Prime Minister Nicole Pashinyan. Thus, the desire to move rapidly towards a peace agreement between Azerbaijan and Armenia and the decision to instruct the foreign ministers to work on a future peace agreement covering all necessary issues is a clear example of this. At present, on the basis of historical documents, Azerbaijan proposes to build this road, which is suitable for use.

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<sup>3</sup> APA News (2022), Armenia delays border identification and peace treaty signing without justification (retrieved from <https://apa.az/az/siyasi/ermenistan-serhedlerin-mueyyenlesdirilmesi-ve-sulh-muqavilesi-imzalanmasini-esassiz-yere-yubadir-tehlil-686007>).

In any case, the recent negotiations and the Brussels process that Armenia and Azerbaijan initiated have already set the stage for a new phase. Azerbaijan and Armenia are working on the clauses of the peace agreement. At the same time, it can be expected that a joint commission on delimitation and demarcation of borders will begin negotiations.

The international community is interested in *Transcaucasia* not only in the stability of region, but also its dramatic contribution to international economic relations. According to the forecasts of the *World and Asian Development Bank*, the unblocking of transport hubs between Azerbaijan and Armenia, as well as the restoration of communications between Armenia, Azerbaijan, and hereby Turkey will be a significant catalyst in GDP growth for South Caucasus by 30% . These changes will make the countries of the region more significant both in geopolitical and geo-economic terms, since numerous projects on the north-south and west-east lines are already being implemented into the bargain. The region will become more appealing to investors as long-term peace and stability are established among the nations.

The EU is and will continue to be a crucial partner of both Armenia and Azerbaijan for socioeconomic recovery, especially within the Eastern Partnership, in light of all recent positive developments. The EU is dedicated to taking a proactive role in forging a comprehensive and long-lasting settlement, notably by supporting initiatives for conflict transformation, confidence-building and reconciliation.

## **Conclusions**

The Karabakh war has brought many damages to both nations and region for multiple reasons including blocked economic relations. Only Georgia became a vulnerable economic market for Georgia due to long distance with Russia and Iran. According to the data from “International Policy Digest”, Armenia lost 600-700 million \$ due to loss in export, regional projects, and transit capability. Moreover, the international project called “One belt, One Road” began from China to Europe put Armenia away and made them stay dependence on Russia. This created a huge risk for Armenia’s future socio-economic condition. Both nations began to focus on more military side of the market, and other sides stayed on dark.

Moreover, especially during 2011–2020, both countries were seeking development of their military capabilities through the establishment of broader regional security cooperation in regard to political and financial indications. In this matter, Azerbaijan and Armenia chose to expand military capacities in preparation for the next campaign for the disputed Karabakh.

Today, South Caucasus has new realities after the Second Karabakh War. A reconciliation period is now setting in after the “peace treaty”. The post-war period in the region attach a special importance to the restoration of the social, political, cultural, and economic ties. Both sides, especially, the Republic of Armenia today

realizes that, only way to rescue another undesired tragedy for next 30 years is just shutting down aggression and reacts to the call of Baku in a peaceful manner.

Thus, the analyse suggests that the peace treaty constitutes a legal precedent which can serve as a model towards long term peace and stability of region. Existence of peaceful relations in the region would allow Azerbaijan and Armenia to establish multiple satisfied solutions including economic cooperations, which can work for the best benefit of the South Caucasus. Moreover, through the same framework, the resolution of dispute will allow countries to recognize each other's respective sovereignty or sovereign rights and guaranteeing the security of the region.

The likelihood of a military clash would be reduced, at least in the next decades, if the Karabakh conflict could be resolved. This would protect not just the strategic interests of Azerbaijan and Armenia in the region but also those of their friends who support a just settlement. Restoring cordial relationships between the two nations would also support the latter's attempts to join the European Union, which would open up new opportunities for economic growth and more opportunities for bilateral collaboration. Therefore, the establishment of economic linkages with the aid of EU institutions is necessary to promote integration and foster the region's sustained economic growth. Charles Michel, president of the European Council, spoke about „one third of the world's population” on his most recent visit.

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## DEFINITION AND IMPLICATIONS OF AGGRESSION IN INTERNATIONAL LAW

Carmen MOLDOVAN\*

### Abstract

*The military invasion by the Russian Federation in Ukraine does not leave any space for nuances as it is a violation of an essential principle of International Law, namely the prohibition of the use of force. This basic rule is enshrined in Article 2 para 4 of the Charter of the United Nations and it constitutes one of its main objectives, as well. However, the Charter does not provide a definition of the act of aggression, which was given in 1974 by the General Assembly in its Resolution no. 3314 and served as an inspiration source in defining the crime of aggression by the Kampala Amendments to the Rome Statute of the International Criminal Court. The aim of this paper is to analyse the elements of aggression as an internationally wrongful act which trigger the international responsibility of a State and to draw distinctions from the elements of the crime of aggression which trigger the individual responsibility.*

**Keywords:** prohibition of the use of force, international responsibility, international jurisdiction

### Introduction

Russian military invasion in Ukraine in February 2022 was unexpected for the general public and shocked the international community as it undoubtedly constitutes an act contrary to the actual system of fundamental principles of International Law to the establishment of which the contribution of the Russian nation, a permanent member of the Security Council since 1945, cannot be denied. The core values of the United Nations are enshrined in its Charter (United Nations, 1945a) which established a mechanism of collective security based on its provisions that are legally binding for the Member States.

The cornerstone of this system is represented by the prohibition of the use of force which is in strong connection with the principles of sovereignty, territorial integrity and inviolability of frontiers.

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Committing acts of aggression constitutes a serious violation of International Law and of the prohibition of the use of force, a violation of the obligation to respect this principle and a cause for the international responsibility that may be established against the state and/or against the individuals. However, we should bear in mind that these are different types of responsibility: the international responsibility for wrongful acts applicable for States and international criminal responsibility for individuals. We must also consider the specific requirements established by general international law and international criminal law for each of them. Although at first, things appear simple, in reality the mechanisms for the both types of liability are very complex and difficult to comply with due, to the specific requirements and the special features of each mechanism.

### **1. Prohibition of the use of force as an essential principle of International Law**

The principle of non-aggression or prohibition of the use of force is essential for the current international legal order and its enshrinement is the result of the evolution of interstate relations and the approach change regarding the legitimacy and legality of the ways of solving disagreements between States. War and the use of military force have been constant elements of the relations between States for a long time in human history, and their use was allowed (Moldovan, 2019). At present, based on international regulations, use of military force has been excluded from the admissible ways of conducting international relations and may be considered justified in a very few cases, restrictively provided by the Charter of the United Nations, namely self-defense, people`s right to self-determination, measures adopted by the Security Council of the United Nations (Moldovan, 2019, p. 106).

The express consecration of non-aggression is closely linked to the interwar period. The Covenant of the League of Nations adopted in 1919 (League of Nations, 1920) enshrined the principle of non-use of force or threat of force, which led to a limitation of States in starting wars (*jus ad bellum*) and using this method legitimately to resolve misunderstandings between them. This was followed by the Briand Kellogg Pact (League of Nations, 1929), adopted in 1928, which enshrined the prohibition of war of aggression (Moldovan, 2019, p. 99). These international instruments have proved ineffective due to the outbreak of World War II.

The Charter of the United Nations stipulates the principle of prohibition of the use of force in Article 2 para. 4, according to which:

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.

The reason for the express provision of this principle in 1945 is related to the goal of achieving international peace, mentioned in the Preamble of the Charter, of the



United Nations for which the States agreed, once again, to limit their prerogatives related to their sovereignty, in the form of an obligation to refrain from using force in relations with other each other and as a means of settling any misunderstandings (Cassese, 2005, p. 55).

Despite the express consecration in the Charter of the United Nations, which represents a true “constitution” of the international community using imperative wording, since its adoption there have been over 100 major armed conflicts and the loss of over 20 million lives (Gray, 2014, p. 618).

The reading of the text may be subject to two possible interpretations: on the one hand, it can be considered that the prohibition of the use of force is concerning interstate conflicts (Gray, 2014, p. 618) given the use of the expression *in their relations* although, after the Second World War, civil conflicts were more numerous than those between States (Gray 2014, p. 620), and on the other hand, that it represents a general rule establishing *jus contra bellum* (Decaux , de Frouville, 2016, p. 457).

The Charter of the United Nations aims to unilaterally prohibit the use of force by States, pursuant to Article 2 para 4, as well as establishing a centralized control over its use, exercised by the UN Security Council, pursuant to Chapter VII of the Charter (Dupuy, Kerbrat, 2016; Gray, 2014, 619). The intention of the drafters of the Charter was to refer to the type of misuse of armed force that characterized international diplomacy and relations between States in the first part of the twentieth -century.

The terms *use of force* and *threat of use of force* are not defined by the Charter of the United Nations, which is the reason why there are still debates concerning the content and meaning of the notion *force* and whether its interpretation should be narrow (including only the use of armed force) or broad (including economic, political or other coercion against a State, taking into consideration the development and evolution of the international legal order). The difference between the two interpretations is more symbolic than practical, as economic coercion has been expressly prohibited by General Assembly resolutions, such as the 1970 Declaration of the Principles of International Law (C. Gray, 2014, 621).

The debates are also fueled by the inconsistency of the Charter in the use of the term *force*. Thus, the Preamble (para 6) and Articles 41 and 46, are using the term *armed force*, while Article 2 para 4 and Article 44 use the term *force* (Rosenne, 2002, p. 156).

The inclusion of the term *force* in the Charter, without providing a definition or elements on the basis of which a particular situation can be included in the scope of this notion was deliberate, in order to avoid the emergence of new situations similar to those before World War II and to qualify them by using other terms (such as *incident, union, protectorate*), in the context of deteriorating diplomatic relations, which do not make direct reference to the use of armed force or war, and to avoid the use of the term *war* (Rosenne, 2002, p. 156).

The principle of the prohibition of the use of force has been a continuing concern of the General Assembly of the United Nations. Thus, it has adopted several

resolutions on the use of force in order to clarify and interpret the provisions of the Charter. With regard to those adopted by unanimous vote, they are considered to be either Customary International Law or to have the value of a formal interpretation of the provisions of the Charter (Gray, 2014, p. 619).

These resolutions include: *the Declaration of the Principles of International Law of 1970* (General Assembly, 1970), *the Resolution on the Definition of Aggression of 1974* (General Assembly, 1974), *the 1987 Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations* (General Assembly, 1987).

The war of aggression is, according to the 1970 Declaration, a crime against peace, for which international responsibility can be established (General Assembly, 1970).

The 1987 Declaration stipulates in its Annex, that each State has the obligation to abstain in international relations from the threat or use of force against the territorial integrity or political independence of any State or to act in any manner contrary to the purposes of the United Nations and that such a threat or use constitutes a violation of International Law and of the Charter of the United Nations and entails international responsibility (General Assembly, 1987, point 1).

Regarding the nature of this ban, the text of the 1987 Declaration is very clear and unequivocal as it specifies that the principle enjoys a universal and binding character, regardless of the political, economic or social system of the State (General Assembly, 1987, point 2). Moreover, it includes in the scope of the principle the obligation of States to refrain from organizing, instigating, supporting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries in other States, or association in activities organized in their territory for the purpose of committing such acts (General Assembly, 1987, point 6).

Despite the details given to the content of the principle of the prohibition of the use of force, it remains one of the most controversial topics in Public International Law, as the jurisprudence has not fully clarified the requirements under which exceptions are justified and the practice of States and acts adopted by other international bodies (especially within the Security Council of the United Nations) have been neither uniform nor constant.

Following the interpretation given by the International Court of Justice in the case of *Military and Paramilitary Activities in Nicaragua*, the prohibition of the use of force is considered to be part of Customary International Law (ICJ, 1986).

The notion of *threat of use of force* as part of the prohibition of the use force is even more blurred and difficult to analyse and the International Court of Justice did not make clear delimitations. In its Advisory Opinion on the *Legality of the Use of Force*, the International Court of Justice noted that the threat of use of force is illegal if the use of force itself is illegal, but it did not mention whether possession of nuclear weapons constitutes an illegal threat of use of force (ICJ, 1996).

In its *Advisory Opinion on the Construction of a Wall on Occupied Palestinian Territory* (ICJ, 2004), the International Court of Justice noted that the inadmissibility of acquiring territories by threat or use of force is a rule of Customary International Law, which means that the conquest of a territory does not transfer a legal title of sovereignty, even if it is followed by a *de facto* occupation accompanied by the assertion of authority over that territory (Cassese, 2005, p. 57).

## 2. Early attempts to define aggression

States tried for years to find a proper and adequate legal definition of aggression. This was one of the first tasks set for the International Law Commission, a subsidiary organism of the General Assembly of the United Nations established in 1947.

The International Law Commission failed to define aggression, not because its members were not creative or experienced enough, but because of the further legal implications of defining such an abominable act.

In 1950, the International Law Commission referred to the general principles of law recognized by the Charter of the Nuremberg Tribunal (United Nations, 1945c), which mentions aggression as a crime against peace as part of principle VI (International Law Commission, 1950) in the following wording:

*Crimes against peace:*

*Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;*

*Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).*

General principles of law are a source of Public International Law, according to Article 38 para 1 d of the Statute of the International Court of Justice (United Nations, 1945b).

The first attempts to define aggression failed and in 1951 the Special Rapporteur noted that *aggression, by its very nature, is not likely to be defined* and that a *legal* definition of aggression would be an artificial construction, which, applied to specific cases, could lead to conclusions contrary to the “natural” notion of aggression (Moldovan, 2019). Attempts to define aggression continued in 1952, by establishing a new committee tasked with implementing a definition, as well as in 1954, 1957 and 1967, but to no avail (Wilmshurst, 2008).

Sir Gerald Fitzmaurice, a former representative of the United Kingdom in the International Law Commission, explained in 1952 the reasons why giving a legal satisfactory definition for acts of aggression was a difficult process and highlighted that

*It is true that there may be some doubt whether the existence of a definition, however good it was, would really deter a deliberate aggressor. In major cases, at any rate, countries only embark on aggression if they think it is going to be successful, and if they think it is going to be successful, they are unlikely to worry very much about the consequences. Nevertheless, it must be admitted that there may well be cases in which countries will be deterred from taking certain types of action which otherwise they would be tempted to take, if it is clear in advance that the taking of such action will automatically characterize them as aggressors... (Fitzmaurice, 1952, p. 137).*

### **3. Definition of aggression**

Even if the International Law Commission failed to give a definition to aggression, in December 14, 1974 the General Assembly of the United Nations by consensus adopted the Resolution no. 3314 (XXIX) which contains in its Annex the definition of aggression (General Assembly of the UN, 1974).

According to Article 1 of the Annex to the Resolution, the definition is a broad one starting from the content of Article 2 para 4 of the Charter of the United Nations, as follows:

*Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.*

Details are contained in the following provisions of the Resolution and related to acts comprising the use of military force, yet it was not used as guide by the Security Council in qualifying as such acts of the States (Wilmshurst, 2008).

Article 2 stipulates that:

*The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.*

Article 3 includes examples of the acts that fall within the said definition:  
*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,*
- (b) *Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;*
- (c) *The blockade of the ports or coasts of a State by the armed forces of another State;*
- (d) *An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;*
- (e) *The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;*
- (f) *The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;*
- (g) *The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.*

Article 4 of the Resolution mentions that the list is not exhaustive, and the Security Council may qualify other acts as aggression. Aggression cannot be justified for reasons of a political, economic, military or other nature (according to Article 5 para 1), the war of aggression is a crime against international peace and determines international responsibility (Article 5 para 2) and territorial acquisition may not be considered lawful (Article 5 para 3).

In the *Military and Paramilitary Activities in and against Nicaragua* case, the International Court of Justice held that certain actions of the United States of America, committed with the intention of overthrowing the government of Nicaragua, were contrary to the principle of prohibition of the use of force, such as placing mines in the waters of Nicaragua, attacks on ports and oil facilities of Nicaragua, aid given to opposition forces *contras*, engaged in fighting with government armed forces, arming and training of *contras* military forces (ICJ, *Military and Paramilitary Activities in and against Nicaragua*, Judgment, 1986, para 228) .

The wording of the definition given by the Resolution no. 3314 is unequivocally clear and refers exclusively to the use of armed force against sovereignty and territorial integrity of a state, so it has no applicability for situations of use of armed force in internal armed conflicts or civil wars (Rosenne, 2002, p. 161). The definition refers strictly to acts committed by States as subjects of Public International Law and should not be confused with the crime of aggression provided by the Statute of the

International Criminal Court which sets in its Article 5 para 1 that its competence includes, in addition to the crime of genocide, crimes against humanity, war crimes and the crime of aggression (United Nations, 2004). In accordance with this provision, States adopted the definition of aggression, through the Amendments adopted in Kampala on 11 June 2010, which entered into force on July 17, 2018, activating the competence International Criminal Court on the crime of aggression, on July 17, 2018 (United Nations, 2010).

Concerning the crime of aggression mentioned in the Statute of the International Criminal Court (United Nations, 2004), in order to avoid confusions on the scope and the nature of responsibility, a series of clarifications must be made, both regarding the authors and the competence to judge acts that are limited to this notion. The competence of the International Criminal Court concerns individuals and not States.

The definition of the crime of aggression is provided by Article 8 bis 1 para 1 added by Resolution 6 of 11 June 2010, in the following wording:

*For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.*

Next, the same Article, at para 2, defines the meaning of the notion act of aggression:

*For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression.*

Therefore, the reference to the meaning of the Resolution no. 3314 (XXIX) of 1974 is direct and the elements of the crime of aggression are those described therein. The consequence of the insertion of the new article in the Rome Statute is that the act of aggression becomes a crime engaging the individual criminal responsibility of those who committed acts mentioned by the definition and it does not only raise the question of State responsibility.

However, it must be emphasized that the definition is restrictive since the perpetrators must be one or more persons in a position effectively to exercise control over or to direct the political or military action of the State and it excludes members of non-state armed groups acting on behalf of foreign States. Nonetheless, if the

persons acted as de facto agents of the State, the acts committed may be considered constitutive elements of aggression.

The conditions are also stringent on the referral. The Prosecutor may only proceed *proprio motu* investigation or an investigation based on a State referral but first there must be made an assertion whether the Security Council made a determination of the existence of an act of aggression.

#### **4. International responsibility as a consequence of breaching international obligations**

The description of acts of aggression mentioned above is completely applicable to acts committed on the Ukrainian territory by the Russian military forces. Thus, the rules of international responsibility of States are applicable. Responsibility of States for internationally wrongful acts is a fundamental institution of Public International Law, characterized by complexity, which is not analyzed from the perspective of criteria and specific conditions of the legal institution of liability in domestic law and comprises a special mechanism (Brownlie, 1998, 90).

International liability of States is part of Customary International Law and its mechanism is based on the commission by the State of an act that can be considered illegal, consisting in violation of an international obligation. This was the opinion of the Permanent Court of International Justice in 1927 in its *Factory at Chorzów* case

*It is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form. Reparation therefore is the indispensable complement of a failure to apply a convention and there is no necessity for this to be stated in the convention itself.* (Permanent Court of International Justice, *Factory at Chorzów*, 1927, 21)

As previously mentioned, Russian Federation is in breach of an international obligation.

The legal notion of international responsibility of States was a topic of high interest for States in the first half of the twentieth century, being a subject chosen for codification within the League of Nations and one of the main themes of the 1930 Hague Codification Conference, which failed to adopt a text on the subject (Crawford, 1999; Crawford, 2012).

A significant contribution to this topic has The International Law Commission on International Law, which submitted several draft articles on international responsibility (Maxim, 2012, 11) for articles which it submitted for debate to the General Assembly in this matter. The most recent text is *the Draft Articles on the International Liability of the State for Illicit Acts* adopted in 2001 and presented to the General Assembly hereinafter, in the present paper, *the Draft Articles 2001* (International Law Commission, 2001).

The aim of the *Draft Articles 2001* was to systematize, through codification and progressive development, the fundamental rules of Public International Law on the international responsibility of States for unlawful acts. To date, no changes or additions have been made to the structure or content of the *Draft Articles 2001*, with virtually no progress being made on the regulation of this subject of international law by consensus. However, General Assembly submitted the Draft Articles to the attention of the States in 2004, 2007, 2010 (General Assembly, 2007; General assembly, 2010) with no changes being made.

According to Article 1 of the *Draft Articles 2001*, the foundation of the responsibility of the States is the commission of an illicit act:

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

In general, it is considered that in order to entail the international responsibility of the states, it is necessary to meet three elements: a) illicit conduct; b) the conduct is attributable to a State; c) causing a damage (Moldovan, 2019).

The illicit conduct of a State is the first element of the international responsibility consisting in an action or inaction that is a breach of an international obligation regardless of its source (international treaties or international custom). According to the view of the International Law Commission expressed in Article 3 of the *Draft Articles 2001*, this assessment is carried out autonomously of the qualification of such acts under domestic law. Therefore, a possible qualification of an act committed by a State as lawful by the domestic law is not relevant, instead rules and principles of International Law shall be applicable.

The *Draft Articles 2001* refer to illicit international acts that can be attributed to the State and do not include distinctions based on their severity or the nature of the norms that were breached. Previously, under these criteria, the Draft Articles adopted in 1996 (International Law Commission, 1996) made a distinction between two categories of illicit acts: international crimes and international delicts. The differentiation of the two categories of illicit international acts did not constitute a new idea in 1996, it was also included in various documents adopted since 1976 (Bowett, 1998, 163).

The *Draft Articles 2001* mentions that only behavior that can be attributed to the State at the international level can lead to its responsibility, which is consistent with the customary international rule according to which the acts of the State bodies are considered to be the acts of the State itself (Draft Articles 2001 Article 4). It is irrelevant whether the officials or the bodies acted as *de jure* or *de facto agents*. In certain conditions, the State may be responsible even for the acts of individuals and for those that are committed directly by State agents. This is the conclusion drawn from the judgment of the International Court of Justice in the *Corfu Canal case* (International Court of Justice, 1949), in which the Court held Albania responsible for the consequences determined by the explosions of the mines that were placed in its



territorial waters, based on the Albanian authorities' knowledge of this issue and the lack of warning of the presence of mines.

## **5. Applicability and legal consequences concerning Ukraine**

The military invasion of the Ukrainian territory is inconsistent with the international rules and principles analysed in the present paper and the Russian Federation committed an internationally wrongful act that should trigger the mechanism of international responsibility, all the elements required are met. However, this mechanism is subjected to the rule of jurisdiction of the International Court of Justice as concerns the State.

According to the provisions of Article 36 of the Statute of the International Court of Justice, the principal judicial body of the United Nations, for the Court to be able to exercise competence in an application filed by States, the State parties (both State parties) need to formally accept the jurisdiction of the Court (United Nations, 1945b). This requirement is not fulfilled in the case of the Russian Federation, as it did not accept the jurisdiction of the Court in relation to the provisions of the Charter of the United Nations. And this is the main reason for which the application filed by Ukraine before the International Court of Justice after the invasion of its territory, on February 27, 2022 is not based on the provisions of Article 2 para 4 of the Charter of the United Nations, but on the provisions of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (International Court of Justice, 2022), as both States are parties to this Convention and accepted the jurisdiction of the Court. The Application of Ukraine refers to the declarations of the Russian Presidents that the military operations have the objective to “de-nazify” Ukraine, which is according to the Applicant, a transparent pretext for an unprovoked war of aggression. Ukraine also applied for an order for provisional measures and, on March 16, 2002, the International Court of Justice issued such an order indicating at point 1 that

*The Russian Federation shall immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine (by thirteen votes to two)*

and that

*The Russian Federation shall ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of the military operations referred to in point (1) above; (by thirteen votes to two) (International Court of Justice, 2022).*

The Court noted that it has *prima facie* jurisdiction under Article IX of the Genocide Convention to order the suspension of military operations by way of a provisional measure.

The said Article provides that:

*Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.*

In its declaration, vice-president Gevorgian presented the reasons for his dissenting opinion by analyzing these provisions taking into consideration the opposition expressed by Russia's Ambassador to the Kingdom of Netherlands to the jurisdiction of the Court and the scope of the Genocide Convention as well (International Court of Justice, Judge Gevorgian, 2022).

The order of the Court is consistent with its jurisprudence on provisional measures; however, this does not mean that the Application submitted by Ukraine will be considered well-founded and it may take a couple of years for the Court to judge the case.

As regards the criminal responsibility of individuals, Ukraine is not a State party to the Rome Statute of International Criminal Court, but accepted the jurisdiction of the Court first in 2013 and again in 2015 (International Criminal Court, 2022). Following the invasion of the Ukrainian territory, 39 States parties to the Rome Statute made referrals to the Office of the Prosecutor of the International Criminal Court, which led to the opening of an investigation for allegations of war crimes, crimes against humanity or genocide committed on any part of the territory of Ukraine by any person (International Criminal Court, 2022).

## **Conclusions**

Often, there are many blurred lines in cases concerning the application of International Law. The Russian invasion of Ukraine is not one of them. The acts committed by the Russian Federation since February 2022 are contrary to the very essential core rules and principles of International Law, addressed in the present paper. In addition, the Russian military troops are continuously violating International Humanitarian law, especially concerning the treatment of civil population, targeting civilian establishments and the treatment of war prisoners.

Although the violations are very clear and there lacks any legal justification, legally establishing the responsibility of the Russian Federation and of those that are acting in the military is problematic due to an important and highly relevant rule applicable: the jurisdiction, which is the most sensitive and probably will be analyzed

by the International Court of Justice in the case filed by Ukraine against the Russian Federation concerning the application of the Genocide Convention.

As regards the acts committed by the military forces that are under investigation by the Office of the Prosecutor of the International Criminal Court, the jurisdiction issue is also sensitive, as the Russian Federation is not a party to the Statute of the International Criminal Court. In fact, it signed the Statute in 2000 and later, in 2016 it officially notified the Secretary General of the United Nations on withdrawal of its signature and the fact that it does not have the intention of expressing its consent and become a state party to the Statute. This moment was closely related to the investigation opened by the Office of the Prosecutor of the International Criminal Court, concerning acts committed since November 2013 in the Eastern part of Ukraine.

As it appears, the current legal status on responsibility and the notion of jurisdiction are favourable to the Russian Federation and show the weakness of the legal status, despite the clear definition of aggression as an act contrary to International Law for States and individuals. States and the international community in its entirety need to overcome these obstacles and find new mechanisms and new definitions of the relevant legal institutions in order to apply the rules of International Law on aggression, ensure the international security and renew state commitments to the International Court of Justice, International Criminal Court and international justice.

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# THE CAUSAL RELATIONSHIP BETWEEN INSTITUTION AND TRADE. EVIDENCE FROM THE REPUBLIC OF MOLDOVA - THE EUROPEAN UNION

Ion MUȘCHEI\*

## Abstract

*The current paper aims to analyse whether there is a causal relationship between institutions and trade between the Republic of Moldova and the European Union after the signing of the Association Agreement. On the one hand, the existing theory of institutionalism points out that better quality of institutions leads to a significant increase in trade, thus countries with the same level of institutions tend to trade more and also trade might produce institutional change. On the other hand, some scholars emphasise that institutions are hard to change, thus trade liberalisation is ideal and trade will produce institutional change. Based on mixed methods analyses of reports, data and survey this paper concludes that there is no causality between institutions and trade taking into account the relationship between the Republic of Moldova and the European Union. Notwithstanding, institutions are important and influence commercial flows. This research is relevant to the extent that the European Union wants to strengthen its strategy towards Eastern countries especially the Republic of Moldova.*

*Keywords:* institutions, trade, institutionalism, the Republic of Moldova, the European Union

## Introduction

In recent decades, many institutional economics theorists have argued that institutions have a decisive influence on a multitude of economic aspects, therefore being the most important while the focus should always be on developing and strengthening them. On the other hand, other recent studies suggest that the factors that can determine the quality of institutions are more important than institutional quality (Acemoglu and Robinson, 2006) because if institutions matter so much and everyone agrees with this assumption, then why don't societies simply change their institutional quality?! (Acemoglu, 2008). When it comes to good governance and

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international trade, in most cases, the literature analyses the impact of institutional quality on trade, considering institutions as an independent variable and trade as the dependent variable on institutions. A large number of studies have highlighted that institutions matter in international trade, as better institutions boost trade, thus countries with similar institutional levels tend to trade more. However, a few articles suggest that there may also be an inverse relationship between them, namely that trade may have a greater impact on institutional quality. Therefore, the link between institutions and trade represents an ongoing debate among economists and experts in the field. Although most studies agree that there is a significant correlation between the two variables, the same cannot be said about the evolution and direction of this relationship nor about who influences whom more or who has the primacy in this relationship. From this point of view, the signing of the AA (Association Agreement) between the Republic of Moldova and the EU (European Union) and the creation of a DCFTA (Deep and Comprehensive Free Trade Area) can help us better understand this relationship because the AA provides for the transfer of European institutions to domestic ones, while the DCFTA supports the liberalisation of trade by eliminating all barriers.

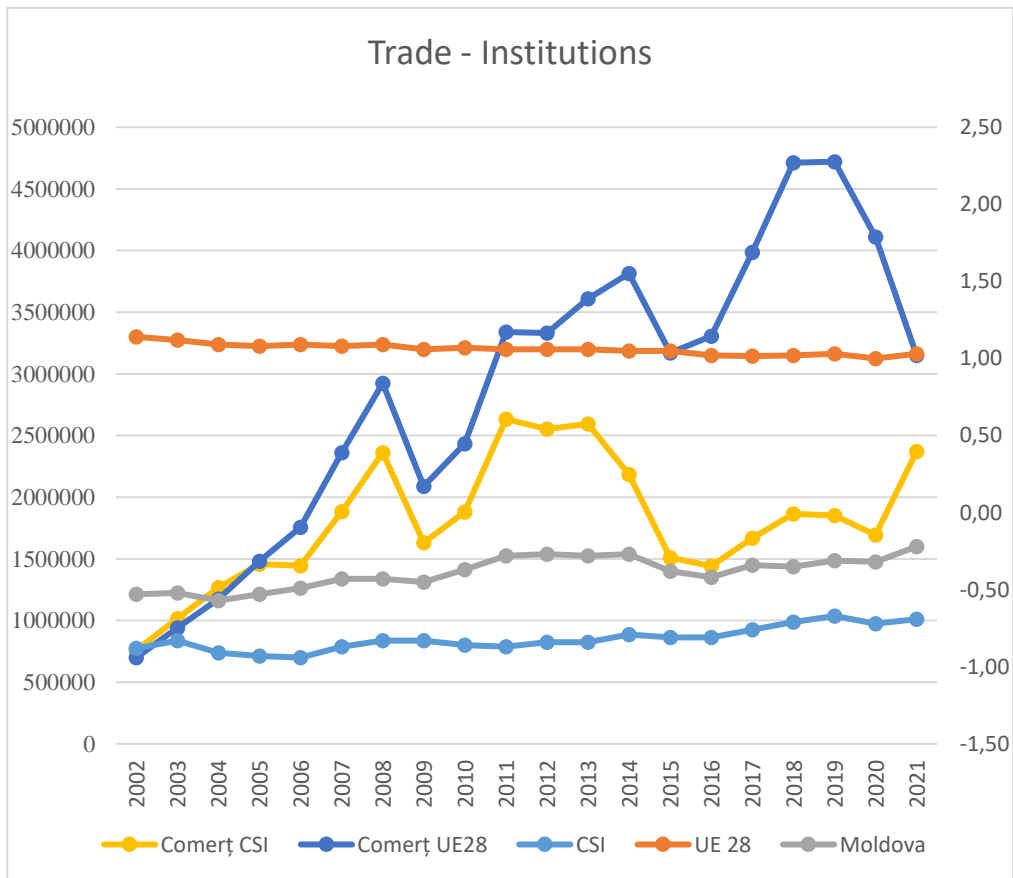
The initiation of ENP (European Neighbourhood Policy) led to an increase in trade flows with the EU states, while after the entry into force of the DCFTA, trade flows exploded. Moreover, the entry into force of the AA represented the first stage in the process of integration or ‘Europeanisation’ of the Republic of Moldova. The concept of Europeanisation understood as the adoption and implementation of EU rules in the transition countries was the most massive and largest transfer of rules in recent history (Schimmelfenning and Sedelmeier, 2005).

If a state wishes to become a full member of the EU, then the adoption of the EU institutional development model is a prerequisite. These issues are better captured in figure below. It can be seen that in the 2002-2021 period the curve representing the institutional quality in the Republic of Moldova is relatively straight, as in 2002 it had a value of (-0.53) while in 2021 it was (-0.22), recording a slight improvement of only (+0.31). It should be noted that the same stable trend in institutional quality is also observed in the European Union and the CIS (Commonwealth of Independent States) countries. This confirms the hypothesis that institutions take time to improve.

Firstly, an upward trend in trade flows with EU countries can be observed, which may be largely due to the launch of the ENP but especially to the creation of the DCFTA. Trade flows started to show an upward trend after 2009 and following the launch of the ENP, and exploded after the entry into force of the DCFTA, i.e. 2016. At the same time, we can see that the peak of trade flows was recorded in 2019, a year that was marked by the Covid-19 Crisis, which significantly affected global trade. The Republic of Moldova as a relatively small country was strongly influenced by this crisis, a situation visible in the graph above, when trade flows reached the level of 2011 and 2014, being the fastest decline in trade flows with the

EU. However, trade flows have increased with CIS states, reaching the level of 2008, which can be explained by the massive imports from these countries during the pandemic period.

**Figure 1: Evolution of the institutional quality of the Republic of Moldova, the European Union, the Commonwealth of Independent States and trade flows between the Republic of Moldova - European Union and the Republic of Moldova - Commonwealth of Independent States.**



Source: Author’s representation based on World Governance Indicators and Statistical Data Bank of Moldova

Secondly, the unit value of trade has increased continuously especially after 2009, while the quality of institutions has remained relatively constant, although 2/3 of the rules laid down in the AA have been implemented in national legislation.



Starting from this background and considering this data, namely that trade flows with EU Member States and CIS countries have experienced significant variations while institutional quality has not experienced such dramatic variations as trade, the main purpose of this article is to *establish the causal relationship between institutions and trade*. Therefore, the research questions are the following:

Q1: Is there a causal relationship between institutions and trade in the European Union's relationship with the Republic of Moldova?

Q2: How does the new institutional framework in the Republic of Moldova influence trade flows?

The answers to these two questions will provide us with the necessary information to achieve the main purpose of the paper which involves analysing the dynamics in time and space (i.e. at the level of the countries with which Moldova trades). The remaining of the paper is structured as follows: The next part provides a review of the literature on institutionalist theory and the relationship between institutions and trade. The third part describes the methodology of the paper where I described and motivated the choice of institutions and trade, as well as the statistical analysis method. The following part will present the analysis and interpret the obtained results while in the last part I will draw conclusions from my research and identify areas for further discussion.

## **1. The relationship between institutions and trade in the literature**

If we are talking about international trade between countries, then the literature focuses more on the impact of institutions on trade. This approach has its roots in institutionalist economics theory, which highlights the role of institutions in economic development and hence the assumption that a good institutional framework also encourages trade. In classical economics, it is well known that trade is a win-win situation (Ricardo, 1817) and trade stimulates the building of better institutions (Anderson, 2018). The quality of institutions influences the value of trade, implicitly with positive externalities on welfare and economic growth as an effect of trade liberalisation. A country with a certain institutional development level may have a higher or lower level of societal acceptance of reforms regarding trade with other countries. Precisely because some entrepreneurs may suffer short- or long-term losses. Thus, those who stand to lose from trade liberalisation will be strongly opposed to trade reform, moreover, they will mobilise an anti-trade policy-reform campaign. How and to what extent institutions deal with this situation may affect public opinion on trade liberalisation. The problems that exporters face have remained the same, yet the way they are addressed has changed over time. At the same time, it should be noted that institutions need to be adapted to the individual time, place and environment context. Institutions that are effective in one place at one time may have the opposite effect in a different environment. Institutional change occurs gradually over time, not immediately.

The literature discussing the effect of institutions on trade is not extensive enough, but the existing research is a good starting point. The prevailing assumption in the literature is that institutions matter, they are important, and countries with the same institutional quality tend to increase their trade flows. The first scholars concerned with the relationship between institutions and trade (Knack and Keefer, 1995) have concluded that the institutions that have the greatest impact on trade in a positive sense are: private property and contract enforcement.

The study of Linders, Slangen, de Groot, and Beugelsdijk (2005) applied to 92 countries over the 1999-2000 period argues that higher institutional quality increases trade flows for both importing and exporting countries (*ibid.*). Subramanian, Linders, Rietveld and De Groot (2003) using the gravity model calculated whether the quality of institutions and their homogeneity have an independent effect on trade. They found that states with the same institutional framework can increase their trade flows by an average of 13%, and the correlation between institutions and trade is validated and highly significant. Another important finding of the study is the argument that states with inefficient formal institutions are avoided by states with efficient institutions due to insecurity, uncertainty and especially very high transaction costs. For this reason, the states with inefficient institutions tend to trade with states with the same level of institutions, forgoing the benefits that more developed states would have brought. Moreover, if we look at exports and imports separately, then an increase in institutional quality can even lead to an increase in trade flows of 30 - 44%. (H. L. Groot *et al.*, 2003). An important contribution to the literature in this field is made by Dollar and Kraay (2003), their study being based on three main hypotheses. One of them points out that countries with better quality institutions and trading countries tend to develop better and faster, hence countries with better institutions also tend to have higher trade flows. There is therefore a very strong correlation between economic growth and development, high trade flows and institutions.

Jansen and Nordas (2004) found that a high quality institutional framework has a significant positive effect especially on the trade openness indicator. National tariffs on productivity are not statistically significant but combined with low quality institutions have a major impact on trade flows. Other authors consider that international institutions have a much stronger impact on trade flows because they force all actors to abide by the same rules and moreover, a larger number of actors force more simplified rules that are more qualitative and more accessible. One study concludes that institutions influence trade, but the intensity is given by context (Ojega *et al.*, 2014).

Other studies that have examined the relationship between institutions and trade have gone further and after demonstrating the positive link between trade and institutions have concluded that one of the institutions that mostly overshadows trade is very high corruption (Zelekha and Sharabi, 2012). Moreover, the analyses by Alvarez *et al.* (2017) underline that in addition to the fact that institutions are relevant

in bilateral trade, over time countries tend to trade with those countries that have the same institutional quality and not necessarily with those countries that have the highest quality of institutions, of course excluding other factors that influence trade such as infrastructure, distance, culture, language, diplomatic conflicts and so on.

An analysis conducted on the Eastern Partnership countries shows clear evidence of the trade benefits that these countries gained especially following the signing of the Association Agreement while the improvement of the institutional framework (the analysed institutions were democracy and corruption) in these countries have played an important role in promoting trade (Gylfason, Martinez-Zarzoso and Wijkman, 2015). On the other hand, there are also articles (much fewer) that demonstrate the impact of trade on institutions. Bhattacharyya (2011) through an econometric model concluded that trade liberalisation and growth positively influence private property rights in particular, as a change in institutional quality by 0.5% points determines a change in private property by 2.2% points.

The effect of trade on economic institutions, in particular, is significant, especially on reducing the persistence of extractive institutions. However, trade, as an instrument, is not powerful enough to fundamentally change the quality of institutions in the long-run. Therefore, in order to improve the overall institutional quality it is necessary to increase the quality of both economic and political institutions (Khalid, 2016).

Other articles demonstrate that trade flows can even lead to lower quality institutions, and this happens when firms that export or import have links to the political environment and so they are exempted from certain taxes or are advantaged through various kinds of usually non-transparent incentives (Hochman, Tabakis and Zilberman, 2012). This is also stipulated by Levchenko and Do (2005) as trade liberalisation can worsen institutional quality especially when the political power of a small group of politicians that control large exporting firms increases thereby having an interest in maintaining the status quo.

Generally speaking, good institutions such as contract enforcement or private property (Rule of Law and Regulatory Quality) boost trade, while bad institutions such as Control of Corruption significantly reduce trade. At the same time increasing trade flows through trade liberalisation can influence institutional quality. Much of the literature in this area explores this one-way relationship, with institutions either affecting trade or vice versa.

However, some (very few) recent studies show that the relationship between institutions and trade can be bidirectional, institutions influence trade but trade can also influence institutions. In a study of 197 countries between 1976 and 2004 (Nicolini and Paccagnini, 2011) concluded that there is a two-way causal relationship between institutions and trade, with both institutions influencing trade and trade influencing institutions. The causal relationship implies mutual influence, otherwise we only have a one-way relationship and on the long term, according to the Global Trade Report, there is a complementarity, the relationship is dual or co-

evolutionary (World-Trade-Organization, 2013). Therefore, the following types of relationship between institutions and trade result:

- Either there is a bidirectional causality relationship when both variables influence each other over time, or there is no causality.
- Either there is a one-way relationship:
  - when only institutions influence trade flows, trade flows do not influence the quality of institutions.
  - when trade flows influence the quality of institutions but the quality of institutions does not influence trade.

Knowing these aspects is important to better understand future trade flows as they can be useful for decision makers in formulating trade policies especially for the European Eastern Neighbourhood Policy because after their independence, the Eastern Partnership countries have been in an institutional vacuum for a long time. Therefore, building a high quality institutional framework, at least at the average of the EU countries takes time. Moreover, the EU has overestimated the capacity and readiness of the Eastern Neighbourhood states in terms of their willingness to undertake institutional reforms, but not so in terms of trade flows.

## **2. Quantifying institutions and trade flows - methodological approach**

Institutions do not have a clear and precise definition, they represent rules of the game and it is almost impossible to give a clear definition, hence the difficulty to „quantify” them precisely<sup>1</sup>. There are many kinds of institutions and, above all, many different methodologies for „measuring and quantifying institutions”. It is impossible to choose and analyse all the existing institutions, however in order to encompass as broad a spectrum of the institutional framework as possible I have chosen to use the database entitled Worldwide Governance Indicators formulated by Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi. In the methodology used by these theorists, governance is defined as a series of institutions through which the state exercises its authority. This includes (a) the process by which a government is elected, monitored and replaced; (b) the capacity of government to formulate and implement policies; and (c) the respect that citizens and the state have for the institutions that govern economic and social interactions (Kaufmann, Kraay and Mastruzzi, 2010). This results in a set of institutions comprising six indicators namely:

- (a) The process by which a government is elected, monitored and replaced;
  - 1) Voice and Accountability - addresses the extent to which citizens of a state have the opportunity to participate in choosing the government, as well as

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<sup>1</sup> For this reason, the terms measuring and quantification will appear with quotation marks.

freedom of expression, freedom of association or freedom of the press and human rights.

- 2) Political Stability and Absence of Violence/Terrorism - measures the likelihood of a government being destabilised or overthrown by violent or unconstitutional means (including politically motivated violence or acts of terrorism).
- (b) Government capacity to formulate and implement policies:
- 3) Government Effectiveness - measures the quality of public services, the quality of the civil service and its independence in the face of political pressures, and the quality of public policy formulation and implementation or the credibility of the government's commitment to those policies. This indicator also covers the level of bureaucracy, in other words the ability of the government to formulate and implement good policies, in this case the ability of the government to implement the EU *acquis communautaire* into national law.
  - 4) Regulatory Quality - measures the government's ability to formulate and implement viable policies and regulations that enable and promote private sector development. The ability to ensure fair competition, to facilitate the opening of new business and to deregulate policies that inhibit the free market mechanism as well as over-regulating foreign trade and business.
- (c) The respect that citizens and the state have for the institutions that govern economic and social interactions;
- 5) Rule of Law - refers to the quality and independence of the legal system; it concerns perceptions of the extent to which state agents respect the norms of society, particularly in terms of the quality of contract enforcement, property rights, police and courts, and the likelihood of crime and violence.
  - 6) Control of Corruption - represents the absence of law, unfair behaviour in public-private relations. It targets indicators on the quality of regulation, the rule of law, with reference to the impact of bad governance on the economy. Corruption as regulation of intrusion, involvement of a third actor usually the state, leading to increased transaction costs. Selective justice tracks perceptions of the extent to which public power is exercised for personal gain (both minor and grand corruption) as well as the 'capture' of the state by elites and private interests.

Firstly, these indicators were chosen because their methodology combines 31 different sources of data collection both nationally and internationally for more than 200 countries since 1996. The six institutional indicators are aggregated indicators, each with a numerical value ranging from (-2.5) representing the lowest value with the worst institutional quality, to (+2.5) the positive value associated with the best institutional quality. These indicators have become increasingly used in recent years by both policy makers and researchers in the field. Their utility comes from the fact that they provide a broader coverage of the governance process in a country, broader

than any other existing database because other databases focus on the analysis of only one institution or process. Secondly, the richness of the sources of information is another strength of these indicators, simply because it reduces errors as much as possible, so that the average of the 31 sources represents the value closest to reality. Thirdly, the methodology used to calculate these indicators allows the margin error to be as small as possible (Kaufmann, Kraay and Mastruzzi, 2007).

Therefore, the quality of institutional indicators matters for improved economic outcomes, this being the conclusion reached by the authors (Kraay, Kaufmann and Zoido-Lobaton, 1999). In addition to the fact that these indicators cover a wide range of institutions, they have been used in numerous studies, in various reports of the World Bank (Dollar and Kraay, 2002; Jansen and Nordås, 2004) or the International Monetary Fund and by many experts (Alvarez *et al.*, 2017; Bergh *et al.*, 2014; H. L. Groot *et al.*, 2003; Gylfason *et al.*, 2015; Linders *et al.*, 2005; Mauro, 1995; Rietveld *et al.*, 2005; Slangen *et al.*, 2005; Subramanian *et al.*, 2004; Zelekha and Sharabi, 2010).

For these reasons listed above I have chosen to use these institutional indicators to analyse the evolution and quality of institutions in the Republic of Moldova. The EaP was signed in 2009 and the first political effect was the signing and entry into force of the AA, therefore the analysis of institutional quality received more attention during 2010-2021. However, in order to be able to compare the evolution and quality of institutions I will start the analysis of the institutional framework in 2002. Thus, the period analysed is 2002-2021.

The analysis also included the average institutional quality of the CIS countries as well as the average institutional quality of the European Union countries in order to compare the institutional quality of the Republic of Moldova with other countries. The CIS countries<sup>2</sup> were also included in the analysis due to the fact that the Republic of Moldova was part of the USSR (Union of Soviet Socialist Republics) and is currently part of the CIS, thus having established trade links that are still maintained today, even though the Republic of Moldova has also signed an AA, and aspires to membership of the European Union. This will allow a comparative analysis of the quality of the institutional framework between the two blocs.

A total of 39 countries are analysed (including the UK). Therefore, the present analysis starts from the next level of implementation of the Association Agreement in the legislation of the Republic of Moldova (the NAPAA) which is of about 72-75% (MFAEI, 2020). The implementation of the AA is declared a national priority, also taking into account the fact that the Republic of Moldova officially applied for EU membership on 4th of March 2022. This fact aligns very well with Crespy's

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<sup>2</sup> CIS - Commonwealth of Independent States, currently consists of 10 members, all former Soviet republics except the Baltic States and Georgia and Ukraine. However, Ukraine has been included in the analysis in several respects. Firstly because it is Moldova's neighbour and this makes Ukraine an important trading partner for Moldova. Secondly Ukraine left the CIS recently (2015) after the conflict in Crimea.

statement that over time the reproduction/transposition of institutions considered to be models of governance have either been a success for the state that implemented them or have ended in failure. (Crespy, 2011).

Trade flows will be analysed in terms of total value (Export + Import) measured in thousands of dollars (USD) with EU and CIS countries, covering the same time period 2002-2021. Data was collected from: National Bureau of Statistics of the Republic of Moldova, National Bank of the Republic of Moldova, World Integrated Trade Solutions, UN Comtrade, Trading Economics, World Trade Organization, International Monetary Fund, European Trade Union Institute, Chamber of Commerce and Industry of the Republic of Moldova, International Trade Center.

Once the method for collecting and processing data on institutions and trade flows was set out, the next steps implied establishing the causal relationship between these two variables and testing the influence of institutions on trade. In order to analyse the causal relationship between institutions and trade and then the influence of institutions on trade, I used the following empirical strategy. First, considering the reserach objective and taking into account the specificity of the data used (time-series and panel data), I used the following steps:

- (1) Checking the stationarity of the data series and transforming them, where necessary;
- (2) Two-way causality testing of panel data series using the Dumitrescu Hurlin Test;
- (3) Estimation of panel regression models with fixed effects but also with random effects;
- (4) Identification and validation of the appropriate model or models for the data used.

To validate the results we used robustness tests (through random effects model estimation results) and the variables chosen for testing were: GDP growth (%) and Inflation rate (%) data collected from the World Bank, International Monetary Fund website.

## **4. Results and findings**

### **4.1 Testing the stationarity of data series**

An essential step in the process of econometric modelling of panel data is to check the stationarity of the data series. In the literature, a distinction is made between tests that allow the determination of the order of integration of the variables for each series in the panel and those tests that check the order of integration of the variables considering the whole panel. The first category of tests is based on the construction of an Augmented Dickey-Fuller (ADF) regression for each series in the panel and tests the null hypothesis that there is an unit root for each individual series in the panel (the series is non-stationary) against the alternative hypothesis that the series is stationary. The second category of tests are based on the ADF model, but

the tested null hypothesis states that each data series in the panel admits the same unit root (the series is non-stationary) and is tested against the alternative hypothesis that the series is stationary. Considering the particularity of the panel data used, we consider that the unit root tests that can be used are those proposed and developed by Im, Pesaran and Shin (IPS, 2003), Choi (Fisher-ADF, 2001), which fall into the first category of tests, and the one developed by Levin, Lin and Chu (LLC, 2002), which is included in the second category mentioned above.

**Table 1. Stationarity testing**

Variable	Undifferentiated		
	LLC	IPS	Fisher-ADF
Log Trade	-5,5561 ***	-4,1130 ***	128,427 ***
GDP growth rate	-9,7369 ***	-4,4179 ***	133,483 ***
Inflation rate	-8,2161 ***	-4,3461 ***	128,078 ***

*Notes:* \*\*\* indicates a significant test for a 1% risk; \*\* indicates a significant test for a 5% risk; \* indicates a significant test for a 10% risk

LLC - the test proposed by Levin, Lin and Chu

IPS- the test proposed by Im, Persan and Shin

Fisher ADF - the test proposed by Choi Augmented Dickey-Fuler

*Source:* Author's calculations

The first two tests are used because they do not impose the restriction of a balanced panel, but mainly because they allow the inclusion of an autoregressive parameter corresponding to each country in the sample. The last test is selected because of a relatively small sample, which is inherent when analysing a phenomenon at country level and for a relatively short period of time.

As shown in Table 1, the test results are significant regardless of the test used and for all three variables analysed. Therefore, the series no longer need to be transformed using the difference operator, as they are all stationary. Furthermore, the period under analysis did not register large fluctuations, the time series for both institutional indicators and trade flows are constant and do not show very large deviations, even the fluctuations produced in 2009 cannot be considered statistically non-stationary.

## 4.2 Bidirectional causality testing of data series

A first goal of this approach is to determine the causality between institutions and trade, and in order to achieve this we have turned to the Granger causality test. This methodology is considered to be the most appropriate when aiming to establish the relationship between two variables (Hood, Kidd and Morris, 2008). Moreover, establishing causality between these variables is mandatory in order to draw concrete conclusions about the importance of institutions on trade flows or vice versa. As this



paper analyses variables with a complex character, usually the relationship is one of co-evolution, of mutual influence and most studies accept and promote this hypothesis. This leads to two scenarios, either institutions influence trade or trade influences institutions. However, due to the heterogeneity of institutions particular to each country and considering the specificity and importance of informal institutions, there is also a third scenario. This is less frequently encountered and implies the lack of a causal relationship between institutions and trade, resulting from the impossibility of a correlation between the two variables given the specificity of the data at the time for that country.

There are two aspects when considering the relationship between institutions and trade. The first aspect is related to the causal relationship, a cause-effect relationship. This aims to find out whether a variable  $x_t$  causes the variable  $y_t$  to change. This procedure is crucial to highlight how much of the value of the variable  $y_t$  can be explained by its earlier values and also to show whether lagged values of the variable  $x$  can improve the value of the variable  $y$ . In this way, causality results if the  $x_t$  variable helps to predict the value of the  $y_t$  variable or if the earlier values (lag1 (t-1)), (lag2 (t-2) of the  $x$  variable are statistically significant for the value of the  $y$  variable.

Thus, I aim to find out if there is causality between institutions and trade. It was previously mentioned that the most widely used causality test is the Granger Test, but the Granger Causality Test, considers the panel as a regular time series, assuming that all coefficients are the same for all countries. For this reason we used the test proposed by Dumitrescu-Hurlin (which is based on the Granger Causality Test) only that the Dumitrescu-Hurlin Test allows all coefficients to differ by country. In other words, this test is still based on the classical Granger causality method, but applied separately for each country.

This methodology makes it possible to determine how much of the current value of trade is explained by its past values, and whether each institution's past values at the country level improve the quality of the model. Therefore, the null hypothesis that trade is not caused (Granger) by institutions or, equivalently, that the coefficients corresponding to institution-specific lags are not statistically significant is tested.

**Table 2. Two-way causality testing**

Null Hypothesis	Dumitrescu Hurlin Test			
	Lag 1	Lag 2	Lag 3	Lag 4
(Log)Trade causes Participation and responsibility/liability	0,4060 (0,5242)	0,9161 (0,4006)	5,0385 (0,1913)	7,6576 (0,6243)
Participation and responsibility/liability causes (Log)Trade	0,7669 (0,1903)	1,8342 (0,2196)	4,1124 (0,8875)	8,3233 (0,4129)
(Log)Trade Causes Political Stability	1,4055 (0,4338)	2,1174 (0,1212)	1,1333 (0,3349)	1,5398 (0,1893)

Political stability causes (Log)Trade	0,9700 (0,3250)	0,2701 (0,7633)	0,3028 (0,8212)	0,5685 (0,6856)
(Log)Trade Causes Healing Effectiveness	0,0518 (0,8199)	3,0784 (0,2022)	3,8088 (0,8099)	7,5051 (0,6786)
Government efficiency causes (Log)Trade	1,0481 (0,6977)	2,3729 (0,8856)	4,2357 (0,7659)	7,3397 (0,7394)
(Log)Trade causes Quality of regulation	1,5918 (0,1635)	2,8588 (0,4045)	3,0950 (0,8717)	8,7875 (0,2945)
Quality of regulation causes (Log)Trade	1,4821 (0,3013)	2,4242 (0,9676)	4,9222 (0,2459)	5,8657 (0,6922)
(Log)Trade Causes Rule of Law	0,9622 (0,3826)	1,8101 (0,0350)	2,9832 (0,2784)	4,2436 (0,7591)
Rule of law causes (Log)Trade	1,0322 (0,6595)	2,2290 (0,6647)	5,3562 (0,0879)	6,8319 (0,9349)
(Log)Trade Causes Corruption Control	0,1548 (0,6941)	1,5723 (0,2084)	0,5177 (0,6702)	0,7837 (0,5296)
Corruption control causes (Log)Trade	0,9328 (0,4435)	2,5339 (0,8572)	4,2702 (0,7338)	6,7599 (0,9632)

*Note:* (1) The level of significance of the statistical test appears in parentheses.

*Source:* Author's calculations

At the same time, the same test is also valid vice versa, meaning that the null hypothesis according to which each institution is not causally (Granger) driven by trade is tested. Thus, it is not significantly explained by prior values or different lags of trade at the individual country level. Given the results presented in the table below, it can be stated that, regardless of the institution considered, there is no bidirectional causal relationship between trade and institutions. Therefore, the analysis continues with the classical estimation of the link between trade and each type of institution separately, using the two methods specific to panel data, without taking into account the impact of the time lag of the two variables. Instead, this relationship is controlled by EU membership, GDP growth rate and inflation rate. In other words, given the period analysed and the data used, there is no causal relationship between institutions and trade in the case of the Republic of Moldova. Out of the six institutions analysed, none cause or are caused by trade. This means that these two variables, institutions and trade flows, have developed separately and do not depend on each other. We mentioned above that two aspects need to be taken into account when analysing the institution-trade relationship. While the first referred to the causality relationship to determine which variable is independent and which variable is dependent, the second refers to the influence of institutions and not the causality of institutions. The influence of institutions on trade flows will be tested in the next sub-chapter. Returning to the results, two conclusions can be drawn. First, as suggested by data regarding the institutional indicators, the Republic of Moldova has not made

significant progress in improving institutional quality, with the average value of institutional quality remaining constant over the periods analysed, with very small fluctuations that are statistically insignificant. Secondly, the increase in trade flows especially with EU countries is largely due to the Free Trade Agreement through the creation of the DCFTA.

The elimination of all barriers, tariffs and quotas between the member states of the agreement have led to a boost in trade and also to a reorientation from the CIS market to the European market, because the establishment of the DCFTA is based on the removal of duties on the import and export of goods, in compliance with the provisions of the GATT Agreement and the World Trade Organisation. Thus, border barriers - tariffs and non-tariff barriers - are relatively low. Accordingly, more than 50 countries covered by Moldova's regional agreements provide preferential access to about 86% of Moldova's exports, and the most important of these agreements is the Deep and Comprehensive Free Trade Area with the EU. Under the DCFTA, tariffs on EU imports into Moldova should be totally eliminated in the next 4 years, in exchange for zero-tariff access to the EU market for all products except a few agricultural products. A *dummy* variable on EU membership status was also introduced in the analysis and the result obtained shows statistical significance in terms of increased trade flows.

### 4.3 Estimation of panel regression models

The fixed effects model takes into account that certain unobserved effects that can have an important impact on the dynamics of the analysed phenomenon, being correlated with the independent variables in the model. Thus, three model variants are distinguished:

1. The cross-section size-specific fixed effects model;
2. Time-specific fixed effects model;
3. The model with both types of fixed effects.

In this analysis, the latter model is considered because it aims to simultaneously address the problem of spatial heterogeneity by measuring the effect of certain unobserved country-specific factors that are constant over time and have a significant influence on trade, and to capture the changes in the phenomenon over time that are common to all countries.

The equation of this model is:

$$\ln Trade_{it} = \beta_0 + \beta' \ln X_{it} + \mu_i + \lambda_t + \varepsilon_{it},$$

- $\ln Trade$  is the logarithm of the independent variable;
- $X_{it}$  is the vector of independent variables included in the model;
- $\mu_i$  is the constant country-specific and  $X_{it}$ ;
- $\lambda_t$  indicates the time-observed effects of variables not included in the model;
- $\varepsilon_{it}$  is the zero mean error term and independent of  $X_{it}$  ;

If the components  $\mu_i$ ,  $\lambda_t$  and  $\varepsilon_{it}$  are random variables of zero mean and constant variance, independent of each other, including  $X_{it}$ , we consider the model with random effects. The estimation of the random effects model involves the use of the generalised least squares (GLS) method. In this model, country-specific and time-dimension effects are also included simultaneously. In the analysis, the two types of models are estimated, with fixed effects and random effects for both dimensions of variation in time and space (country-specific) for the relationship between trade and each institution. These results are summarised in Tables 3 and 4.

**Table 3. Fixed effects model estimation results**

Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
Participation and responsibility	0,5053 (0,1903) ***					
Political stability		0,1806 (0,0800) **				
Effectiveness of governance			0,4282 (0,1605) ***			
Quality of regulation				0,5061 (0,1844) ***		
Rule of Law					0,4526 (0,1479) ***	
Control of Corruption						0,4059 (0,1361) ***
EU membership	1,4599 (0,2075) ***	1,6704 (0,3129) ***	1,2423 (0,3292) ***	1,7091 (0,3674) ***	1,4352 (0,3591) ***	1,1021 (0,3165) ***
GDP growth rate	0,0915 (0,0413) *	0,1331 (0,0419) ***	0,1272 (0,0443) ***	0,1078 (0,0393) ***	0,1272 (0,0469) ***	0,1258 (0,0452) ***
Inflation rate	-0,0883 (0,0222) ***	-0,0438 (0,0419) :	-0,0542 (0,0268) *	-0,0749 (0,0227) ***	-0,0543 (0,0257) ***	-0,0555 (0,0257) *
Constant	9,7360 (0,4752) ***	9,4432 (0,2579) ***	10,0111 (0,1071) ***	9,8560 (0,5497) ***	10,3087 (0,1068) ***	10,1411 (0,5063) ***
Fisher test	162,4437 ***	162,2132 ***	162,7707 ***	161,2659 ***	167,2254 ***	164,0218 ***
R-Squared	0,6538 ***	0,5677 ***	0,6078 ***	0,6447 ***	0,6779 ***	0,6130 ***

Source: Author’s calculations

Fisher test results for all 6 models (Table 4) show that the fixed effects specific to both dimensions are statistically significant, suggesting that the impact of each individual institution and the other independent variables, EU membership, GDP growth rate and inflation rate, on trade are influenced by their variations over time and within countries.

#### 4.5. Validation of panel regression models

On the one hand, we check whether the introduction of fixed effects in the model is redundant or not by applying the Fisher test, constructed on the basis of the residual variance of the restricted model (pooled OLS) and the residual variance of the unrestricted model (with fixed effects). Therefore, if the null hypothesis is rejected, which imposes the restriction that both country-specific and time-specific fixed effects do not differ significantly, it can be said that the fixed effects model is appropriate for analysing the impact of institutions and other independent variables on the time and cross-country variation in trade. On the other hand, the validity of random effects is tested using the Hausman test, which involves comparing the estimators of the coefficients obtained by the fixed and random effects methods. For this, the null hypothesis that random effects are not correlated with the independent variables is tested against the alternative hypothesis that suggests that the differences between the coefficient estimators obtained by the two estimation methods are systematic, which means that random effects are correlated with the independent variables. Thus, the rejection of the null hypothesis indicates that the fixed effects model is a better fit than the random effects model.

At the same time, for any of the 6 random effects models (Table 4), the Hausman test values are large enough to reject the null hypothesis, considering a significance level of even 1%. It can therefore be argued that the fixed effects model is superior to the random effects model for capturing unobserved heterogeneity in the relationship between trade and each individual institution, controlled for EU membership, GDP growth rate and inflation rate. This conclusion is also supported by the determination ratio (R-Squared) for which much higher values are obtained for the fixed effects models (Table 3) compared to those obtained for the random effects models (Table 4).

Therefore, the results considered and discussed further in the analysis are those obtained from the estimation of fixed effects models. Analyzing the signs and significance of the regression coefficients in Table 4, it can be concluded that each individual institution has a significant direct impact on trade. The quality of the institutional framework matters, is important and significantly influences trade (Muşchei, 2019). Additionally, regardless of the institution, it is observed that the dynamics of trade over time and at the level of the countries analysed is significantly explained by the following factors. The EU membership status suggests a significant increase in the Republic of Moldova's trade with EU member countries compared to non-EU member countries.

**Table 4. Random effects model estimation results**

Variables	Model 7	Model 8	Model 9	Model 10	Model 11	Model 12
Participation and responsibility	0,5139** (0,1951)					
Political stability		0,1456* (0,0688)				
Effectiveness of governance			0,4277** (0,1411)			
Quality of regulation				0,3076* (0,1573)		
Rule of Law					0,4544*** (0,0563)	
Control of Corruption						0,4119** (0,1183)
EU membership	1,7644** (0,5168)	1,4089* (0,6389)	1,2763* (0,5173)	1,2608* (0,6069)	1,4473*** (0,2897)	1,3972* (0,6850)
GDP growth rate	0,0974** (0,0289)	0,0900** (0,0339)	0,1124** (0,0367)	0,1022** (0,0351)	0,1099** (0,0342)	0,1069** (0,0356)
Inflation rate	-0,0693** (0,0177)	-0,0700** (0,0213)	-0,0661** (0,0273)	-0,0741** (0,0202)	0,0599** (0,0191)	-0,0691** (0,0192)
Constant	8,8409** (0,8551)	9,5013** (0,6997)	9,3910** (9,1413)	9,4888** (1,0615)	9,2766** (0,9591)	9,3380** (0,9936)
Hausman test	222,9605**	224,5361**	224,7252**	222,1606**	230,8954**	226,4395**
R-Squared	0,2292**	0,2434**	0,2661**	0,2193**	0,4228**	0,3208**

Source: Author's calculations

The GDP growth rate, for which a positive effect is obtained, suggests that countries with a positive evolution of GDP growth rate over time attract an increase in trade, contrary to those with a decreasing GDP growth rate that implies a decrease in trade. The inflation rate, which has a negative effect, indicates that an increase in inflation rate will lead to a decrease in trade at the level of the countries analysed. At the same time, for the three control variables, the estimated values of the regression coefficients do not differ substantially from one model to another, regardless of the type of institution considered or the type of effects included, fixed or random (Tables 4 and 5). It can therefore be said that the results on the impact of EU membership and GDP growth rate and inflation rate on trade are robust to the estimation method used, but also to the relationship between trade and each type of institution.

## Conclusions

The relationship between institutions and trade is still a topic of interest for many researchers, most articles in the literature analysing institutions as an independent variable and for this reason the conclusion is often that institutions are important, matter and influence trade. However, for a better understanding of this relationship it is necessary to do the causality test, either the Granger Test or the

Dumitrescu-Hurlin Test depending on the proposed objective and the analysed state. Thus, establishing the type of the variables they will be analysed more appropriately. In this article I aimed to answer the following research questions: Is there causality between institutions and trade in the relationship between the European Union and the Republic of Moldova? How does the new institutional framework in the Republic of Moldova influence trade?

According to the proposed methodology, we have statistically demonstrated that in the relationship of the Republic of Moldova with EU and CIS member states, regardless of the institution considered, there is no two-way causal relationship between trade and institution. Thus, the hypothesis that the relationship between institutions and trade is a two-way relationship is invalidated. This means that these two variables, institutions and trade flows have developed separately and do not depend on each other and they do not influence each other. Instead, this relationship is controlled by EU membership, the GDP growth rate and the inflation rate. In other words, at this point in time, with this database used and the proposed methodology it can be concluded that there is no two-way relationship between institutions and trade in Moldova's relationship with its trading partners in both the EU and the CIS.

The statistical results obtained confirm and validate the existing data. On the one hand there is no qualitative change in the institutional indicators while on the other hand we have a significant increase in trade flows. This may be one of the reasons explaining the lack of causality between these two variables analysed, namely the robustness of the institutional environment.

To determine whether or not institutions matter in trade relationships we looked at institutional quality and trade flows taking institutions as an independent variable. The results of the estimation of the fixed effects model showed that all the analysed institutions matter, are important for trade and have a statistically significant influence, and the hypothesis according to which the Quality of institutions in the Republic of Moldova influences trade is confirmed. Furthermore, irrespective of the institution, it is observed that the dynamics of trade over time and at the level of the analysed countries is significantly explained by: the status of EU membership, which suggests a significant increase in trade of the Republic of Moldova with EU member countries compared to non-EU member countries.

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# ROMANIA STUDENTS' PERCEPTIONS ON THE PANDEMIC IMPACT AND THE EU ACTORNESS DURING THE COVID-19 PANDEMIC. CASE STUDY ON IAȘI

Ionuț STOICA\*

## Abstract

*Early stages of the Covid-19 pandemic surfaced some deficiencies in the functioning mechanisms of the European Union, especially in terms of a concerted response in case of an unforeseen event. The global crisis affected mobility for goods and people putting a sudden and unexpected halt on daily life and temporarily shifted some of the dynamics of the markets thus leading towards some institutional transformations and resilience became the new objective with emphasis on economic recovery. Young people were among the most affected, with education and socialization moving to the internet. Though drivers for innovation and digital transformation, the lockdowns and restrictions left their mark on an important human capital resource thus it became important to study the way young people perceived the changes, with an accent on the way they perceived the EU's involvement in an EU member state. The purpose of this case study was to identify, through a complex questionnaire, the perceptions that students in Iasi, Romania had about the impact of the pandemic, about the degree of information of the subjects regarding the Covid-19 pandemic and about the involvement of the Union European in managing the effects of the pandemic. It was also aimed to identify the degree of acceptance of the respondents regarding the granting of increased powers to the European Union bodies in exceptional situations.*

*Keywords:* pandemic, students, perception, multilevel, actorness

## Introduction

On December 1, 2019, China made an announcement that would change the lives of all mankind, an announcement about discovering the first patient infected with a new virus which had a very high capacity to spread. For almost two months, the rest of the world watched from a „safe” distance the events that were beginning

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to cause panic in China. Even the international organizations like the World Health Organization (WHO) were somehow distant and seemed to ignore the signals received from China. In fact, long after the virus crossed the borders of China and then Asia, the WHO remained reluctant to declare a pandemic (WHO, 2020). The virus was given a name: *severe acute respiratory syndrome coronavirus 2* (SARS-CoV-2) and the disease it was inflicting was named coronavirus disease 2019 (Covid-19) (WHO, 2020).

To date, it has not been possible to determine exactly when the virus arrived in Europe. Some studies suggest that the virus has been present in the EU since November 2019, in Sweden, when more than 100 members of the Swedish army returned from the World Military Games after a two-week stay in Wuhan - the epicenter of the Chinese epidemic and a few French athletes who also took part in the event also said they had flu symptoms on their return. What is certain is that in February 2020 the borders of Europe and the world began to close one by one and the number of infections was growing so fast that even the experts in the medical world were taken by surprise.

At the end of this study (early May 2022), the global situation included over 520,000,000 confirmed cases, over 6,262,000 confirmed deaths caused by Covid-19 and 187 countries with confirmed cases (John Hopkins University of Medicine, 2022). The virus has been active on all continents excepting Antarctica, with the European continent having the highest number of cases during the pandemic (over 217,000,000). The global risk assessed by the WHO was still very high at the time of May 2022 (WHO, 2022), especially in East Asia, the Middle East, Europe and North America, with a slightly growing trend in statistics.

When it was clear that the virus will spread globally, measures to combat the COVID-19 pandemic have ranged from extreme measures to relaxed and creative measures. China has chosen to isolate part of its population by imposing strict quarantine measures and shutting down much of its transportation services with a very high impact on the economy. The United States at first declared a state of alert, closed their borders and imposed lockdowns and introduced measures to finance citizens through federal funds; after a vaccine was developed, they supported a nationwide vaccination campaign. Even so, the United States have the greatest death toll in this pandemic with almost 1.000.000 deaths to date (John Hopkins, 2022).

The measures taken by European countries were different, each country trying its own „scheme” to protect its citizens, but one thing was common to all states: the public perception was that the measures that were taken were late. At first, some politicians at the highest level seemed relaxed about the first cases of illness. Britain, for example, through the voice of Boris Johnson, ignored in a seemingly unconscious way the dozens of cases on its territory, announcing that it would allow the population to be immunized, with herd-type immunity. Europeans' attention was focused on Italy and Spain. There were a high number of infections and deaths caused by the virus in the two countries, and they took firm measures to isolate it,

closing schools, borders and introducing a state of emergency. There were also examples that we can now consider atypical, such as Sweden, which published only a few guidelines, appealing to the responsibility of its citizens, or Belarus, which did not impose any restrictive measures, practically denying the existence of the pandemic.

However, the freedom of movement of all European citizens was restricted, with each country taking a firmer stand. Closing schools, isolating the population at home, banning gatherings with a large number of people were the norm. Thus, in order to help limit the transmission of the virus to Europe and beyond, the EU has closed its external borders to non-essential travel, while still ensuring the movement of essential goods across the EU by introducing “the green lanes”. The movement of European citizens outside the EU was also discouraged (European Commission, 2020).

In the context of the pandemic, many activities, including education, have moved to the Internet, somehow in the background, the general focus being on the so-called first line: patients, doctors, hospitals. The young people saw their lives firmly disturbed and it seemed they have been somehow forgotten, ignored. They were forced to isolate themselves though they were not part of the risk group. Nothing spectacular was happening with their lives, so the media did not cover them, the only issue being covered was the fact that the sudden shift in the way the education was done meant infrastructure problems and accessibility challenges for those not being equipped properly which later led to large and hard to recover gaps.

All these measures and effects, sometimes corroborated with stuttering authorities, have led to a visible societal polarization, especially in the context in which during the pandemic a lot of misinformation and conspiracy theories circulated, sometimes supported by strong and influential public figures. Therefore, it became necessary to study the perception of young students.

Through their direct affiliation with the Center for European Studies, an interdisciplinary department within the Faculty of Law of the „Alexandru Ioan Cuza” University of Iasi, the author and contributors were very interested in the students' opinion regarding the decision making and the measures taken by each country and how, in fact, all these have affected students' lives. We were particularly interested in the methods of information, the opinion on the reaction of national and European institutions and on how they see the future of the European Union in this new context.

This paper was designed as a potential publication of the results of the questionnaire addressed to the respondents and a critical interpretation of these results. The research questions were about the subjects' knowledge of the Covid-19 pandemic, their perception of the involvement of the European Union and its institutions compared to national institutions, and the respondents' assessment on granting of increased powers to the Union European in certain areas.

Although in each member state the management of the Covid-19 pandemic was a national matter, it was somewhat surprising to find the very different levels of trust that the respondents had in the direct comparison between the perceptions of

Romanian institutions and those of the European Union and the high degree of availability regarding the transfer of attributions directly to the institutions of the European Union in multiple areas.

For this paper, a literature review was not initiated, taking into account the fact that the moment of initiation of the study was immediately after the outbreak of the Covid-19 pandemic. At that time, there were no papers on this topic and it was considered that the object of the study was the perception of the respondents to the information about the pandemic, the perceived quality of the information received and the officially communicated measures. Being an empirical study, information and official documents were mainly studied together with reliable data sources regarding the evolution of the pandemic in terms of the number of illnesses and deaths.

It was also desired not to influence the interpretation of the results for which only the presentation and offering of the results for subsequent analysis was designed.

### **1. EU: measures in the context of the pandemic**

In the European Union, public policy competences are generally shared between states and the European institutions. Some of them belong exclusively to the European decision-making level and others remain the decision-making prerogative of the Member States.

Health, the central area involved in managing a pandemic is the responsibility of the Member States, in other words, governments make decisions and enforce them. The European Union can support the completion of national health policies by supporting Member States' governments to achieve common goals, pool their resources and overcome challenges together.

According to the Treaty on the Functioning of the EU, Article 168 (1) in the field of health

Union action, which complements national policies, shall aim at improving public health and preventing human disease and illness, as well as causing danger to physical and mental health. This action also includes combating major epidemics, promoting the investigation of their causes, their transmission and prevention, as well as health information and education, as well as monitoring and combating serious cross-border health threats, alerting to and combating such threats. (European Union, 2012)

Furthermore, the same Treaty states:

The Union shall encourage cooperation between Member States in the areas covered by this Article and, if necessary, support their action. In particular, it

shall encourage cooperation between Member States in order to improve the complementarity of their health services in cross-border regions. (European Union, 2012)

As a result, EU health policy focuses on protecting and improving the health of the population (European Commission, 2022), access for all EU's citizens to modern and effective healthcare, and to coordinate the response to serious health threats involving several EU countries. Disease prevention measures and the appropriate response to disease are also important for the EU. There are two European agencies specifically designed to support national governments on health issues. The European Center for Disease Prevention and Control (ECDC) assesses and monitors emerging health threats to coordinate responses. The European Medicines Agency manages the scientific evaluation of the quality, safety and efficacy of all medicines in the EU. (European Commission, 2020)

The European Union's response to the Covid-19 pandemic seemed to be at first a “wait-and-see”, uncertain and an uncoordinated one, with large parts of the media pointing to the EU's weaknesses and questioning its ability to act. As usual, the world was split in two: the optimists who saw a chance for the EU to become stronger in this time of crisis (European Commission, 2020), and the Eurosceptics, who saw and still see a risk of weakening mutual trust and an unwillingness to act in common.

Moreover, all Member States and the EU as a whole were threatened by the deliberate spread of false news in the context of the Covid-19 pandemic. The EU tried to detect, report and fight misinformation by providing accurate and up-to-date information (European Commission, 2020). During the pandemic the EU is also worked with internet giants to promote reliable sources of information, devalue false news and eliminate illegal content.

Still, measures have been taken. The European Union has intervened in several areas of general interest, most important at first being health. At European level, a team of scientific experts has been set up, consisting of epidemiologists and virologists from different Member States, called upon to formulate European guidelines on risk management measures, based on scientific and coordinated data. EU countries have had quick access to the first stockpile of medical equipment ever set up (RescEU), such as mechanical ventilators and protective masks. In addition, the EU provided financial support (European Commission, 2020) and launched four comprehensive international procurement procedures, which allowed Member States to jointly purchase equipment and test kits. Exemptions from the payment of customs duties and VAT (European Commission, 2020) on the import of medical equipment have also been granted and a European standardization for free medical supplies has been established. Then, as being a safe and effective method to fight the pandemic, the European Commission funded through the Emergency Support Instrument the development and the procurement of 2.7 billion vaccine doses.

The fight against the Covid-19 pandemic in the EU was based on the principle of solidarity. Solidarity actions have materialized in various ways such as treating patients in countries other than their home countries or exchanging medical support teams from the least affected to the most severely affected countries (European Commission, 2022), under the guidance of the EU's Emergency Response Coordination Center.

In order to support citizens socially and economically, the EU has set up a €100 billion solidarity instrument called SURE, which helped workers keep their income and support businesses to stay afloat.

The European Commission has also released funds from the European Fund for Strategic Investments (EFSI) as a guarantee for the European Investment Fund (EIF). This allowed the EIF to issue special guarantees so that banks and other creditors could provide liquidity SMEs and small mid-caps affected by the economic impact of the coronavirus pandemic. The EU's Horizon 2020 research program has funded research projects and teams across Europe to help get a vaccine against Covid-19 fast. The program also provided funding for SMEs and start-ups for innovative pandemic control solutions through the European Innovation Council's Accelerator program. At the same time, the EU has provided support to non-member states that have been severely affected by the pandemic.

The largest stimulus package ever was set in place with over 2 trillion Euros being available for member states (through the multiannual financial framework for 2021 to 2027 and the NextGenerationEU (European Commission, 2020), a temporary recovery instrument) in which each of them will implement development, recovery and resilience plans.

Despite a difficult time, the European Union has used and is using all the levers at its disposal, which the Member States have accepted, to strengthen solidarity, to support the population (European Commission, 2022). All in order to facilitate the recovery from the pandemic crisis and to increase confidence in the future of Europe.

## **2. Methodology and research description**

The aim of the study was to find out the level of information and perception of young people pursuing higher education in the university center of Iași have on the measures and effects of the COVID-19 pandemic at national and European level.

Within this study, the answers to the following questions were sought:

1. To what extent are young students in Iași connected to information of general interest and specific information on COVID19?
2. How do the young students from Iași appreciate the information received during the pandemic regarding COVID19?

3. What is the degree / level of knowledge / visibility and appreciation of the measures taken at international, European and national level, among young students in Iași?
4. What are the future priorities of action that should be addressed at the level of the European Union in the vision of the young students from Iași?

Finding the answer to the above questions sought to validate one of the hypotheses:

- In order to effectively manage the pandemic and prevent its effects, it is necessary to increase the European Union's responsibilities in the field of health and taxation.
- In order to manage health crises effectively, it is necessary for each Member State to adopt national specific measures.

In conducting this study, the questionnaire method was used and this is due to the multiple advantages it has. The introductory part of the questionnaire, known in the research as an explanatory letter, provided respondents with an explanation of the role of the survey, its aims and objectives, what it will be used for and what the purpose of the study will be, its pragmatic values and the fact that their answers are extremely important for the success of the study. As a general rule, the specifics regarding the time and the concrete ways of answering the questions were set out.

The questionnaire consisted of 34 questions of several types: factual, including elements of behaviour of individuals (eg, time for acquiring information), knowledge, opinion and control. These questions were closed-ended. Depending on the number of variables that could have been recorded, the questions were either with a single answer or with a multiple choice.

In addition to the fact that the questions and answers came to support the research in order to find out certain perceptions and attitudes of the respondents, they also contributed to respondents' information, hoping to raise some question marks among young people who will generate internal and external changes in the future. To get a clearer picture it was necessary to collect data for a broad range of relevant subjects like information quantity and sources, the awareness of belonging to the European Union, knowledge checking about the EU's institutions, subsidiarity and a "two track" approach for comparing national and European measures to fight the effects of the Covid-19 pandemic.

The collected data also allowed extrapolations and projections for the future. As for the resources used to implement and distribute the questionnaire, they were limited, involving only human resources and time. The author acknowledges the contributors Chirica Andrei-Dragos (Alexandru Ioan Cuza University, Iasi, Romania), Clincu Mihaela (Alexandru Ioan Cuza University, Iasi, Romania), Iftime Carmen (Alexandru Ioan Cuza University, Iasi, Romania), Gaina Elena (Alexandru Ioan Cuza University, Iasi, Romania) and Fetcu Ana-Maria (Alexandru Ioan Cuza University, Iasi, Romania). The research was for didactic purposes.



With the aim of using the quantitative method, the results were not interpreted in terms of value judgments and own opinions, but only with the help of figures and keywords. The study was conducted on a sample of 292 students from the Iasi University centre, in the period May - 2020 April 2022.

### 3. Findings

As previously mentioned, the study was conducted in the university environment of Iasi. Thus, it is not surprising that the centralization of the answers showed that the subjects were mostly young people aged 18-25 (72.95%) years, with a bachelor's degree (64.04%). These results are in line with the intention regarding the research universe and on the basis of which the subjects were invited to complete the questionnaire, by distributing it through specific channels. Based on this information, it can be postulated that most of the subjects were pursuing master's or doctoral studies in Iași at the time of completing the questionnaire. Most subjects stated that they considered themselves affected (43.49%) or severely affected (12.33%) by the Covid-19 pandemic (Table 1) which is understandable given the context in which the learning process and some socializing activities moved suddenly online, without prior notice, these aspects being a very important part of the daily routine for young people.

**Table 1. How affected are you by the effects of the Covid-19 pandemic?**

Answer	%
not affected	4,79
little affected	39,38
affected	43,49
severely affected	12,33

*Source:* author's representation based on the survey data

A chapter of the questionnaire was dedicated to collecting more data about the way the respondents get their information, with questions about the amount of information accumulated, the sources and the degree of trust given to them. Regarding the amount of information in general, only 13% of the subjects stated that they allocate more than one hour per day for information (Table 2), the sources of information being diverse.

**Table 2. The time spent daily getting information on general topics**

Answer	%
under 30 minutes	42,47
30-60 minutes	44,52
1-2 hours	9,59
more than 2 hours	3,42

*Source:* author's representation based on the survey data

There was some ambiguity in specifying the relevance of the information provided by common sources of information, scientific publications being considered the most relevant information providers and the social networks being the second most reliable source, explained by the fact that the social networks are fulfilling the role of a news aggregator with customized content. (Table 3).

It's worth mentioning the fact that that traditional media (television and radio) are the least relevant sources of information for young people which are used with content on demand and they could be also be influenced by a general opinion that traditional media could be accused of partisanships.

**Table 3. The relevance of the information sources (1 least relevant; 5 the most relevant), %**

	1	2	3	4	5
television	26,37	24,66	23,97	18,15	6,85
radio	35,62	26,71	21,58	14,04	2,05
newspapers	21,23	18,49	30,48	19,18	10,62
social networks	16,44	21,92	23,97	22,60	15,07
family and friends	21,58	29,45	28,08	14,38	6,51
scientific publications	5,82	7,19	15,41	31,85	39,73
other sources	22,26	21,23	31,51	16,78	8,22

*Source:* author's representation based on the survey data

As a surprise, it was found that there is no overlap of previous results in terms of the relevance of the Covid-19 pandemic some information sources (Table 4) and the divergence increased when content assessment was analysed (Table 5). It is to be noted that the scientific publications were less used than expected, this statement being based on the fact that almost 40% of the respondents considered them as relevant sources and only 25,68% using them to get information.

**Table 4. Covid-19 information sources used (1 least used; 5 the most used), %**

	1	2	3	4	5
television	27,74	15,41	25,68	15,75	15,41
radio	50,68	17,47	19,18	9,93	2,74
newspapers	26,03	15,07	26,03	19,18	13,70
social networks	16,10	15,75	22,60	19,86	25,68
family and friends	25,00	21,58	32,53	12,67	8,22
scientific publications	8,90	15,07	24,66	25,68	25,68
other sources	34,59	16,44	26,37	14,73	7,88

Source: author's representation based on the survey data

**Table 5. Assessment of the content and the way of transmitting the information from the mentioned sources (1 - not at all relevant - 5 very relevant), %**

	1	2	3	4	5
television	27,74	23,97	25,34	15,41	7,53
radio	27,74	26,03	29,45	13,70	3,08
newspapers	17,12	20,89	31,85	23,29	6,85
social networks	24,32	22,26	30,82	16,44	6,16
family and friends	27,74	26,37	27,74	13,36	4,79
scientific publications	6,16	9,59	15,41	29,79	39,04
other sources	30,14	20,21	27,74	16,10	5,82

Source: author's representation based on the survey data

In order to complete the previous answers, the research was extended towards the official information sources for which a list was provided (Table 6). Also, a rating for the relevance of the content provided by the respective sources was asked along with an appreciation for the respective content (Table 7).

**Table 6. The official sources to get or verify information about COVID-19 pandemic (1 - little or not at all - 5 to a large extent / very often), %**

	1	2	3	4	5
stirioficiale.ro	40,07	17,12	17,81	15,07	9,93
DSU Facebook page (Department of Emergency Situations)	27,05	18,49	17,12	19,18	18,15
www.ms.ro (Ministry of Health)	41,78	19,18	15,75	15,07	8,90

Ministry of Health Facebook page	22,26	19,18	19,52	17,12	21,92
mai.gov.ro (Ministry of Internal Affairs)	33,22	17,47	18,49	16,44	14,38
Ministry of Internal Affairs Facebook page	27,74	20,55	18,15	15,41	19,18
www.who.org	25,00	16,10	22,26	18,15	18,49
cdc.europa.ro	39,04	19,86	20,21	10,62	10,27
others	35,62	16,78	20,55	13,70	13,36

Source: author's representation based on the survey data

**Table 7. The appreciation of the content and the way of transmitting it by official sources regarding the Covid-19 pandemic (1 - little or no relevance - 5 very relevant), %**

	1	2	3	4	5
stirioficiale.ro	26,03	17,81	24,66	20,21	11,30
DSU Facebook page (Department of Emergency Situations)	18,15	15,41	20,55	29,11	16,78
www.ms.ro (Ministry of Health)	27,40	12,67	27,40	20,89	11,64
Ministry of Health Facebook page	15,75	16,78	23,63	26,37	17,47
mai.gov.ro (Ministry of Internal Affairs)	18,49	17,81	28,42	22,60	12,67
Ministry of Internal Affairs Facebook page	17,47	15,75	25,34	23,63	17,81
www.who.org	13,01	13,70	23,29	23,63	26,37
cdc.europa.ro	16,78	17,81	23,63	24,32	17,47
others	34,93	17,47	23,97	14,04	9,59

Source: author's representation based on the survey data

The way the mainstream media (television, radio, newspapers) was also a subject of interest, therefore one question of the survey was used to find out the respondents' opinion on this particular segment of information sources (Table 8).

**Table 8. the extent of the perception of the statements regarding the activity of the press (written audio /TV)? (1 - total disagreement - 5 - total agreement), %**

	1	2	3	4	5
provided enough information	10,62	16,78	33,56	25,68	13,36
information and analysis were objective	19,18	25,34	37,33	15,41	2,74
information and analysis were balanced	17,81	32,19	33,56	13,70	2,74
there was an emphasis on health and prevention	6,16	11,64	31,85	29,79	20,55
favoured official views	7,53	15,75	35,62	29,11	11,99
it should have presented other aspects such as social, economic, psychological impact	3,77	5,14	22,26	30,48	38,36
it did not present enough of the problems that young people, especially students, faced	9,25	12,33	22,60	22,95	32,88
the interests of young people and those of the elderly were presented in opposition	7,88	20,21	30,48	25,00	16,44

Source: author's representation based on the survey data

In order to conclude the first part of the study, a final question was asked in order to obtain a level of self-assessment of the respondents regarding the level of information they acquired about the Covid-19 pandemic and the measures taken in Romania and globally to fight the effects of the pandemic (Table 9)

**Table 9. Self-assessment about regarding the information acquired about Covid-19 pandemic and the measures taken to fight it (1 poorly informed to 5 very informed), %**

	1	2	3	4	5
well informed about the pandemic	3,08	10,62	33,22	36,99	16,10
well informed about measures to combat the effects of the global pandemic	2,40	9,93	29,11	35,96	22,60
sufficiently informed about the measures taken in Romania to combat the effects of the pandemic	3,08	10,27	23,29	42,47	20,89
sufficiently informed about the measures taken in Romania for economic and social recovery	11,30	26,71	30,48	22,26	9,25

Source: author's representation based on the survey data

During the pandemic, in addition to the truthful and verifiable information, a lot of partially true or false information circulated, which is a risk and, in some cases, measures were needed to combat misinformation. 62.33% of the subjects stated that they were aware of measures taken to combat misinformation during the Covid-19 pandemic, while 37.67% stated that they were unaware of such measures. It is not surprising that only 23.29% of respondents said they were aware of the existence of

EUvsDisinfo (EU project against disinformation operations) while for the remaining 78.71% of them this project is also unknown.

This led to an overwhelming affirmative answer (92.12%) to the question *Do you think the European Union could do more in terms of misinformation?* It was also considered necessary to question the subjects with reference to their distribution of information, sources and volumes (Table 10)

**Table 10. Sharing information about the Covid-19 pandemics** (1 rarely or not at all to 5 very often), %

	1	2	3	4	5
information provided by official sources	32,19	11,30	17,47	16,78	22,26
information provided by media	47,95	16,78	17,81	11,30	6,16
information from received messages	53,08	20,21	19,18	7,88	3,08
posts from social media	46,23	15,07	17,47	13,36	7,88
personal opinions	46,23	18,84	17,12	11,99	5,82

Source: author's representation based on the survey data

In addition to the response to information on measures taken to counteract the effects of the pandemic (Table 9), subjects were asked for an answer on the management of the pandemic crisis by actors on the global stage (Table 11).

**Table 11. Assessment on the *global actor's* management of the Covid-19 pandemics** (1 ineffective, 5 very effective), %

	1	2	3	4	5
European Union	5,48	14,38	43,84	29,11	7,19
United States of America	20,89	28,42	36,30	10,96	3,42
Russia	18,15	30,48	29,45	16,44	5,48
China	15,07	15,07	22,60	28,42	18,84
Japan	6,51	11,64	34,93	29,11	17,81

Source: author's representation based on the survey data

The next question was more specific about the involvement of the representative institutions of the European Union in the management of the pandemic (Table 12) along with the degree of knowledge of the measures taken on european level and their efficiency (Table 13) which are considered by the author as pivotal questions for this study. For this question a series of measures taken by the EU was provided and then another question asked for an assesment on the efficiency of the measures in the list (Table 14)

**Table 12. Assessment on the EU's institutions involvement in Covid-19 pandemics management** (1 I don't know, 1 not at all involved, 3 very little involved, 4 involved, 5 very much involved), %

	1	2	3	4	5
The European Commission	18,84	10,96	25,34	30,14	14,73
European Council	21,23	14,38	31,85	26,03	6,51
European Parliament	21,58	13,01	29,79	24,32	11,30
European Central Bank	27,74	18,15	29,45	20,55	4,11
European Court of Auditors	41,10	23,63	21,92	11,99	1,37
European Court of Justice	40,41	24,32	22,26	11,64	1,37
Council of the European Union	26,71	13,01	28,42	25,34	6,51

Source: author's representation based on the survey data

**Table 13. Assessment on the respondent's knowledge on the EU's measures to fight Covid-19 pandemics management** (1 not at all to 5 very much), %

	1	2	3	4	5
public information measures	6,85	15,75	28,08	26,71	22,60
measures on medical research and innovation	11,30	17,81	30,48	28,42	11,99
job support measures (SURE initiative)	17,81	18,84	26,03	26,71	10,62
financial incentives and guarantee schemes	15,07	17,81	27,05	26,03	14,04
allocations of European funds to support economies	9,93	16,44	26,37	29,45	17,81
measures to promote social isolation	10,62	16,44	29,79	22,95	20,21
measures to relaunch tourism	12,67	22,26	35,27	20,55	9,25
supporting the repatriation of nationals	14,04	27,05	27,74	20,21	10,96
promoting solidarity between Member States	14,38	22,95	26,37	21,58	14,73
intervention to create a transit colour in the EU for people and goods	17,12	21,92	26,71	19,86	14,38

Source: author's representation based on the survey data

**Table 14. Assessment on the respondents knowledge on the EU's measures efficiency to fight Covid-19 pandemics management** (1 not at all effective to 5 very effective), %

	1	2	3	4	5
public information measures	5,82	18,49	29,45	28,77	17,47
measures on medical research and innovation	8,56	18,49	33,56	25,68	13,70
job support measures (SURE initiative)	8,56	21,23	30,48	25,00	14,73
financial incentives and guarantee schemes	8,56	17,12	31,16	27,05	16,10
allocations of European funds to support economies	6,85	14,38	30,82	27,74	20,21
measures to promote social isolation	8,90	17,12	32,53	26,71	14,73

measures to relaunch tourism	10,96	21,92	33,22	22,95	10,96
supporting the repatriation of nationals	10,96	20,55	32,88	21,23	14,38
promoting solidarity between Member States	10,96	19,52	31,16	21,58	16,78
intervention to create a transit colour in the EU for people and goods	9,93	20,55	29,79	22,95	16,78

*Source:* author's representation based on the survey data

Based on the above questions, it was possible to move on to research questions regarding the perception of the subjects regarding the effective involvement of the European Union institutions to combat the effects of the Covid-19 pandemic and specific questions regarding the personal impact for the subjects (Table 15)

**Table 15. Assessment of the respondents regarding the EU's involvement in the Covid-19 effect fighting** (1 I don't know, 2 total disagreement, 5 strong agreement), %

	1	2	3	4	5
the EU has acted appropriately since the beginning of the pandemic	11,99	25,68	35,96	19,18	7,19
the measures taken by the EU have been sufficiently promoted	12,33	22,60	38,70	18,49	7,88
EU states have been in solidarity during the pandemic	14,73	32,53	29,79	14,38	8,56
the measures taken by the EU have been taken in a timely manner	12,67	34,59	33,22	14,04	5,48
through the measures taken, the EU has protected my rights and freedoms	13,70	21,92	33,90	22,95	7,53
through the measures taken, the EU has stimulated a faster exit from the lockdowns	16,78	21,58	33,56	20,55	7,53
the EU has ensured that the free movement of goods, capital, people and services on its territory was respected	13,70	19,18	30,14	23,97	13,01
the EU has been effectively involved in respecting the rights and freedoms of the citizens of the Member States during the crisis management period	15,07	20,55	31,51	21,58	11,30
the measures taken by the EU have had a positive impact on me	16,44	16,78	35,27	21,92	9,59
the measures taken by the EU have had a negative impact on me	33,56	27,05	23,63	10,27	5,48
the EU has been effective in combating misinformation	13,70	23,63	40,07	18,49	4,11

*Source:* author's representation based on the survey data



The responses about the effective measures taken by the European Union institutions to combat the effects of the Covid-19 pandemic led to the conclusion that the subjects of the study were of the opinion that the measures were taken relatively late and their impact was perceived as biased, negative and therefore the answer of 18.49% of the subjects to the question “Do you consider that the management of the situation caused by COVID-19 has affected your degree of confidence in the European Union?” was a negative one (Table 16), a very different result from the answers to the question “Do you consider that the management of the situation caused by COVID-19 has affected your degree of trust in the government and other state institutions? (Table 17), with direct reference to the national authorities in Romania. However, it was observed that the majority of subjects (57.19%) agree with the granting of increased powers to the European Union in the context generated by the COVID-19 pandemic (for example, in the field of health) (Table 18).

**Table 16. Assessment on the evolution of respondents' confidence in the EU during the Covid-19 pandemic**

Answer	%
more confident	8,56
unchanged	72,95
less confident	18,49

*Source:* author's representation based on the survey data

**Table 17. Assessment on the evolution of respondents' confidence in the Romania's government and institutions during the Covid-19 pandemic**

Answer	%
more confident	7,19
unchanged	46,92
less confident	45,89

*Source:* author's representation based on the survey data

**Table 18. Assessment on the aspect of EU getting increased powers in certain fields during a crisis (eg: health)**

Answer	%
yes	57,19
no	16,78
don't know/didn't answer	26,03

*Source:* author's representation based on the survey data

Regarding the areas for which the subjects would agree that the European Union should be given greater powers in crisis situations, a list of areas (Table 19) was provided to the subjects to facilitate their choice and to indicate the importance of measures that the EU should take to support Member States.

**Table 19. The increased powers for the EU's and the areas in which they should be granted (1 strong disagreement, 5 strong agreement), %**

	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
economy	6,85	9,93	23,97	26,03	33,22
social services	3,08	9,59	23,29	33,22	30,82
justice and internal affairs	7,53	15,07	24,66	26,03	26,71
public health	3,08	5,82	16,44	21,58	53,08
agriculture	8,22	9,93	24,32	31,85	25,68
transportation	5,82	8,22	26,03	32,88	27,05
environment	5,14	7,88	26,03	24,32	36,64
budget and finances	6,85	13,70	25,68	27,05	26,71
external policy and security	6,51	13,36	23,29	30,14	26,71
information and communications	4,79	5,82	21,23	29,79	38,36
educations	6,16	6,16	14,38	24,66	48,63
sport	7,88	12,67	28,77	25,00	25,68
culture	7,88	11,64	24,66	28,08	27,74
research and inovation	4,11	5,82	15,75	22,95	51,37

*Source:* author's representation based on the survey data

Another question with direct reference to perception was the one regarding the variation of trust in national authorities, multilevel (Table 20) where the slightly majority trend was to maintain the level of confidence, although the values of decreases can be considered high and most likely influenced by designated institutional communicators.

**Table 20. The evolution of confidence in Romanian institutions**

	<i>lower</i>	<i>unchanged</i>	<i>higher</i>
Romanian Government	43,15%	50,68%	6,16%
Romanian President	30,48%	54,45%	15,07%
The Ministry of Internal Affairs	26,37%	56,85%	16,78%
County authorities	32,53%	60,27%	7,19%
Local authorities	31,51%	57,53%	10,96%

*Source:* author's representation based on the survey data

This question was supplemented by the following, with direct reference to the possibilities available to the European Union (Table 21), the juxtaposition being

intended to clarify the separation of the subjects' opinions, especially in the context in which the answers to the question were different. and which covered several issues related to both the idea of the Union as a whole and the notion of the state.

To correlate the previous data better, among the final questions, two were introduced to determine more exact the degree in which the pandemic affected the subjects and to determine their overall perception first as an overall (Table 21) and then specific on education (Table 22).

**Table 21. Assessment of the overall perception during the Covid19 pandemic and the measures in place in the European Union Member States (1 strong disagreement, 5 strong agreement), %**

	1	2	3	4	5
Pandemic prevention measures have been exaggerated	26,71	27,40	26,37	10,27	9,25
Preventive measures have led to favorable changes in society	13,70	23,63	35,96	16,78	9,93
Preventive measures have helped increase students' awareness of the importance of public health	5,14	15,07	30,48	31,16	17,81
Isolation measures have accelerated the process of digitization in society	4,11	7,88	19,18	30,14	38,01
Preventive measures have degraded social relations between individuals	9,25	20,55	28,08	19,86	21,23
Preventive measures have adversely affected economic activities	2,05	5,82	21,23	27,40	42,81
Social isolation measures negatively affect the lives and health of young people	7,19	11,99	29,45	24,32	26,37
The management of the situation has adversely affected individual rights and freedoms	10,96	22,95	30,82	18,84	16,44
Preventive measures were needed in this situation	3,77	9,25	23,97	22,26	40,75

Source: author's representation based on the survey data

**Table 22. Assessment of the impact of the Covid-19 pandemics on academic activities of the respondents (1 strong disagreement, 5 strong agreement), %**

	1	2	3	4	5
Decreased personal motivation and involvement in the learning process	12,33	17,47	23,97	23,29	22,95
The effectiveness of the teaching process by teachers has been reduced	8,56	15,41	23,29	27,40	25,34

The need to receive feedback from teachers about the results of academic activity has increased	5,82	15,07	25,00	26,03	28,08
The role of the teacher in the educational process has increased	13,36	18,49	27,74	21,92	18,49
The degree of independence of the student in the educational process has increased	5,82	6,51	27,05	26,03	34,59
I spent more time in front of the computer for academic study activities	3,08	5,48	14,38	18,15	58,90
There has been a reduced involvement in volunteer activities due to the risk of exposure to the virus	6,51	6,51	20,89	22,60	43,49
The volume of homework and assignments received from teachers has increased	5,82	11,64	22,26	14,38	45,89
Reduced access to information (library))	9,59	14,73	17,47	23,97	34,25
Seminar and laboratory activities and internships decreased	8,22	13,36	18,49	19,52	40,41
Students' interest in Erasmus scholarships, internships, mobility has decreased	9,59	14,38	26,37	23,97%	25,68

Source: author's representation based on the survey data

## Conclusions

Analysing the results obtained after the completion of the questionnaires by the subjects, it can be said that for hypothesis 1 (For an effective management of the pandemic and its prevention it is necessary to increase the powers of the European Union in the field of health and taxation) there is a favourable opinion, these results being somewhat contradictory to the second hypothesis which postulates that in order to effectively manage health crises it is necessary for each Member State to adopt national specific measures.

Other conclusion that can be drawn is that the fact that the Covid-19 pandemic did not shift in a significant manner the way that the European Union is regarded by the subjects in opposition to the decreasing confidence level of the respondents in Romanian authorities. This leads to the conclusions that, in case of a crisis, the subjects are having greater expectations form the EU's institutions rather than the national government and an ulterior evolution of the EU in which some areas will not be shared anymore with national governments and entirely under European coordination might be possible, even wanted by the citizens.

The fact that the education process was dramatically delayed will most likely have severe future consequences because of the fact that the online solution in place during the pandemic was not quite effective as the subjects of this case study stated.

Although the Covid-19 pandemic is not officially over at the time of the completion almost all restrictions were eliminated and the recovery has begun in

many areas, including education. The Covid-19 pandemic was a challenge for the European Union and the entire world together. We must openly admit that EU had a fragility moment at first but then it seems to recover, but not entirely, not in an uniform way. The same type of fragility may reappear because the conflict in Ukraine and it's rippling effects.

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# PROCEDURAL PECULIARITIES OF COURT PROCEEDINGS IN CASES OF ABSENCE AND DEATH DECLARATION

Iryna TATULYCH\*

## Abstract

*The article focuses on the procedural peculiarities of court investigations in cases of missing persons and death declarations. The jurisdiction of such cases has been determined. The criteria and the arguments for declaring a person missing or deceased were singled out. The procedural status of the applicant and the person concerned was analyzed. The necessity to expand the range of case participants has been proved. Special attention has been paid to the court claim requirements. The article also examines the problem of object of proof and the process of filing the evidence to court in order to justify the applicant's claim. The paper reveals the issue of court judgements and the proceedings for its renewal. It also reveals the consequences in case such court statements are satisfied. The author examines the academic positions of those scholars who researched such institutes in civil procedure perspective as well as the case law.*

**Keywords:** special procedure, missing person, death declaration, applicant, person concerned

## Introduction

The morning of January 24th, 2022 has marked the beginning of the full-scale war of Russia against Ukraine. In fact, it is a part of Russian-Ukrainian war which started back in 2014. Unfortunately, due to the bloody fightings, both servicemen and civilians have gone missing. Because of this many people died. Part of them either hasn't been identified as deceased or their death wasn't properly determined. Consequently, the relatives don't have any death certificates or even don't know whether their family member is still alive.

At the same time this problem is becoming more and more topical in Ukraine and globally not only due to armed conflicts and military actions but also natural and man made disasters causing multiple deaths. Despite the humanitarian problems

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related to the search and social protection of people in need, there may be issues associated with the legal status of missing persons and the legal regulations of identification and registration of such people.

The long term absence from the place of residence may originate some uncertainty regarding the rights and duties of the missing persons and the people legally related to him/her. It may have some negative consequences both for other people (relatives) and the assets the missing person possesses. Such uncertainty complicates and interferes with exercising the rights, freedoms and legal obligations.

The relatives and the close people are primarily interested to eliminate such uncertainties because they cannot inherit assets and estate possessed by the missing person, get a pension as a dependent or exercise the subjective rights (such as the right to receive alimony or insurance coverage). In case a missing person is connected with lenders, then their demands for the assets cannot be relieved. In order to prevent such consequences, the Civil Code of Ukraine prescribes persons concerned the right to declare a person deceased or missing. The above mentioned predetermines a detailed legislative consolidation of the proceedings regarding a person's legal status change.

### **1. Analysis of cases on a person's legal status change.**

Nowadays there are several mechanisms to determine the fact of death or to determine a person missing. The procedures regulating such proceedings are reflected in the norms of substantive and procedural law: court establishment of the fact of death (article 315, 317, Civil Procedural Code of Ukraine); court's declaration of a person's death and absence (article 43,46, Civil Code of Ukraine, 2003; article 305-309, Civil Procedural Code of Ukraine, 2004). Each of these legal recourses has its reasons and terms.

Numerous academic papers from various fields of knowledge are dedicated to this issue. Scientists investigated the substantive and procedural aspects of such cases. For instance, Zinovieva, the author of "A missing person: substantial and procedural aspects" highlights that: "despite a great number of theoretical studies in this field, in practice there are still many problems related to the acceptance and interpretation or a "missing person" term" (Zinovieva, 2011, p. 1).

In situations when the Civil Registry Office is not able to register the death, such cases go to court in the status of a separate proceeding in accordance to article 315 of the Civil Procedural Code of Ukraine. Hence it belongs to the facts with legal significance. Such a provision of law gives court grounds at a specific time and under certain circumstances to declare a person deceased. This may happen provided the Civil Registry Office rejected such a registration due to the absence or insufficient number of documents. For example, in a separate proceeding a death of a person in a natural disaster was confirmed, however the body was not found, hence the death certificate cannot be issued. The applicant has to justify his/her statement by

referring to this fact as a piece of evidence which indicates the person's death at a specific time and under certain circumstances.

According to Komarov *et al.* (2011), a declaration of death, unlike the fact of death, which is determined by court with the help of evidence that this incident occurred at a specific time and under certain circumstances. This evidence is based on the probable assumption without providing any proof of death. Thus, the declaration of death is a court's judgement is based on the fact of death and is not based on the actual fact of death but on the highly probable assumption of death.

As explained by Clause 13 of the Supreme Court Resolution dated March 31, 1995, No. 5 "On litigation in cases establishing the facts with legal value". The trial has to differentiate between the declaration of death from establishing the fact of death. Declaration of death is a court's judgement of the assumption of death i.e. a statement of high degree of death probability. Thus, declaration of death has to eliminate uncertainty formed up around a person who is unavailable for unknown reasons at the place of residence and his/her whereabouts are unknown. The reasons to declare a person deceased are not the facts confirming the person's death, but the circumstances giving the grounds to assume the probable death.

According to article 9 of the Law of Ukraine "On the legal status of missing persons" a person becomes missing when an applicant files an application of absence and search, or the court rules a corresponding decision. The application of a missing person is to be filed to the local office of the National Police of Ukraine. After that the court passes a judgement indicating that a person is missing (Law of Ukraine, 2018).

### **1.1. Reasons and terms to declare a person missing or deceased.**

A person can be declared missing by court in case there was no information about his/her whereabouts at the place of the residence for one year (article 43, Civil Code of Ukraine). Unlike the declaration of absence, the declaration of death is possible if the whereabouts are unknown for three years. Though there are circumstances under which it is possible to do this in short terms. In particular when a person was found missing under the death threatening circumstances or such circumstances give rise to suppose the death by accident. In this case the terms are shortened to six months. When a person's death is caused by a lethal accident or other natural or man-made disaster, then within one month after a special committee on natural and man made disasters has finished its work. A natural person who is missing due to military actions, can be declared deceased within two years after the military actions are terminated (article 46, Civil Code of Ukraine, 2003)<sup>1</sup>.

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<sup>1</sup> Supreme Court Resolution of Ukraine, dated September 5, 2018. Case No. 706/1355/16-ц. Procedure No 61-36425cb18 (retrieved from <https://zakononline.com.ua/court-decisions/show/76350060>).



Taking into account different circumstances, the court can also declare a person deceased by the end of the above-mentioned term, but not earlier than six months. For example, if a person went into a fight or a reconnoiter but didn't come back, then this person can be declared deceased after six months but not earlier than that. By analogy the court may also review other conditions (bomb, missile and artillery strike on the village/city, terrorist act, natural disaster, car crash etc.) when based on the articles of clothing or shoes, debris of transport and buildings we can suggest that the person was in the epicenter of the tragedy (Bryskovsjka, 2015, p. 53).

On the basis of explanations provided in Clause 13 of the Resolution of Plenum of Supreme Court of Ukraine dated March 13, 1995 - "On Litigation in Cases of Establishing the Facts with Legal Value"-, a person can be declared deceased by court in situations when the fact of death is impossible to established by court provided with proper evidence. Another important aspect is that "lack of communication" between persons can not be used as proof of absence or a reasons to declare him/her deceased<sup>2</sup>.

When a legislator analyses such cases of procedural legislation, he/she indicates the lack of such cases. Unlike other cases of separate proceedings with exclusive jurisdiction, such cases are characterized by territorial alternative jurisdiction because the statement of absence or declaration of deceased is submitted to court depending on the applicant's place of residence, the absentee's last place of residence or his/her estate location (article 305 Civil Procedural Code of Ukraine, 2004).

The survey of civil law literature reveals the following features of a missing person: 1. absence from the place of residence; 2. unknown whereabouts; 3. long term absence; 4. inability to overcome the unknown (Romovsjka, 2009, p.13).

Jasynok highlights that "the declaration of absence or death has its legal embodiment in substantial law, however this law does not change the person's legal status. The persons concerned have a legal right to go to court in such cases. Their interest is linked to material and non-material constituents. The material one lies in determining the missing person's property right, whereas the latter one has its role to determine the final social status" (Jasynok, 2011, p.17).

The arguments to declare a natural person missing are the set of legal facts i.e. a legal structure encompassing: a) lack on information about a person's whereabouts in the place of residence which is regulated by article 29 of the Civil Code of Ukraine, article 3 of Law of Ukraine "On Freedom of Movement and Free Choice of Residence in Ukraine"; b) lack of information about actual stay of a person and inability to get such information; c) an expiration of one year time limit from the date or receipt of the last information about a person's whereabouts or from the date regulated by part 2, article 43 of the Civil Code of Ukraine; d) an applicant's interest

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<sup>2</sup> The Resolution of Supreme Court of Ukraine. Dated November 14, 2018. case #397/712/17-ii. proceeding No. 61-30574cb18. (retrieved from <https://zakononline.com.ua/court-decisions/show/78215129>.)

to solve the issue of a missing person i.e. there is a civil or other legal relationship between the applicant and the missing person which took place earlier (contracts, alimony etc.).

It is important to draw attention to a fact that on November 22, 2018 the Supreme Council with a part of the panel of judges of the Second Judicial Chamber of the Civil Court of Cassation has confirmed the legal view to declare a natural person missing in a case No. 225/882/17, proceeding No. 61-34068cb18 (USRCD of Ukraine No. 78044509). In particular, the resolution of the Supreme Court (with a part of the panel of judges of the Second Judicial Chamber of the Civil Court of Cassation) dated May 7, 2018 in a case No. 225/1297/17 tells us that a missing person notification is a court acknowledgment of a long term absence from a place of residence provided the person's whereabouts were not identified.

The court experience on cases of death declaration is based on two points: a) long term absence i.e. there is no information about a person's whereabouts for three consecutive years b) a natural person is found missing under the death threatening circumstances or under conditions presuming a person's death due to an accident, or natural disaster (earthquake, flood, avalanche, military actions etc.).

Such cases are quite special because when a court declares a person deceased it proceeds from a so-called "death presumption" term. Here we have to agree with M. Mamchur's and A. Novosad's points of view which lie in "an applicant's use of legal presumption is determined by the fact that the applicant has no evidence and as a rule can not have such evidence to prove a person's death. That's why such facts can not be confirmed in a court of law" (Mamchur *et al.*, 2018, p. 43).

A court declaration of a natural persons deceased (article 43, Civil Code of Ukraine) does not certify a person's death, but it does not exclude its possibility. Consequently, there are two mutually exclusive assumptions of a missing person's living condition (a person is alive or deceased) (a resolution of the Supreme Court with a part of the panel of judges of the Second Judicial Chamber of the Civil Court of Cassation, dated February 28, 2018 in a case No. 317/3139/15-ц, proceeding No. 61-4241cb18, USRCD of Ukraine No. 72641734).

## **1.2. Parties in cases on missing persons and death declarations.**

In such cases the parties are applicants and persons concerned. However, the current legislation does not define them in legal terms. Unlike other cases in separate proceedings, the Civil Procedural Code of Ukraine does not list persons legible to apply to court in cases of missing persons and death declarations. Therefore, this should be guided by article 4 of the Civil Procedural Code of Ukraine which states that every person has a right to apply to court in order to protect his/her violated, unrecognized or disputed rights, freedoms and legal interests. For this matter an applicant has to prove a subjective legal interest. It is conditioned by those legal consequences that originate the acknowledgment of a missing person or death.

According to the national legislation the change of a person's legal status can cause a number of legal consequences, such as: a right to get a divorce with a missing person by allying a simplified procedure at a Civil Registry Office; a right to terminate a marriage with a person declared deceased by court; get a pension provide the breadwinner was lost; take custody of the missing person's assets; obtain the missing person's assets; initiate an inheritance process provided a missing person was declared deceased; a right to inherit the deceased person's assets; a lender's right to require a missing person's debt repayments; terminate a warrant etc.

According to Fursa "a court has to consider that this fact will cause legal consequences to an applicant. Otherwise such a case will not fall under the court's jurisdiction in a form of a separate proceeding. When determining a person concerned, a court should be aware that this person is a legal subject and court can influence its rights and duties" (Fursa, 2006, p. 244).

Any person interested in a missing person's legal status change can apply to court in order to protect the rights and interests. To confirm this an applicant has to prove the legal relationship between him/her and a missing or a deceased person. Otherwise the applicant has to specify the details that an absence of a person hinders the applicant to exercise the subjective rights and perform the duties. Thus, most often individuals may be applicants such as spouses, parents, relatives, offsprings, next of kin, heirs as well as custody and guardianship authorities assigned to protect missing person's assets, public authorities and bodies of local self-government assigned to protect the rights and interests of minors. Legal entities (banks and other financial institutions provided there is a long term loan absence) can also be applicant to the case if they possess a legitimate goal to obtain a court's judgement.

We would like to stress that national police or recruiting office (in order to remove a person from the military registry) can no act as an applicant because according to law they are not allowed to protect the rights of people in a civil process. It is noteworthy to consider Bobko's point of view that "the bodies of inner affairs cannot be applicants in such cases. Such bodies have no material or legal interest. Moreover, the law does not grant them the right to appeal to court on behalf of other persons. In addition, the search belongs to the duties of the police. Therefore, the internal affairs bodies cannot be applicants on behalf of their own interests" (Bobko, 2006, p. 14).

When reading legal papers we can come across a view that a public prosecutor can also serve as an applicant. The current Civil Procedural Code of Ukraine does not provide a public prosecutor takes part in such cases. However, considering the issue of parties in a legal case, in our opinion it is important to enlarge the scope of subjects whose participation is vital for the further proceedings. Moreover, a similar approach when a public prosecutor took part in the proceedings has been already applied. It occurred once when a person was forced to take psychiatric care (article 341, Civil Procedural Code of Ukraine). Both scientists and practitioners believe it is quite reasonable. Of course, there is no need to prove the fact that according to

Ukrainian Constitution<sup>3</sup> (clause 3, article 131-1) a public prosecutor represents the state in a court of law. However, according to article 23 of the Law of Ukraine “On Public Prosecutor’s Office” a public prosecutor represents person’s and state’s interests in court performs procedural and other actions aiming to protect person’s and state’s interest prescribed by law. A public prosecutor represents citizen’s (Ukrainian citizen, foreigner or stateless person) interests in court provided a person can not do it by her/himself. A public prosecutor may also be involved in cases when a person is unable to protect his/her violated or disputed rights or to realize the procedural rights due to being a minor, fully or partially incapacitated or when legal representatives or appointed by state bodies do not protect the rights, freedoms and interests properly. Besides, the Civil Procedural Code of Ukraine also allows certain bodies and persons to take part in the civil process. Such bodies and persons are granted the right to protect the rights, freedoms and interests of other parties (Article 56-57, Civil Procedural Code of Ukraine, 2004). However, given a public prosecutor’s legal status at a legislative level, we believe that one should engage a prosecutor as a party but not as an applicant in the above-mentioned cases. In our opinion, it will ensure: the compliance with the main principles of civil litigation during the trial by court and parties; collegiate trial of the case by one judge and two jurors; an effective implementation of rules of material and procedural law by litigants; timely and impartial trial which will contribute to the full and comprehensive case review; involvement of all the parties and persons concerned; the application of the necessary procedural coercion for participants of the process; collection of evidence. A public prosecutor’s engagement will help to determine a possible conflict of interests between an applicant and a person concerned as a result of a person’s legal status change. A special emphasis must be placed on the status of a missing or allegedly deceased person’s assets, since as legal practice shows, in the last years there was an increase in the number of abuse cases of the institute of a missing person announcement and death declaration i.e. unwarranted breach or prolongation of contracts; missing person’s property management to one’s advantage; appointment of an estate trustee who acts against the will and interest of a missing person; unjustified sale of a missing person’s property etc. Besides, we have already proved by analysing other separate proceedings that it is necessary to engage a public prosecutor into the parties to the case (Tatulych, 2021a, p. 162; 2021b, p. 375; 2021c, p. 99).

The role of the concerned persons can be performed by persons joining the legal process to protect their own interests which can be violated. Such persons may know the whereabouts of a missing person and may report it to the court. That’s why their participation is vital to ensure a fair and impartial trial. It should be noted that such persons cannot be involved as witnesses if they have some personal interest in

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<sup>3</sup> Ukrainian Constitution (1996) (retrieved from <https://rm.coe.int/constitution-of-ukraine/168071f58b>).

the trial. For example, the role of the persons concerned can be performed by applicant's members of the family or other persons entitled to receive pension due to the loss of a breadwinner (if the case was initiated for this reason), social security authorities etc.

### **1.3. An application is made of initiating a court case on declaring a person missing or deceased**

One way to initiate a case is to file an application. Its content and general requirements is analogical to a petition in a litigation (enshrined in articles 175-177 of the Civil Procedural Code of Ukraine). Besides, a litigator establishes certain requirements to every application in cases of separate proceedings. One of these special requirements to such applications is to indicate a purpose i.e. why an applicant needs to change a legal status or establish a legal fact. That's why if such a requirement was violated, then a judge in a similar way with a petition will decide to leave the application without motion, giving the applicant time to correct the mistakes (article 185 of the Civil Procedural Code of Ukraine).

As a rule, most often the applications may include the following purposes: the purpose of divorce; receipt of pension due to the loss of the breadwinner; claims of debt payment; loss of the right for living space due to the declaration of a missing person etc.

An introduction of a purpose into an application assists the court in establishing a circle of all interested parties, the existence of necessary evidence to be submitted to the court, which, in turn, will ensure compliance with the tasks of civil proceedings and this will promote the effectiveness of trial as well as the adoption of a legal and reasonable decision.

In addition to the purpose, an application also includes the circumstances that confirm the absence of a person, or the circumstances that were death-threatening for the missing person; the circumstances that give reasons to suppose his/her death due to a certain accident. Proceeding from the provisions of the Civil Code of Ukraine, the following circumstances should be mentioned in the application: the date on which the applicant receives the latest information on the place of stay of the long term absentee; after one year period (in order to declare a person missing), after three month, six month, one year period since the latest information about the missing person (in order to declare a person deceased); absence in the place of residence of the missing person, lack of information about a person's whereabouts (Civil Procedural Law of Ukraine, 2020, p. 564).

If an person's declaration of death is connected with certain circumstances, which give grounds for the death of the person, the applicant must indicate it in the content of the application. For example, the circumstances that can be death threatening to the person are attributed to such natural disasters as flood, earthquake, forest fires, snow avalanche, etc. Other circumstances that give grounds to assume a

person's death from a certain accident are: air disasters, car crashes, military actions, armed conflicts, etc.

If a person's declaration of death is connected with his/her participation in military actions, the application should state: a date of the end of hostilities; circumstances that confirm the absence of information about a person who was found missing in connection with military activities at the place of his/her permanent residence within two years from the date of the end of hostilities. Regarding the military officers or other persons who were missing due to military activities, the application should indicate the date of the end of hostilities.

A separate requirement to the applications is a mention of legal relations between the applicant and an allegedly missing or deceased person (civil, family, land, housing, financial).

When declaring absence of death, the applicant must provide evidence to the court that she/he has the legal purpose of applying for judicial protection.

One of the characteristic feature of cases of declaration of absence or death is the fact that the subject of proving such cases is based on presumptions. Most scientists believe that a special procedural rule of assumption about the existence or absence of a legally significant circumstance, which redistributes the evidence of the participants of the process, should be understood under the presumption. The content of the presumptions is probable data, which generally allows for its simplification in a particular case. In other words, the presumptions can be simplified (Shyshka, 2007, p. 57).

According to Vasyliev, „the subject of evidence in cases of absence and death declaration are the following facts: 1. absence of a person; 2. the legal interest of the applicant and the existence of material and legal relations between the applicant and the person concerned with the issue of declaration of absence: divorce (article 107, Family Code of Ukraine), child adoption (article 219, Family Code of Ukraine); 3. the applicant's measure to search for a person; 4. inability to determine the person's location; 5. death threatening circumstances for the missing person; 6. the circumstances that give grounds to suppose a person's death from a certain accident; 7. the circumstances that give grounds to believe that a person can be hiding: he/she is in search and/or does not want to pay alimony or perform other court decisions, etc. ; 8. no dispute about the right” (Vasyljjev, 2019, p. 339-340).

Continuing the issue of evidence in the cases of absence and death declaration Shimanovich points out that “the necessary evidence in these cases is written proof (certificate of residence; certificate of employment, etc. or witnesses statement (a missing person's family, relatives, colleagues, neighbours)). The author includes the following facts to the object of proof: establishment of the place of residence of the person in respect of whom the case is brought; absence of the person in the place of residence within three years from the date of receipt of the latest information about his/her stay; death threatening circumstances for the missing person or the circumstances that give grounds to suppose a person's death from a certain accident;

the end of hostilities for servicemen or other persons found missing due to military actions; the applicant's measures to search for a person" (Shimanovich, 2010, p. 89-90).

The subject of proof in cases of absence and death declaration is the set of material and legal facts (circumstances), with which the norms of civil law relate to the appearance in the court a legal presumption of the absence of a person or the presumption of the death of a missing person. One peculiarity of the subject of proof in cases of absence or death declaration is the fact that it may include well-known facts. They may be circumstances that give grounds to assume a person's death (the fact of an accident) (Bobko *et al.*, 2018, p. 52).

Reviewing the process of proving in such cases, an opinion of a Ukrainian scholar Yasyuka deserves attention. Having analysed evidence in a separate proceeding, he believes that "the process of providing proof can be divided into two periods – pre-procedural and procedural. Such division is logical and natural, as the process of proof has its initial stage. This can be a person's decision to go to court. This decision is logically determined by the person by the following: What evidence can he/she provide to the court in confirmation of the subject matter? What evidence does this person have and what evidence is to be collected? Which proof needs to file a petition in order to be requested? What facts do not need to be proved due to their general availability, etc.? The procedural part of the evidence provides for the procedure of judicial investigation of evidence" (Jasynok, 2021, p. 384).

Thus, applying to the court with the above mentioned application, the applicant should give the court as much evidence of a person's death or absence of as possible. The evidence of these facts may be: death certificates or death report drafted by witnesses, military; photo of the body or a burial place; an extract taken from the Unified Register of Pre-trial Investigations concerning the registration of a crime application on the missing or deceased person; photo, video, articles of mass media concerning shooting during the death of a person; kidnapping; witness testimony of a missing or deceased person who will be able to present their testimony in court, etc. However, in the event of difficulties in the process of evidence-taking and filing, the applicant will be able to submit applications on procedural issues to the court independently or through his representative on the following issues: discovery of evidence by the court; providing evidence; summoning of witnesses; appointment of examination; on spot examination of evidence, submission of court order, etc. The court, in its turn, to ensure the authenticity, validity, reliability and sufficiency of evidence, will decide which piece of evidence will satisfy the demands of applicants and their representatives, if their norms of the current legislation are met. Taking part in the process together with his/her representative, who in the civil process can be represented by a lawyer, one should not forget about another effective instrument of collecting evidence - a lawyer's request, which is quite often realized by lawyers during the collection of the evidence in cases of continuous and separate proceedings.

At the same time, we should pay attention to the fact that the systematic analysis of the part 1 article 46-47 of the Civil Code of Ukraine and article 306 the Civil Procedural Code of Ukraine allows us to reach the conclusion that by itself, the lack of information about the place of stay of a person for three years in the place of his/her permanent residence cannot serve as a sufficient reason for declaring this person deceased. The court should have sufficient proper and admissible evidence to establish the circumstances on which it is possible to make a credible assumption of a person's death. That is, the specifics of this category of cases is that the court's finding on declaration of absence or death is based on the legal assumption of the person's death (legal presumption). Therefore, the applicant must be given all appropriate and admissible evidence to establish the circumstances on which it would be possible to make a credible assumption of the person's death and not only to state the fact of absence of any communication with the person, lack of information on the posts whereabouts, but also to prove possible assumptions about his/her death. A striking example of this is the Supreme Court's decision in the case of a separate proceeding. Thus, on July 7, 2021, the Supreme Court with a part of the panel of judges of First Judicial Chamber of the Civil Court of Cassation in case No. 390/1443/19-ii refused to satisfy the appeal of an applicant, who did not provide evidence to establish the circumstances on which it would be possible to make a credible assumption of his/her brother's death.

#### **1.4. Trial and litigation stages in cases of absence and death declaration.**

Having received a duly executed application, the judge checks: its compliance with the requirements of the Civil procedural Code of Ukraine; payment of a judicial fee by the applicant; submissions of a copy of the application and other requirements; a purpose mentioned in the application. This requirement is quite essential because if the court, proceeding from the stated purpose, establishes that it does not create any legal consequences for the applicant or persons in the interests of which the application is filed. If the court finds an applicant having no legal interest, then it is obliged to refuse to initiate proceedings in the case on the grounds of absence of legal interest.

After the case is initiated p, the court will proceed to the next stage – preparation for the trial. Unlike other cases of separate proceedings in this case, the lawmaker will reveal the court's actions when preparing the case for trial. Thus, the court before the trial determines the persons who can provide some evidence of an individual, and also asks the relevant organizations at the last place of absentee's residence and at his/her last place of work about the possible whereabouts of the missing person. At the same time, the court takes measures through the bodies of care and custody to guard the missing person's assets (article 307, Civil Procedural Code of Ukraine). In addition, in our opinion, the court should draw attention to whether the applicant has applied for the search of a person to law enforcement



bodies. If no, then why? If yes, then what were the results of such search. The issues of freedom of movement and choice of residence are regulated by the Law of Ukraine “On freedom of movement and free choice of residence in Ukraine” dated December 11, 2003, No. 1382-4. The issues of registration of residence are regulated by the rules of registration of the place of residence approved by the Resolution of the Cabinet of Ministers of Ukraine dated March 2, 2016, No 207.

In addition to the above-mentioned issues, in the science of civil procedural law, the opinion was expressed concerning the expansion of the range of procedural actions of the judge at this stage. In particular, in order to prepare the case for trial, the judge should decide on the resolution concerning the investigation of the missing person and notify the mass media on the proceedings in the case of the missing or deceased person (Bobko *et al.*, 2018, p. 53). We agree with the given procedural actions of the judge. Moreover, such actions of the judge are already authorized to perform actions in another case of separate proceedings, namely, restoration of rights for lost securities and bonds (articles 322-323, Civil Procedural Code of Ukraine).

The case is considered collegially i.e. with the participation of one judge and two jury members, in an open court session with the participation of the applicant, witnesses, other participants of the trial and persons, whom the court itself finds necessary to be questioned. This category of cases shows the principle of court activity in the process, which is not the case in the competition process. Moreover, there is some limitation of the principle of competition, which is characteristic of cases of separate proceedings. This is justified by the fact that the court’s decision significantly affects the legal rights and interests of the missing person, whose procedural right to participate in the process cannot be realized (Shimanovich, 2010, p. 86).

According to the results of the case, the court makes a decision that satisfies the application or refuses to satisfy it. The court should refuse to satisfy the application if the place of stay of a person is known, or if the court revealed that the term of a person’s absence does not comply with the law.

The court’s decision on this issue is a legal fact. It causes the emergence, change or termination of legal relations connected with the protection and realization of personal and property rights of natural and legal entities. A person’s declaration of death is also the reason for the emergence of hereditary legal relations, divorces, legal relations of social security, etc. (Bobko, 2002, p. 12).

Therefore, in the case of the court ruling to satisfy the application, the following legal consequences apply to the applicants: 1. on the basis of the court’s decision to declare a person missing, the notary has to describe the property which belongs to him/her and has to put it into official care; 2. the dependents of this person have the right to a pension in case of loss of the breadwinner; 3. a spouse of this person has the right for a divorce by applying a simplified procedure in the Civil Registry Office; 4. the letters of attorney issued by this person and on its name shall cease.

The legal consequences of the declaration of death of are equal to the legal consequences of the actual death of a person. From the moment of the court judgement's entry into force, the rights to inheritance, pension, marriage, etc. arise for the persons concerned.

The peculiarity of these categories of cases is that the court's judgement on declaration of absence is based on the legal assumption of a person being alive, and the declaration of death is based on a legal presumption of death (Martynjuk and Doljuk, 2021, p. 136). Thus, material and legal basis of a court decision on declaration of person's absence or death is the presumption of a person being alive or deceased.

The current Civil Procedural Code of Ukraine clearly reveals the issue of implementation of the court's decision after its entry into force (part 2, article 308, Civil Procedural Code of Ukraine). The date of the probable death of a person is important to declare death. According to the general rule, such day is considered the day when the court passed a judgement to declare a person deceased. If a person has disappeared for the circumstances that threatened his/her death, or for the circumstances that give grounds to suppose the death from a certain accident, or due to military actions – from the day of her probable death (the day of the passenger plane crash, earthquake or other natural disaster) (clause 3, article 46, Civil Code of Ukraine).

We agree with the opinion of Korchak that „the analysis of the provisions of the Civil Legislation of Ukraine and the National Judicial Practice makes it possible to focus attention on the importance of the issue of determining the day of death. According to the author, it cannot be determined freely (at the request of persons concerned), because it causes the initiation of the inheritance, the time of divorce and other legal consequences connected with the declaration of death” (Korchak, 2017, p. 7-15).

The court's decision has specific characteristics, which relate to its cancellation in case a missing or deceased person was found or his/her whereabouts were identified. The procedural order of implementation of this procedure is clearly defined in article 309 of the Civil Procedural Code of Ukraine.

The doctrine of civil procedural law expressed the opinion that such a decision is subject to cancellation by means of revision of it under the newly revealed circumstances, since at the time when the case was considered in the court, this person was actually alive, but this fact was not known to the participants of the case or the court. In this case, as noted by Dzer, the court should be sure that the person was mistakenly declared deceased. For this purpose, the law prescribes that the case on judgement cancellation of declaration of death is reviewed in the presence of that person, although the application to cancel the judgement may be submitted not only by this person, but also by any other person concerned (Nikolajev, 2010, p. 734).

In addition to the above-mentioned consequences of the person being alive (judgement cancellation of the declaration of absence or death), there are also a

number of actual implications. The most important of them is renewal of a personal and legal status. Another concern is adopted children declared deceased or missing but turned out to be alive. The renewal of the personal non-proprietary rights of a person being declared deceased or missing but was proved be alive is another problematic issue. Therefore, if a person who was declared missing or deceased will prove respectful reasons for her/his absence, then the rights of this person should be renewed: the right to receive compensation for inflicted damage; the right for alimony, etc. If the person does not prove the respectful reasons, then the payment in his/her favour should not take place. The is also a central issue of the proprietary rights renewal of a person declared deceased or missing but proved to be alive. Problems also arise when there is a question about the legal future of the legal actions concluded in relation to the transfer of rights to the property of this person (deposit, lease, property management, etc.). Since such transaction were concluded by an illegal owner, there are all grounds for their recognition as invalid. These and other important issues will be the subject of discussion and detailed analysis in further research.

## **Conclusions**

Unfortunately, the problem of missing persons is still topical not only in the judiciary, but also in the state as a whole. The geopolitical situation in the East of Ukraine in the context of Joint Task Forces prompts to reconsider the concept of declaration of absence and death in Ukraine. The relevance of this research topic is primarily caused by the entry into force the Law of Ukraine „On Legal Status of Missing Persons”, which defines the legal status of such persons. The declaration of absence or death as an important institute of civil legislation is aimed at protecting the rights and interests of people in connection with the suspension of civil legal relations. In legal practice, there are examples of situations when this institute of declaration of absence or death is used to eliminate uncertainty in civil legal relations. By using civil-law norms, persons concerned can appeal to court and attempt to refute the uncertainty in civil relations, or minimize the adverse effects of such uncertainty. That is, only on the basis of the court’s decision it is possible to change the legal status of the missing person. The legislation provides separate proceeding in civil court for such categories of cases. The applicant should apply to court with the purpose of establishing a person’s status or legal fact, without which the person can not exercise his/her rights. Scientific practices concerning the institute of declaration of absence and death were investigated by Ukrainian scientists from the positions of both material and procedural law. Preference was given to the procedural aspects.

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## THE ROLE OF INTERNATIONAL ORGANIZATIONS IN THE EUROPEAN TERRITORIAL CHANGES OF THE PAST 30 YEARS

Alexandra TIMOFTE \*

### Abstract

*During the last 30 years the borders of the European countries suffered little changes compared to other periods, while the wars moved from a large-scale confrontation, to reduced/regional wars. Nevertheless, we live in a world where the ambition is the eradication of war. Thus, any military conflict is closely analyzed, starting from the causes to effects, actors involved and possible resolutions. In many cases, the resolutions of recent conflicts/wars are still unforeseeable. The perpetuation of wars (frozen conflicts or protracted wars) brought into attention the necessity of a multinational, objective involvement. Thus, one of the solutions, feature of the present times, is the involvement of international bodies, regardless if we are speaking about regional or global structures. In this environment, international organizations seem to play an important and relevant role. The aim of the research is to analyze and evaluate the impact and the role played by the international organizations in some of the most significant international disputes of present times in Europe, as well as their capacity to influence the outcome of the conflict depending on the means they possess and the actions they are entitled to take.*

*Keywords:* international organizations, NATO, UN, OSCE, territorial change

### Introduction

The international community has the pretention to have learned from the mistakes made in the past. However, the European continent – and not only – had to learn some harsh lessons in a hard way. The Two World Wars devastated the states socially, politically, and even those who were on the winning side seemed to enjoy a *victory a la Pirus*. Following the Second World War, Europe entered a quasi-stable phase where the disputes were mainly political and less territorial. However, after the end of the cold war, a power vacuum appeared once the communist regimes started to fall all across the continent. Thus, in many former federal constituted

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states, secessionist movements started to appear. Since the European states had in the back of their minds the consequences of any military conflict, each violent confrontation had been addressed in a timely fashionable manner. This research paper will try to shed light upon the reaction of the international community regarding three major events that took place in the European soil, with a focus on the actions taken and role played by the international organizations/structures: United Nations (UN), North-Atlantic Treaty Organization (NATO) and Organization for Security and Co-operation in Europe (OSCE). The events are going to be analyzed chronologically, starting with the war in Yugoslavia (Kosovo), continuing with the conflicts of South Caucasus (Georgia) and ending with the Crimean war.

Starting from the hypothesis that the international organizations are having the capacity to influence states behavior, I will analyze the three distinct wars mentioned earlier, that took place in Europe since the end of cold war. The basic assumption is that the international organizations are becoming more and more important when it comes to protracted wars or territorial changes in Europe. The focus of this research paper will be on the role of NATO, UN and OSCE in the process of redrawing the map of Europe during the last 30 years. As a theoretical tool, I will use the findings of Abbott and Snidal, who, in their article from 1998, are researching the problem of *Why States Act through Formal International Organizations*. Two features – centralization and independence - used by the two authors are going to guide the present analysis. *Centralization* is understood as “a concrete and stable organizational structure and an administrative apparatus managing collective activities”, while *independence* is seen as “the authority to act with a degree of autonomy and often with neutrality in defined spheres” (Abbott and Snidal, 1998, p. 9).

As a research method I used the case study, while the questions that guide my research are:

1. How did the international bodies became part of the resolution of the conflict?<sup>1</sup>
2. At what point of the conflict the international bodies got involved?<sup>2</sup>
3. What kind of measures implemented the international organizations?<sup>3</sup> Did any of these measures influenced the political, diplomatic or military behavior of the parties involved?

The paper is written from an analytic perspective and not a historical one. The aim of the paper is not be to present a comprehensive image of each of the three conflicts, but rather to analyze those important segments relevant to this research. The paper is structured in two main parts, with a conclusion section. The first part of

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<sup>1</sup> On a voluntary basis or upon request from one of the parties involved.

<sup>2</sup> The organization was involved since the beginning or got to be part of it as the conflict worsened.

<sup>3</sup> Military and non-military means.

the paper comprises the factual aspects of the case studies, while the second part is outlining the implications of the actions taken by the international organizations. The conclusion sections draws the main findings, but it is also opening the way for further research directions.

## **1. Territorial changes and international involvement**

### **1.1. The Balkans - Kosovo War**

The roots of the disputes between Kosovo and Serbia date back hundred years ago. During the past 30 years, the spark that brought flames to the Serbian-Kosovo relations lies between the willingness of Serb leadership to cut off any autonomous or separatist ambition of Kosovo and the full determination of the Kosovo leadership to gain its status as an independent state. Thus, in 1989 Slobodan Milosevic decided to strip off Kosovo of its preferential status as autonomous province of Serbia. In a public address to its people, the Yugoslav leader declared, “Every nation has a love which eternally warms its heart. For Serbia, it is Kosovo. That is why Kosovo will remain in Serbia.” (Silber & Little, 1995, p. 66) The declaration of Milosevic came on the eve of the Yugoslav crisis. One by one, the states that formed the Socialist Federal Republic of Yugoslavia decided to declare their independence and secede from the Federation. With more or less military confrontation, by the mid-90s four out of six Republics became independent. For Serbia, Kosovo did not cease to represent a problem. Likewise, following the dismantle of Yugoslavia, Kosovo’s old ambition increased from autonomy to independence. The way to war was paved with completely opposed demands, making the solution even harder to achieve.

### **United Nations**

The United Nations got involved in the Kosovo conflict early on the 90s. Through its various committees, the biggest international organizations searched for a solution. At first, the involvement took the form of international monitoring and *deterrence of an attack upon the civil population*<sup>4</sup> (BBC<sup>5</sup>, 1995; United Nations,

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<sup>4</sup> The term *deterrence* and *safe area* was accepted after heated negotiations among the UN member states. The debate first arise during the incidents of the ethnic cleansing in Bosnia and Herzegovina, Srebrenica. While some delegates wanted to make UN presence a *safe haven* in the villages and cities where it was present, the European states and not only considered this aim as being too bolt and unrealistic. For the later ones, the mission of settling these kind of areas was over UN capacity (because, in case of an attack, UN had to protect the civilians by any means, including military force), its military capabilities being outnumbered and incapable compared to the parties involved, Bosnian and Serbs.

<sup>5</sup> BBC (1995), The Death of Yugoslavia – A Safe Area. BBC Documentary Series 08:38-10:00, (retrieved from <https://www.dailymotion.com/video/x849p8o>).



1993). Nevertheless, the trust in UN was at a low point due to the precedent settled in the case of Srebrenica in 1995 when despite the insurance of the UN representative, then French general Phelippe Marillon, the Bosnian Serbs executed thousands of Muslim men and boys of the village.

UN focused its efforts in Kosovo mainly using peaceful means, endorsing economic, military and diplomatic sanctions against Yugoslavia. In March 1998, UN Security Council called upon an arm embargo on Yugoslavia through the Resolution of the Council 1160. Further on, UN Security Council adopted three Resolutions 1199 (23 September 1998), 1203 (24 October 1998), and 1207 (17 November 1998). Resolution 1199 called upon the end of hostilities and observe a ceasefire. Resolution 1203 dealt with the need for the conflict to be resolved peacefully and the Kosovo region to receive autonomy together with a high-degree of self-administration. While Resolution 1207 addressed the imperative that all the parties involved in the Kosovo War and not only, to cooperate with the International Tribunal on investigating the war crimes. But the UN capacity to act was limited to these kind of actions, mostly consisting in public declarations. After the failed round of negotiations in Rambouillet, the international power of UN came to a dead end leaving the stage to other organizations such as NATO.

## **NATO**

With the Dayton Accords of 1995, the Balkans hoped for peace. However, less than four years passed since the last NATO military mission in the area and North Atlantic planes took off again to hit Serbian military structures, with the aim of impending another aggression over the civil population in Kosovo and to prevent the spread of war to other territories of countries<sup>6</sup>. The bombing lasted for 78 days: from 24<sup>th</sup> of March until 10<sup>th</sup> of June 1999 targeting military infrastructures and dual-use buildings from Serbia, Montenegro and Kosovo. Important to mention that NATO intervention in Serbia was authorized by UN Security Council Resolution only after the intervention, reason why the legitimacy of the bombing was frequently questioned (United Nations, 1999).

After the end of its air campaign, NATO became the main peacekeeping structure in Kosovo. The UN Security Council Resolution 1244 and the Military-Technical Agreement between NATO and the Federal Republic of Yugoslavia and Serbia empowered the international NATO-led Kosovo Force (KFOR). Among the main objectives of KFOR, still available to date, are the deterrence of any attempt,

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<sup>6</sup> CNN (1999). Transcript: Clinton addresses nation on Yugoslavia strike, (retrieved from <https://edition.cnn.com/ALLPOLITICS/stories/1999/03/25/clinton.transcript/>).

from both parts (Serbia or Kosovo), to renew the violent actions and the demilitarization of Kosovo Liberation Army (NATO, 2022).<sup>7</sup>

Throughout the years, the KFOR adapted to the new realities, and since the declaration of Kosovo independence in 2008, it embarked mainly in non-military operations to help to the long-term stability in the region. In 2009, Kosovo Protection Corps (KPC) – settled through the Regulation of the UN Mission in Kosovo/UNMK – were to be dismissed and replaced by Kosovo Security Force (KSF). In this process, “NATO is responsible for supervising and supporting the stand-up and training of a multi-ethnic, professional and civilian controlled KSF.” (NATO, 2009).

NATO also provided humanitarian assistance to Kosovo through its Euro-Atlantic Disaster Response Coordination Centre (EADRCC) established at the level of the Alliance in June 1998 (NATO, 1998). Through EADCC, the Allies delivered humanitarian aid for refugees in Albania and Macedonia, but also financial support and security guarantees (Keating, 2001, p. 184).

## **OSCE**

By 1997, the clashes between the Serbs and the Kosovars increased and became more and more violent. As a solution, in 1998, at the proposal of the US ambassador to the UN, Richard Holbrooke, the US and Russian representatives in Belgrade, created Kosovo Diplomatic Observer Mission (KDOM). The aim of KDOM was to monitor the situation in the field. Later on, Kosovo Verification Mission (KVM) replaced KDOM. KVM comprised around 2000 people mainly responsible with monitoring the reduction of the Serbian forces, as agreed by Milosevic earlier that year. KVM was under the auspices of Organization of Security and Co-operation in Europe (OSCE) having NATO air support (Judah, 2008, p. 83). KVM functioned from October 1998 until June 1999 and, besides monitoring the implementation of the UN Security Council Resolution 1199, had the responsibilities to: a) report and recommend to the OSCE and UN measures necessary to be taken following the implementation of the UN SC Resolution, b) develop reliable relations with Yugoslav, Serbs and Kosovars; c) supervise elections in Kosovo (OSCE, n.d.).

Following KVM, OSCE established the Task Force for Kosovo for a short period, in July 1999, when the OSCE Mission in Kosovo took its place, to date. The tasks of the present OSCE Mission in Kosovo deals with a wide range of activities, from human rights and cultural heritage protection, to social monitoring and political dialogue between the parties (OSCEa, n.d.).

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<sup>7</sup> Among the objectives of KFOR are as well the maintenance of a secure environment, support for the international humanitarian aid and civil presence.

## 1.2. South Caucasus – Georgia Case

South Caucasus is a region well known for its ethnic diversity. As part of this region, since its independence in 1991, Georgia was dealing too, with a series of ethnic and territorial struggles. In August 2008 these struggles took the form of a military conflict. President Mikhail Saakashvili, a convinced pro-western politician, was fully determined to end the territorial disputes that lasted for years now bringing the two disputed regions – South Ossetia and Abkhazia – under Georgian authority. With the added ambition that on the long term Georgia will be part of EU and NATO, the leader from Tbilisi took action by launching a military action over South Ossetia on August 2008. However, this was not a state against a non-state actor because Russia soon stepped in, on 8<sup>th</sup> of August 2008, countering any Georgian attempt to exert authority over South Ossetia. The conflict lasted five days, causing human and material losses to all parts, but mainly to the Georgian part. Most importantly, the Russian offensive did not stop at the South Ossetia border with Georgia, but cut deep into the Georgian territory. The conflict spread to another disputed area, situated in the north-west of Georgia-Abkhazia (United Nations, 2008). The Russian armed forces arrived at about 30 km away from the capital Tbilisi raising concerns about Kremlin's intention over the region (Pruitt, 2018).

### United Nations

UN was present in the area since the first signs of conflict in early 90s. Thus, in 1993 UN settled an Observer Mission in Georgia (UNOMIG) by Resolution 858. Ninety UN military and civil personnel were part of UNOMIG having as the main aim the supervision of the ceasefire agreement between Georgia and Abkhazia (United Nations, n.d.) initially signed in 1993. Year by year, the mandate of UNOMIG was prolonged. However, when the war breakout in August 2008, its area of activity was still limited to the Abkhaz area. Thus, the Observing Mission was unable to report on the security situation in South Ossetia. UNOMIG ceased to exist one year after the Russia-Georgian War, on 15<sup>th</sup> of June 2009 due to Moscow's veto a technical roll-over of the mission (United Nations, 2009).

### NATO

Immediately after the Russian Federation engaged in a military offensive against Georgia, NATO Secretary General, Jaap de Hoop Scheffer issued a declaration calling for a ceasefire and diplomatic talks (NATO, 2008). The Alliance held an extraordinary meeting of the foreign minister on 19<sup>th</sup> of August, having on the agenda the situation in Georgia (NATOa, 2008). During the meeting, the foreign ministers raised the question of NATO-Russia relations established in 1997 through the NATO-Russia Council and decided to suspend politico-diplomatic contact via

this channel until Russian troops are pulled out of Georgian soil (John & Murphy, 2008). However, on 4<sup>th</sup> of April 2009 at the Summit in Strasbourg and Kehl, the Alliance decided to restore *practical and political cooperation* (NATO, 2020).

Considering the fact that in April 2008 NATO reiterated its policy of open doors for countries like Georgia and Ukraine, the Alliance had to demonstrate its credibility. At the meeting on August 19, countries representatives decided to establish the NATO-Georgia Commission based in Bucharest. Moreover, the Alliance adopted a series of measures to support Georgia by assessing “the damage caused by the military action and by helping restore critical services necessary for normal public life and economic activity.” (NATO, 2008a).

Georgia is member of NATO Partnership for Peace Program since 1994. This status implies that all countries must refrain from using military force and, in exchange, to resort to peaceful means in solving any territorial or political dispute with another country. Indirectly, NATO could have inflicted a certain pressure on Georgia through this tool. However, the reiteration of this aspect in the press release following the foreign ministers meeting would be tardive.

## OSCE

Since November 1992, OSCE had a Monitoring Mission in Georgia aiming to report on the security situation on this country. The Mission tasks were:

- providing support to resolve the conflict in Georgia’s separatist region of Abkhazia, which was the responsibility of the UNOMIG;
- helping Georgia to establish and enforce a democratic state under the rule of law;
- promoting the respect of human rights.

OSCE made these efforts in co-ordination with other international organizations, such as the UN, the EU, and the Council of Europe (Stober, 2011, p. 205).

Prior the outbreak of war, OSCE aimed at deescalating the situation by mediating negotiations between South Ossetia and Georgia. However, the efforts were hindered mostly by South Ossetia, which beside the fact that refused any OSCE proposition, had also targeted OSCE monitors appointed in the region (Stober, 2011, p. 215). On the eve of the conflict, OSCE Monitoring Mission reported on the deterioration of the security situation, but the international community took no clear actions (Stober, 2011, p. 217).

OSCE was actively involved in securing a peace agreement between the parties since the beginning. However, Russia seemed to be highly critical regarding OSCE, and more open towards European Union negotiations, the presidency of EU of that year being assured by France (with Nicholas Sarkozy as president *de la Republique*). An agreement was perfected on 12<sup>th</sup> of August 2008 in Tblisi and on 19<sup>th</sup> of August, the OSCE Permanent Council of Vienna extended the Monitoring Mission by 100 members (OSCE, n.d.b). Their duty was to supervise the six-points

ceasefire agreement<sup>8</sup> between Georgia and Russia (Government of Georgia, 2008). Beside the security and monitoring mission's programmes, OSCE provided economic assistance to the Georgia:

Steps were taken to redirect the activities of the OSCE-led Economic Rehabilitation Programme (ERP) into accessible areas affected by the recent conflict within the Shida Kartli Region. The transitional phase of the ERP was launched and 9 projects were successfully implemented between October 2008 and March 2009, benefitting a total of 329 farmers for 67 villages in the areas exposed to the August 2008 conflict (OSCE, n.d.b).

However, OSCE Monitoring Mission in Georgia formally ended its mandate in 21<sup>st</sup> of December 2008. The Mission continued its activities with a limited number of monitors until June 2009 based on a separate mandate (Stober, 2011, p. 203).

Despite the significant efforts made by OSCE, the activities of the Mission had little impact on the evolution of the security situation. The lack of means and its limited mandate made it hard to make a difference. Two nation-states were involved, and in the absence of a powerful instrument of its own, OSCE had to accept its limitations. Moreover, the critical attitude of some actors involved, (Russia, South Ossetia leadership) brought into attention the weaknesses of an international organization in front of individual interests of other actors.

### **1.3. Black Sea Region – Crimea case**

Early in 2014, the relations between Russian Federation and Ukraine were on a downturn. Ukraine was aspiring to get closer to the European Union, while Russia expressed its discontent about this choice, considering Ukraine its own sphere of influence. The spark between Moscow and Kiev was the Ukrainian perspective to sign the Association Agreement (AA) with the EU. In 2013, the president of Ukraine – Viktor Yanukovich, known for his pro-Russian views – announced that Ukraine is ready to make the next step towards EU by signing the AA and strengthening the economic ties with the West<sup>9</sup>. The same year Russia started to use the economic pressure on Ukraine by imposing a series of embargos on Ukrainian products. Meanwhile, Moscow was also declaring that it is ready to intervene in the Ukrainian

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<sup>8</sup> The six points were: 1. The actors will not resort to the use of violence in the future; 2. The parties involved will end all hostilities; 3. The states will facilitate and grant access for humanitarian aid; 4. The Georgian armed forces will return to their bases; 5. The Russian armed forces will withdraw to the positions held before the commencement of hostilities in South Ossetia; 6. The start of opening discussions on the status, security and stability of South Ossetia and Abkhazia.

<sup>9</sup> Three years earlier, in 2010, the Parliament of Ukraine voted for closer cooperation with NATO.

regions where are living a significant number of Russian ethnics. Kremlin was invoking as the main reason, the fact that Kiev's latest choices in terms of foreign policy is affecting the Russian minority in those regions: the economy of the country is going to worsen, thus the welfare of the Russian ethnic is in danger (Walker, 2013).

As Yanukovych changed his plans of signing the AA with EU, following a secret meeting with the Russian part (Spiegel International, 2013), huge protests swept the country, the main demand of the population being Yanukovych resignation. On 22<sup>nd</sup> of February 2014, the Ukrainian people got what they asked for: their president flee the country immediately after he signed an agreement with the opposition parties. In this context, exploiting the situation (Kofman *et al.*, 2017), on 18<sup>th</sup> of March Russia, after a so-called referendum, officially annexed Crimean Peninsula<sup>10</sup>.

## United Nations

UN held a Security Council session a day prior the Referendum Russia planned in Crimea. However, the outcome was clear before the voting session: Russia, through its veto power, blocked the Resolution, while China abstained (United Nations, March 15, 2014). The second option was a vote in the General Assembly. On 27<sup>th</sup> of March 2014 with "*100 in favour to 11 against, with 58 abstentions, the 193-member Assembly called on 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 16 March referendum.*" (United Nations, 2014a). Through resolution 68/262, UN General Assembly, without referring explicitly to Russia, was calling for a common response and shared position towards the territorial integrity of Ukraine (United Nations, Resolution 28/262, 2014). Since the first meeting of the General Assembly, UN held sessions every year, its member states reiterating their disagreement on the illegal annexation of Crimea.

## NATO

In March 2014, NATO held three meetings *condemning* (NATO, 2014), *discussing* further security threats emerging from the situation created by Russia (NATO, 2014a) and rejecting Russian *illegal and illegitimate* referendum in Crimea, calling for a de-escalation of the situation and cessation of all military operation affecting Ukraine's territorial integrity (NATO, 2014b). Moreover, as in the case of the Russian aggression on Georgia, NATO decided to suspend practical civilian and

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<sup>10</sup> Preparation for this to happen were made during earlier that year, Russia preparing the terrain with military personnel and secret services, cutting the internet ties of the Peninsula with Ukraine and other measures.

military cooperation within NATO-Russia Council, but keep an open *dialogue* with Moscow on political and military matters (NATO, 2022a). In managing the crisis, NATO held discussions with both parties, Russia and Ukraine. However, the Alliance naturally chose the Ukrainian side strengthening the relations with Kiev. Concerned about the possible evolution of the situation, NATO “sent AWACs surveillance aircraft to southeast Europe to better observe the Russian offensive.” (Volker, 2014).

Ukraine was not part of NATO, consequently NATO – in accordance with its founding act – could do almost nothing to stop Moscow actions. The rapid deterioration of the security situation in the Black Sea Region generated a greater impact inside NATO than outside the Alliance. Thus, the Member States, short after the annexation of Crimea and breakout of war in Donbass, at Wales Summit (4-5 September 2014), shifted the Alliance’s strategic vision. The main change, motivated by the Russian aggression over Ukraine, consisted in reorienting the Alliance toward *defense and deterrence* through the adoption of Readiness Action Plan (RAP). At the level of the Alliance, RAP is considered “the most significant reinforcement of NATO’s collective defense since the end of the Cold War” (NATO, 2021). The most active states were those on the eastern flank (Baltic States, Poland and Romania). As a result, the Alliance decided to establish permanent presence, shifting the perspective from *reassurance* (inward oriented) towards *deterrence* (outward oriented) (Gressel, 2019).

## OSCE

In March 2014, Kiev asked OSCE to appoint a special delegation formed by OSCE Member States representatives to visit the country. Based on the Vienna Document of 2011 (chapter III Risk Reduction), the delegation was supposed to hold voluntary meetings on the ground, aiming to remove concerns about a military action in the region (OSCE, 2015).

Immediately after Russia declared Crimea as its territory and war broke in Donbas, OSCE member states proposed a special OSCE monitoring mission in Ukraine. However, the understanding of the mission responsibilities was subject to debate between the member states. On one side, OSCE members, except Russia were seeing Crimea as part of Ukraine, thus the mission was supposed to operate on the Peninsula too. On the other side, Moscow rejected any prerogative of the mission over Crimea, reiterating the fact that the referendum stated clearly that Crimea was part of Russia since 18<sup>th</sup> of March 2014 (Umland, 2021, p. 7).

OSCE had its focus on the observatory and humanitarian dimension. Currently, the High Commissioner on National Minorities is searching for option to visit the Peninsula every year in its effort to monitor and take notice on the situation of minorities in the region (OSCE, 2015). For example, OSCE representative is

focusing on the Crimean Tatars that were reportedly victims of the Russian authorities (Sadovskaya and Pfeilschifter, 2020).

## 2. Implications

The cases presented above are as different as possible. A short analysis will bring out the various causes, actions and actors involved. However, the purpose of this research was not to provide another historical dimension to the already highly covered events. The focus is on the means and impact of the involvement of international organizations. For each case, I will attempt to answer to each question proposed at the beginning of this paper. Moreover, I will embark on the endeavor for a short analysis of the events, from the perspective of the international organizations.

### **The Balkans - Kosovo case**

Main combatants: Yugoslavia vs Kosovo

#### *1. How did the international bodies became part of the resolution of the conflict?*

The Balkans were always a focus point for the international community. However, during the Yugoslav period the region was rather stable. The perspective of a possible destabilization appeared in the 80's when the power struggle within the Federation started. After the wish of its republics (Slovenia, Croatia, Macedonia) to become independent and the aggressive response from the leadership in Belgrade, the international organizations got involved in the area.

#### *2. At what point of the conflict the international bodies got involved?*

In the case of Kosovo the roots of international implication go back in the late 80's and early 90's when the first signs of political torment started to appear within Yugoslavia. However, the involvement was not even. While OSCE and UN were the first to step in mainly to keep under observation the security situation, NATO took a bold decision by acting unilaterally in bombing Serbia over the high probability that Belgrade will tolerate, and even order, an ethnic cleansing in Kosovo.

#### *3. What kind of measures implemented the international organizations? Did any of these measures influenced the political, diplomatic or military behavior of the parties involved?*

Each international forum reacted in accordance with the instruments it had. On one hand, UN and OSCE provided expertise and worked as peacekeeping forces, observatory mission and humanitarian aid providers. On another hand, NATO, through its military capabilities and based on recent precedents (Bosnia), had a decisive approach: military action. On a hindsight, no other organization could have done this. However, one cannot argue that one action was more relevant/important than another. On short term, NATO's actions were decisive for stopping an imminent threat. On long term, UN, OSCE and NATO efforts combined were/are more relevant for the stabilization of the region.



As for the impact on the states, it is hard to assess that UN and OSCE resolutions had a real impact on deterring Belgrade from its actions. Nevertheless, the military bombing had a clear effect: Belgrade sign an agreement regarding Kosovo, ceasing all violent actions and accepting further international involvement in solving the status of the region, including special autonomy. In the case of Kosovo, the military power was the main deterrence and the reason of a drastic shift in Milosevic's policy. As far as it concerns the recognition of Kosovo as a distinctive political entity, the debate is much wider and many other questions are to be answered, but there is no doubt that Kosovo's road to independence was if not cleared, at least favored by the international organization's actions.

### **South Caucasus – Georgia Case**

Main combatants: Georgia, South Ossetia armed structures, Russian Federation

#### *1. How did the international bodies became part of the resolution of the conflict?*

The dismantling of Soviet Union in early 90's brought to live many ethnic and territorial disputes of which the international organizations were aware of. The UN and OSCE appointed special monitoring missions since the 90s. However, their mandate was limited. The involvement of UN and OSCE was made on voluntary basis or upon request, mostly from the Georgian part. However, these organizations had a limited range of activities that could perform and this was because of the limited resources, but also because the parties involved were not open for a foreign presence on their soil, be it the presence of an international organization.

#### *2. At what point of the conflict the international bodies got involved?*

OSCE tried to mediate the conflict before it even started. However, the actors involved were not interested. After the five days war, Russia's preference of EU rather than OSCE, highly limited OSCE actions. As far as NATO is concerned, it did not become part of the conflict, but rather a complementary actor, without a direct impact.

#### *3. What kind of measures implemented the international organizations? Did any of these measures influenced the political, diplomatic or military behavior of the parties involved?*

International organizations actions in the case of the Georgian conflict were limited to diplomatic, political, humanitarian and economic means. UN and NATO issued public statements on condemning Russian aggressiveness towards Georgia. NATO limited its cooperation with Moscow, while it strengthened the relation with Tbilisi.

A deeper look into the NATO-Georgia relations brings up the misperception of the Georgian leadership – especially Saakashvili<sup>11</sup> – on the possible reaction

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<sup>11</sup> Saakashvili's decision to make a military move in South Ossetia appeared in the context of the newly independent Kosovo. The rapid recognition of Kosovo at the international level

coming from the Alliance. There have been a miscalculation about the willingness of the West to endorse Tbilisi with more than public declarations and diplomatic support.

OSCE was even more limited in action. Thus, not even the monitoring mission did not cover the entire combat area. OSCE Monitoring Mission was denied the access to South Ossetia and some part of Abkhazia. When Russia recognized South Ossetia and Abkhazia as independent, neither one of the organization could take action beside condemning Russia's decision. OSCE limitations were even more visible when, despite the fact it was aware of the worsening of the situation few days before the war broke, it could do nothing to prevent or to deter it.

### **Black Sea Region – Crimean Peninsula**

Main combatants: Ukraine vs Russian Federation

#### *1. How did the international bodies became part of the resolution of the conflict?*

OSCE and UN got involved in the dispute between Russia and Ukraine following the mounting tension between the two countries. On one side, considering the volatile security situation, the two international forums offered to supervise the ongoing crisis. On the other side, Ukraine, aware of the danger of being caught off guard by a Russian attack, asked for international presence on its soil.

#### *2. At what point of the conflict the international bodies got involved?*

The entire process of annexation of Crimean Peninsula lasted for about four weeks: military invasion, special operations of the secret services, isolation from Ukraine and formal proclamation of its incorporation into Russia after the referendum. During these activities, starting from early March, Ukraine's leadership summoned OSCE and UN to send special delegations that would deter possible Russian attacks. At the moment of the annexation the international organizations were informed about Russia's moves. However the range of actions they could take were not enough to change Moscow's plans.

#### *3. What kind of measures implemented the international organizations? Did any of these measures influenced the political, diplomatic or military behavior of the parties involved?*

Ever since Russia declared that it seized the Crimean Peninsula, UN issued a resolution on the matter. OSCE, based on Ukraine request, embarked on monitoring and reporting on the evolution of the security situation. However, all these measures were more than insufficient to change Moscow's plans. The Kremlin was ready to take the risk of international shaming than to lose the opportunity to take control over

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sparked fear within the Georgian leadership, making it worry that its own disputed territories may embark on the path of independence.

Crimea, which is well known for its geostrategic relevance in the Black Sea. Prior the events in March 2014, Moscow perfected a deal with the Ukrainian leadership at that time, which stipulated that Russia will use the port of Sevastopol for another 25 years and, in exchange, Ukraine will purchase natural gas from Russia at a better price. The unexpected revolt of the Ukrainian people against Yanukovich may have sparked fear for Russia. The possibility that the new leadership of Kiev to revoke the agreements made with Yanukovich administration, made Russia act, despite international threats.

As far as NATO reaction, its territory was not threatened, and there were no ground for an out of area operation as it as the Kosovo case. However, if the annexation of Crimea did not trigger a harsh response of the Alliance in relation with Russia, it did had an impact inside the Alliance. The shift from reassurance to deterrence was a clear sign that the relations between east and west could not be based solely on cooperation and mutual understanding.

## Conclusions

First, from the empirical perspective, the aim of this research paper was to analyze and evaluate the role of UN, NATO and OSCE in three major European conflicts that generated territorial changes during the last 30 years, starting from the hypothesis that international organizations are capable of influencing state behavior. Based on the questions proposed at the beginning I followed three perspectives: how did the international organizations got involved in the conflict (by their own initiative or upon request), at what point of the conflict and by what means. Regarding the last category, the paper envisions a dual approach: military and non-military means. For these three case studies, the *non-military* means did not work as a strong deterrent. Nevertheless, even though the rate of success based on this research is of one to two, it could not be concluded that the non-military means, used in any case, are not having any effect upon the targeted actor. The sticks and carrots of economic advantages are essential human rights violations, Hefner-Burton<sup>12</sup> argues (Hefner-Burton et al, 2008, p. 136) and in long-term situation, the non-military means can have a more advantageous effect than a military resolution.

Second, from the theoretical perspective, UN, NATO and OSCE are centralized and independent actors. There is no question that all three organizations listed above are meeting the *centralization* criteria. However, the *independence* feature must be regarded from multiple perspectives. For example, UN had the autonomy to condemn the Russian aggressions against Georgia and Ukraine, through the office of the Secretary General, but not through the Security Council – a structure

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<sup>12</sup> The study shows that repressive states tend to accept and implement higher human rights standards in exchange for better economic deals.

guided by great power politics. In the case of Kosovo, UN undergone political, diplomatic and economic sanctions against Serbia, but lacked the military capacity that could deter Milosevic's administration to cease the offensive over Kosovo (even if, after NATO intervention, UN sent the peacekeeping force in the area). Leaving apart the debate on the legitimacy of the NATO bombing and the collateral casualties of these actions, NATO influenced radically Belgrade's policies. Thus, while NATO achieved political and military independence in order to act, in the second case, the political independence of UN was not enough for a solution because the organization did not possess the military *independence* (understood as capacity to act).

For the future research, a similar endeavor could be dedicated to the impact of international dynamics upon the international organizations. The fact that the state was considered the main and only relevant actor in world politics generated an abundance of research studies on measuring and evaluating the impact of international dynamics on each nation-state. However, less attention was attributed to the probable effects on other actors such as international organizations. In the cases presented above, NATO seemed to be one of the international organizations that went through a series of changes as a consequence of the international dynamics.

The paper presents mainly the first moments of each conflict and the immediate response of international organizations, without having an in depth evolution of the conflict across the years. The three cases presented are far from representing closed chapters in the history of the European Continent. In the future, it is expected that each international organization that was part – directly or indirectly – of these conflicts, to remain engaged and focused on possible resolutions.

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# THE MAIN INDICATORS OF THE ECONOMY DIGITAL TRANSFORMATION IN THE CONTEXT OF NEW APPROACH TO SUSTAINABILITY

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## Abstract

*The paper focuses on key questions to the contemporary challenges call for a shift from the current linear economic model to models that will see nature as a life support system for social prosperity within the ecological economy paradigm and digital transformation. The aim of the article is to present the model of open non-equilibrium socio-economic complex system and its sustainability conditions formalization in terms of an invariant coordinate system. As well as to present the results of a formalization of sustainable development monitoring using the energy flows changing analysis approach, and the impact of condition of digital transformation. The authors carried out an assessment of sustainable development and analyzed indicators of sustainable development and the level of digital and their correlation. When calculating the parameters, Eurostat data and UN databases were used. The authors presented the results and initial interpretation of the follow countries France, Sweden, USA, China, Russia. The paper reinterprets the significance of the digital transformation concept and further elaboration of the power approach for monitoring the socio-economic system development.*

**Keywords:** sustainability, energy flows, power, techno-economical paradigm, digital transformation

## Introduction

Humanity is now entering one of the most important periods in its history. The ideas and models of neoclassicism are being replaced by the updated approaches of Joseph Schumpeter, the provisions of ecological economics are being introduced into the concept of sustainable development more and more actively. The era of extensive growth and industrial development is coming to an end, and the modern

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economic system is in deep crisis. The ending Industrial Age was based on expanded reproduction and the involvement of all available resources in the economic turnover. But this stage in the development of the world economy is coming to an end. Until recently, industry required the creation of gigantic enterprises and social structures in order to take full advantage of economies of scale and standardization. Interchangeability became hallmarks of the second half of the 20th century. In this situation, the importance of the technologies level development increases. Possession of high technologies, especially leadership in them, means a strategic advantage in the modern world. The global COVID pandemic has led to an awareness and understanding of the importance for humanity to be prepared for impending challenges and develop sustainable development approaches in advance. In this regard, more and more clearly, contemporary challenges require a transition from the current linear economic model to models that will consider nature as a life support system for social prosperity within the framework of the green economy and digital transformation paradigm.

The methods currently used to assess the sustainability of the development of socio-economic systems do not provide an objective picture of regional and national development. Attempts by the EU countries to make an inventory of many economic, social, environmental and other additional factors in accordance with the concept of sustainable development are not successful. This determines the importance of the new approaches in developing a universal metric system, in which both quantitative values of individual factors and generalized estimates at different levels, up to the global one, can be used. Monitoring the achievement of sustainable development goals, managing this process and evaluating its effectiveness requires the development of appropriate systems of sustainable criteria and indicators. (Jermolajeva and Trusina, 2021). Today's global economy has put ecosystems and societies in a critical situation. The most obvious fact is that the greatest problems of our time, that are environment, using the resources and development of post-industrial digital society, cannot be understood in isolation. These are systemic problems, which means that they are interconnected and interdependent. Systemic solutions are needed to solve systemic problems.

In this regard, in this paper four topical research questions are formulated.

First. The division of the sustainable development system into three separate systems (Economics, Ecology and Society) and their separate reference cannot give an idea and understanding of the performance results and development perspectives of the whole socio-economic system. This is not in line with a *systematic approach*.

Second. In today's changing world, in order to talk about the sustainable development of a socio-economic system, all processes must be seen and measured in terms of an *invariant coordinate system*. If this coordinate system is constantly changed, and this is exactly what happens in the money/process coordinate system, then we will not be able to measure the effectiveness of sustainable development, to develop a monitoring system.



Third. The main purpose of introducing indicators is to assess a situation or event in order to forecast the development of the current situation and to develop solutions to existing problems. To date, there is no single universal reasonable approach to setting *quantitative criteria for determining the degree of sustainability* of development. All sustainable development indicators are obtained by different methods and are measured in different units. This approach is not enough to understand the nature of the processes, their management and monitoring.

Fourth. Contemporary challenges call for a shift from the current linear economic model to models that will see nature as a life support system for social prosperity within the green economy paradigm and digital transformation. It is necessary to understand *what place the concepts of digital transformation* occupy in these processes.

The aim of the article is to present the model of open non-equilibrium socio-economic complex system and its sustainability condition formalization in terms of an invariant coordinate system. As well as to present the results of a formalization of sustainable development monitoring using the energy flows changing analysis approach, and impact of condition of digital transformation.

The countries were selected according to the following parameters: high level of GDP in the world and Europe (the USA, France, Sweden), high level of informatization (the USA, China, Sweden, France), growing economies (China, Russia).

The first part of the paper focuses on key questions concerning the concepts of techno-economical paradigm definition and digital economy. The second part considers the methodology of managing sustainable development by using the concept of energy flows or useful power changing in open, non-equilibrium socio-economic systems. The third part presents the main results and discussion.

## **1. Contemporary conditions for sustainable development**

### **1.1. Development and techno-economical paradigm**

According to the theory of technological revolutions and techno-economical waves (Perez, 2013), the world is constantly undergoing a successive change of technological revolutions that have certain periods and phases of development. At the same time, the periods of formation and deployment of the technological revolution are accompanied by a change in the old technical and economic paradigm of the previous technological revolution to a new one. Such a paradigm shift implies large-scale and fundamental economic, institutional and technological changes, including the transformation of the traditional methods of organizing and doing business (Perez, 2009). Techno economical paradigm (TEP) is group of technological aggregates that are distinguished in the technological structure of the

economy, connected with each other by the same type of technological chains and forming reproducible integrity.

Each TEP is a holistic and sustainable formation, within which a full production cycle is carried out at the macro level, including the extraction and production of primary resources, all stages of their processing, and the production of final products that satisfy the corresponding type of public consumption. As a result of the transition to a new technological order, there is also a transition to new types of energy carriers, which lay the resource basis for the formation of the next TEP. The presentation of long-term technical and economic development as a process of changing technological patterns allows us to measure the processes of long-term economic development. The results of these studies revealed the formation and change of five technological modes, including the currently dominant technological mode of information and electronics (Table 1.). This approach made it possible to reveal the structure of a new technological order, the development of which will determine economic growth in the coming decades (Glazyev *et al.*, 2018). The change of technological patterns in the course of modern economic development is characterized by key technologies for converting energy into work, which is the core of the energy paradigm. It can be concluded that the transition to the next sixth technological mode occurs through the formation:

- of new technology platform;
- of new economy model;
- of new currency model;
- of new model for interrelationships between environment and society.

An important, or may be core, connecting element of all changes in the upcoming transition is information technology and digital transformation.

**Table 1. Techno-economical paradigm time series and main core pattern**

<b>TEP</b>	<b>start terms</b>	<b>Core Technology pattern</b>	<b>of Core Energy pattern</b>	<b>of Next core of Energy pattern</b>	<b>Core Management pattern</b>	<b>of</b>
<b>I</b>	1771	Iron processing	Biomass		Mechanization	
<b>II</b>	1829	Metallurgy	Steam engine	Coal	Concentration	
<b>III</b>	1875	Steel production	Coal	Oil-Gas	Standardization	
<b>IV</b>	1908	Automobile	Oil-Gas	Electricity	Production line	
<b>V</b>	1971	Electronic	Electricity	Nuclear energy	ITC technologies	
<b>VI</b>	2020-future	Nanotechnology	Nuclear energy	New energy sources	Digital economy	

*Source:* Authors' construction based on literature review.

Along with the transition to a new technological paradigm, solving problems can be associated with the use of the technological factor in the concept of advanced development, within the framework of the ecological economy and digital transformation. The concept of advanced development is being built as a reindustrialization strategy and an institutional dynamics strategy. Advanced development is a concept that implies a high rate of economic growth in the medium and long term due to qualitative changes in institutions and the structure of the economy (Kolganov and Buzgalin, 2010). Technology is an important part of the advanced development concept. New technologies and the specialization of new knowledge underlie the implementation of the proactive strategy and make it possible. It is the ability to ensure advanced development based on permanent technological renewal that becomes the main contemporary driver in the development of both an individual economic entity, and a region and a state.

Today, the world is on the threshold of the sixth technological mode. Its contours are just beginning to take shape in the United States, Japan and China, and are characterized by a focus on the development and application of science-intensive „high technologies”. Readiness for the transition to the next technological stage in the basic section of energy resources, according to the conclusion of the authors, can be determined by the following factors:

- the share of electricity use in final consumption and the rate of increase in this share.
- the main determining generators of electricity, primarily clean technologies and nuclear energy

## **1.2. Development and economy digital transformation**

The digital transformation of the world’s economy is the next stage of its global development, and a characteristic feature is the desire to overcome the limitations of economic expansion on the part of industrialized countries in the existing techno-economic paradigm. The process of digital transformation of the world economy as a new model of world economic relations, the material basis of which is new digital technologies, and information acquires the status of a key resource in social and economic processes. Politics, legal norms, traditions, culture, the level of economic development and education, as well as the technological basis play a significant role in the transformation of an economy or country. As a result of the digital transformation of the global economic architecture of the new digital economy scheme, which is characterized by exponential growth in data flows. Under these conditions, it is not the very fact of the existence of a resource that becomes important for economic entities, but the availability of data about this resource and the possibility of using it to plan their activities. The main definitions of digital transformation (see Table 2.) include the following basic concepts:

- a fundamental change in the structure of the economy;

- personalizing all the process of digitalization;
- the introduction of digital technologies in all aspects of human life;
- transformation of the culture and business processes of the companies.

**Table 2. The economic digital transformation definitions development**

Definition	Information source
Digital transformation is a manifestation of qualitative, revolutionary changes, which consist not only in individual digital transformations, but also in a fundamental change in the structure of the economy, in the transfer of value-added centers to the sphere of building digital resources and end-to-end digital processes.	World Bank Group <sup>1</sup>
Digital transformation is a continuous process of multimodal implementation of digital technologies that fundamentally change the processes of creating, planning, designing, deploying and operating public and private sector services, making them personalized, paperless, cashless, eliminating physical presence requirements, based on the consensus of the parties.	UN specialized agency for ICT ITU <sup>2</sup>
Digital transformation - significant changes in all sectors of the economy and society as a result of the introduction of digital technologies in all aspects of human life.	European Parliament <sup>3</sup>
Digital transformation is the process of using digital technologies to create new or change existing business processes, culture and customer experience in accordance with changing business and market requirements. This is a rethinking of business in the digital age - digital transformation.	SalesForce <sup>4</sup>
Digital transformation is the process of using digital technologies to transform existing traditional and non-digital business processes and services, or create new ones, in line with the changing market and customer expectations, thereby completely changing the way businesses are run and managed and how value is delivered to customers.	Whatfix <sup>5</sup>
Digital transformation is a broad business strategy applicable across all industries to solve traditional business challenges and create new	PTC <sup>6</sup>

<sup>1</sup> World Bank (2022), World Bank, Digital Development Overview: Development news, research, data, <https://www.worldbank.org/en/topic/digitaldevelopment/overview>.

<sup>2</sup> UN ICT (2021), UN specialized agency for ICT ITU, <https://www.itu.int/hub/>.

<sup>3</sup> European Parliament (2021), European Parliament, Retrieved: <https://www.europarl.europa.eu/news/en/headlines/priorities/digital-transformation>.

<sup>4</sup> SalesForce (2022), <https://www.salesforce.com/products/platform/what-is-digital-transformation/>.

<sup>5</sup> Whatfix (2021), <https://whatfix.com/digital-transformation/>.

<sup>6</sup> PTC (2022), <https://www.ptc.com/en/industry-insights/digital-transformation>.

opportunities through the use of technology. This requires adopting entirely new ways of working and delivering value to customers.

Digital transformation is not only an investment in new technologies, but also a deep transformation of products and services, organization structure, development strategies, customer relations and corporate culture. In other words, this is a revolutionary transformation of the organization model. RBC<sup>7</sup>

Digital transformation transforms not only the technologies used, but also the culture and business processes of the company. This is a fundamental rethinking of the customer experience, business models and operations. It is a search for new ways to create value, generate revenue and improve efficiency. SAP<sup>8</sup>

*Source:* Authors' representation based on literature review.

Currently, there is a rapid development of a new digital technological revolution, associated with fundamental changes in all socio-economic institutions, and sometimes even with the formation of new ones. The ongoing technological changes bring certain challenges in all areas. The main factors and key changes in the digital transformation of the economy (Shome and Shah, 2019), which significantly affect the conditions and the development of new conditions, include mobility, datafication, computerization, artificial intelligence, speed of process, ecosystem (see Table 3) (Kolganov and Buzgalin, 2010). A special place is occupied by another factor that causes specific economic effects for digital transformation processes - this is the network revolution, or networking.

**Table 3. Key factors of the economy digital transformation**

Key factor	Factors description
Mobility	Internet connectivity
Datafication	Growth in the amount of information
Computerization	Growth in computing power
Artificial intelligence	The processing of large amount of information
Speed	Acceleration of economic processes
Ecosystem	Complex innovation environment
Networking	Network technologies,

*Source:* Authors' representation based on Kolganov and Buzgalin, 2010.

McKinsey Global Institutes reports on the role and impact of information technology development on labor productivity have not shown a global and significant increase in productivity over the past 20 years. (MGI, 2018). After nine

<sup>7</sup> RBC (2021) retrieved <https://www.jll.ca/en/case-studies/royal-bank-of-canadas-digital-transformation>.

<sup>8</sup> SAP (2021) retrieved: <https://www.sap.com/insights/what-is-digital-transformation.html>.

years of recovery from the Great Recession, productivity growth remains close to historic lows in many advanced economies. Productivity growth is critical to raising wages and living standards, and helps increase consumer purchasing power and increase demand for goods and services. Thus, the slowdown in labor productivity growth reinforces fears about the impossibility of further economic growth. Growth in production was observed mainly in the service sector, in the financial sector and in industries that ensure the development of information technology. It can be said that information technology has not significantly affected food production and metal smelting. At a time when productivity is stagnating around the world, perhaps after all, artificial intelligence and automation can become a lifeline. These cutting-edge technologies promise lower costs, more efficient business processes and innovative new business models. But at the same time, the introduction of these technologies will change the usual pattern of work, requiring a completely different set of skills and abilities.

Undoubtedly, the digital transformation of the economy is important for development on a global scale, and at the moment a platform is being created for the transition to a new technological order. Advanced development based on digital transformation is an important factor in the future development of the global economy.

## **2.The new approach and research methodology of sustainability**

### **2.1. Open complex system**

Systematic and long-term sustainable solutions are needed to build and develop sustainable communities built in the world. Fritjof Capra (Capra *et al.*, 2017) calls it a “systemic view of life” because it is based on “systemic thinking” or systemic thinking as thinking in relationships, models, and context. In our changing world, the economy must adapt to the constraints and principles of the environment, develop in accordance with the systemic principles of life in stable coordinate systems, using stable universal uniform measurements. According to the theory of complex systems (Thurner *et al.*, 2018), the basic principles of life and functioning of complex socio-economic systems are defined as follows:

- complex systems are usually open to the energy flows, they have a memory and can exhibit properties that produce behaviors which are distinct from the properties and behaviors of its parts;
- complex systems can be nested, the economic system is 'nested' in society and environmental systems and laws are 'higher' than economic laws;
- a complex system is a dynamic network and contains feedback loops;
- the relationship in a complex system is non-linear and a small perturbation can have a large effect, a proportional effect or even no effect.

In many cases, the idea of the complexity of the system is obvious. These include systems consisting of many interacting subsystems. A huge number of relationships leads not only to the complexity of the description, but also to a sharp increase in uncertainty in the dynamics of their development under the influence of the external environment. A fruitful method for describing such systems as a whole is the use of macro parameters, or collective variables, that reflect changes in the entire set of selected subsystems.

The dynamics of the selected subsystem's behavior can be represented as a consequence of the total reactions to certain and random influences, depending on the macroparameters and the vector of the current state of the selected system. Collective variables characterize the coordinated, coherent behavior of systems. It is necessary to single out a finite number of macro parameters, or collective variables, and establish a functional relationship between them. This will show how they reflect the average evolution of the subsystems involved in the formation of the system. All these processes take place and they can be identified at a higher hierarchical level of organization of the entire integrated system. In relation to specific selected subsystems, macroparameters act as control parameters that provide feedback on the impact on specific subsystems, depending on the state of the entire system as a whole. In this case, the dynamics of the system can be modelled as a process in a finite-dimensional space, depending both on the state of the subsystem and on changes in macro variables. Identification of such trends in models allows formulating rules and algorithms that make it possible to achieve the final goal.

Another feature of open dynamical systems is that they do not disintegrate under the influence of strong random influences and retain the defining, vital indicators. For open dynamical systems consisting of a large and constant number of subsystems, an integrated function distributed over time and space can serve as such a conserved indicator. This integrated function has a certain limited number of variables, and its functionality is preserved when any random actions are implemented. The ability to save some functionality is provided by established relations in open dynamical systems.

As macroparameters, or collective variables, within the framework of the socio-economic model are the characteristics of the energy resources (power) flows in the system. These flows include all of kinds energy resource consumption flows, power outputs and energy flow losses.

The integral indicator of the quality of life acts as a preserving indicator, or an objective function, or an integral function.

## **2.2. A new approach to the analysis of sustainability in the socio-economic systems**

Within the framework of the complex system theory, the concept of ecological economics and with aim to formalize the tasks of sustainable development, a

methodology for managing sustainability has been developed using the approach of analyzing energy flows (power) changes in open dynamic systems.

Based on the above formulated concepts, in the frame of complex dynamic system and the power changes' analysis approach for the analysis of life open systems (Appendix) is formulated follow:

- The value of total power, useful power, lost power and technological efficiency of the socio-economic system as a basis for constructing an invariant coordinate system
- Quality of life (QOL) per inhabitant in terms of power as a function of the useful power of the socio-economic system (created as a result of activities), life expectancy and environmental quality. The quality of life characterizes the current present state and the potential for development in the future;
- the system of power changes ( $dN$ ,  $dP$ ,  $dG$ ,  $df$ ) as a dynamic state and direction of development of the entire socio-economic system as a whole.

Based on the basic parameters, it is possible to formulate various socio-economic - natural system development trends (see Table 4.):

1. Growth Zero or stagnation - the absence of growth of the total produced product in a certain period of time, which indicates a positive shift.
2. Growth - an increase in total output, mainly due to an increase in resource consumption rather than an increase in the efficiency of their use.
3. Development - the increase in total output is mainly due to the increase in resource efficiency, not the increase in consumption.
4. Sustainable development - reproduction of innovative development in the long run by introducing advanced technologies and increasing the growth rate of useful capacity in the long run.
5. Degradation - the system cannot ensure the performance of its functions, development is hindered.
6. System collapse - the process of termination of the system.

**Table 4. Development trends of socio-economic natural systems depending on changes in the main indicators of power (energy flow) ( $N(t)$ ,  $P(t)$ ,  $G(t)$  and  $f(t)$ )**

Trend of the system	Trends cod	$N(t)$	$P(t)$	$G(t)$	$f(t)$
1 Growth Zero	Z	$dN = 0$	$dP = 0$	$dG \geq 0$	$df = 0$
2 Growth	G	$dN \geq 0$	$dP > 0$	$dG > 0$	$df = 0$
3 Development	D	$dN > 0$	$dP > dN > 0$	$dG > 0$	$df \geq 0$
4 Development Sustainable	SD	$dN > 0$	$dP > 0$	$dG < 0$	$df > 0$
5 Degradation	DG	$dN = 0$	$dP < 0$	$dG > 0$	$df = 0$
6 Collapse of system	SC	$N(t) > 0$	$P(t) = 0$	$G(t) = N(t)$	$df = 0$

Source: Authors' representation based on literature review.



All these parameters determine the direction of development of the socio-economic system and can be used as important parameters for assessing external influences. The following factors can be considered as external influences: - factors of digital transformation of socio-economic systems; - development and change of the energy paradigm; - changes in the structure of industrial capital; - changes in the structure of financial capital.

### The frame of parameters for sustainable development

Based on the above formulated concepts and the power changes' analysis approach for the analysis of life open systems (Appendix) is formulated and showed in Table 5 the basic framework of universal indicators for identifying and monitoring sustainable development.

**Table 5. Framework of universal indicators for sustainable development monitoring**

Definition	Designation	Unit	Formulae
Full power (as consumption)	$N(t)$	Watt	Appendix
Useful power (as production or GDP)	$P(t)$	Watt	Appendix
Losses of power (losses opportunities or impact on environment)	$G(t)$	Watt	Appendix
Technological efficiency	$f(t)$	%	$f(t) = P(t) / N(t)$
Quality of Life	$QoL(t)$	Watt /cap	$QoL(t) = U(t) * q(t) * T_A(t)$
Electricity consumption power as part of full power.	$E(t)$	%	$E(t) = N2(t) / N(t)$
Labor productivity	$HPH(t)$	Watt/cap	$HPH(t) = P(t) / ML(t)$ $ML(t) - \text{labour}$
Standard of life	$U(t)$	Watt /cap	$U(t) = P(t) / M(t)$
Life expectancy normalized	$T_A(t)$	x	$T_A(t) = LE(t) / 100$ LE- life expectancy
Quality of environment	$q(t)$	x	$q(t) = G(t) / G(t - 1)$

Source: Authors' representation n

In this paper, the interdependence of the Quality of life  $QoL(t)$ , productivity of the system  $PHP(t)$  and standard of life  $U(t)$  under the influence of digital transformation was considered.

### 3. Data and information

The calculation of sustainable development parameters was carried out using the data of the Central Statistical Bureau of the EU, the World Bank (The World Bank), database of the United Nations<sup>9</sup>.

To analyze the dependence of sustainable development parameters and the level of digital transformation, the report data of The IMD World Digital Competitiveness Ranking<sup>10</sup> were used.

The IMD WDCR measures the capacity and readiness of 63 economies to adopt and explore digital technologies as a key driver for economic transformation in business, government and wider society. The structure of the WDCR is built on three factors. The first factor, Knowledge, refers to the intangible infrastructure, which underlines the process of digital transformation through the discovery, understanding and learning of new technologies. The Technology factor assesses the overall context through which the development of digital technologies is enabled. Finally, the Future readiness factor, which examines the level of preparedness of an economy to assume its digital transformation. The following were used as the main indicators: Future Readiness (FUTURE) - the level of readiness of the country for digital transformation; Technology (EDT) - a general technological context that ensures the development of digital technologies; Knowledge (EDK) - the general context of knowledge and education that ensures the development of digital technologies; Digital competitiveness (DC) - competitiveness. The integral indicator of the digital economy (IIDE) was calculated as an average of those indicated above.

As additional parameters were chosen, index of sustainable development and Human Development Index. Index of sustainable development<sup>11</sup>. The Sustainability Index is defined in accordance with the data of the Sustainability Report, which is the first global study that assesses the position of each country in relation to the achievement of the Sustainable Development Goals (SDG). The SDGs set the standard not only for emerging market and developing countries, but also for industrialized countries.

Human Development Index (HDI)<sup>12</sup> was created to emphasize that people and their capabilities should be the main criteria for assessing the development of a country, and not just economic growth. The HDI can also be used to analyze national policy choices, asking how two countries with the same level of GNI per capita can end up with different human development outcomes. The Human Development Index is a summary measure of average achievement in key aspects of human

<sup>9</sup> UNDATA, United Nations Statistics Division. <http://data.un.org/>.

<sup>10</sup> WDCR (2019), IMD World Digital Competitiveness Ranking report, 2019, <https://www.imd.org/centers/world-competitiveness-center/rankings/>.

<sup>11</sup> SDR (2019), Sustainable Development Report, 2019, [sdgindex.org](https://sdgindex.org).

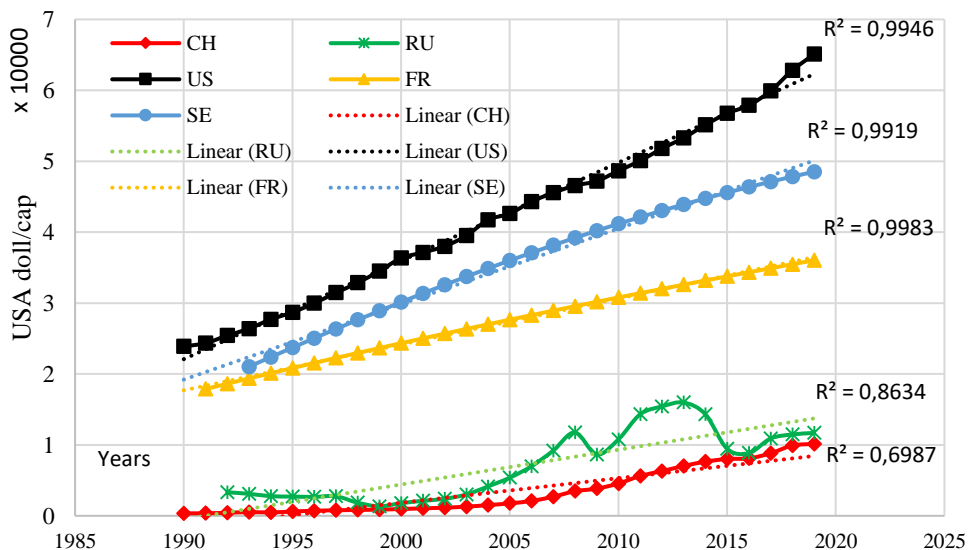
<sup>12</sup> HDI, (2019), Human Development Report, 2019, <https://hdr.undp.org/en/content/human-development-index-hdi>.

development: a long and healthy life, knowledge and a decent standard of living. The HDI is the geometric mean of the normalized indices for each of the three dimensions.

#### 4.Results and discussion

The calculation and primary interpretation of basic parameters system of sustainability was carrying out for the USA, Sweden, France, China and Russia. The growth of the GDP per capita for the period 1990-2019 is linear tendency for all selected countries with rather high coefficients of determination with values about  $R^2=0.99$  for the USA, France, Swede and about  $R^2 = 0.70-0.86$  for China and Russia (see Figure 1).

**Figure 1. Changes of Gross Domestic Capital GDP(t) per capita in the United States (US), Sweden (SE), France (FR), Russia (RU), China (CH) in period 1990-2019, USA dollar/capita x10000**



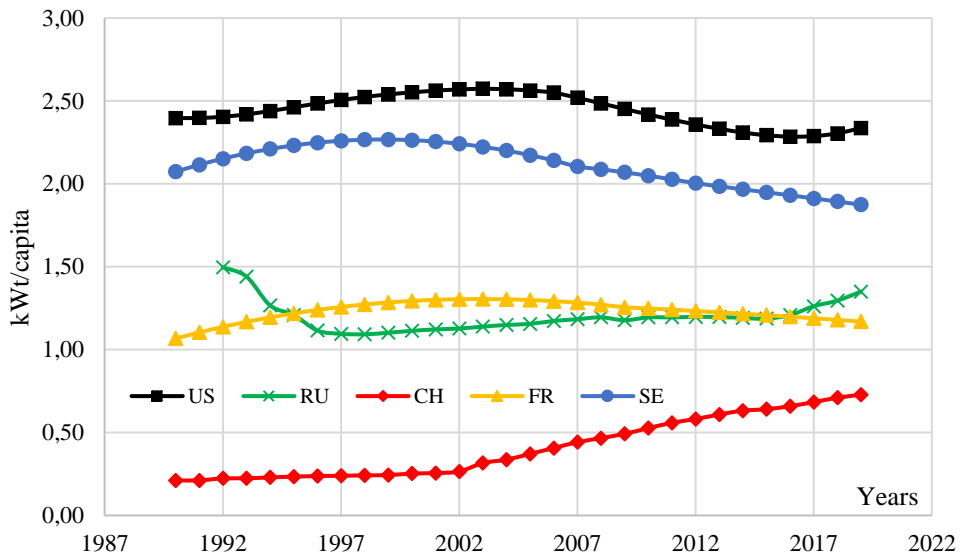
Source: Authors' representation based on EU Central Statistical Bureau and UNDATA data

The introduction of the term “power” into the formulation of sustainable development makes it possible to create an independent, invariant system of coordinates and units of measurement. The new coordinate system in watts allowed us to rethink and analyze the development of selected countries in the period 1990-2019 (see Figure 2).

The change in useful power per capita or standard of living for countries is non-linear, apart from linear changes for China since 2002. The standard of living in

Russia and France until 2012 has similar values. After 2012, the value for Russia increases, for France it tends to decrease. The calculated parameters of the standard of living for the USA, France and Sweden have a constant value until 2008 and after that there was a downward trend.

**Figure 2. Changes of Standard of life  $U(t)$  in the United States (US), Sweden (SE), France (FR), Russia (RU), China (CH) in period 1990-2019, kWt/capita**



Source: Authors' representation based on EU Central Statistical Bureau and UNDATA data

In accordance with the methodology (Appendix) and the table 5., the main indicators were calculated for the USA, Sweden, France, Russia and China. Countries were ranked according to quality of life indicators (see Figure 6). The United States shows a higher level of quality of life as a potential for development, despite lower other indicators.

The USA, Sweden and France have been on a "Growth Zero" trend for the past 10 years and a decrease in useful power produced per capita. These countries have a lower potential for advanced development with higher productivity, the development of the energy paradigm and the technological level. Russia and China are, respectively, in the stage of Growth and Development and, subject to advanced development, have great potential.

**Table 6. The calculated parameters of sustainable development for the United States (US), France (FR), Sweden (SE), Russia (RU) and China (CH) for 2019**

N	State	Trend	PHP	QoL	U	E	f1
		n/a	κWt/cap	kWt/cap	kWt/cap	%	%
1	<b>USA</b>	Z	4.9	1.8	2.34	21	37
2	<b>Sweden</b>	Z	8.6	1.4	1.87	32	42
3	<b>France</b>	Z	6.8	1.0	1.17	25	40
4	<b>Russia</b>	G	2.6	1.0	1.35	15	33
5	<b>China</b>	D	1.4	0.6	0.73	25	37

Source: Authors' calculations

The internal structure of the socio-economic system of Russia and China and their potential as a quality of life (QoL) and productivity (PHP) have been on the rise for the last ten years. The system in this state can more easily and quickly move to the stage of advanced development. The indicators of the share of electricity in the total flow of energy resources E and the technological level of the socio-economic system f1, corresponding to a certain level of the technological platform development, are the high values for the USA, Sweden and France. China's values have increased significantly over the past 10 years and in 2019 have values close to those of the United States.

A study of the level and potential of digital transformation of the economies of selected countries (see Table 7) was conducted using materials from the IMD World Competitiveness Center report, SDG report and HDI data for 2019. All indicators and indicators indicated in the table are numerical values corresponding to a certain place in the ranking. The data of Tables 6. and 7. shows that countries with a higher share of electricity in final consumption (the USA, Sweden, France, China) have a higher level of readiness for the digital transformation of the economy, which is in line with the conclusion of the authors.

**Table 7. Indicators of the economic digital transformation, the sustainable development (SDG) and human development index (HDI) for 2019**

№	State	The economic digital transformation indices						
		HDI	SDG	IIDE	DC	EDT	EDK	FUTURE
		x	x	x	x	x	x	x
1	<b>USA</b>	926	76	94	100	89	91	98
2	<b>Sweden</b>	945	85	91	96	88	90	89
3	<b>China</b>	761	72	79	84	73	78	81
4	<b>France</b>	901	81	77	82	80	76	70
5	<b>Russia</b>	824	74	68	70	59	75	56

Source: Authors' construction, using UNDATA, IMD, HDI and SDR data.

The analysis of correlation (see Table 8.) between calculated parameters of sustainable development, digital transformation indices, human development parameters and sustainable development progress showed:

- high level of correlation of the quality of life with the level of readiness of the country for digital transformation in future (FUTURE), a general technological context that ensures the development of digital technologies (EDT), the general context of knowledge and education that ensures the development of digital technologies (EDK) and digital competitiveness (DC);
- the system productivity (PHP) have high level correlation with a general technological context that ensures the development of digital technologies (EDT);
- human development index (HDI) and sustainable development progress index (SDG) have a high level of correlation with socioeconomic systems integrated parameters quality of life (QoL);
- the system standard of life (U) have high level correlation with a general technological context that ensures the development of digital technologies
- digital transformation and energy part parameters do not directly show a high level of correlation, but they are indicators of basic changes in improving the quality of life and potential opportunities for development and digitalization

**Table 8. Correlation between calculated parameters of sustainable development and economic digital transformation indices on 2019**

	<b>HDI</b>	<b>SDG</b>	<b>DC</b>	<b>EDT</b>	<b>EDK</b>	<b>FUTURE</b>
<b>PHP</b>	0.738	<b>0.800</b>	0.688	<b>0.800</b>	0.682	0.543
<b>QoL</b>	<b>0.801</b>	0.726	<b>0.836</b>	<b>0.827</b>	<b>0.843</b>	0.746
<b>E</b>	0.428	0.561	0.575	0.650	0.399	0.567
<b>U</b>	0.767	0.715	<b>0.814</b>	<b>0.800</b>	<b>0.835</b>	0.722
<b>f1</b>	0.407	0.528	0.508	0.622	0.271	0.496

Source: Authors' calculations

An analysis of the correlation between the quality of life (QoL) and the human development index (HDI) for the period from 1990 to 2019 showed the following results

- a high level of correlation (0.99) for countries with a Growth and Development trend (China);
- a low level of correlation (-0.288) for countries with a Growth Zero trend over the past 10 years (USA, France).

## Conclusions

The analysis of the existing state of the problem showed the followings. Deeper analysis and further construction of natural socio-economic systems within the framework of complex systems' theory makes it possible to appropriately develop and practice models for their study as complex nested nonlinear socio-economic systems.

The introduction of the term “power” in the formulation of sustainable development allows creating an invariant system of coordinates and units of measurement (watts), which allows you to create a measurable relationship between needs and opportunities, as well as a system of indicators and criteria for sustainable development. The new coordinate system in watts allowed to reimagine and analyze the development of selected countries in the period 1990-2019.

Based on the formulated concepts, Quality of life in terms of power is a function of the useful power of the socio-economic system (created as a result of activities), life expectancy and environmental quality. The quality of life characterizes the current present state and the potential for development in the future

The quality of life as an integral parameter, productivity and standard of life correlates with indicators of the economy digital transformation.

Within the framework of the proposed invariant coordinate system in watts, a basic system of indicators for monitoring the sustainable development of natural socio-economic systems was developed. Base indicators were calculated and primary interpreted for the United States, France, Sweden, Russia, China.

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## Appendix.

### The description of system power changing analysis approach

According to the definitions of the natural sciences, all living systems - nature and society - are open, stable, unbalanced and dynamic systems. And so, it is natural to use the laws of living systems to create sustainable development technologies. There is no closed living system in nature that has no energy inflows and outflows with zero power (energy flow). The law of conserving of energy applies only to systems that are closed to energy flows and cannot serve as an adequate measure of open, living systems.

At present, the inconsistency or inconsistency of the measures of heterogeneous systems (social, economic, ecological, etc.) is the cause of the rupture of links, resulting in social systems being controlled in isolation from the general laws of living systems, ultimately leading to a global systemic crisis. This gap can be bridged by measuring the nature of living systems. According to Bauer (2002), the characteristic of living systems is that they work against the expected equilibrium using free energy. Based on the principle of stable imbalances, the main characteristic of energy flows circulating in living systems is their ability to perform external useful work or work capacity or useful power.

Based on the concepts formulated above, the analysis of sustainable opens socio-economic systems using a power and energy flow approach is based on three main rules:

1. *The principle of energy flow (power) conservation* (Kuznetsov, 2015), which stipulates that, in the process of development of a socio-economic system (as a living open system), the incoming to system energy flow (total power)  $N(t)$  during period  $\Delta t$  is equal to the sum of the output useful energy flow (power)  $P(t)$  and the power loss  $G(t)$ , according to equation (1):

$$N(t) = P(t) + G(t) \quad (1)$$

2. *The principle of development conservation* (Podolinsky, 2004; Vernadsky, 2006). The development of the socio-economic system is conserved under the following conditions, that the spatial and temporal dimensions of system quality were maintained and that a continuous increase in full power transformation efficiency  $\varphi(t)$  was maintained, according to equations (2,3):

$$\varphi(t) = P(t) / N(t) \quad (2)$$

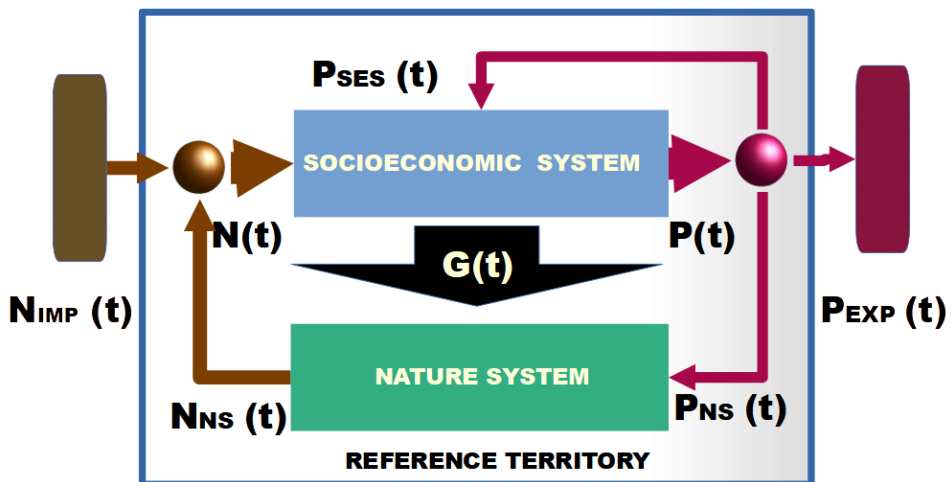
$$\Delta\varphi(t) = d\varphi(t) / dt > 0 \quad (3)$$

3. *The principle of sustainable development* (in power measurements) (Bolshakov *et al.*, 2019). Sustainable development is a continuous process of increasing the opportunities to meet the current needs of the existing socio-economic system in power measurements, without compromising the ability to meet needs for future generations, while increasing the efficiency of using the full power of the system, reducing power losses and not increasing consumption in the face of negative external and internal influences.

### The power and flows of energy for life open socio-economic system

From the principle of energy flow (power) conservation, we create a model of power or energy flows for open dynamic socioeconomic system (see Figure 1.). The full power  $N(t)$  of the consumed energy resources of the socio-economic system and the rate of change of capacity are a function of the population  $M(t)$  and the structure of the economic system. The full power consumption  $N(t)$  within the socio-economic system is used and transformed with variable efficiency  $\varphi(t)$  into useful power  $P(t)$ . Net power  $P(t)$  (measure of activities) means the real power or gross product produced that could be used to increase the capacity of the system or to affect the environment. After the  $N(t)$  power conversion and transformation, the system loses part of the power  $G(t)$  - lost opportunities. The amount of power available to the system is a measure of the potential environmental impact of the system.

Figure 1. The power and flows of energy for open socioeconomic system



Source: Authors' representation based on literature review

### The frame of parameters for sustainable development

According to the definition of the socio-economic system (SES), full power (needs or final consumption, potential)  $N(t)$  is the input power of total consumption of resources over a given period, expressed in units of power (Watt) and calculated according to formula (4):

$$N(t) = N1(t) + N2(t) + N3(t) \quad (4)$$

Where:

$N(t)$  - full power;

$N1(t)$  - power of fossil fuel consuming (machines, mechanisms and technological processes);

$N2(t)$  - power of electricity consumption;

$N3(t)$  - power of food consumption.

The useful power of a SES (gross output or real power) is the total output in watts (Watt) over time. Useful power is determined by the full power utilization efficiency according to formula (5):

$$P(t) = N1(t) * J1 + N2(t) * J2 + N3(t) * J3 \quad (5)$$

Where:  $J$  is energy transformation parameter for specific resources and defined as follows: for fuel  $J1 = 0.25$ , for electricity  $J2 = 0.80$ , for food  $J3 = 0.05$  (UNSC, 1974; Lindeman, 1942).

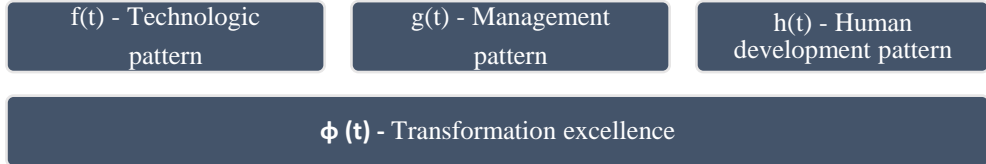
SES power losses  $G(t)$  is the difference between the total power of the system and the useful power expressed in watts (Wt.), calculated according to formulas (6):

$$G(t) = N(t) - P(t) \quad (6)$$

### The technological efficiency of social economic system

The definition of the parameter  $\varphi(t)$  - the parameter of transformation excellence characterizing the efficiency of the use of the full power of the continuous growth of the socio-economic system follows from the principle of preservation of development. The parameter of transformation excellence characterizes the internal structure of the social economic system, and is determined by the rules and parameters of the technological pattern by coefficient  $f(t)$ , the management pattern by coefficient  $g(t)$  and the human development pattern by coefficient  $h(t)$  (see Figure 2.).

**Figure 2. The structure of socioeconomic system technological excellence parameter**



Source: Authors' representation based on literature review.

The transformation excellence coefficient can be defined in general form as a function  $F$ , according to formulas (7):

$$\varphi(t) = F(f(t), g(t), h(t), A_f(t), A_g(t), A_h(t)) \quad (7)$$

where  $A_f, A_g, A_h$  are coefficients.

The management pattern in general form depends on the planning system, the share of state regulation, the share of monopolies. In a simplified version, it can take two values:

value 0 - if the decision was made incorrectly

value 1 - if the decision is made correctly.

In what follows, we will use the probability of a correct solution.

The human development pattern in general form depends on the education structure and other socio systems factors. As first level coefficients was used human development index (HDI) and sustainable development progress indicator (SDR).

The technological pattern of the socio-economic system in accordance with the proposed model includes three structural parts: energy part, industrial part, digital transformation part (see Table).

**Table 1. Technology pattern structure and main parameters**

Part of structure	Main parameters
<b>1 Energy part</b>	Electricity part in final energy consumption Hydro-, nuclear energy part in electricity production
<b>2 Industry part</b>	Industry part in GDP High-technology industry part
<b>3 Digital transformation</b>	Technological content Knowledge content Future potential Competition

Source: Authors' representation based on literature review.

The coefficients of the energy and industrial parts characterize the degree of development of the production and technological platform and the development of the present techno-economic paradigm. The parameters of digital transformation characterize the readiness to move to a new level of sociotechnical development. The complete system of model's parameters determines the efficiency of the system when transforming the consumption energy flow into useful power.

### The parameter of condition to support the system's sustainable development.

The principle of sustainable development is the base for definition of sustainability conditions for the socio-economic system. Thus, a system of sustainable development indicators with a constant power is defined, which characterizes the technological, economic, environmental, social and other possibilities and needs of a complex system. From a methodological point of view, this system is an effective tool for designing sustainable development in the system „man - society - nature”. The principle (criterion) of sustainable development is the statement that development is supported in the long run, subject to the following conditions, which can be formalized in the system of equations (8), (9), (10), (11),(12):

$$\left[ \begin{array}{l} \Delta N = N - N_0 = \frac{dN}{dt} \Delta t + \frac{d^2 N}{dt^2} \Delta t^2 + \frac{d^3 N}{dt^3} \Delta t^3 \leq 0, \quad \text{and} \quad \Delta N \leq 0 \quad (8) \\ \Delta P = P - P_0 = \frac{dP}{dt} \Delta t + \frac{d^2 P}{dt^2} \Delta t^2 + \frac{d^3 P}{dt^3} \Delta t^3 \geq 0, \quad \text{and} \quad \Delta P \geq 0 \quad (9) \\ \Delta G = G - G_0 = \frac{dG}{dt} \Delta t + \frac{d^2 G}{dt^2} \Delta t^2 + \frac{d^3 G}{dt^3} \Delta t^3 < 0, \quad \text{and} \quad \Delta G < 0 \quad (10) \\ \Delta \varphi = \varphi - \varphi_0 = \frac{d\varphi}{dt} \Delta t + \frac{d^2 \varphi}{dt^2} \Delta t^2 + \frac{d^3 \varphi}{dt^3} \Delta t^3 \geq 0, \quad \text{and} \quad \Delta \varphi \geq 0 \quad (11) \\ Q_oL = F(\Delta N, \Delta P, \Delta G, \Delta \varphi) \quad (12) \end{array} \right.$$

Based on the basic parameters, it is possible to formulate various socio-economic - natural system development trends (see Table 5.):

1. Growth Zero or stagnation - the absence of growth of the total produced product in a certain period of time, which indicates a positive shift.
2. Growth - an increase in total output, mainly due to an increase in resource consumption rather than an increase in the efficiency of their use.
3. Development - the increase in total output is mainly due to the increase in resource efficiency, not the increase in consumption.
4. Sustainable development - reproduction of innovative development in the long run by introducing advanced technologies and increasing the growth rate of useful capacity in the long run.

5. Degradation - the system cannot ensure the performance of its functions, development is hindered.
6. System collapse - the process of termination of the system.

# INSTITUTIONAL REFORM OF THE EU COUNCIL PRESIDENCY IN TIMES OF CRISIS - PROSPECTS BROUGHT ON BY THE CONFERENCE ON THE FUTURE OF EUROPE

Ana-Cristina TUDOR\*

## Abstract

*The focus of this research is on the role of the EU Council Presidency – beginning with the founding of the European Coal and Steel Community and continuing with its subsequent evolution and changes, brought on in particular by the Lisbon Treaty, all the way to the possible developments that the Conference on the Future of Europe may bring to bear. The purpose of this paper is to examine how various large-scale crises (Brexit, the COVID-19 pandemic and the ongoing military aggression by Russia against Ukraine) might have affected the process of treaty reform after the Lisbon Treaty entered into force, including those related to the structure and functioning of EU institutions, with a special focus on the Presidency of the Council of the European Union. In this endeavour, the paper relies on document analysis from official sources of those member states that held EU Council presidencies and on official documents issued by the other EU institutions.*

**Keywords:** Council of the EU, crisis, institutional reform, Lisbon Treaty, Conference on the Future of Europe

## Introduction

Concentrating on the history of the Council of the EU's role in the European institutional framework, this paper aims to highlight the most relevant changes introduced by the Lisbon Treaty while analyzing their effectiveness during current crises with a focus on possible future reforms of the EU institutions.

Thus, this endeavour will consider some of the more recent and significant crises that have affected the Union, demonstrating that the considerable efforts on the part of all EU institutions and member states in order to properly manage their impact generated the side effect of distracting it away for a long period of time from the analysis of treaty changes that might be currently necessary.

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The crises under analysis here are Brexit, the COVID-19 pandemic (starting from early 2020) and the ongoing military aggression by Russia against Ukraine. Focus remains on the functions of the Council of the EU and on the tasks of the EU Council Presidency. Some of the main elements introduced by the Treaty touched upon in this paper are referring to changes which, as indicated by relevant authors in this field, weakened the role played by the member state holding the EU Council Presidency - the increased importance of the European Council as an official institutional actor of the EU and the creation of a stable Presidency of the Foreign Affairs Council with the main task of managing the external actions (Bărbulescu, 2015; Fabbrini and Puetter, 2016), the development of the trio programme of the Presidencies of the Council of the EU (Gruisen, 2019; Batory and Puetter, 2013; Pasarín, 2011), or the important role of the EU Council Presidency as a balance of power between large and small member states holding the Presidency of the Council (Svetličič and Cerjak, 2015; Bunse, 2009). At the same time, the research underlines that in recent years it has become necessary for the EU Council Presidency to adapt its agenda to different types of emergency situations which have impacted the European and the global arena. The paper also draws attention to the fact that having to deal with unprecedented crises which generate important pressure on the activity and resources of all EU institutions, the working process developed in the institutional framework established by the Lisbon Treaty for the last thirteen years is necessary to be conducted as swiftly and effective as possible or even to get improved in order to adapt and better manage future challenges.

In order to collect as much relevant information as possible, research has focused on an examination of official documents – trio programmes, press releases and other relevant information from official sources, as provided on the website of each member state that held the six-month Presidency of the EU Council (such websites having been created especially for communication all through the Presidency) during the period the crises under analysis took place. At the same time, research has focused on official documentation issued by other relevant EU institutions.

While the literature on the Presidency of the Council, on the institutional changes after the Lisbon Treaty, as well as on the dynamics of the mandates, including during the trio, is well developed, this paper focuses on the impact which the more recent evolutions might have on these processes. Therefore, the novelty brought by this research is represented, on the one hand, by the attention given to the most recent crises which impacted the EU – Brexit, the COVID-19 pandemic and the war of Russia against Ukraine, on which few literature is available, and, on the other, by the fact that it analyses possible future reforms related to the structure and functioning of the EU institutions on the aspects under scrutiny in this article, specifically those generated by the results of the Conference on the Future of Europe, launched on 9 May 2021 and concluded on 9 May 2022.



## **1. The evolving structure and functions of the EU Council**

From an institutional perspective, the Council of the European Union is an interesting structure among all the rest, by virtue of its dual nature – being both a Community institution, with tasks and responsibilities arising from Community rules, and an institution representing member states (Bărbulescu, 2008, p. 231). The exact balance of the Council's two roles, and the way in which it manages both of them, are analysed in this research, with reference especially to Treaty amendments.

### **1.1. Relevant changes in the design of the Council from its creation until the present time**

In terms of the evolution of EU institutions, what is most relevant to this analysis is the historical moment when, for budgetary and efficacy reasons, a separate Council and Commission were established for the European Community by the 1967 Brussels Treaty (Journal Officiel des Communautés Européennes, 1967).

With regard to the term of office for the rotating Presidency of the Council of the EU, as first mentioned in the Treaty establishing the European Coal and Steel Community, the mandate was one of three months – in an alphabetical order of the member states (Journal Officiel des Communautés Européennes, 1951). Later, however, as mentioned by Sauron (2010, pp. 212-213), experience proved that a quarterly term of office did not allow the Presidency to properly perform its duties. As a consequence, the 1957 Treaty of Rome extended the term to a total of six months.

According to Kollman (2003, pp. 52-53), the criticism most often expressed around the length of the EU Council's term of office was one related to the impossibility of building something sustainable. In general, criticisms are primarily centred around the effectiveness of the institutional procedure.

On the significance of holding the Presidency of the EU Council, according to Cini and Borragán, “the Presidency is a great example of the Council's enigmatic identity, since the country holding the position must simultaneously work to advance collective European solutions and be on the lookout for a particular set of national interests” (2010, p. 148), while those member states that succeed in finding the right balance during this mandate are able to accumulate significant political capital and respect at EU level. The main task of the EU Council Presidency to work in order to reach a compromise as a result of intense formal and informal contacts with the other member states is often underlined (Kleine, 2013, p. 134).

Concerning the working procedure of the Council of the EU and the way it evolves at an informal level, Cini and Borragán emphasize that the Council is different than the sum of the member states and that, in addition to the particular national interest on different topics, Council participants are also developing collective interests in the decision-making process. “In short, the member states who participate

in the system also become socialized into a collective decision-making system” (2010, p. 145).

In addition, Lewis (2003, p. 1004) points out that a significant role in the architecture of the Council is played by the General Secretariat of the Council, largely based on the process of informal integration. In terms of its role and authority, the General Secretariat of the Council has been noted for its support of the rotating presidency – providing legal advice and counselling – as well as its contribution in producing compromise agreements.

Referring to the Council's multiple roles – “as a partner of the Commission; as a club of governments; as a venue for competition and bargaining between governments and other political actors; as an arena for networked governance; and as a consortium for developing “transgovernmental” collaboration” – Wallace (2002, p. 325) compares the Council to an institutional chameleon. At the same time, some authors emphasize the “federal character” of the Council, taking into consideration its legislative powers together with the European Parliament and its similarity to a chamber (of governments) of the member states (Mangiameli, 2012, p. 105).

The Council has therefore stirred constant interest as a result of its dual nature and the multiple roles it plays in the architecture of the EU institutions.

## **1.2. The role of the EU Council Presidency post-Lisbon**

In terms of importance of the Treaty of Lisbon, authors Luzarraga and Llorente argue that “it represents the most ambitious revision of the founding treaties since the creation of the European Communities” (2011, p. 39).

In analysing the changes brought by the mentioned Treaty, it is important to take into consideration the fact that it was adopted in a special context. As Bărbulescu (2015, p. 560) mentions, the Treaty of Lisbon was elaborated “in response to the Union's dual challenge and need: to democratize the European decision-making system by strengthening its participatory dimension and transparency; adapting the institutional system ... to an increasing number of members, guaranteeing at the same time its effectiveness”.

Thus, the Treaty introduces new features in the functioning and exercise of the Presidency of the Council of the EU. Reference to these developments is necessary in order to understand how such a mandate currently unfolds. When the number of member states is more than four times greater than at the time of creation of the European project, it becomes absolutely imperative to ensure continuity of the Presidency system itself and to secure the skills of each member state taking over the Presidency.

One relevant change brought about by the Treaty is the role of the European Council as an official institutional actor in the Union. As Iordan Bărbulescu (2015, p. 562) emphasises, this function weakens the role of member states at the level of

the rotating Presidency of the Council, fundamentally changing the dynamics at the level of the European institutions (Fabbrini and Puetter, 2016, p. 490).

The Treaty established as well a stable Presidency of the Foreign Affairs Council, at present chaired for five years by the EU High Representative for Foreign Affairs and Security Policy, which ensures the coherence of the Union's external action.

Another element of interest to this paper, and brought about by the Lisbon Treaty was the trio programme, which makes it mandatory for any given three states that sequentially take over the Presidency of the Council to negotiate and choose more general topics, in order to allow for the continuity of the EU agenda, which gives a smaller margin of coverage on national subjects than European ones.

The introduction of the trio can thus be considered a successful institutional reform that addresses a major drawback of the 6-month rotating presidency; that is, the discontinuities in priorities. On the other hand, the system retains its merits, such as equality and legitimacy in decision-making. Each Member State continues to receive the opportunity to lead the legislative business of the Council for 6 months, without suffering from inefficiencies and strategic delay, which is to the benefit of all Member States, the European Commission and the European Parliament... Second, we find that the trio structure plays a crucial role in overcoming diversity in Member States' preferences. The latter, also referred to more formally as political conflict, has been found to be an important determinant of the length of negotiations (Gruisen, 2019, p. 15).

From this perspective, the trio group format combines the leadership of the member state at the helm of the Council with the know-how of the other two member states with the task of enhancing the continuity of the European agenda, which, in Batory and Puetter's view (2013, p. 96), "can be conceptualized as a readjustment of the consistency–diversity balance".

At the same time the continuity of the work at the Council's helm, is also reflected in Pasarín's research (2011, p. 38), who emphasizes that "it is commonly accepted that it is impossible for the Presidency to ignore the legacies of the previous Presidencies. The Presidency inherits the dossiers from the previous six-month period and must follow up on them".

With regard to the Presidency of the EU Council, it is also worth noting the major task of ensuring that significant resources – politically and logistically – are allocated by the state that takes over the Presidency. In this regard, authors highlight the importance of the administrative capacity of the member state at the helm of the EU Council. This is very well expressed in the conclusions of Pasarín's work (2011, p. 49) referred previously:

Taking over the Presidency of the Council is an important moment in a member state's life within the Community. For six months, a national government finds itself in charge of the most influential decisional centre within the European Union. This administrative and political responsibility alone embodies all of the challenges inherent in the hybrid nature of European integration, and in particular, its political system, which is based upon a legitimacy shared between the member states and the Community's institutions. To some extent, exercising the Presidency entails an effort to reach a compromise between the various interests, and above all between the contrasting identities at present in the European polity. For six months, the state which exercises the Presidency must place its administration at the service of the Union, and demonstrate its ability and reliability as a European partner (Pasarín, 2011, p. 49).

Similarly, studies dedicated to this topic focus on the differences between large and small countries holding the presidency of the Council. Some consider that "size determines Presidency behaviour", in terms of political power, resources and conduct, as small states follow in more detail the formal rules of conduct of the presidency. At the same time, new member states need to adapt and incorporate the decision-making system from the EU level (Svetličič and Cerjak, 2015, p. 13).

It is also worth taking into consideration the role of the EU Council Presidency as to balance power differences between member states in the Union. From this perspective, the Council is presented "as the most far-reaching equalising mechanism that – by sharing out leadership – tames power politics in the EU and prevents the emergence of a hegemon" (Bunse, 2009, p. 16). This is one of the main reasons why small countries strongly support the current rotating system, rejecting any type of proposals for a permanent presidency.

## **2. Significant crises that have impacted the Union since the entry into force of the Lisbon Treaty**

In order to analyse some of the reasons why treaty changes have been postponed, one must consider several relevant crises that have successively impacted the Union, and have drawn all the EU's attention towards immediate action, ever since the entry into force of the Lisbon Treaty in 2009: the economic and financial crisis (2009), the migration crisis (2015-2016), Brexit (2017-2020), the COVID-19 pandemic (2020-ongoing) and the military aggression by Russia against Ukraine.

As regards the most recent ones – Brexit, the management of the COVID-19 pandemic and the ongoing military aggression by Russia against Ukraine – the lines of action were coordinated at the supranational level, with the country holding the Presidency of the EU Council playing only a secondary role in these large-scale efforts.

At the same time, the management of these crises demonstrates that, in the face of unprecedented pressure, member states can succeed in coordinating and finding common solutions, at the European level, which are much more effective than those solutions which could be reached through the efforts and actions of a single member state.

## **2.1. Brexit**

The so-called “Brexit process” started on 29 March 2017 with the formal notification from the UK of its intention to withdraw from the European Union, following the result of the 2016 referendum in the United Kingdom of Great Britain and Northern Ireland<sup>1</sup>, and in accordance with Article 50 of the Treaty on European Union (Official Journal of the European Union, 2012).

Brexit could be considered a real success story, given the political cohesion of all 27 Member States, which acted together, by mandating the European Commission and its Commissioner Michel Barnier as Chief Negotiator on behalf of the Union with the UK.

A task force led by Michel Barnier was set up in October 2016 (the Task Force for the Preparation and Conduct of the Negotiations) with the United Kingdom under Article 50 of the Treaty on European Union – in order to lead the withdrawal negotiations with the UK. It was followed by the Task Force for Relations with the United Kingdom, set up in November 2019 as part of the General Secretariat of the European Commission, which reconfirmed Michel Barnier as its head (European Commission, 2019).

The two-year period as set out in Article 50 of the TEU was to end on 29 March 2019, during the first Romanian Presidency of the EU Council. As such, Brexit affected the Romanian Presidency in several ways – including beginning the EU Council Presidency six months earlier than initially planned and having to negotiate 15 Brexit files to ensure a smooth transition, and even preparing contingency measures for a no-deal scenario<sup>2</sup>.

The Withdrawal Agreement (European Commission, 2016) between the European Union and the United Kingdom was finally agreed in October 2019, laying down the conditions for the orderly withdrawal of the United Kingdom from the EU. It entered into force on 1 February 2020, together with the Political Declaration setting out the framework for the future relationship between the United Kingdom and the European Union.

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<sup>1</sup> On 23 June 2016, the majority of the British electorate that voted in the British referendum chose to leave the European Union (52% to leave and 48% to remain).

<sup>2</sup> Site of the Romanian Presidency of the EU Council (2019), 100 days #RO2019EU (retrieved from 100 days #RO2019EU - Romanian Presidency of the Council of the European Union (romania2019.eu) .

Consequently, after years of very complex negotiations, the United Kingdom left the European Union on 31 January 2020, becoming a third country on 1 February 2020.

Taking into consideration that, at the request of the UK, the European Council (Article 50) had repeatedly agreed to extend the period provided for in Article 50 of TEU (first, from 21 March 2019 to 22 May 2019, and then from 10 April 2019 to 31 October 2019, and finally from 29 October 2019 to 31 January 2020), and that 13 European Councils (Art.50) dedicated exclusively to Brexit were organized starting from April 2017 until October 2020, the so-called “Brexit fatigue” had actually been affecting more than eight different EU Council Presidencies (Council of the EU, 2016).

## **2.2. The COVID-19 pandemic**

The COVID-19 pandemic took the whole world by surprise in 2020. The World Health Organization declared the COVID-19 epidemic a public health emergency of international importance on 30 January 2020 (World Health Organisation, 2020), and on 11 March 2020 it was declared a “pandemic” (Official Journal of the European Union, 2020a). It had a significant impact both at the national level (in Romania the state of emergency was declared on 16 March 2020), with every state making extensive efforts to manage its own domestic situation, and the international level. The latter meant states getting involved and coordinating within the framework of international organizations in the hopes of better managing the effects of the pandemic.

As to the EU-wide response, the pandemic broke out during the Croatian Presidency of the EU Council (1 January– 30 June 2020), a country that was part of the Romania-Finland-Croatia trio.

From an operational point of view, the Croatian Presidency reacted quickly to the unprecedented challenge of the pandemic by activating on 28 January 2020 the EU's Integrated Crisis Response Mechanism (IPCR), an integral part of the EU Council's cross-sectoral crisis response toolkit, in order to simplify the exchange of information, facilitate collaboration and coordinate the political response to the crisis<sup>3</sup>.

What was extremely important was that, following the worrying developments in the provision of essential products, on 24 March 2020 the Commission published a *Communication on the implementation of green lanes under the Guidelines on border management measures in order to ensure the availability of goods and essential services* (Official Journal of the European Union, 2020b) for transport, land

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<sup>3</sup> Site of the Croatian Presidency of the EU Council (2020), Croatian Presidency activates EU's Integrated Crisis Response in relation to corona virus (retrieved from <https://eu2020.hr/Home/OneNews?id=160>).

(road and rail), sea and air. Essentially, this action was taken to ensure reliable supplies and to safeguard the functioning of the single market for goods.

Subsequently, the management of the pandemic continued at an intense pace during the trio of Germany-Portugal-Slovenia (1 July 2020 - 31 December 2021), all of which adapted their Programmes accordingly, to be continued in the same manner by the next trio of France- Czech Republic –Sweden<sup>4</sup>.

With regard to the steps taken by the European Commission and the European Council, Presidents Michel and von der Leyen presented on 15 April 2020 the *Joint European Roadmap towards lifting COVID-19 containment measures* (European Commission, 2020a), thus responding to a request from members of the European Council for an exit strategy, coordinated with the Member States. The intention behind this was to help pave the way for a comprehensive recovery plan and unprecedented investment, published on 22 April 2020, with the goal of building a more resilient, sustainable and equitable Europe. The basic principles at work here were solidarity, cohesion and convergence.

On a financial level, on 27 May 2020, the European Commission published a proposal for a recovery plan in the form of a new recovery tool: Next Generation EU (European Commission, 2020b).

In support of EU citizens, the Commission has applied the EU Civil Protection Mechanism (set up by the European Commission in October 2001), which aims to strengthen cooperation between EU Member States and six participating civil protection countries, thereby improving prevention, preparedness and disaster response.

At the same time, in the process of supporting various EU and non-EU countries, on 20 March 2020 the European Commission took hold of medical RescEU (European Commission, 2020c) stock. Subsequently, equipment delivery took place, with the first host countries for the RescEU reserve being Romania and Germany.

Another important step taken by the European Commission, as part of the so-called “Vaccine Diplomacy”, was the presentation on 17 June 2020 of the EU vaccine strategy. The strategy aimed to accelerate the process of developing and distributing vaccines against COVID-19, with a timeframe estimated by the Commission of 12-18 months or less. Moreover, included in this approach, was an emphasis on the global role being assumed by the Union (European Commission, 2020d). The first vaccine against COVID-19 (as developed by BioNTech and Pfizer) was approved by the European Commission on 21 December 2020, following the recommendation of the European Medicines Agency.

Furthermore, on 17 March 2021, and in order to facilitate the safe and free movement of citizens in the EU during the pandemic, the European Commission

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<sup>4</sup> Site of the French Presidency of the EU Council (2022), Trio Programme (retrieved from <https://presidence-francaise.consilium.europa.eu/en/programme/trio-programme/>).

presented a proposal for creating an EU digital COVID-19 certificate (European Commission, 2020e). The regulation on the EU digital certificate entered into force on 1 July 2021, with a transitional period between 1 July and 12 August 2021 in which other widely accepted formats could continue being used by Member States.

At the same time, the COVID-19 pandemic has laid the foundations for the European Health Emergency Preparedness and Response Authority (HERA) (European Commission, 2021a).

All of these efforts to manage this unprecedented global health crisis generated a significant pressure on the activity of the EU institutions.

### **2.3. The ongoing military aggression by Russia against Ukraine**

At exactly ten years since the EU won the Nobel Peace Prize for having “contributed to the advancement of peace and reconciliation, democracy and human rights in Europe” (Nobel Prize, 2012), with the worrisome war situation in Ukraine significantly affecting European and global security, it is the European project which reaffirms its political importance.

The military aggression by Russia against Ukraine, which started on 24 February 2022, has been described by the President of the European Commission as the “the largest build-up of troops on European soil since the darkest days of the Cold War” (European Commission, 2022a) and by the Versailles Declaration adopted at the end of the Informal Meeting of the Heads of State or Government in March 2022 as “a tectonic shift in European history” (European Council, 2022a).

The French Presidency of the Council, and in particular President Emmanuel Macron, intended to play an important role in mediating the negotiations, considering France’s importance at the EU level and its prior experience in managing EU Council Presidencies<sup>5</sup>, as well as the French presidential elections that took place in April 2022.

Regardless, the Presidency of the Council only plays a secondary role, since all the discussions are being held during the Foreign Affairs Councils. Given this special situation, at the beginning of the military aggression five Foreign Affairs Councils dedicated to the situation in Ukraine took place in only one week, from 21 to 27 February 2022. Many official visits from the EU High Representative and Commission representatives have been paid to Ukraine<sup>6</sup>, with support being offered at several levels: humanitarian aid and assistance to refugees, together with various packages of restrictive measures against Russia (European Commission, 2022b).

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<sup>5</sup> For France, a founding member of the European Union, this was the 13<sup>th</sup> presidency of the EU Council, but the first since the entry into force of the Lisbon Treaty on 1 December 2009.

<sup>6</sup> Including the visit of the President of the European Commission and of the High Representative of the Union for Foreign Affairs and Security Policy to Kyiv on 8 April 2022.



The responsibilities which will fall on the Czech Republic – due to take over the Presidency of the Council for the second time since it joined the Union and now as part of the trio formed with France and Sweden – will be more burdensome than ever. The Czech Republic must continue France's efforts to restore peace, offering humanitarian aid to refugees, contributing to meeting the objectives set by the European Council of 24-25 March 2022 (strengthening European defence capabilities, ensuring energy security and building a more robust economic base) (European Council, 2022b), as well as continuing to manage the pandemic and working towards ensuring climate neutrality.

As for the European perspective, the applications for EU membership from Ukraine, the Republic of Moldova and Georgia<sup>7</sup>, immediately after the start of the military aggression, are proof yet again of the value of the European project, to which vulnerable European states aspire during one of the most critical moments in modern history. At the same time, this brings the topic of further enlargement back to the forefront of the EU agenda, making it necessary to take into consideration that an enlarged European Union will require a more flexible, simple manner of functioning.

### **3. Perspectives brought on by the Conference on the Future of Europe<sup>8</sup>**

The Conference on the Future of Europe could be considered a yearlong inclusive debate dedicated to the European citizens. It was intended to be “a major pan-European democratic exercise” (European Commission, 2021b) aiming to offer an “open, inclusive, and transparent debate with citizens around a number of key priorities and challenges”, with the main public being young Europeans. The Conference was launched on Europe Day, 9 May 2021 in Strasbourg, during the Portuguese Presidency of the EU Council and concluded its work on 9 May 2022, during the French Presidency of the Council of the EU.

The Conference was focused around nine themes of interest: climate change and the environment; health; a stronger economy, social justice and jobs; EU in the world; values and rights, rule of law, security; digital transformation; European democracy; migration; education, culture, youth and sport; and other ideas.

With regard to the involvement of EU institutions, authority lied with the three institutions leading the process: the European Commission, the European Parliament and the Council of the EU, represented by their Presidents, who assumed the joint presidency of the Conference.

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<sup>7</sup> The applications for membership were submitted by the three states on 28 February 2022 - Ukraine, and on 3 March 2022 - the Republic of Moldova and Georgia.

<sup>8</sup> Further details on the context of the Conference and how it was organized were analysed in the article: Tudor, A.C. (2022), Rolul Președinției Consiliului UE– ce evoluții poate genera Conferința privind Viitorul Europei?, in: Ciot M.G. (coord.). Politică externă și interculturalitate. Cluj-Napoca: Editura Presa Universitară Clujeană, pp. 51-72.

The main tool for facilitating the direct participation of citizens at the debate was a Multilingual Digital Platform<sup>9</sup> created by the European Commission and launched on 19 April 2021, which gathered at the end more than 5 million unique visitors and over 50.000 active participants.

### 3.1. The legacy of the Conference

As for the official results available so far, three interim Conference reports were published in August, September and November 2021, a report in March 2022, while the final report was published on 9 May 2022, including 49 proposals<sup>10</sup>.

As proven by the contributions to the online platform, the topic dedicated to *European democracy* has attracted the greatest interest from Union citizens.

In terms of elements relevant to the present analysis, which are included in the Conference on *European Democracy*, the following were of interest to European citizens:<sup>11</sup> increase citizens' participation, with a focus on youth involvement in the EU policy-making process; make the European Union more understandable and accessible, while consolidating a common European identity; strengthen European democracy by increasing participation in European Parliament elections, fostering transnational debate on European issues and ensuring a strong connection between EU citizens and their elected representatives; while taking into account the interests of all member states and guaranteeing a transparent and comprehensible process for the citizens; a broader reform of the structure of the EU institutions, with the goal of making EU institutions more efficient and transparent, and bringing them closer to citizens. As for the functioning of the Council, a large number of comments focused on improving the effectiveness of the decision-making process in order to ensure the EU's capability to act (including by extending the voting by qualified majority).

The final report also mentions the possibility of amending the EU treaties, which would happen through a Convention: "We call on European Union institutions to make the conclusions of this working group a reality and effectively implement them. This could be realised through the possibilities the Lisbon Treaty already provides and, when necessary, by triggering the request of launching a European Convention".<sup>12</sup>

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<sup>9</sup> The online platform available here: <https://futureu.europa.eu/?locale=en>.

<sup>10</sup> As mentioned in the Report on the final outcome from May, the contributions submitted until 9 May will be covered in an additional report.

<sup>11</sup> All reports of the Conference on the Future of Europe are available here: <https://futureu.europa.eu/pages/reporting>.

<sup>12</sup> The chapter dedicated to European Democracy in the May Report on the final outcome, pp. 79-84.

### 3.2. Official positions regarding the subject of Treaty reform

The proposal of a Treaty reform was immediately supported by the European Parliament (European Parliament, 2022), while the president of the European Commission explicitly mentioned in the 2022 State of the Union Address the call for a European Convention (European Commission, 2022c). Consequently, although the conclusions from the report of the Conference are still very general and need to be structured in a clearer manner, the first steps for a possible amendment of the Treaties were taken, accordingly to Art. 48 of TEU.

As for the position of the member states, important countries as Germany<sup>13</sup> and France<sup>14</sup> have already declared officially supporters of the change of the treaties. On the other hand, 13 other member states, including Romania<sup>15</sup>, want to maintain the status quo, stating that, at this moment, the focus must be on the main issues that concern the European citizens, as emerged from the conclusions of the Conference and that relevant actions can be taken within the current framework of the EU Treaties<sup>16</sup>. Thus, the debate between member states will certainly continue.

Furthermore, from the citizens' perspective, according to the results of the Conference on the Future of Europe, European citizens want to play a greater role in the decision-making process at the EU level, including by using such means and formats as those generated by this unprecedented exercise represented by the Conference.

Concerning the next steps to be taken, based on the report presented on 9 May 2022, the institutions, including the Council, will continue the work of implementing the conclusions of the Conference (Council of the EU, 2022). As such, all efforts, including a possible future reform of the European institutions, will certainly continue throughout the upcoming Presidencies of the EU Council (Czech Republic, Sweden, Spain *et al.*)

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<sup>13</sup> As mentioned in the program of the German coalition from 2021, with an emphasis on the federalization of the EU, retrieved from <https://www.bundesregierung.de/resource/blob/974430/1990812/04221173eef9a6720059cc353d759a2b/2021-12-10-koav2021-data.pdf?download=1>.

<sup>14</sup> Including in the speech delivered by president Macron at the end of the Conference, on 9 May 2022, retrieved from <https://presidence-francaise.consilium.europa.eu/en/news/speech-by-emmanuel-macron-at-the-closing-ceremony-of-the-conference-on-the-future-of-europe/>.

<sup>15</sup> Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Slovenia and Sweden.

<sup>16</sup> Site of the Romanian MFA (2022), Precizări de presă referitoare la poziția României privind procesul de reformă a UE, 10 May 2022 (retrieved from <http://mae.ro/node/58566>).

## Conclusions

Discussing institutional transformation in times of crisis by reviewing EU's reaction to the most recent crises – Brexit, the management of the COVID-19 pandemic and the ongoing military aggression by Russia against Ukraine – it is clear that the lines of action were coordinated at the supranational level, with the country holding the Presidency of the EU Council playing a secondary role in these extensive efforts. At the same time, it is necessary for the EU Council Presidency to adapt its agenda to these extraordinary situations, crisis management becoming in recent years a current reality that every member state holding the Council Presidency had to handle.

As demonstrated by the management of the most recent crises that have shaken the EU, these difficult periods might not prove to be the best times to focus the attention of the EU institutions and of the member states on institutional reform. On the contrary, examining the efforts behind managing these crises, using analysis of official documents provided by the EU institutions to study transitions from one large-scale crisis to another demonstrate that they place significant pressure on all EU institutions to function in the best way possible with the structures and resources which the Union and member states already possess.

Similarly, as these crises revealed, these periods represent times during which the member states have collaborated and coordinated in the most efficient way possible, in all formats at the EU level, to find common solutions – which are much more effective than those which can be achieved through the individual efforts and actions of a single member state.

As regards the need for a treaty change, if one considers the speed at which the previous treaties, up to and including the Lisbon Treaty, were modified, the average age would be approximately five years. The Lisbon Treaty proved its effectiveness through these difficult times, although these crises generated an important additional pressure on the working process of the institutions of the European Union.

Furthermore, according to the results of the Conference on the Future of Europe so far, European citizens consider that what is needed is more democracy, transparency and involvement by citizens in the EU institutions' decision-making processes.

As the necessity of a Treaty reform was officially expressed at the level of the European Parliament, the Commission and by some important member states, it is to be seen how and when the changes required in the conclusions of the Conference will be structured and later implemented.

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The papers included in this volume address some key mechanisms which might help the EU to better cope and mitigate the variety of challenges it faces. Overall, the EU citizens seem to be satisfied with the way the EU has helped the Member States to manage the pandemic, which further strengthened their trust in the European project. However, they emphasize the need for more democracy, transparency, and involvement of citizens in the EU institutions' decision-making processes. Addressing institutional bottlenecks also seems to lead to tighter economic relations with partners from the EU's Eastern Neighbourhood. In addition, economic diplomacy, through activities carried out by diplomatic representations abroad appears to boost foreign trade as well. Whilst the acts committed by the Russian Federation against Ukraine are contrary to the very essential core rules of International Law, the solidarity of the EU is more salient than ever in order to find the most appropriate responses. Besides the conflict in Ukraine, the EU also struggles to keep up the pace with the US and China as worldwide leading innovators.

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